



Frequently Asked Questions about Charter Schools

1. Charter Schools Defined

1.1 What is a charter school?

A charter school is a public school that receives public education funding, and is open to all children eligible to attend New York State public schools. In general, a charter school is independent of the local school district, nonsectarian, tuition-free, and governed by its own self-selecting board of trustees.

The concept of charter schools is a relatively new one based on the free-market theories of the economist, Milton Friedman, who asserted that providing parents with a choice would result in an overall improvement in the school system. The term “charter school” was coined in 1988 by the late Albert Shanker, the former President of the American Federation of Teachers. The charter school idea has spread quickly throughout the United States. Minnesota passed the first charter school law in 1991. New York State was the 36th state to pass a charter school law.

1.2 How are charter schools organized in New York State?

In New York State, charter schools are defined as “independent and autonomous public schools” and are authorized by the Charter Schools Act of 1998 (Article 56 of the New York Education Law) (as amended). New York State charter schools are legally organized as not-for-profit education corporations [§ 2853(1)]* and are subject to a contractual agreement, or charter, between the school and entity which approved their application. Like charter schools in other states, charter schools in New York are non-sectarian, tuition-free, open to all students eligible for admission to other public schools, and independent of existing school districts.

1.3 What are the objectives of charter schools?

Charter schools in New York are meant to accomplish the following objectives:

- improve student learning and achievement;
- increase learning opportunities for all students with special emphasis on expanded learning experiences for students who are at risk of academic failure;

* Unless specifically indicated otherwise, all bracketed citations are to the New York State Education Law. The Education Law in its entirety is available at <http://caselaw.lp.findlaw.com/nycodes/c30.html>.

- encourage the use of different and innovative teaching methods;
- create new professional opportunities for teachers and school administrators;
- provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- provide schools with a method to change from rule-based to performance-based accountability systems [§ 2850(2)].

1.4 What laws, rules and regulations apply to charter schools?

Public charter schools in New York State are subject to all laws, rules and regulations affecting health and safety, civil rights, and student assessment applicable to other public schools except as specifically provided in the Charter Schools Act. Charter schools are also subject to New York's Open Meetings Law and Freedom of Information Law [§ 2854(1)(c)] as well as certain requirements of the compulsory education law [§ 2854(1)(b)]. Charter schools otherwise have a blanket waiver from all state and local rules, regulations, and laws applicable to public or private schools, boards of education, and school districts, except as specifically provided in the school's charter or the Charter Schools Act [§ 2854(1)(b)]. Provisions of New York's Not-For-Profit Corporation Law and Education Law apply to the corporate governance of charter schools as set forth in Section 216-a of the Not-For Profit Corporation Law.

1.5 Must charter schools comply with federal laws and regulations?

Generally speaking, public charter schools are subject to many of the same federal, constitutional, statutory and regulatory requirements applicable to other public schools, including laws governing special education and the provision of instruction to students who are English Language Learners [§§ 2854(1)(b); 2851(2)(h); 2851(2)(s)]. However, how precisely these laws apply depends on the status of the charter school under the specific provisions of federal law and the Charter Schools Act.

1.6 Can individuals associated with non-public schools or religious organizations also be involved in public charter schools?

There is no prohibition against individuals with a religious affiliation serving on a board of trustees of a charter school or being employed by a charter school. However, the Charter Schools Act prohibits issuing charters to any school controlled by, or under the direction of, in part or in whole, any religious denomination. In addition, a charter school may not teach any denominational tenet or doctrine as a tenet or doctrine [§ 2854(2)(a)].

1.7 What grade levels can a charter school offer?

Charter schools may offer instruction in one or more grades from grades 1 to 12; they may also offer kindergarten [§ 2854(2)(c)]. If they offer a 12th grade, they may confer local and Regents diplomas to the same extent as other public schools [§ 2854(1)(d)], contingent upon following all of the Regent's requirements.

1.8 Is there a time limit to a charter?

Yes. Charters are issued for a period not to exceed five years [§ 2851(2)(p)]. A charter may be renewed for up to five years [§ 2851(4)]. There is no limit as to how many times a charter may be renewed.

