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I N A S S E M B L Y

May 28, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Nolan, Silver, Benjamin, Bing, Camara, Clark, Espaillat, Galef, Gottfried, Hikind, Hoyt, Jeffries, Morelle, Powell) -- (at request of the Governor) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to charter schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 2851 of the education law, as
2 added by chapter 4 of the laws of 1998, is amended to read as follows:
3 1. An application to establish a charter school may be submitted by
4 teachers, parents, school administrators, community residents or any
5 combination thereof. Such application may be filed in conjunction with
6 a college, university, museum, educational institution, not-for-profit
7 corporation exempt from taxation under paragraph 3 of subsection (c) of
8 section 501 of the internal revenue code or for-profit business or
9 corporate entity authorized to do business in New York state. PROVIDED
10 HOWEVER, FOR-PROFIT BUSINESS OR CORPORATE ENTITIES SHALL NOT BE ELIGIBLE
11 TO SUBMIT AN APPLICATION TO ESTABLISH A CHARTER SCHOOL PURSUANT TO
12 SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS
13 ARTICLE, OR OPERATE OR MANAGE A CHARTER SCHOOL FOR A CHARTER ISSUED
14 PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO
15 OF THIS ARTICLE. For charter schools established in conjunction with a
16 for-profit business or corporate entity, the charter shall specify the
17 extent of the entity's participation in the management and operation of
18 the school.
19 S 2. Paragraph (c) of subdivision 2 of section 2851 of the education
20 law, as added by chapter 4 of the laws of 1998, is amended to read as
21 follows:
22 (c) The proposed governance structure of the school, including a list
23 of members of the initial board of trustees, a description of the quali-
24 fications, terms and method of appointment or election of trustees, the
25 organizational structure of the school, A PROCEDURE FOR CONDUCTING AND
26 PUBLICIZING MONTHLY BOARD OF TRUSTEE MEETINGS AT EACH CHARTER SCHOOL,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 and the processes to be followed by the school to promote parental and
2 staff involvement in school governance.

3 S 3. Paragraph (v) of subdivision 2 of section 2851 of the education
4 law, as added by chapter 4 of the laws of 1998, is amended to read as
5 follows:

6 (v) A code of ethics for the charter school, setting forth for the
7 guidance of its trustees, officers and employees the standards of
8 conduct expected of them INCLUDING STANDARDS WITH RESPECT TO DISCLOSURE
9 OF CONFLICTS OF INTEREST REGARDING ANY MATTER BROUGHT BEFORE THE BOARD
10 OF TRUSTEES.

11 S 4. Paragraph (p) of subdivision 2 of section 2851 of the education
12 law, as added by chapter 4 of the laws of 1998, is amended to read as
13 follows:

14 (p) The term of the proposed charter, which shall not exceed five
15 years; PROVIDED HOWEVER, IN THE CASE OF CHARTERS ISSUED PURSUANT TO
16 SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS
17 ARTICLE THE TERM OF SUCH PROPOSED CHARTER SHALL NOT EXCEED FIVE YEARS IN
18 WHICH INSTRUCTION IS PROVIDED TO PUPILS PLUS THE PERIOD COMMENCING WITH
19 THE EFFECTIVE DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE
20 SCHOOL FOR INSTRUCTION.

21 S 5. Subdivision 3 of section 2851 of the education law, as added by
22 chapter 4 of the laws of 1998, paragraph (a) as amended by section 6 of
23 part B of chapter 57 of the laws of 2008, is amended to read as follows:

24 3. An applicant shall submit the application to a charter entity for
25 approval. For purposes of this article, a charter entity shall be:

26 (a) The board of education of a school district eligible for an appor-
27 tionment of aid under subdivision four of section thirty-six hundred two
28 of this chapter, provided that a board of education shall not approve an
29 application for a school to be operated outside the school district's
30 geographic boundaries and further provided that in a city having a popu-
31 lation of one million or more, the chancellor of any such city school
32 district shall be the charter entity established by this paragraph;

33 (b) The board of trustees of the state university of New York; or

34 (c) The board of regents.

35 The board of regents shall be the only entity authorized to issue a
36 charter pursuant to this article. Notwithstanding any provision of this
37 subdivision to the contrary, an application for the conversion of an
38 existing public school to a charter school shall be submitted to, and
39 may only be approved by, the charter entity set forth in paragraph (a)
40 of this subdivision. [Any] NOTWITHSTANDING ANY LAW, RULE OR REGULATION
41 TO THE CONTRARY, ANY such application for conversion shall be consistent
42 with this section BUT SHALL NOT BE SUBJECT TO THE PROCESS PURSUANT TO
43 SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS
44 ARTICLE, and the charter entity shall require that the parents or guard-
45 ians of a majority of the students then enrolled in the existing public
46 school vote in favor of converting the school to a charter school.

47 S 6. Subdivision 4 of section 2851 of the education law is amended by
48 adding a new paragraph (e) to read as follows:

49 (E) THE MEANS BY WHICH THE CHARTER SCHOOL WILL MEET OR EXCEED ENROLL-
50 MENT AND RETENTION TARGETS AS PRESCRIBED BY THE BOARD OF REGENTS OR THE
51 BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, AS APPLICABLE, OF
52 STUDENTS WITH DISABILITIES, ENGLISH LANGUAGE LEARNERS, AND STUDENTS WHO
53 ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM
54 WHICH SHALL BE CONSIDERED BY THE CHARTER ENTITY PRIOR TO APPROVING SUCH
55 CHARTER SCHOOL'S APPLICATION FOR RENEWAL. WHEN DEVELOPING SUCH TARGETS,
56 THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY

1 OF NEW YORK SHALL ENSURE (1) THAT SUCH ENROLLMENT TARGETS ARE COMPARABLE
2 TO THE ENROLLMENT FIGURES OF SUCH CATEGORIES OF STUDENTS ATTENDING THE
3 PUBLIC SCHOOLS WITHIN THE SCHOOL DISTRICT, OR IN A CITY SCHOOL DISTRICT
4 IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS, THE
5 COMMUNITY SCHOOL DISTRICT, IN WHICH THE CHARTER SCHOOL IS LOCATED; AND
6 (2) THAT SUCH RETENTION TARGETS ARE COMPARABLE TO THE RATE OF RETENTION
7 OF SUCH CATEGORIES OF STUDENTS ATTENDING THE PUBLIC SCHOOLS WITHIN THE
8 SCHOOL DISTRICT, OR IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPU-
9 LATION OF ONE MILLION OR MORE INHABITANTS, THE COMMUNITY SCHOOL
10 DISTRICT, IN WHICH THE PROPOSED CHARTER SCHOOL WOULD BE LOCATED.

