



To: SUNY Authorized Charter School Leaders, Board Chairs, and Fiscal Contacts

From: Kyra Lazzaro, Assistant Counsel for Legal Oversight

Subject: **Prior Actions Process** (Stand Alone Schools)

Date: June 8, 2018

Section 3.1 of the SUNY Charter Agreement requires a new charter school undertake Prior Actions before the school may open for instruction. The SUNY Charter Schools Institute (the “Institute”) checks these Prior Actions by reviewing certain documents and conducting a visit to the school site in the weeks immediately prior to the scheduled opening. The Prior Actions process helps Institute staff verify the new school is prepared to serve students and meets facilities requirements, as defined by state and/or federal law and SUNY policy, and determine whether the school may open as scheduled. If a school has completed all or substantially all of the Prior Actions, and presents no student safety or security issues, the Institute will find the school may open (even though *all* of the Prior Actions are not complete).

The Institute will contact the school to set up a time for a Pre-Visit Call to discuss the Prior Actions process including the document collection process and any issues that may arise, and to schedule the date of the Prior Actions visit, which occurs one to two weeks prior to opening. The visit should take between two and three hours. After the visit, the Institute provides a written confirmation of its determination of whether the school has completed all or substantially all Prior Actions and may open for instruction as scheduled, and sets forth the further actions needed for the school to either open or fully complete the Prior Action process post-opening.

In order to expedite the process, please find the latest version of the *Prior Action Checklist for Stand Alone Schools* attached (available at <http://www.newyorkcharters.org/compliance/>). Please provide information regarding the status of *each* item on the Prior Action Checklist as well as documentation where appropriate. The Institute will set up a Drop Box folder for submitting Prior Action materials prior to the visit and will send a link to the folder to the school’s compliance contact.

We urge you to ask any questions regarding the Prior Actions in advance of the visit so that any issues may be resolved before the scheduled start of school. Please know that when the Institute determines a school is initially not yet ready to open, the Institute will work with the school to facilitate a timely opening, but in rare cases opening may have to be delayed.

Should you have any questions concerning the Prior Action process, please do not hesitate to contact me at (518) 445-4252. Thank you.

APPENDIX A: PRE-VISIT DOCUMENTS

1. Staffing.

- a. **Staff Directory.** Provide a complete staff directory in accordance with the staffing plan in the charter application. For teachers, include grades and subjects taught. The directory should list non-instructional staff, including persons in the school who may not be employees, such as special education contractors or cafeteria and security personnel utilized by the school.
- b. **Head of School.** Provide written notice that the head of school has been named within five days of the hire date.
- c. **Teacher Certification & Experience Roster.** Fill out the Institute Teacher Certification & Experience Roster template, detailing each current teacher's certification, teaching area, and experience. The template is available as Appendix E.
- d. **Teacher Certification Records.**
 - i. Provide scanned copies of the TEACH certification records, New York State Education Department ("NYSED") teaching certificates, out-of-state certificates, or SUNY approved teacher instructional program teaching certificates for each teacher of record identified in the teacher roster (**note:** please redact all parts of the teachers' social security numbers ("SS#s") and dates of birth ("DOBs") prior to submitting); or
 - ii. Provide appropriate proof of compliance with statutory or regulatory exemptions, i.e., a resume and/or copy of college transcripts (again with any SS#s and DOBs redacted).
- e. **Fingerprint Clearance Records.**
 - i. Provide scanned copies of the fingerprint/Livescan-supported background check forms provided by NYSED or printouts from the TEACH System for each employee or other person listed on the Staff Directory; or
 - ii. For any employee or contractor identified in the staff directory that has been fingerprinted or has previously been cleared by NYSED, but is not cleared for employment by the school, provide documentary evidence that the school has followed lawful procedures in conducting emergency conditional appointment(s) including:
 - Proof of fingerprinting or prior NYSED clearance; AND
 - Proof of Emergency Conditional or Conditional Appointment including a signed statement regarding criminal record; AND
 - An approved resolution from the education corporation board of trustees to extend such clearance to the employee(s); AND
 - A supervision policy for such employee(s) approved by the board of trustees.

iv. A system of procedural safeguards for parents including notice, records review, hearing and appeal in compliance with federal regulations (34 C.F.R. § 104 *et seq.*).

c. **Ability to Serve Students with Disabilities.** Provide a preliminary count of students with disabilities, and proof that the school is ready to serve such students.