1.9 When does a school chartered by the State University Trustees apply for renewal of its charter?

A school chartered by the State University Trustees must submit an application for renewal of its charter no later than August 1st of the fifth year of its charter. A school should be aware that "the clock" begins ticking as soon as the charter is issued, regardless of when the school actually begins providing instruction. If a school believes it has a strong case for renewal, it may submit its application for review by April 1st of the school's fourth year. When that occurs, the Institute will schedule the renewal visit prior to the end of the school's fourth year of instruction. More information on the timing and types of renewal is available in the Charter School's Institute's *Renewal Application Form* available from the Institute.

1.10 How many public charter schools are operating in New York? How many students attend them?

As of March 2006, there are 79 charter schools in operation, educating approximately 22,000 students across New York State. The New York State Charter Schools Act of 1998 called for the creation of 100 schools; in addition to the 79 currently open, another 14 schools are scheduled to open in the fall of 2006 or 2007; six schools have been closed for failing to meet performance standards.

2. Forming a Charter School

2.1 Who can create and operate a charter school?

In New York State, teachers, parents, school administrators and community residents, or any combination thereof, can submit an application to establish a charter school. These eligible applicants may file the application in conjunction with a college, university, museum, educational institution, a 501(c)(3) not-for-profit corporation, or a for-profit business or corporate entity. These entities are sometimes referred to as "partners." If a not-for-profit or for-profit corporation will be significantly involved in the day-to-day operations of the school, including its educational program, the partner is known as an "educational service provider" or "management company." Applications submitted in conjunction with an educational service provider or any for-profit business or corporate entity must specify the extent of the entity's participation in the management and operation of the school [§2851(1)].

2.2 Who can approve applications for charter schools?

One of the strengths of the New York Charter Schools Act is that it provides three routes to apply for a charter: the Board of Regents, local boards of education (in New York City the Chancellor of the school district), and the State University Board of Trustees. However, only the Board of Regents and the State University Trustees can approve applications state-wide; local boards of education (and in New York City, the Chancellor) are limited to approving applications for charter schools within their

districts' boundaries. An entity granted the authority under the Charter Schools Act to approve a charter school application is known as a "charter entity" [§2851(3)].

Applications submitted to the Board of Regents are reviewed by the staff of the State Education Department. Applications submitted to the State University Trustees are reviewed by the Charter Schools Institute, which was created by the Trustees to assist it in carrying out its responsibilities as a charter entity. A description of the review process for applications submitted to the State University Trustees is contained in section 7 of the FAQs.

2.3 What is the process for applying for a new charter school?

Eligible applicants wishing to form a charter school must submit an application to one of the three charter entities, which reviews the application and determines whether to approve it. A charter entity may require an applicant to modify the application as a condition of approval.

A charter entity may only approve an application for a charter school if it finds that:

- the application meets all applicable statutory and regulatory requirements, including having provided the information specifically required of all applicants;
- the applicant has demonstrated that s/he has the ability to operate the school in an educationally and fiscally sound manner; and
- approval of the application is likely to improve student learning and achievement and materially advance the purposes of the Charter Schools Act.

Upon approval of an application, the applicant(s) and the charter entity must enter into a proposed charter agreement known as the proposed charter. The charter agreement sets forth the terms and conditions under which the charter school is approved to operate.

Within five days after executing the proposed charter, the charter entity, other than the Board of Regents, must submit to the Board of Regents a copy of the proposed charter together with the application and any supporting documentation [§ 2852(5)].

Upon submission of a proposed charter, the Board of Regents has 60 days to review and either approve it or return the proposed charter to the charter entity for reconsideration with comments and its recommendation(s). If the Board of Regents does not approve or return the proposed charter within 60 days, the proposed charter will be deemed approved and will issue as a matter of law [§ 2852(5-a)].

If a charter is returned, the charter entity can then, after considering the comments and recommendation(s) of the Board of Regents, resubmit the proposed charter with or without modifications, or abandon it. Any modifications to the proposed charter require the written agreement of the applicant [§ 2852(5-b)].

If the State University Trustees resubmit a proposed charter to the Board of Regents (after the Board of Regents has returned the proposed charter to the State University Trustees), the Board of Regents has 30 days to approve the charter. If it takes no action within the 30 day period, the charter will

issue as a matter of law [§ 2852(5-b)]. In this regard, the State University Trustees are unique as a charter entity.

2.4 The Charter Schools Act talks about “charters,” “proposed charters” “provisional charters and “certificates of incorporation.” What is the difference?