11 S 7. Subdivision 1 of section 2852 of the education law, as amended by
12 section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to
13 read as follows:

14 1. A charter entity that receives an application for approval of a
15 charter school shall act on each request received prior to July first of
16 a calendar year on or before January first of the succeeding calendar
17 year, and a proposed charter between the applicant and the charter enti-
18 ty resulting from such application shall be executed on or before Febru-
19 ary first of such succeeding year. Nothing in this subdivision shall be
20 construed to prevent a charter entity from receiving or acting upon an
21 application at any time. THIS SUBDIVISION SHALL NOT APPLY TO APPLICA-
22 TIONS THAT ARE SUBMITTED PURSUANT TO SUBDIVISION NINE-A OF THIS SECTION.

23 S 8. Subdivision 5 of section 2852 of the education law, as added by
24 chapter 4 of the laws of 1998, is amended to read as follows:

25 5. Upon approval of an application by a charter entity, the applicant
26 and charter entity shall enter into a proposed agreement allowing the
27 applicants to organize and operate a charter school. Such written agree-
28 ment, known as the charter, shall include (a) the information required
29 by subdivision two of section twenty-eight hundred fifty-one of this
30 article, as modified or supplemented during the approval process, (b) IN
31 THE CASE OF CHARTERS TO BE ISSUED PURSUANT TO SUBDIVISION NINE-A OF THIS
32 SECTION, INFORMATION REQUIRED BY SUCH SUBDIVISION, (C) any other terms
33 or conditions required by applicable laws, rules and regulations, and
34 [(c)] (D) any other terms or conditions, not inconsistent with law,
35 agreed upon by the applicant and the charter entity. In addition, the
36 charter shall include the specific commitments of the charter entity
37 relating to its obligations to oversee and supervise the charter school.
38 Within five days after entering into a proposed charter, the charter
39 entity other than the board of regents shall submit to the board of
40 regents a copy of the charter, the application and supporting documenta-
41 tion for final approval and issuance by the board of regents in accord-
42 ance with subdivisions five-a and five-b of this section.

43 S 9. Subdivision 5-a of section 2852 of the education law, as amended
44 by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended
45 to read as follows:

46 5-a. Upon receipt of a proposed charter submitted by a charter entity,
47 the board of regents shall review such proposed charter in accordance
48 with the standards set forth in subdivision two of this section, AND ANY
49 OTHER APPLICABLE SPECIFICATIONS REQUIRED BY THIS ARTICLE. The board of
50 regents shall either (a) approve and issue the charter as proposed by
51 the charter entity or (b) return the proposed charter to the charter
52 entity for reconsideration with the written comments and recommendations
53 of the board of regents. If the board of regents fails to act on such
54 proposed charter within ninety days of its submission to the board of
55 regents in accordance with the previous sentence, the proposed charter

1 shall be deemed to have been approved and issued by the board of regents
2 at the expiration of such period.

3 S 10. Intentionally omitted.

4 S 11. Subdivision 9 of section 2852 of the education law, as amended
5 by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended
6 to read as follows:

7 9. The total number of charters issued pursuant to this article shall
8 not exceed [two] FOUR hundred SIXTY. (A) One hundred of such charters
9 shall be issued on the recommendation of the charter entity described in
10 paragraph (b) of subdivision three of section twenty-eight hundred
11 fifty-one of this article[, and]; (B) one hundred of such charters shall
12 be issued on the recommendation of the other charter entities set forth
13 in subdivision three of section twenty-eight hundred fifty-one of this
14 article[, provided that]; (C) up to fifty of the additional charters
15 authorized to be issued by the chapter of the laws of two thousand seven
16 which amended this subdivision effective July first, two thousand seven
17 shall be reserved for a city school district of a city having a popu-
18 lation of one million or more; (D) ONE HUNDRED THIRTY CHARTERS SHALL BE
19 ISSUED BY THE BOARD OF REGENTS PURSUANT TO A COMPETITIVE PROCESS IN
20 ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION, PROVIDED THAT NO
21 MORE THAN FIFTY-SEVEN OF SUCH CHARTERS SHALL BE GRANTED TO A CHARTER FOR
22 A SCHOOL TO BE LOCATED IN A CITY HAVING A POPULATION OF ONE MILLION OR
23 MORE; (E) ONE HUNDRED THIRTY CHARTERS SHALL BE ISSUED BY THE BOARD OF
24 REGENTS ON THE RECOMMENDATION OF THE BOARD OF TRUSTEES OF THE STATE
25 UNIVERSITY OF NEW YORK PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE
26 WITH SUBDIVISION NINE-A OF THIS SECTION, PROVIDED THAT NO MORE THAN
27 FIFTY-SEVEN OF SUCH CHARTERS SHALL BE GRANTED TO A CHARTER FOR A SCHOOL
28 TO BE LOCATED IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE. The
29 failure of any body to issue the regulations authorized pursuant to this
30 article shall not [effect] AFFECT the authority of a charter entity to
31 propose a charter to the board of regents or the board of regents'
32 authority to grant such charter. A conversion of an existing public
33 school to a charter school or the renewal or extension of a charter
34 shall not be counted toward the numerical limits established by this
35 subdivision.

36 S 12. Section 2852 of the education law is amended by adding a new
37 subdivision 9-a to read as follows:

38 9-A. (A) THE BOARD OF REGENTS IS HEREBY AUTHORIZED AND DIRECTED TO
39 ISSUE TWO HUNDRED SIXTY CHARTERS PURSUANT TO A COMPETITIVE REQUEST FOR
40 PROPOSALS PROCESS.

41 (I) COMMENCING ON AUGUST FIRST, TWO THOUSAND TEN, THE BOARD OF REGENTS
42 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL EACH
43 ISSUE A REQUEST FOR PROPOSALS IN ACCORDANCE WITH THIS SUBDIVISION AND
44 THIS SUBPARAGRAPH:

45 (1) EACH REQUEST FOR PROPOSALS TO BE ISSUED BY THE BOARD OF REGENTS
46 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ON AUGUST
47 FIRST, TWO THOUSAND TEN SHALL BE FOR A MAXIMUM OF THIRTY-TWO CHARTERS TO
48 BE ISSUED FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL OPERA-
49 TION BY THE SEPTEMBER OF THE NEXT CALENDAR YEAR.