- i. A roster of students with disabilities and any information related to their settings and any related services that are known;
- ii. Written documentation that the school has contacted the district CSE seeking records of each incoming student known to have a disability; and,
- iii. Written assurance that the school is able to serve the students or has (or will) contact the CSE within 10 days to have services provided to such students.

4. **Students and Parents.**

a. **Handbooks and other Policies.** Provide policies relating to discipline, complaints, Family Educational Rights and Privacy Act (“FERPA”), N.Y. Freedom of Information Law (“FOIL”), and N.Y. Open Meetings Law. (Guidance on each topic is available on the Institute’s website at: <http://www.newyorkcharters.org/compliance/>). Provide a copy of the Student and Family Handbook (or similar publication containing the specified policies), or stand-alone policies:

- i. Discipline policy including students with disabilities policy;
- ii. Complaint policy including how to file a formal complaint;
- iii. FERPA policy including the following:
 - Procedures for locked storage / secure handling of student files in school, or password protected student files if electronic;
 - List of persons with access;
 - List of records maintained (file schematic);
 - Confidentiality policy for school employees;
 - Annual notification of rights for parents;
 - FERPA directory information opt out; and
 - Protection of Pupil Rights Amendment (“PPRA”) notice.
- iv. FOIL policy including the following:
 - Notice for posting;
 - Regulations;
 - List of records;
 - List of employees, positions, work locations, and salaries; and,
 - Policy is posted on the school’s website and includes a link to the New York State Committee on Open Government. (See the Committee on Open Government at <https://www.dos.ny.gov/coog/foil2.html> for more information.
- v. Health policies including those for medication administration.
- vi. School calendar and the current class schedules.
- vii. Provide written assurance that handbooks, policies, calendars, and class schedules have been distributed to students and parents, or will be distributed within 10 days of the first day of classes.

- b. **Enrollment.** Provide a current summary of school enrollment statistics including the number of currently enrolled students and number of students on the waiting list.

5. Operations.

- a. **Student Records.** Student records have been received or requested, and are in locked or password protected storage.
 - i. Student health and immunization records are separated from academic records and are in locked or password protected storage in the office of the school nurse (or the school nurse has accurate copies of them).
 - ii. Provide written assurance that student academic and health records have been requested if not available at time of the Prior Action visit.
 - iii. Provide written assurance that each student has proper immunization records on file and that students who have not been immunized or exempted will be barred from school after 14 days.

- b. **School Nurse.** The school has made arrangements to be staffed with a school nurse and has procedures for the administration of medications.
 - i. Provide documentation of the school's relationship with a registered nurse ("RN"), a licensed practical nurse supervised by a RN, and/or physician.
 - ii. Provide copies of procedures for medication administration of prescription and non-prescription medications to students, and for the provision of required health services.

- c. **Transportation.** Appropriate provisions have been made for supplemental transportation of students, if any are to be provided. If applicable:
 - i. Provide a copy of agreement with provider of supplemental transportation services; and,
 - ii. Provide copies of fingerprint/scan supported background checks for employees of the supplemental transportation services provider. (**Note:** please redact all parts of any SS#s and DOBs.)

- d. **Food Service.** Arrangements have been made for food service.
 - i. Provide a copy of agreement with food service provider, if applicable, or written assurance that arrangements have been made with the school district.
 - ii. Provide copies of fingerprint/scan supported background checks for employees of food service provider, if applicable. (**Note:** please redact all parts of any SS#s and DOBs.)

- e. **Safety.** There are written plans for fire drills and emergency evacuation including safety plans in accordance with Project SAVE.
 - i. Provide a copy of draft SAVE plan.
 - ii. Provide proof the plan has been submitted to NYSED for approval.