What is usually referred to as the “charter” is the written agreement that is entered into between the applicant and the charter entity after the applicant’s application has been approved by both the charter entity and the Board of Regents (or has been approved by operation of law). The charter sets the terms under which the school is to operate (in part by incorporating the application). Until the charter has received approval from the Board of Regents (or has been deemed approved by operation of law) it is known as a “proposed charter” [§ 2852(5)].

The charter is sometimes referred to as a “provisional charter” because it is a charter of a limited and defined duration (up to five years). In other words, it is provisional as opposed to other education corporation charters of unlimited duration. Sometimes the term provisional charter is used to refer to the actual legal incorporating document, under which the school corporation is created and which serves as a charter school’s certificate of incorporation. This is a two page document that is issued by the Board of Regents upon the proposed charter being approved (either by act of the Board of Regents or by operation of law) and it carries the seal of the Board of Regents [§ 2853(1)(a)]. The provisional charter/certificate of incorporation contains certain restrictions on the school’s corporate powers, the majority of which are designed to ensure that the school retains eligibility to obtain 501(c)(3) not-for-profit status under the Internal Revenue Code, as well as the names and addresses of the initial members of the school’s board of trustees. By law, the provisional charter/certificate of incorporation cannot contain any modification or limitation of the charter agreement [§ 2853(1)(a)]. Unlike a certificate of incorporation that a typical not-for-profit corporation receives, the provisional charter is not a document for which you must separately apply; upon approval of the proposed charter by the Board of Regents, the provisional charter/certificate of incorporation will be issued automatically to the charter school. The five year term of a charter begins to run on the date the provisional charter is issued by the Board of Regents.

2.5 Is there a limit to the number of new charter schools that can be created?

Yes. The Charter Schools Act currently allows up to 100 charters to be issued for new charter schools by an authorized charter entity. The State University Trustees, as an authorized charter entity, was able to approve up to 50 of these charters, and has done so. The Board of Regents was also able to authorize up to 50 charters (including any recommended by local school boards and the Schools Chancellor of New York City) [§ 2852(9)].

2.6 Can a public school convert to a public charter school?

Yes. An unlimited number of existing public schools may convert to charter schools [§ 2852(9)]. An existing public school seeking to convert to a charter school must first apply to its local school district board of education, or, in the case of a school in New York City, the New York City Schools Chancellor. Any local board’s approval of a conversion also must be approved by a majority of the parents/guardians of students at the school, and subsequently be approved by the Board of Regents [§ 2851(3)].

The State University Trustees are not authorized to approve the conversion of an existing public school to a public charter school and accordingly will return any application that involves such a conversion [§ 2851(3)].

2.7 Can an existing non-public school convert to a charter school?

No. The law specifically prohibits an existing non-public school from converting to a charter school [§ 2852(3)].

3. Academic Program and Accountability

3.1 What is an accountability plan and do all charter schools have to develop one?

An accountability plan contains clear measurable performance goals that the charter school, with the approval of the Charter Schools Institute, establishes for itself. These performance goals focus on, but are not limited to, academic performance. The accountability plan provides an outline of the data that the school will generate during its operation. The school is then expected to compile the identified data to assist it in making its case for charter renewal at the beginning of the school's fifth charter year.

Public charter schools authorized by the State University Trustee are required to create an accountability plan. Other authorizers have different mechanisms for holding charter schools accountable. The Charter Schools Institute, on behalf of the State University Trustees, works closely with each charter school to develop an accountability plan during the school's first year of operation.

As the support of parents and the community is essential to the success of a charter school, the Charter Schools Institute stresses that any reader of an accountability plan should be able to tell what a charter school intends to do and the degree to which it has done so. Every August, charter schools submit a report of their progress toward the goals laid out in their accountability plans.

3.2 Do charter schools have required performance or achievement standards?

Yes. Charter schools must demonstrate that their educational programs meet or exceed the student performance standards adopted by the Board of Regents for other public schools [§ 2854(d)]. They must also, as part of their application, describe the student achievement goals for the school's educational program and indicate the chosen methods by which they will determine whether students have attained the skills and knowledge specified for those goals [§ 2851(2)(b)]. As part of their assessment program, charter school students are required to take state exams required of students in other public schools, including Regents exams [§ 2854(d)].

Charter school operators are otherwise free to design, staff, and operate their schools whichever way is best suited to educating students and meeting the schools' Charter Agreement obligations to the chartering entity. For example, charter schools have the flexibility to lengthen the school day and year, offer a residential school program, organize a school's curriculum around core academic subjects or a particular overall theme, require school uniforms, or target students at risk of academic failure.