50 (2) EACH REQUEST FOR PROPOSALS TO BE ISSUED BY THE BOARD OF REGENTS
51 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ON JANUARY
52 FIRST, TWO THOUSAND ELEVEN SHALL BE FOR A MAXIMUM OF THIRTY-THREE CHAR-
53 TERS TO BE ISSUED FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL
54 OPERATION BY THE SEPTEMBER OF THE NEXT CALENDAR YEAR.

55 (3) EACH REQUEST FOR PROPOSALS TO BE ISSUED BY THE BOARD OF REGENTS
56 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ON JANUARY

FIRST, TWO THOUSAND TWELVE SHALL BE FOR A MAXIMUM OF THIRTY-TWO CHARTERS TO BE ISSUED FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL OPERATION BY THE SEPTEMBER OF THE NEXT CALENDAR YEAR.

(4) EACH REQUEST FOR PROPOSALS TO BE ISSUED BY THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ON SEPTEMBER FIRST, TWO THOUSAND THIRTEEN SHALL BE FOR A MAXIMUM OF THIRTY-THREE CHARTERS TO BE ISSUED FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL OPERATION BY THE SEPTEMBER OF THE NEXT CALENDAR YEAR.

(II) NOTWITHSTANDING THE PROVISIONS OF CLAUSES ONE, TWO, THREE AND FOUR OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF FEWER CHARTERS ARE ISSUED THAN WERE REQUESTED IN THE REQUEST FOR PROPOSALS, THE DIFFERENCE MAY BE ADDED TO THE NUMBER OF CHARTERS REQUESTED IN THE REQUEST FOR PROPOSALS IN THE SUCCEEDING YEAR.

(III) THE BOARD OF REGENTS SHALL MAKE A DETERMINATION TO ISSUE A CHARTER PURSUANT TO A REQUEST FOR PROPOSALS NO LATER THAN DECEMBER THIRTY-FIRST OF EACH YEAR.

(B) THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL EACH DEVELOP SUCH REQUEST FOR PROPOSALS IN A MANNER THAT FACILITATES A THOUGHTFUL REVIEW OF CHARTER SCHOOL APPLICATIONS, CONSIDERS THE DEMAND FOR CHARTER SCHOOLS BY THE COMMUNITY, AND SEEKS TO LOCATE CHARTER SCHOOLS IN A REGION OR REGIONS WHERE THERE MAY BE A LACK OF ALTERNATIVES AND ACCESS TO CHARTER SCHOOLS WOULD PROVIDE NEW ALTERNATIVES WITHIN THE LOCAL PUBLIC EDUCATION SYSTEM THAT WOULD OFFER THE GREATEST EDUCATIONAL BENEFIT TO STUDENTS. APPLICATIONS SHALL BE EVALUATED IN ACCORDANCE WITH THE CRITERIA AND OBJECTIVES CONTAINED WITHIN A REQUEST FOR PROPOSALS. THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT CONSIDER ANY APPLICATIONS WHICH DO NOT RIGOROUSLY DEMONSTRATE THAT THEY HAVE MET THE FOLLOWING CRITERIA:

(I) THAT THE PROPOSED CHARTER SCHOOL WOULD MEET OR EXCEED ENROLLMENT AND RETENTION TARGETS, AS PRESCRIBED BY THE BOARD OF REGENTS OR THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, AS APPLICABLE, OF STUDENTS WITH DISABILITIES, ENGLISH LANGUAGE LEARNERS, AND STUDENTS WHO ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM. WHEN DEVELOPING SUCH TARGETS, THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, SHALL ENSURE (1) THAT SUCH ENROLLMENT TARGETS ARE COMPARABLE TO THE ENROLLMENT FIGURES OF SUCH CATEGORIES OF STUDENTS ATTENDING THE PUBLIC SCHOOLS WITHIN THE SCHOOL DISTRICT, OR IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS, THE COMMUNITY SCHOOL DISTRICT, IN WHICH THE PROPOSED CHARTER SCHOOL WOULD BE LOCATED; AND (2) THAT SUCH RETENTION TARGETS ARE COMPARABLE TO THE RATE OF RETENTION OF SUCH CATEGORIES OF STUDENTS ATTENDING THE PUBLIC SCHOOLS WITHIN THE SCHOOL DISTRICT, OR IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS, THE COMMUNITY SCHOOL DISTRICT, IN WHICH THE PROPOSED CHARTER SCHOOL WOULD BE LOCATED; AND

(II) THAT THE APPLICANT HAS CONDUCTED PUBLIC OUTREACH, IN CONFORMITY WITH A THOROUGH AND MEANINGFUL PUBLIC REVIEW PROCESS PRESCRIBED BY THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, TO SOLICIT COMMUNITY INPUT REGARDING THE PROPOSED CHARTER SCHOOL AND TO ADDRESS COMMENTS RECEIVED FROM THE IMPACTED COMMUNITY CONCERNING THE EDUCATIONAL AND PROGRAMMATIC NEEDS OF STUDENTS.

(C) THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL GRANT PRIORITY BASED ON A SCORING RUBRIC TO THOSE APPLICATIONS THAT BEST DEMONSTRATE HOW THEY WILL ACHIEVE THE FOLLOWING OBJECTIVES, AND ANY ADDITIONAL OBJECTIVES THE BOARD OF REGENTS

1 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, MAY
2 PRESCRIBE:

3 (I) INCREASING STUDENT ACHIEVEMENT AND DECREASING STUDENT ACHIEVEMENT
4 GAPS IN READING/LANGUAGE ARTS AND MATHEMATICS;

5 (II) INCREASING HIGH SCHOOL GRADUATION RATES AND FOCUSING ON SERVING
6 SPECIFIC HIGH SCHOOL STUDENT POPULATIONS INCLUDING, BUT NOT LIMITED TO,
7 STUDENTS AT RISK OF NOT OBTAINING A HIGH SCHOOL DIPLOMA, RE-ENROLLED
8 HIGH SCHOOL DROP-OUTS, AND STUDENTS WITH ACADEMIC SKILLS BELOW GRADE
9 LEVEL;

