



**Charter Schools Institute**  
The State University of **New York**

April 15, 2018

**MEMORANDUM**

To: SUNY Authorized Charter School Leaders  
From: Ralph A. Rossi II, Executive Deputy Director and General Counsel  
Subject: Reporting Requirements for Facilities for Fall 2018, **Due May 15, 2018**

This memo outlines reporting requirements for establishing new facilities, changing facilities, or expanding into new facilities as set forth in your Charter Agreement.

For Schools with No Facility Changes Planned

***All charter school education corporations must respond to this memo indicating whether or not the schools they operate will have a change in facilities for the 2018-19 school year AND send a copy of the schools' current certificates of liability insurance for each site.***

If a school is not making any facility changes for the 2018-19 school year, the education corporation need only send an email to [charters@suny.edu](mailto:charters@suny.edu) indicating that there are no changes and attach a copy of the schools' current certificate of liability insurance. Please note that if the current certificate expires during the 2018-19 school year, the education corporation must submit an updated certificate of liability insurance. The remainder of this memorandum can be disregarded.

For Schools with Changes in Facility

The remainder of this memorandum applies to new **and** existing schools that will add, change, or expand into new facilities.

Please note that SUNY authorized education corporations approved via the Request for Proposal (RFP) process have additional, more stringent requirements regarding charter school facilities, which are marked below by an asterisk (\*). Education corporations with charters not granted under

the RFP process, (e.g., which applied prior to August 2, 2010), can continue to largely follow the law and guidance of previous years as outlined in this memo.<sup>1</sup>

Regardless of when the charter was issued, **all schools proposed to be located in New York City Department of Education (NYCDOE) co-located space that intend to spend more than \$5,000 in renovations will have to follow additional requirements as described below.**

### Quick Summary of Charter Requirements

The lists below represent a quick checklist for school facility requirements, which depend upon when the school was chartered, its location and whether it is in public or private space. Schools must provide facilities information to the SUNY Charter Schools Institute (Institute) by May 15, 2018 and may e-mail it to [charters@suny.edu](mailto:charters@suny.edu).

#### **Schools Chartered Prior to August 2010 in Private Space in NYC or Chartered Outside the RFP Process**

1. Copy of lease or other facility agreement;
2. Letter from education corporation's independent attorney stating such agreement has been reviewed; and,
3. Facility Completion Schedule:
  - a. Timeline;
  - b. Permits/Certificate of Occupancy (C of O) indicating "School Use;" and,
  - c. Updated facility project(s) budget.

#### **Schools Chartered Prior to August 2010 in Private Space outside of NYC**

1. Copy of lease or other facility agreement;
2. Letter from education corporation's independent attorney stating such agreement has been reviewed; and,
3. Facility Completion Schedule:
  - a. Timeline;
  - b. Permits/C of O); and,
  - c. Updated facility project(s) budget.

#### **Schools Chartered Through the RFP Process in Private Space in NYC**

1. Copy of lease or other facility agreement;
2. Letter from education corporation's independent attorney stating such agreement has been reviewed; and,
3. Facility Completion Schedule:
  - a. Timeline;
  - b. Permits/C of O indicating "School Use;" and,
  - c. Updated facility project(s) budget.

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<sup>1</sup> Education corporations formed outside of the RFP process that subsequently were granted the authority to operate one or more additional schools through the RFP process may continue to follow the pre-RFP law for facilities. Similarly, pre-RFP education corporations that have merged with RFP education corporations, where the pre-RFP corporation is the surviving entity, would follow the pre-RFP law for facilities.

### **Schools Chartered Through the RFP Process in Private Space outside of NYC**

1. Copy of lease or other facility agreement;
2. Letter from educational corporation's independent attorney stating such agreement has been reviewed; and,
3. Facility Completion Schedule:
  - a. Timeline;
  - b. Permits;
  - c. C of O from New York State Education Department (NYSED); and,
  - d. Updated facility project(s) budget.

### **All Schools in Public Space in NYC**

1. Copy of the Building Usage Plan (BUP) and Educational Impact Statement (EIS), and any further revisions or agreements related to the BUP agreed to by the School Leadership Teams (SLTs) (i.e., the final BUP);<sup>2</sup> and,
2. Facility Completion Schedule:
  - a. Timeline;
  - b. Letter from NYC Schools Chancellor authorizing improvements of over \$5,000;<sup>3</sup> and,
  - c. Updated facility project(s) budget.