3.3 How are charter schools monitored?

Each charter entity in New York State, together with the Board of Regents, has oversight responsibility for charters that it has authorized and may visit, examine, and inspect any charter school under its charge [§ 2853(2)]. The responsibilities for oversight are required to be laid out in the charter agreement between the charter entity and the school [§ 2852(5)(c)]. For charter schools that are not authorized by the local school district, the school district may, but is not required to, visit and examine records of the charter school, and forward evidence of violations of law or the charter to the charter entity and the Board of Regents [§2853(2-a)].

In addition, charter schools are required to submit to their charter entity, and to the Board of Regents, an annual report consisting of three parts: (1) a school report card which includes student academic performance and school financial data; (2) a review of the progress that the school has made towards achieving its goals; and, (3) a financial report containing certified financial statements together with a copy of the most recent audit report [§2857(2)(a)].

3.4 Are charter schools fiscally accountable for their operation?

Yes. Charter schools approved by the State University Trustees are required by their charters to maintain at all times appropriate governance and managerial procedures and financial controls. During the first year it is chartered, each school must provide an initial statement to the Charter Schools Institute addressing whether the school has documented adequate controls. Such statement is subject to an agreed-upon procedures engagement by an independent and licensed certified public accountant (CPA). All charter schools are also required to have an independent and licensed CPA conduct an annual financial statement audit of the school. Based on the audit of the financial statements, the CPA must report on compliance with laws, regulations, contracts and grants and on internal controls over financial reporting. The school must submit a corrective plan addressing any weaknesses or problems identified in the planning and performance of the audit. The corrective plan must address each suggestion for consideration of management contained in the compliance report and include a timetable that identifies the date by which each corrective step will be completed. All charter schools are also subject to audit by the New York State Comptroller (Chapter 267 of the New York Laws of 2005).

In addition, schools must submit to the Institute quarterly financial reports, annual budgets and cash flow projections as well as revised budgets whenever a change in the schools projected approved enrollment is requested. Finally, schools are also subject to onsite fiscal reviews by Institute and State Education Department staff.

3.5 Under what conditions may charters be revoked or terminated?

A charter entity or the Board of Regents may revoke a school's charter if student achievement falls below the level that would allow the State Commissioner of Education to revoke the registration of another public school, and there is no improvement in achievement over the next three school years. In addition, a charter can be revoked for serious violations of law; for violation of the charter, including fiscal mismanagement; or, for violations of the civil service law regarding discrimination against employees [§ 2855(1)]. Under the federal No Child Left Behind Act of 2001, charter schools

are also subject to restructuring if they fail to meet federal objectives for a number of consecutive years.

3.6 What happens to students upon the dissolution of a charter school?

A school's charter must make provision for the dissolution or closure of the charter school, including the transfer of students and student records to the school district in which the charter school is located [§ 2851(2)(t)]. Students who are not residents of the school district in which the charter school was located retain the right to return to a school within their school district of residence. In the event of dissolution, the Charter Schools Institute will work with both the school and the parents to provide information regarding the placement of students in other schools as part of the school's Closure Plan.

4. Student Admissions And Services

4.1 How are students admitted to charter schools?

Any child eligible for admission to a traditional public school is eligible for admission to a public charter school, regardless of the student's district of residence [§ 2854(2)(b)]. Like all public schools, charter schools cannot discriminate on the basis of ethnicity, national origin, gender, or disability or any other reason covered by anti-discrimination laws [§2854(2)(a)]. As with all public schools, admission to a charter school cannot be limited on the basis of disability, race, creed, gender, national origin, religion or ancestry. Moreover, and in contrast with certain district public schools, charter schools cannot limit admission on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability [§ 2854(2)(a)]. Charter schools may be designed to serve students at risk of academic failure, which may impact admissions.

4.2 What if more students apply than the charter school can enroll?

If the number of applicants exceeds the number of available seats, a random selection process, such as a lottery, must be used. However, the Charter Schools Act does require that a charter school give preference in admission to students residing in the local school district in which the charter school is located, siblings of students already enrolled in the charter school, and in the second and subsequent years of operation, students returning to the charter school. Additionally, single-sex public charter schools may be created under certain conditions, and a charter school may be designed to provide expanded learning opportunities for students at risk of academic failure [§ 2854(2)(b)].