10 (III) FOCUSING ON THE ACADEMIC ACHIEVEMENT OF MIDDLE SCHOOL STUDENTS
11 AND PREPARING THEM FOR A SUCCESSFUL TRANSITION TO HIGH SCHOOL;

12 (IV) UTILIZING HIGH-QUALITY ASSESSMENTS DESIGNED TO MEASURE A
13 STUDENT'S KNOWLEDGE, UNDERSTANDING OF, AND ABILITY TO APPLY, CRITICAL
14 CONCEPTS THROUGH THE USE OF A VARIETY OF ITEM TYPES AND FORMATS;

15 (V) INCREASING THE ACQUISITION, ADOPTION, AND USE OF LOCAL INSTRUCC-
16 TIONAL IMPROVEMENT SYSTEMS THAT PROVIDE TEACHERS, PRINCIPALS, AND ADMIN-
17 ISTRATORS WITH THE INFORMATION AND RESOURCES THEY NEED TO INFORM AND
18 IMPROVE THEIR INSTRUCTIONAL PRACTICES, DECISION-MAKING, AND OVERALL
19 EFFECTIVENESS;

20 (VI) PARTNERING WITH LOW PERFORMING PUBLIC SCHOOLS IN THE AREA TO
21 SHARE BEST EDUCATIONAL PRACTICES AND INNOVATIONS;

22 (VII) DEMONSTRATING THE MANAGEMENT AND LEADERSHIP TECHNIQUES NECESSARY
23 TO OVERCOME INITIAL START-UP PROBLEMS TO ESTABLISH A THRIVING, FINAN-
24 CIALY VIABLE CHARTER SCHOOL;

25 (VIII) DEMONSTRATING THE SUPPORT OF THE SCHOOL DISTRICT IN WHICH THE
26 PROPOSED CHARTER SCHOOL WILL BE LOCATED AND THE INTENT TO ESTABLISH AN
27 ONGOING RELATIONSHIP WITH SUCH SCHOOL DISTRICT.

28 (D) NO LATER THAN NOVEMBER FIRST, TWO THOUSAND TEN, AND OF EACH
29 SUCCEEDING YEAR, AFTER A THOROUGH REVIEW OF APPLICATIONS RECEIVED, THE
30 BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL RECOMMEND
31 FOR APPROVAL TO THE BOARD OF REGENTS THE QUALIFIED APPLICATIONS THAT IT
32 HAS DETERMINED RIGOROUSLY DEMONSTRATE THE CRITERIA AND BEST SATISFY THE
33 OBJECTIVES CONTAINED WITHIN A REQUEST FOR PROPOSALS, ALONG WITH SUPPORT-
34 ING DOCUMENTATION OUTLINING SUCH DETERMINATION.

35 (E) UPON RECEIPT OF A PROPOSED CHARTER TO BE ISSUED PURSUANT TO THIS
36 SUBDIVISION SUBMITTED BY A CHARTER ENTITY, THE BOARD OF REGENTS OR THE
37 BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, SHALL REVIEW,
38 RECOMMEND AND ISSUE, AS APPLICABLE, SUCH CHARTERS IN ACCORDANCE WITH THE
39 STANDARDS ESTABLISHED IN THIS SUBDIVISION.

40 (F) THE BOARD OF REGENTS SHALL BE THE ONLY ENTITY AUTHORIZED TO ISSUE
41 A CHARTER PURSUANT TO THIS ARTICLE. THE BOARD OF REGENTS SHALL CONSIDER
42 APPLICATIONS SUBMITTED DIRECTLY TO THE BOARD OF REGENTS AND APPLICATIONS
43 RECOMMENDED BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW
44 YORK.

45 (G) EACH APPLICATION SUBMITTED IN RESPONSE TO A REQUEST FOR PROPOSALS
46 PURSUANT TO THIS SUBDIVISION SHALL ALSO MEET THE APPLICATION REQUIRE-
47 MENTS SET OUT IN THIS ARTICLE AND ANY OTHER APPLICABLE LAWS, RULES AND
48 REGULATIONS.

49 (H) DURING THE DEVELOPMENT OF A REQUEST FOR PROPOSALS PURSUANT TO THIS
50 SUBDIVISION THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE
51 UNIVERSITY OF NEW YORK SHALL EACH AFFORD THE PUBLIC AN OPPORTUNITY TO
52 SUBMIT COMMENTS AND SHALL REVIEW AND CONSIDER THE COMMENTS RAISED BY ALL
53 INTERESTED PARTIES.

54 S 13. Paragraph (a) of subdivision 1 of section 2853 of the education
55 law, as added by chapter 4 of the laws of 1998, is amended to read as
56 follows:

1 (a) Upon the approval of a charter by the board of regents, the board
2 of regents shall incorporate the charter school as an education corpo-
3 ration for a term not to exceed five years, PROVIDED HOWEVER IN THE CASE
4 OF CHARTERS ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION
5 TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE THE BOARD OF REGENTS
6 SHALL INCORPORATE THE CHARTER SCHOOL AS AN EDUCATION CORPORATION FOR A
7 TERM NOT TO EXCEED FIVE YEARS IN WHICH INSTRUCTION IS PROVIDED TO PUPILS
8 PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE CHARTER AND
9 ENDING WITH THE OPENING OF THE SCHOOL FOR INSTRUCTION. Such certificate
10 of incorporation shall not modify or limit any terms of the charter
11 approved by the board of regents. Upon approval of an application to
12 renew a charter, the board of regents shall extend the certificate of
13 incorporation for a term not to exceed five years. Upon termination or
14 nonrenewal of the charter of a charter school pursuant to section twen-
15 ty-eight hundred fifty-five of this article, the certificate of incorpo-
16 ration of the charter school shall be revoked by the board of regents
17 pursuant to section two hundred nineteen of this chapter, provided that
18 compliance with the notice and hearing requirements of such section
19 twenty-eight hundred fifty-five of this article shall be deemed to
20 satisfy the notice and hearing requirements of such section two hundred
21 nineteen. It shall be the duty of the trustees of the charter school to
22 obtain federal tax-exempt status no later than one year following
23 approval of a charter school by the board of regents. For purposes of
24 this article, "certificate of incorporation" shall mean the provisional
25 charter issued by the board of regents to form the charter school as an
26 educational corporation pursuant to sections two hundred sixteen and two
27 hundred seventeen of this chapter.