- iii. Provide written assurance that the school will meet with required groups (parents and teachers) and submit a final SAVE plan, and revise as directed by NYSED.

6. Finance.

- a. **Accounting System.** There is evidence of an accounting system with internal controls and fiscal policies.
 - i. Provide a copy of the school's fiscal policies and procedures. If not provided as part of the Initial Statement process in the Charter Agreement.
 - ii. Provide documentation of employment of or contract with an accountant, bookkeeper, or other person or entity to handle fiscal duties at the school.
- b. **Payroll.** A payroll system is established and, if offered, properly allows employees to consent to 12 month payroll.
 - i. Provide a copy of a contract with a payroll company or documentation of employment of or contract with persons to handle payroll.
 - ii. Provide a copy of deduction policy if not included as part of Initial Statement.

7. Compliance.

- a. **Compliance contact.** Provide the name and contact information of the person who will serve as the primary contact.
- b. **Mandated Reporting.** The school has developed required policies related to Mandated Reporter Child Abuse policies.
 - i. Provide written assurance that the school has provided written materials explaining the requirements.
 - ii. Provide written assurance the school has conducted, or will conduct annual training.
- c. **Initial Statement Process.** Confirmation that the Initial Statement process in the Charter Agreement is complete including all follow-up steps. If not complete, provide a report by an independent auditor that systems are established and working for the school to take in revenue and expend funds on programs including any required follow-up and the time frame therefor in accordance with the Charter Agreement.

APPENDIX B: FACILITIES/PHYSICAL PLANT CHECKLIST

During the Prior Action Visit, the Institute will be checking on the following items:

1. Signage.

- a. Exterior Signage.** Exterior signage identifying the charter school by name and address is in place.
- b. Religious Symbols.** The space must be free from all religious symbols, signs, or representations. The school should bring to the Institute's attention for review any items that are architectural and cannot be reasonably be covered or removed.
- c. Exit Signage and Evacuation.** Appropriate exit signage and/or fire evacuation maps are in place in each room occupied or utilized by the school where students may be present.

2. Space.

- a. Security.** The space is safe and secure; entrance and egress from the school's space is adequately controlled.
- b. Adequate Space.** The available space, including classrooms, restrooms, and special purpose rooms meets the requirements of the program and the number of students enrolled.
- c. Accessibility.** Space is accessible to all students (including students with disabilities), clean, and well-lit. If the building is not required to be accessible to persons with disabilities in accordance with the latest law and regulations (Americans with Disabilities Act, amendments, and applicable regulations, (42 U.S.C. § 1201 *et seq.* and 28 C.F.R. Parts 35 and 36)), provide procedures for reasonable accommodation of such persons.
- d. Kitchen/Cafeteria.** If the school will serve food, the school has both food/beverage coolers and heaters in the kitchen/cafeteria area, or all equipment necessary to prepare and serve food in accordance with applicable law and regulations including documentation of such approval.

3. Safety.

- a. Fire Extinguishers.** Fire extinguishers on all floors occupied by the school have been inspected by duly qualified personnel within the past calendar year or as required by applicable law.
- b. Hazardous Areas.**
 - i.** All electrical rooms, mechanical rooms, breaker or fuse boxes, janitorial closets with cleaners/chemicals, or other hazardous areas off limits to students are locked except when access is required by authorized personnel.

ii. If science/cooking instruction rooms will use gas or chemicals, a gas shut off valve is present and operational, chemicals are in locked storage, and eye/body wash stations are operational as applicable.

c. **Automated External Defibrillator.** The school has the requisite number of automated external defibrillators in place as required by 8 NYCRR § 136.4 to ensure ready and appropriate access, and an appropriate number of staff members are trained in AED operation and use in school and at school sponsored events.

d. **Window Guards.** As appropriate for students under the age of six, window stops or gates are operable if present.