4.3 Are there a minimum number of students required for a charter school?

The minimum number of students after the first year of operation is 50 at a single site, unless the applicant presents a compelling justification for a lower enrollment [§ 2851(2)(i)].

4.4 Who provides transportation for students in a charter school?

For the purposes of transportation, charter schools are by law considered non-public schools and are subject to local district transportation policy regarding non-public schools. In city school districts, transportation is provided at the discretion of the school district, but must be provided equally to all children in like circumstances. In non-city school districts, students attending charter schools who

reside within a 15-mile radius of the charter school (or greater radius if the voters of the school district or residence have approved nonpublic transportation for more than 15 miles) will receive transportation from their school district of residence on the same basis as non-public school students. Charter schools are subject to applicable minimum mileage limits for transportation within the school district of residence, and parents must file requests for transportation each year by April 1 [§§ 2853(4)(b), 3635]. Charter schools are responsible for transportation on days when they are in session but district schools are not.

4.5 How do charter school students obtain textbooks?

If a charter school elects to receive textbooks from the school district, it would receive them in the same manner as a non-public school, that is, through a textbook distribution process from the respective student's public school of residence, which must provide the textbooks upon request [§ 2853(4)(a)]. The precise process through which a parent borrows textbooks from a school district varies from district to district, and a charter school should review those procedures with the school district.

4.6 How are special education programs and services to be provided to students with disabilities attending a charter school?

In New York State, special education programs and services must be provided to students with disabilities attending a charter school in accordance with the individualized education program (IEP) recommended by the committee or subcommittee on special education (CSE) of the student's school district of residence. Charter schools are not allowed to alter a student's IEP or create IEPs. The charter school may seek to obtain a revision to the IEP through the CSE of the student's school district of residence subject to the notice and due process protections contained in federal law (Individual with Disabilities Education Act (IDEA)). A charter school may provide the required special education and other services itself, contract with another provider, or arrange for such services to be provided by the student's school district of residence. In general, a charter school authorized by the State University Trustees is not required to adhere to the State regulations regarding the provision of special education services, however each charter school is subject to all federal regulations regarding the provision of special education services [§ 2853(4)(a)].

5. Funding And Facilities

5.1 How are charter schools funded?

As public schools, charter schools are funded by public tax dollars that pass through the student's school district of residence. A portion of the per-pupil amount that a school district spends follows a student to the charter school. It is important to note that because not all monies received by a school district are included in the calculation, charter schools receive only between 60-80% of what school districts actually spend on a per-pupil basis. For a list of the amounts that would follow a student from particular districts, please visit the State Education Department's website at <http://stateaid.nysed.gov>. For details on how the amount per-pupil, i.e., the "average operating expense/total aidable pupil units" is determined, please refer to § 2856(1) of the Education Law. One detail of the calculation is worth noting in particular. The per-pupil amount that follows a student to a charter school is calculated based on prior years' expenditures. Accordingly, any increase or

decrease in spending by a district in a given year will not affect the amount paid to the charter school until later years.

Any additional aid received by the district attributable to students with disabilities would flow to the charter school if the charter school provides, directly or indirectly, the funded special education services [§ 2856(1)].

5.2 Do public charter schools receive state building aid or other public funds that public school districts receive for capital purposes?

No. State building aid is not included in the formula for identifying per pupil aid, nor are charter schools eligible to receive other public funds that school districts have access to for capital construction and renovation [§ 2856(1)].

5.3 Can charter schools charge tuition?

No. As public schools, charter schools cannot charge tuition. However, they are permitted to charge fees but only to the same extent as other public schools [§ 2854(2)(a)].

5.4 Can charter schools accept donations?

Yes. As non-profit charitable organizations, charter schools can request and accept charitable donations from private sources (which are includable as charitable deductions for purposes of federal personal income tax) and can accept additional government grants [§§ 2853(4)(d); 2856(3)].

5.5 Is funding available to assist applicants and charter school organizers?

Yes. Federal funding is available through the Charter School Program (CSP). CSP grants assist charter school operators in the planning, design and implementation of the educational program (20 USCA §§ 8061 *et seq.*). The Charter Schools Institute encourages charter applicants to apply for CSP grant funds, and has incorporated the CSP grant application as an appendix to its application kit. Specifics regarding available funds and permissible uses are detailed in the CSP grant application.