28 S 14. Paragraph (b-1) of subdivision 1 of section 2853 of the educa-
29 tion law, as added by chapter 4 of the laws of 1998, is amended to read
30 as follows:

31 (b-1) An education corporation operating a charter school shall [not]
32 be authorized to operate more than one school or house any grade at more
33 than one site, provided that A CHARTER MUST BE ISSUED FOR EACH SUCH
34 ADDITIONAL SCHOOL OR SITE IN ACCORDANCE WITH THE REQUIREMENTS FOR THE
35 ISSUANCE OF A CHARTER PURSUANT TO THIS ARTICLE AND THAT EACH SUCH ADDI-
36 TIONAL SCHOOL OR SITE SHALL COUNT AS A CHARTER ISSUED PURSUANT TO SUBDI-
37 VISION NINE OF SECTION TWENTY EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE;
38 AND PROVIDED FURTHER THAT:

39 (A) a charter school may operate in more than one building at a single
40 site; and

41 (B) a charter school which provides instruction to its students at
42 different locations for a portion of their school day shall be deemed to
43 be operating at a single site.

44 S 15. Paragraph (a) of subdivision 3 of section 2853 of the education
45 law, as amended by section 4 of part D-2 of chapter 57 of the laws of
46 2007, is amended and five new paragraphs (a-1), (a-2), (a-3), (a-4) and
47 (a-5) are added to read as follows:

48 (a) A charter school may be located in part of an existing public
49 school building, in space provided on a private work site, in a public
50 building or in any other suitable location. Provided, however, before a
51 charter school may be located in part of an existing public school
52 building, the charter entity shall provide notice to the parents or
53 guardians of the students then enrolled in the existing school building
54 and shall hold a public hearing for purposes of discussing the location
55 of the charter school. A charter school may own, lease or rent its

space. [For purposes of local zoning, land use regulation and building code compliance, a charter school shall be deemed a nonpublic school.]

(A-1) (I) FOR CHARTERS ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE LOCATED OUTSIDE A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS, THE DEPARTMENT SHALL APPROVE PLANS AND SPECIFICATIONS AND ISSUE CERTIFICATES OF OCCUPANCY FOR SUCH CHARTER SCHOOLS. SUCH CHARTER SCHOOLS SHALL COMPLY WITH ALL DEPARTMENT HEALTH, SANITARY, AND SAFETY REQUIREMENTS APPLICABLE TO FACILITIES AND SHALL BE TREATED THE SAME AS OTHER PUBLIC SCHOOLS FOR PURPOSES OF LOCAL ZONING, LAND USE REGULATION AND BUILDING CODE COMPLIANCE. PROVIDED HOWEVER, THAT THE DEPARTMENT SHALL BE AUTHORIZED TO GRANT SPECIFIC EXEMPTIONS FROM THE REQUIREMENTS OF THIS PARAGRAPH TO CHARTER SCHOOLS UPON A SHOWING THAT COMPLIANCE WITH SUCH REQUIREMENTS CREATES AN UNDUE ECONOMIC HARDSHIP OR THAT SOME OTHER GOOD CAUSE EXISTS THAT MAKES COMPLIANCE WITH THIS PARAGRAPH EXTREMELY IMPRACTICAL. A DEMONSTRATED EFFORT TO OVERCOME THE STAT-ED OBSTACLES MUST BE PROVIDED.

(II) IN A CITY SCHOOL DISTRICT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, ALL CHARTERS AUTHORIZED TO BE ISSUED BY THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN WHICH AMENDED THIS SUBDIVISION SHALL BE OBLIGATED TO COMPLY WITH THE DEPARTMENT'S HEALTH, SAFETY AND SANITARY REQUIREMENTS APPLICABLE TO FACILITIES TO THE SAME EXTENT AS NON-CHARTER PUBLIC SCHOOLS IN SUCH A CITY SCHOOL DISTRICT.

(A-2) A CHARTER SCHOOL SHALL BE DEEMED A NONPUBLIC SCHOOL FOR PURPOSES OF LOCAL ZONING, LAND USE REGULATION AND BUILDING CODE COMPLIANCE IF IT HAS BEEN GRANTED AN EXEMPTION BY THE DEPARTMENT PURSUANT TO PARAGRAPH (A-1) OF THIS SUBDIVISION OR IF ITS CHARTER WAS NOT ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE.

(A-3)(1) BEFORE A CHARTER SCHOOL MAY BE LOCATED OR CO-LOCATED IN AN EXISTING PUBLIC SCHOOL BUILDING IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS, THE CHANCELLOR SHALL IDENTIFY WHICH PUBLIC SCHOOL BUILDINGS MAY BE SUBJECT TO LOCATION OR CO-LOCATION, PROVIDE THE RATIONALE AS TO WHY SUCH PUBLIC SCHOOL BUILDING IS IDENTIFIED FOR LOCATION OR CO-LOCATION AND SHALL MAKE ALL SUCH INFORMATION PUBLICLY AVAILABLE, INCLUDING VIA THE CITY BOARD'S OFFICIAL INTERNET WEBSITE. IN ADDITION, THE CHANCELLOR SHALL PROVIDE WIDESPREAD NOTICE OF SUCH INFORMATION INCLUDING TO THE COMMUNITY SUPER-INTENDENT, COMMUNITY DISTRICT EDUCATION COUNCIL AND THE SCHOOL-BASED MANAGEMENT TEAM. AFTER A PUBLIC SCHOOL BUILDING HAS BEEN SELECTED FOR A PROPOSED LOCATION OR CO-LOCATION, THE CHANCELLOR SHALL DEVELOP A BUILD-ING USAGE PLAN IN ACCORDANCE WITH THIS PARAGRAPH.