### Detailed Charter Requirements

Pursuant to section 3.14 (New Facilities) (older Charter Agreements may have different numbering) and 3.15 (Change in Location), if the school site is opening for the first time, moving, or expanding a facility, the education corporation must take the actions noted below and provide the Institute with related documentation for each such facility **prior to May 15, 2018**.

The education corporation must complete each applicable item below based on the checklists above:

- 1) Enter into a lease, purchase agreement, mortgage, or other contract to occupy an identified facility suitable for school use, and for which all rights and permissions necessary to operate a school are or will be secured. (Please note that the education corporation's commitment to such lease or other agreement must be made contingent upon the Institute's approval of the facility pursuant to sections 3.14-15 of the Charter Agreement. This contingency should be explicitly communicated to the landlord or other party to the real estate transaction.)
- 2) Provide to the Institute a copy of the executed lease or other facility agreement. Those moving into NYCDOE space must provide copies of the latest EIS and BUP, and a Memorandum of Understanding (MOU) (if one exists).
- 3) Provide to the Institute a copy of a letter from the education corporation's independent (non-management/non-partner organization including community based organization)

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<sup>2</sup> If a facility agreement exists with the NYCDOE, please include same, but the Institute understands that typically there is no agreement.

<sup>3</sup> If renovation work would require a new C of O or a temporary C of O, please include same.

attorney stating he or she has reviewed the facility agreement. This is not necessary for those moving into NYCDOE space unless a MOU will be used.

- 4) Provide to the Institute the Facility Completion Schedule described in section 3.14 of the Charter Agreement, which consists of the following:
  - a. A detailed timeline of the steps necessary to make the school ready for commencement of instruction including the dates upon which such steps will be completed. This includes the steps necessary to obtain an approved C of O for school use, which is a minimum requirement for students to be in the school and a statutory requirement per Education Law § 2851(2)(j), and also includes things like renovations and installation of wiring and computing infrastructure.
  - b. The permits and licenses required for the school to legally operate in the proposed facility including, but not limited to, a C of O, and the date when each permit will be obtained.
    - i. For schools to be sited in NYCDOE space that intend to spend more than \$5,000 on renovations, this would include the letter from the NYC Schools Chancellor stating the education corporation may make more than \$5,000 in capital improvements to the NYCDOE space and that the NYCDOE will match the amount of the improvements for each non-charter school in the building.
    - ii. For schools with charters obtained through the RFP process that will be located in NYC, the school must not only meet the NYC Building Code and obtain a C of O indicating "School Use," but also comply with the NYSED's health, safety and sanitary requirements applicable to district school facilities (which may be found at 8 NYCRR Part 155 and Education Law § 409). Note that we are unaware of any published NYSED guidance on this issue to date, but understand that meeting NYC School Construction Authority or NYC Building Code specifications will satisfy this requirement.
    - iii. For schools with charters obtained through the RFP process that will be located outside of NYC, the school must obtain the C of O directly from NYSED and meet all the requirements of Education Law § 409 (including all Americans with Disabilities Act new construction requirements) of a district school.
- 5) A detailed facility budget for preparing the facility for instruction. The budget should identify the source of funds to be used and include an estimate of all costs to be incurred to prepare the facility. Such costs may include construction or renovation contracts, purchase of equipment, furniture and fixtures, and expenses for signage, cleaning after renovation, etc. Program costs such as instructional materials, textbooks, and recruitment need not be accounted for in the facility budget as they do not relate to the preparation of the facility. Each facility project is unique; therefore schools should create a facility budget that identifies specific line item categories that fit the project costs.

- 6) The 2018-19 annual budget for each school is due July 2, 2018. The annual budget template is found at: <http://www.newyorkcharters.org/fiscal/>. The annual budget approved by the education corporation board of trustees should include any revised projected facility costs for the 2018-19 fiscal year. The facility cost projections from the above facility budget should also be reflected in the annual school budget to accurately reflect all costs for the upcoming fiscal year.

The Institute recommends any school seeking to co-locate in NYCDOE facilities to review the NYC Charter Center publication found at: <http://www.nyccharterschools.org/sites/default/files/resources/NYC-CS-Facility.pdf>.

**Finally, in addition to the above information, please provide all new phone and fax numbers, emails, mailing address, and grade distributions between facilities, if applicable.**

If you have any questions regarding school facilities, please contact Kyra Lazzaro, the Institute's Assistant Counsel for Legal Oversight, via email at: [kyra.lazzaro@suny.edu](mailto:kyra.lazzaro@suny.edu) or by phone at: 518-445-4252.

cc: Board Chairs (via e-mail)