5.6 Are there any restrictions on where a charter school may be located?

No. A charter school may be located in an existing public school building, in space provided on a private work-site, in a public building or in any other suitable location [§ 2853(3)(a)]. Charter schools also can contract at cost with a local school district or public college or university for the use of a school building [§ 2853(4)(c)].

Charter schools are not subject to the extensive regulations of the Commissioner of Education regarding public school buildings. Rather charter schools are subject to the local building codes of their building locations. In jurisdictions like New York City, that have specific use restrictions, charter schools must be approved for “schools use.”

Securing suitable, affordable space is often a major challenge for new public charter schools. The Charter Schools Institute will make available any listing of state-owned buildings with unused or

vacant space that could potentially be available for lease arrangements between the State Office of General Services (which owns the buildings) and a charter school [§ 2853(3)(c)].

5.7 Can a charter school take out a mortgage?

A charter school may pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit. However, a charter school may not pledge or assign its school aid operating funds that it receives from local school districts in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility. Accordingly, a charter school may obtain a mortgage so long as the lender does not require that the mortgage be secured by the school's school aid payments [§ 2853(3)(b)].

6. Charter School Personnel

6.1 Are public charter school employees unionized?

Instructional staff of a new charter school with enrollment exceeding 250 students on the first day of instruction (or with an average daily attendance exceeding 250 at any time during the school's first year) will be certified automatically as a separate collective bargaining unit of the same employee organization that represents similar employees of the school district in which the charter school is located; they will not, however, be covered by the collective bargaining agreement in existence for the instructional employees of the school district. Therefore, a separate agreement must be collectively bargained for the instructional staff of the charter school. Instructional staff at a school below the 250 cap are not automatically certified [§ 2854(3)(b-1)].

In contrast, a new charter school's non-instructional staff do not become members of a collective bargaining unit and are not covered under an existing collective bargaining agreement, even if the school's enrollment exceeds 250 in the first year [§ 2854(3)(b-1)].

Additionally, up to 10 charter schools authorized by the State University Trustees can be exempted from the requirement that their instructional staff automatically be certified, even if their enrollment in the first year exceeds 250 students [§ 2854(3)(b-1)].

6.2 Are employees of a conversion charter school union employees?

All conversion charter school employees, other than "managerial" or "confidential" employees, will be placed automatically in the same bargaining unit representing employees of like title and position and will be covered under the same collective bargaining agreement (if any exists). However, a majority of the charter school employees of a particular negotiating unit may, upon approval of the charter school's board of trustees, modify the existing agreement as it applies to them [§ 2854(3)(b)].

6.3 If employees of a new charter school do not automatically become union employees, do they have the right to organize?

Yes. Instructional and non-instructional staff, who do not become union members by operation of law, can choose to organize and if successful have the right to collectively bargain. In any organization drive, the charter school must remain neutral and provide reasonable access to employee

organizations. Additionally, a charter school may also choose to offer the terms of any collective bargaining agreement to its employees [§ 2854(3)(c-1), (c-2)].

6.4 What are the staff certification requirements for charter schools?

Up to 30 percent of a charter school's teachers, or 5 teachers, whichever is less, are not required to hold state teacher certification. However, these non-certified teachers must meet one of four standards established in the Charter Schools Act [§ 2854(3)(a-1)]: (1) at least three years of elementary, middle or secondary classroom teaching experience; (2) tenure or tenure track at a college or university; (3) two years of satisfactory experience through the Teach for America program; or, (4) exceptional business, professional, artistic, athletic, or military experience. All charter school teachers who teach core academic subjects, including those teachers retained in accordance with the "thirty percent/up to five exception," must also meet the remaining requirements for "subject matter competency" applicable to other public school teachers under the No Child Left Behind Act of 2001 (NCLB). For additional information regarding NCLB requirements, please visit the State Education Department's website at: <http://www.highered.nysed.gov/nclb022004d.htm>.

In addition, special education instructors must be qualified per the requirements of the Individuals with Disabilities Education Act (IDEA).

6.5 Must charter school principals be certified?

No. Certification is not required for principals and other staff that are not teachers. Charter schools are not required to have principals, but should have a head of school that can be designated by any number of titles.