(2) THE BUILDING USAGE PLAN SHALL BE DEVELOPED BY THE CHANCELLOR FOR EACH SCHOOL THAT HAS BEEN DEFINITELY IDENTIFIED FOR A LOCATION OR CO-LOCATION. THE BUILDING USAGE PLAN SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

(A) THE ACTUAL ALLOCATION AND SHARING OF CLASSROOM AND ADMINISTRATIVE SPACE BETWEEN THE CHARTER AND NON-CHARTER SCHOOLS;

(B) A PROPOSAL FOR THE COLLABORATIVE USAGE OF SHARED RESOURCES AND SPACES BETWEEN THE CHARTER SCHOOL AND THE NON-CHARTER SCHOOLS, INCLUDING BUT NOT LIMITED TO, CAFETERIAS, LIBRARIES, GYMNASIUMS AND RECREATIONAL SPACES, INCLUDING PLAYGROUNDS WHICH ASSURES EQUITABLE ACCESS TO SUCH FACILITIES IN A SIMILAR MANNER AND AT REASONABLE TIMES TO NON-CHARTER SCHOOL STUDENTS AS PROVIDED TO CHARTER SCHOOL STUDENTS;

(C) JUSTIFICATION OF THE FEASIBILITY OF THE PROPOSED ALLOCATIONS AND SCHEDULES SET FORTH IN CLAUSES (A) AND (B) OF THIS SUBPARAGRAPH AND HOW

1 SUCH PROPOSED ALLOCATIONS AND SHARED USAGE WOULD RESULT IN AN EQUITABLE
2 AND COMPARABLE USE OF SUCH PUBLIC SCHOOL BUILDING;

3 (D) BUILDING SAFETY AND SECURITY;

4 (E) COMMUNICATION STRATEGIES TO BE USED BY THE CO-LOCATED SCHOOLS; AND

5 (F) COLLABORATIVE DECISION-MAKING STRATEGIES TO BE USED BY THE CO-LO-
6 CATED SCHOOLS INCLUDING THE ESTABLISHMENT OF A SHARED SPACE COMMITTEE
7 PURSUANT TO PARAGRAPH (A-FOUR) OF THIS SUBDIVISION.

8 (3) A BUILDING USAGE PLAN DEVELOPED BY THE CHANCELLOR IN ACCORDANCE
9 WITH THIS PARAGRAPH SHALL BE INCLUDED WITHIN THE EDUCATIONAL IMPACT
10 STATEMENT REQUIRED BY PARAGRAPH (B) OF SUBDIVISION TWO-A OF SECTION
11 TWENTY-FIVE HUNDRED NINETY-H OF THIS TITLE AND BE SUBJECT TO THE
12 REQUIREMENTS OF SUBDIVISION TWO-A OF SUCH SECTION PRIOR TO APPROVAL BY
13 THE BOARD OF EDUCATION PURSUANT TO PARAGRAPH H OF SUBDIVISION ONE OF
14 SECTION TWENTY-FIVE HUNDRED NINETY-G OF THIS TITLE.

15 (4) A BUILDING USAGE PLAN DEVELOPED BY THE CHANCELLOR IN ACCORDANCE
16 WITH THIS PARAGRAPH MAY BE REVISED AND SUCH REVISION SHALL REQUIRE BOARD
17 OF EDUCATION APPROVAL CONSISTENT WITH THE REQUIREMENTS PURSUANT TO
18 SUBDIVISION SEVEN OF SECTION TWENTY-FIVE HUNDRED NINETY-G OF THIS TITLE.

19 (5) THE BUILDING USAGE PLAN SHALL BE MADE PUBLICLY AVAILABLE BY THE
20 CHANCELLOR, INCLUDING VIA THE CITY BOARD'S OFFICIAL INTERNET WEBSITE,
21 AND A COPY SHALL ALSO BE FILED WITH THE CITY BOARD, THE IMPACTED COMMU-
22 NITY DISTRICT EDUCATION COUNCIL, COMMUNITY BOARDS, COMMUNITY SUPERINTEN-
23 DENT, AND SCHOOL BASED MANAGEMENT TEAM.

24 (A-4) IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE
25 MILLION OR MORE INHABITANTS, A SHARED SPACE COMMITTEE SHALL BE ESTAB-
26 LISHED IN EACH PUBLIC SCHOOL BUILDING IN WHICH ONE OR MORE CHARTER
27 SCHOOLS ARE LOCATED OR CO-LOCATED WITHIN A PUBLIC SCHOOL BUILDING WITH
28 NON-CHARTER PUBLIC SCHOOLS. THE SHARED SPACE COMMITTEE SHALL BE
29 COMPRISED OF THE PRINCIPAL, A TEACHER, AND A PARENT OF EACH CO-LOCATED
30 SCHOOL. SUCH COMMITTEE SHALL CONDUCT REGULAR MEETINGS, AT LEAST FOUR
31 TIMES PER SCHOOL YEAR, TO REVIEW IMPLEMENTATION OF THE BUILDING USAGE
32 PLAN DEVELOPED PURSUANT TO PARAGRAPH (A-THREE) OF THIS SUBDIVISION.

33 (A-5) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, IN A CITY SCHOOL
34 DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABIT-
35 ANTS, THE DETERMINATION TO LOCATE OR CO-LOCATE A CHARTER SCHOOL WITHIN A
36 PUBLIC SCHOOL BUILDING AND THE IMPLEMENTATION OF AND COMPLIANCE WITH THE
37 BUILDING USAGE PLAN DEVELOPED PURSUANT TO PARAGRAPH (A-THREE) OF THIS
38 SUBDIVISION THAT HAS BEEN APPROVED BY THE BOARD OF EDUCATION OF SUCH
39 CITY SCHOOL DISTRICT PURSUANT TO PARAGRAPH (H) OF SUBDIVISION ONE OF
40 SECTION TWENTY-FIVE HUNDRED NINETY-G OF THIS TITLE AND AFTER SATISFYING
41 THE REQUIREMENTS OF SUBDIVISION TWO-A OF SECTION TWENTY-FIVE HUNDRED
42 NINETY-H OF THIS TITLE MAY BE APPEALED TO THE COMMISSIONER PURSUANT TO
43 SECTION THREE HUNDRED TEN OF THIS CHAPTER. PROVIDED FURTHER, THE
44 REVISION OF A BUILDING USAGE PLAN APPROVED BY THE BOARD OF EDUCATION
45 CONSISTENT WITH THE REQUIREMENTS PURSUANT TO SUBDIVISION SEVEN OF
46 SECTION TWENTY-FIVE HUNDRED NINETY-G OF THIS TITLE MAY ALSO BE APPEALED
47 TO THE COMMISSIONER ON THE GROUNDS THAT SUCH REVISION FAILS TO MEET THE
48 STANDARDS SET FORTH IN CLAUSE (B) OF SUBPARAGRAPH TWO OF PARAGRAPH (A-3)
49 OF THIS SUBDIVISION. FOLLOWING A PETITION FOR SUCH APPEAL PURSUANT TO
50 THIS PARAGRAPH, SUCH CITY SCHOOL DISTRICT SHALL HAVE TEN DAYS TO
51 RESPOND. THE PETITION MUST BE DISMISSED, ADJUDICATED OR DISPOSED OF BY
52 THE COMMISSIONER WITHIN TEN DAYS OF THE RECEIPT OF THE CITY SCHOOL
53 DISTRICT'S RESPONSE.

