



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

From: Kyra Lazzaro, Assistant Counsel for Legal Oversight

Subject: **Prior Actions Process** (Multi-School Education Corporations)

Date: June 13, 2018

Section 3.1 of the SUNY Charter Agreement requires the charter school education corporation to undertake Prior Actions for each new charter school before a 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 each new school site in the weeks immediately prior to the scheduled opening. The Prior Actions process helps Institute staff verify each 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 each school may open as scheduled. If the education corporation has completed all or substantially all of the Prior Actions for a school, and the school presents no student safety or security issues, then the Institute will find the school may open (even though *all* of the Prior Actions for that school are not complete).

The Institute will contact the education corporation 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(s) of Prior Actions visit(s), which occur one to two weeks prior to school opening. The visit for each school should take between two and three hours. After each visit, the Institute provides a written confirmation of its determination of whether the education corporation has completed all or substantially all Prior Actions for a school and may open the school 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 Multi-School Education Corporations* attached (available at <http://www.newyorkcharters.org/compliance/>). Please provide information regarding the status of *each* item on the Prior Action Checklist for each school 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 each schools' 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

Note that if the Institute requires written assurance, assurance only needs to be provided once for all schools.

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.
- f. **Fingerprint Policy.** Provide a copy of a criminal history check policy implementing a fingerprint/IdentoGO identification consistent with NYSED regulations, and Institute policy (which requires that at least two staff members verify the clearance of each new employee/contractor hired by the education corporation prior to employment) (available at <http://www.newyorkcharters.org/criminal-background-checks-fingerprinting/>); covering all cafeteria, maintenance, and transportation personnel regardless of whether employed by the education corporation such that the education corporation has proof of NYSED clearance on file.
2. **Governance.** Provide the following documents relating to the Board of Trustees.
- a. **Management Contract.** Copy of management contract, if applicable, signed by representatives of management entity and the Board of Trustees. Please note that if one contract covers all of the opening schools, only one copy need be submitted.
 - b. **Open Meetings Law.**
 - i. A written assurance that the education corporation provides a media notice regarding each board meeting in accordance with the Open Meetings Law.
 - ii. A written assurance that the education corporation posts information regarding board meetings on its website in accordance with the Open Meetings Law. (See the Committee on Open Government at <https://www.dos.ny.gov/coog/openmeetlaw.html> for more information).
3. **Students with Disabilities.** Provisions have been made for a Child Find system and serving students with disabilities, including those who may receive accommodation under § 504 of the Rehabilitation Act of 1973.
- a. **Rtl.** Provide written assurance that the Response to Intervention (“Rtl”) or other policy/process to refer students to district Committee on Special Education (“CSE”) for evaluation as a student with a disability or to refer to the school 504 team is the same as other schools with the Education Corporation.
 - b. **504 Policy.** Provide written assurance that the 504 Policy, which includes the following, is the same as other schools with the Education Corporation:
 - i. Identification, evaluation, and reevaluation procedures;
 - ii. Placement procedures;
 - iii. Formation of a 504 team; and
A system of procedural safeguards for parents, including notice, records review, and hearing in compliance with federal regulations.
 - 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.

- i. Provide written assurance that the 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 are the same as other schools with the Education Corporation. (Guidance on each topic is available on the Institute’s website at: <http://www.newyorkcharters.org/compliance/>).
- ii. Provide a copy of the school calendar and the current class schedules.
- iii. 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 storage.

- i. Student health and immunization records are separated from academic records and are in locked 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. Copies of fingerprint/scan supported background checks for employees of the supplemental transportation services provider.
- 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; and
 - ii. Copies of fingerprint/scan supported background checks for employees of food service provider, if applicable.
- 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.** Provide written assurance that here is evidence of an accounting system with internal controls and fiscal policies and those policies are the same as other schools with the Education Corporation.
- 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; and
 - ii. Provide a copy of deduction policy if not included as part of Initial Statement.

Note that only one copy of the contract needs be provided if it covers all schools. Also, only one copy of the deduction policy needs to be submitted, and if it was covered by the Initial Statement or related assurance, a copy does not need to be submitted.

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; and
 - 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.

Note that only one confirmation needs to be submitted for all schools.

APPENDIX B: FACILITIES/PHYSICAL PLANT CHECKLIST

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.
- 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.
 - iii. The school’s website contains required FOIL information including a link to the Committee on Open Government . (See the Committee on Open Government at <https://www.dos.ny.gov/coog/foil2.html> for more information).
- 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. | Open Meetings Law | | |
| 3. STUDENTS WITH DISABILITIES | | | |
| 3. a. | Rtl Written Assurance | | |
| 3. b. | 504 Plan Written Assurance | | |
| 3. c. | Serving Students with Disabilities | | |
| 4. STUDENTS AND PARENTS | | | |
| 4. a. | Handbooks and Policies Written Assurance and 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 Written Assurance | | |
| 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) | | |
| POSTINGS AND POLICIES | | | |
| 4.a. | State and Federal Laws | | |
| 4. b. | Complaint Policy | | |
| 4. c. | FOIL | | |
| 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 | | |

APPENDIX E: TEACHER CERTIFICATION AND EXPERIENCE

SCHOOL:

TEACHER CERTIFICATION AND EXPERIENCE

Directions: Please enter the name of each teacher in the school and provide the requested information in each column. You may add additional rows if needed. Then enter the number of non-certified teachers at the bottom (include these teachers in the list and list as "Uncertified").

This form should include general education classroom teachers and any special education staff members. Please be as specific as possible, see the first row as an example.

| Teacher's Name | | Teaching Assignment (Grades/Subjects) | Charter School Approved Program - Alternative Certification | Out of State Certification (specify state) | Type of Certification (e.g., early childhood, subject, special education) | Certification Status (e.g., initial, professional, provisional, permanent, transitional B, SUNY-certified intern teacher, SUNY teacher) | Certification Issue Date | Certification Expiration Date | Years Teaching Experience Prior to This School Year | Years Teaching Experience at This School Prior to This School Year | If Not Certified Indicate Other Experience ¹ |
|----------------|--------------|--|---|--|--|--|-----------------------------|----------------------------------|--|--|---|
| Last | First | | | | | | | | | | |
| Doe-Example | Jane-Example | 3rd, ICT | Yes - Sunshine Charter School Program | Tennessee | Early Childhood, SWD | Professional | 5/2009 | N/A | 4 | 5 | |
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