6.6 How do public school teachers switch to public charter schools?

There are a number of provisions included in the Charter Schools Act that address a teacher's transition from a district public school to a public charter school. School district teachers are allowed to request leaves of absence of up to two years in order to work at a public charter school and a school district may not "unreasonably" deny such requests. If a leave is granted, the teacher may return to the district during the period of leave without the loss of any right of certification, retirement, seniority, or salary status [§ 2854(3)(d)]. Also, at the option of a charter school's board of trustees, charter school employees may continue participating in retirement systems that are open to employees of public schools [§ 2854(3)(c)].

7. The Application Process

7.1 How can I obtain an application?

Application packages for charter schools to be authorized by the State University Trustees can be obtained by contacting the Charter Schools Institute of the State University of New York at 518/433-8277 or by e-mail at charters@suny.edu. Provide your name and address to the Institute and a package will be mailed to you. In addition, an updated application package will be available for downloading on the Institute's web site at <http://newyorkcharters.org>. If you are interested in applying to the other charter entities in New York State, applications are available from the State

Education Department's Charter Schools Unit at 518/474-1762 or by accessing its web page at <http://www.emsc.nysed.gov/psc/>. Applications for charter schools to be authorized by the New York City Schools Chancellor may be obtained from the Chancellor's Office of New Schools Development at 212/374-5402, or <http://www.nycenet.edu/charterschools>.

7.2 When does the Charter Schools Institute begin receiving applications?

The Institute typically administers two application submission cycles each year: Spring (submission by March 1) and Fall (submission prior to October 1). Ideally, applications submitted in either the Fall or Spring cycles should be for schools proposed to open in, at least, the fall of the following year. The Institute is aware that completing an application is an extensive process that takes considerable time and effort on the part of the applicant(s). The law requires a great deal of information to demonstrate that a proposed charter school will operate in an educationally, fiscally and organizationally sound manner. Moreover, the application review process is a competitive one, with the Institute recommending only the very best applications for approval by the State University Trustees.

7.3 When are applications due?

Although the law does not prohibit an applicant from submitting an application at anytime during the year, the law does specify that applications submitted prior to October 1 must be acted upon by the succeeding January 1. In addition to the legally prescribed application cycle (Fall), the State University Trustees established a Spring cycle to provide applicants greater flexibility in the development and presentation of applications. Spring submissions are due by close of business on March 1, or the first business day thereafter if the first falls on a weekend, and acted upon in May or June.

The Institute has revised its application process to include three distinct phases. You will be directed (in the instruction section of the Application Kit) which responses to submit during each phase. Be especially careful to number your responses to each request properly and to submit only those requests listed in each phase of the process. Ultimately, if your application is recommended for approval, your complete application will consist of two volumes of 57 responses and supporting materials.

Phase One responses are due by October first for the Fall cycle and by March first for the Spring cycle. If you receive a first Request for Amendment (RFA), your Phase Two application submission will be due at the same time as your responses to the first RFA, probably around the third week of November. Should your application receive a second RFA, your Phase Three submissions will coincide with the submission of your responses to the second RFA, probably before the end of December.

7.4 Is help available to applicants to complete an application?

Yes. Charter Schools Institute staff are available to respond to applicant questions. For more extensive technical assistance, the Institute provides a listing of charter school organizations in New York State and around the country that can help applicants prepare an application.

7.5 How do the State University Trustees review and evaluate charter school applications which are submitted to them?

The Institute's application review is conducted in three phases as set forth below.

Phase One

- The application receives an initial review by staff of the Charter Schools Institute to determine whether the application is substantially complete. Those applications which are not substantially complete are set aside and receive no further review. The Institute contacts the applicant(s) regarding next steps which include the Institute recommending to the State University Trustees that the application not be approved or the applicant withdrawing the application from consideration.
- In general, applications that are submitted for the first time will be reviewed by a panel of charter school experts, including charter school operators, charter authorizers from other states, experts in curriculum, assessment, accountability and not-for-profit management, education researchers, and other individuals with relevant expertise. However, in certain situations, such as applications that have previously been reviewed by the Institute, the application may not receive a review by an external panel of charter school experts. If an application is subjected to a panel review, the panel of reviewers analyze each application highlighting the strengths and coherence of the program as a whole, as well as raising questions and concerns.
- Institute staff will review the application to determine if the school described in the application is likely to improve student learning and achievement, meet the requirements of the Charter Schools Act and be operated in an educationally, fiscally and organizationally sound manner. Institute staff will pay special attention to the application's coherence and feasibility as well as the experience and skills of the founding team and the proposed school's partners.
- Institute staff will generally conduct interviews with the proposed charter school's founding team, including the applicant(s) and proposed members of the charter school's board of trustees.