54 S 16. Subdivision 3 of section 2853 of the education law is amended by
55 adding a new paragraph (d) to read as follows:

1 (D) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, IN A CITY
2 SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE
3 INHABITANTS, THE CHANCELLOR MUST FIRST AUTHORIZE IN WRITING ANY PROPOSED
4 CAPITAL IMPROVEMENTS OR FACILITY UPGRADES IN EXCESS OF FIVE THOUSAND
5 DOLLARS, REGARDLESS OF THE SOURCE OF FUNDING, MADE TO ACCOMMODATE THE
6 CO-LOCATION OF A CHARTER SCHOOL WITHIN A PUBLIC SCHOOL BUILDING. FOR
7 ANY SUCH IMPROVEMENTS OR UPGRADES THAT HAVE BEEN APPROVED BY THE CHAN-
8 CELLOR, CAPITAL IMPROVEMENTS OR FACILITY UPGRADES SHALL BE MADE IN AN
9 AMOUNT EQUAL TO THE EXPENDITURE OF THE CHARTER SCHOOL FOR EACH NON-CHAR-
10 TER PUBLIC SCHOOL WITHIN THE PUBLIC SCHOOL BUILDING. FOR ANY CAPITAL
11 IMPROVEMENTS OR FACILITY UPGRADES IN EXCESS OF FIVE THOUSAND DOLLARS
12 THAT HAVE BEEN APPROVED BY THE CHANCELLOR, REGARDLESS OF THE SOURCE OF
13 FUNDING, MADE IN A CHARTER SCHOOL THAT IS ALREADY CO-LOCATED WITHIN A
14 PUBLIC SCHOOL BUILDING, MATCHING CAPITAL IMPROVEMENTS OR FACILITY
15 UPGRADES SHALL BE MADE IN AN AMOUNT EQUAL TO THE EXPENDITURE OF THE
16 CHARTER SCHOOL FOR EACH NON-CHARTER PUBLIC SCHOOL WITHIN THE PUBLIC
17 SCHOOL BUILDING WITHIN THREE MONTHS OF SUCH IMPROVEMENTS OR UPGRADES.

18 S 17. Paragraph (c) of subdivision 1 of section 2854 of the education
19 law, as amended by chapter 267 of the laws of 2005, is amended to read
20 as follows:

21 (c) A charter school shall be subject to the financial audits, the
22 audit procedures, and the audit requirements set forth in the charter
23 and shall be subject to audits of the comptroller [as set forth in
24 section thirty-three of the general municipal law] OF THE STATE OF NEW
25 YORK AT HIS OR HER DISCRETION. Such procedures and standards shall be
26 consistent with generally accepted accounting and audit standards. Inde-
27 pendent fiscal audits shall be required at least once annually.

28 S 18. Subdivision 1 of section 2854 of the education law is amended by
29 adding a new paragraph (f) to read as follows:

30 (F) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS
31 EIGHT HUNDRED, EIGHT HUNDRED ONE, EIGHT HUNDRED TWO, EIGHT HUNDRED
32 THREE, EIGHT HUNDRED FOUR, EIGHT HUNDRED FOUR-A, EIGHT HUNDRED FIVE,
33 EIGHT HUNDRED FIVE-A, EIGHT HUNDRED FIVE-B AND EIGHT HUNDRED SIX OF THE
34 GENERAL MUNICIPAL LAW TO THE SAME EXTENT SUCH SECTIONS APPLY TO SCHOOL
35 DISTRICTS.

36 S 19. Paragraph (b) of subdivision 2 of section 2854 of the education
37 law, as amended by section 5 of part D-2 of chapter 57 of the laws of
38 2007, is amended to read as follows:

39 (b) Any child who is qualified under the laws of this state for admis-
40 sion to a public school is qualified for admission to a charter school.
41 APPLICATIONS FOR ADMISSION TO A CHARTER SCHOOL SHALL BE SUBMITTED ON A
42 UNIFORM APPLICATION FORM CREATED BY THE DEPARTMENT AND SHALL BE MADE
43 AVAILABLE BY A CHARTER SCHOOL IN LANGUAGES PREDOMINATELY SPOKEN IN THE
44 COMMUNITY IN WHICH SUCH CHARTER SCHOOL IS LOCATED. The school shall
45 enroll each eligible student who submits a timely application by the
46 first day of April each year, unless the number of applications exceeds
47 the capacity of the grade level or building. In such cases, students
48 shall be accepted from among applicants by a random selection process,
49 provided, however, that an enrollment preference shall be provided to
50 pupils returning to the charter school in the second or any subsequent
51 year of operation and pupils residing in the school district in which
52 the charter school is located, and siblings of pupils already enrolled
53 in the charter school. THE COMMISSIONER SHALL ESTABLISH REGULATIONS TO
54 REQUIRE THAT THE RANDOM SELECTION PROCESS CONDUCTED PURSUANT TO THIS
55 PARAGRAPH BE PERFORMED IN A TRANSPARENT AND EQUITABLE MANNER AND TO
56 REQUIRE THAT THE TIME AND PLACE OF THE RANDOM SELECTION PROCESS BE

PUBLICIZED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF SECTION ONE HUNDRED FOUR OF THE PUBLIC OFFICERS LAW AND BE OPEN TO THE PUBLIC. For the purposes of this paragraph and paragraph (a) of this subdivision, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

S 20. Paragraph (a) of subdivision 2 of section 2854 of the education law, as amended by section 5 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure OR STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities [and limited], English [proficient] LANGUAGE LEARNERS, AND students WHO ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

S 21. Subdivision 1 of section 2855 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

1. The charter entity, or the board of regents, may terminate a charter upon any of the following grounds:

(a) When a charter school's outcome on student assessment measures adopted by the board of regents falls below the level that would allow the commissioner to revoke the registration of another public school, and student achievement on such measures has not shown improvement over the preceding three school years[:];

(b) Serious violations of law;