4. Postings and Policies.

a. **State and Federal Laws.** Required state and federal employment laws are posted in an area that staff can readily access/review them.

b. **Complaint Policy.** A copy of the school's complaint policy is on file in the school office and accessible to parents.

c. **FOIL.** The school's Freedom of Information Law ("FOIL") notice is posted in the school office or another location accessible to parents and staff. (See the FOIL guidance at <http://www.newyorkcharters.org/freedom-information-law-foil/> for more information).

i. The school maintains a category list of records held by the school.

ii. The school maintains a list of employees, their work stations, titles, and salaries.

5. Records.

a. **Locked Student Records.** All student records (academic, IEP, health, etc.) are stored in lockable storage containers or password protected electronic storage systems.

b. **FERPA Access Log.** Each student record file contains a FERPA Access Log to indicate who has accessed the file. (See the FERPA guidance at <http://www.newyorkcharters.org/confidentiality-student-records/> for more information).

c. **FERPA Staff Access.** The school maintains a list of staff members that have access to student files.

d. **FERPA Record List.** The school maintains a FERPA list of records typically found in a student file.

e. **IEPs in Locked Storage.** Written assurance that copies of student IEPs will be distributed to classroom teachers and are stored in lockable storage containers or password protected electronic storage systems.

6. Nurse's Office.

- a. Locked Storage for Medications.** All medications including self-directed medications should be locked unless permission has been given by a doctor to have the medication carried by student or staff (e.g., EpiPen or inhaler). A lockable refrigerator for medications is a requirement.

- b. Adequate Space for Treatment and Storage of Medical Records.**

- c. Provision for the Disposal of Sharps, including needles, syringes, etc.**

APPENDIX C: PRE-VISIT DOCUMENTS QUICK CHECKLIST

Item Number	ITEM/DELIVERABLE	School Checklist: Mark when completed	Institute Checklist: Mark when completed
1. STAFFING			
1. a.	Staff Directory		
1. b.	Head of School		
1. c.	Teacher Roster		
1. d.	Teacher Certification Records		
1. e.	Fingerprint Clearance Records		
1. f.	Fingerprint Policy		
2. GOVERNANCE			
2. a.	Management Contract		
2. b.	Board Minutes		
2. c.	Board Contact List		
2. d.	By-laws		
2. e.	Open Meetings Law		
3. STUDENTS WITH DISABILITIES			
3. a.	Rtl		
3. b.	504 Policy		
3. c.	Serving Students with Disabilities		
4. STUDENTS AND PARENTS			
4. a.	Handbooks, Policies, Calendar		
4. b.	Enrollment		
5. OPERATIONS			
5. a.	Student Records		
5. b.	School Nurse		
5. c.	Transportation		
5. d.	Food Service		

5 e.	Safety		
6. FINANCE			
6. a.	Accounting System		
6. b.	Payroll		
7. COMPLIANCE			
7. a.	Compliance Contact		
7. b.	Mandated Reporting		
7. c.	Initial Statement Process		

APPENDIX D: FACILITIES/PHYSICAL PLANT QUICK CHECKLIST

Item Number	ITEM/DELIVERABLE	School Checklist: Mark when completed	Institute Checklist: Mark when completed
1. SIGNAGE			
1. a.	Exterior Signage		
1. b.	Religious Symbols		
1. c.	Exit Signage and Evacuation		
2. SPACE			
2. a.	Safe and Secure Space		
2. b.	Adequate Space		
2. c.	Accessibility		
2. d.	Kitchen/Cafeteria		
3. SAFETY			
3. a.	Fire Extinguishers		
3. b.	Hazardous Areas		
3. c.	Automated External Defibrillator		
3. d.	Window Guards (if applicable)		
4. POSTINGS AND POLICIES			
4. a.	State and Federal Laws		
4. b.	Complaint Policy		
4. c.	FOIL		
5. RECORDS			
5. a.	Locked Student Records		
5. b.	FERPA Access Log		
5. c.	FERPA Staff Access		
5. d.	FERPA Record List		
5. e.	IEPs in Locked Storage		

6. NURSE'S OFFICE			
6. a.	Locked Storage for Medication		
6. b.	Adequate Space		
6. c.	Disposal of Sharps		