Based upon the conclusions drawn from the analysis and review of the application during Phase One, the Institute will either conclude that the application is promising enough to proceed to Phase Two of the application review process or that it does not merit further review. In the former case, the Institute will invite the applicant to submit responses to Phase Two of the application process (as well as respond to written requests for amendments (RFAs) to the materials submitted in Phase One). In the latter case, it will inform the applicant team of its conclusion as well as options available to the applicant team (withdrawal or receipt of a negative recommendation of the Institute to the State University Trustees).

Phase Two

During Phase Two, the Institute will conduct the following review:

- A second, more detailed review by Institute staff of the materials initially submitted as well as the materials submitted as part of Phase Two. This review will be more technical in

nature, focusing on the legal requirements that the proposed school must meet. However, the review will also encompass the larger issues of capacity and likelihood that the school would improve student learning and achievement.

- A comprehensive curriculum review to ensure that the proposed curriculum is both appropriate within the context of the proposed charter school, and aligned with New York State performance standards in a manner that will enable a student to meet those standards.
- A fingerprint check of all applicants.

Although it may be rare, the possibility exists that such significant issues are found during Phase Two that the Institute would decide not to recommend the application for approval. However, it is anticipated that most applicants who submitted a full complement of responses during Phase Two would receive an invitation to submit the final set of responses during Phase Three of the application review process.

Phase Three

If an applicant receives a second RFA and is invited to submit Phase Three responses, those responses, and the responses to the second RFA, will receive the following review and evaluation:

- A rigorous review of the responses to the second RFA and Phase Three submissions by Institute staff.
- In addition to the continued legal review, the Institute will schedule time for the applicant(s), or designee(s), to meet with the Institute's General Counsel to ensure that the application meets the applicable laws, rules and regulations.
- The Institute will schedule interviews of the proposed charter school's founding team, including the applicant(s) and proposed members of the charter school's board of trustees by staff of the Institute and selected State University Trustees.

Based on the totality of the findings by all reviewers (external and internal), the Institute will recommend for approval to the State University Trustees those applications which are both legally sufficient and which provide the greatest likelihood of academic success and fiscal and organizational soundness.

7.6 What types of communication will I receive regarding my application once submitted?

Typically within a week of submission you will receive a letter acknowledging receipt of your application. This letter will also provide some information regarding what to expect as far as the review process. After the initial letter of receipt, it may be several weeks before you receive any additional communication as the Charter Schools Institute will be heavily involved in the review process. Subsequent to this period, however, you may receive a Request for Amendments (RFA), the Institute's request for clarification and/or revisions to specific areas of the application. The RFA component of the review process is often perceived as an intensive portion due to the depth of the questions and the timeframes for responding. In addition to written communication, you may be contacted via telephone and/or email. Therefore, it is absolutely essential that you submit accurate contact information.

7.7 What happens after the Charter Schools Institute makes its recommendations?

The recommendations of the Charter Schools Institute are forwarded to the State University Trustees' Committee on Charter Schools. The Committee meets to consider the recommendations and may accept or reject them in whole or in part. The Committee will generally forward recommendations to the State University Trustees. The State University Trustees alone have the power to make final approvals and denials. Upon approval, the applicant and the State University Trustees follow the steps for submitting the application to the Board of Regents for its approval that are described in Section 2 of these FAQs.

7.8 If I provide the information required by § 2851(2)(a)-(x) of the Education Law, will I automatically receive approval from the State University Trustees?

No. While no application can be approved that does not provide the information and supporting evidence required by § 2851(2)(a)-(x) of the Education Law, provision of this material is not sufficient. Applications submitted to the State University Trustees will be considered on a competitive basis, and the Charter Schools Institute will only recommend those applications that, based on its reviews, are legally sufficient and that have the highest likelihood of success in implementing the programs and achieving the academic goals described.

7.9 If a charter application is rejected or a proposed charter abandoned, can the applicant appeal?

No. By law, if the State University Trustees or other chartering entities deny an application for a charter school, the denial is final and cannot be reviewed by any authority, including a court of law. However, the applicant is free to re-apply or may apply to other charter entities. While a charter entity is not required to approve charter school applications, it must state, in writing, the reasons for a denial [§ 2852(6)].