(c) Material and substantial violation of the charter, including fiscal mismanagement; [or]

(d) When the public employment relations board makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of subdivision one of section two hundred nine-a of the civil service law involving interference with or discrimination against employee rights under article fourteen of the civil service law[.]; OR

(E) REPEATED FAILURE TO COMPLY WITH THE REQUIREMENT TO MEET OR EXCEED ENROLLMENT AND RETENTION TARGETS OF STUDENTS WITH DISABILITIES, ENGLISH LANGUAGE LEARNERS, AND STUDENTS WHO ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM PURSUANT TO TARGETS ESTABLISHED BY THE BOARD OF REGENTS OR THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW

YORK, AS APPLICABLE. PROVIDED, HOWEVER, IF NO GROUNDS FOR TERMINATING A CHARTER ARE ESTABLISHED PURSUANT TO THIS SECTION OTHER THAN PURSUANT TO THIS PARAGRAPH, AND THE CHARTER SCHOOL DEMONSTRATES THAT IT HAS MADE EXTENSIVE EFFORTS TO RECRUIT AND RETAIN SUCH STUDENTS, INCLUDING OUTREACH TO PARENTS AND FAMILIES IN THE SURROUNDING COMMUNITIES, WIDELY PUBLICIZING THE LOTTERY FOR SUCH SCHOOL, AND EFFORTS TO ACADEMICALLY SUPPORT SUCH STUDENTS IN SUCH CHARTER SCHOOL, THEN THE CHARTER ENTITY OR BOARD OF REGENTS MAY RETAIN SUCH CHARTER.

S 22. Subdivision 2 of section 2857 of the education law, as amended by section 7 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

2. Each charter school shall submit to the charter entity and to the board of regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year AND SHALL BE MADE PUBLICLY AVAILABLE BY SUCH DATE AND SHALL BE POSTED ON THE CHARTER SCHOOL'S WEBSITE. The annual report shall be in such form as shall be prescribed by the commissioner and shall include at least the following components:

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community INCLUDING MAKING IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF GENERAL CIRCULATION AND MAKING IT AVAILABLE FOR DISTRIBUTION AT BOARD OF TRUSTEE MEETINGS.

(b) discussion of the progress made towards achievement of the goals set forth in the charter.

(c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school AND ANY AUDIT CONDUCTED BY THE COMPTROLLER OF THE STATE OF NEW YORK.

S 23. Subdivision 2 of section 2857 of the education law, as amended by section twenty-two of this act, is amended to read as follows:

2. Each charter school shall submit to the charter entity and to the board of regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year and shall be made publicly available by such date and shall be posted on the charter school's website. The annual report shall be in such form as shall be prescribed by the commissioner and shall include at least the following components:

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community including making it publicly available by transmitting it to local newspapers of

1 general circulation and making it available for distribution at board of
2 trustee meetings.

3 (b) discussion of the progress made towards achievement of the goals
4 set forth in the charter.

5 (c) a certified financial statement setting forth, by appropriate
6 categories, the revenues and expenditures for the preceding school year,
7 including a copy of the most recent independent fiscal audit of the
8 school and any audit conducted by the comptroller of the state of New
9 York.

10 (D) EFFORTS TAKEN BY THE CHARTER SCHOOL IN THE EXISTING SCHOOL YEAR,
11 AND A PLAN FOR EFFORTS TO BE TAKEN IN THE SUCCEEDING SCHOOL YEAR, TO
12 MEET OR EXCEED ENROLLMENT AND RETENTION TARGETS SET BY THE BOARD OF
13 REGENTS OR THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, AS
14 APPLICABLE, OF STUDENTS WITH DISABILITIES, ENGLISH LANGUAGE LEARNERS,
15 AND STUDENTS WHO ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE
16 LUNCH PROGRAM ESTABLISHED PURSUANT TO PARAGRAPH (E) OF SUBDIVISION FOUR
17 OF SECTION TWENTY-EIGHT HUNDRED FIFTY-ONE OF THIS ARTICLE.

18 S 24. Subdivision 3 of section 2857 of the education law is amended by
19 adding a new paragraph (a-1) to read as follows:

20 (A-1) A LIST INCLUDING THE NUMBER OF CHARTER SCHOOLS CLOSED DURING THE
21 PRECEDING YEAR, AND A BRIEF DESCRIPTION OF THE REASONS THEREFOR INCLUD-
22 ING, BUT NOT LIMITED TO, NON-RENEWAL OF THE CHARTER OR REVOCATION OF THE
23 CHARTER;

24 S 25. Section 2857 of the education law is amended by adding a new
25 subdivision 5 to read as follows:

26 5. THE BOARD OF REGENTS SHALL ON AN ANNUAL BASIS REVIEW AND MAKE
27 AVAILABLE TO SCHOOL DISTRICTS BEST EDUCATIONAL PRACTICES EMPLOYED BY
28 CHARTER SCHOOLS.

29 S 26. Paragraph (a) of subdivision 15 of section 2590-h of the educa-
30 tion law, as amended by chapter 345 of the laws of 2009, is amended to
31 read as follows:

32 (a) establishing a parents' association or a parent-teachers' associ-
33 ation in each PUBLIC school under the chancellor's jurisdiction; and
34 ensuring that the districts AND CHARTER SCHOOLS LOCATED WITHIN THE CITY
35 DISTRICT do the same; the chancellor shall ensure that meetings of such
36 parents' associations or parent-teachers' associations shall comply with
37 section four hundred fourteen of this chapter;

38 S 27. Severability clause. If any clause, sentence, paragraph, subdi-
39 vision, section or part of this act shall be adjudged by any court of
40 competent jurisdiction to be invalid, such judgment shall not affect,
41 impair, or invalidate the remainder thereof, but shall be confined in
42 its operation to the clause, sentence, paragraph, subdivision, section
43 or part thereof directly involved in the controversy in which such judg-
44 ment shall have been rendered. It is hereby declared to be the intent of
45 the legislature that this act would have been enacted even if such
46 invalid provisions had not been included herein.

47 S 28. This act shall take effect immediately; provided, however, that
48 sections six, nineteen, twenty-one and twenty-three of this act shall
49 take effect January 1, 2011; provided, further, however that the amend-
50 ments to paragraph (a) of subdivision 15 of section 2590-h of the educa-
51 tion law made by section twenty-six of this act shall not affect the
52 expiration of such section and shall expire therewith.