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I N   S E N A T E

May 28, 2010

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Introduced by Sen. OPPENHEIMER -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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,  
27    and the processes to be followed by the school to promote parental and  
28    staff involvement in school governance.

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

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

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

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

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

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

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

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

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

32 (c) The board of regents.

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

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

47 (E) THE MEANS BY WHICH THE CHARTER SCHOOL WILL MEET OR EXCEED ENROLL-  
48 MENT AND RETENTION TARGETS AS PRESCRIBED BY THE BOARD OF REGENTS OR THE  
49 BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, AS APPLICABLE, OF  
50 STUDENTS WITH DISABILITIES, ENGLISH LANGUAGE LEARNERS, AND STUDENTS WHO  
51 ARE ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM  
52 WHICH SHALL BE CONSIDERED BY THE CHARTER ENTITY PRIOR TO APPROVING SUCH  
53 CHARTER SCHOOL'S APPLICATION FOR RENEWAL. WHEN DEVELOPING SUCH TARGETS,  
54 THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY  
55 OF NEW YORK SHALL ENSURE (1) THAT SUCH ENROLLMENT TARGETS ARE COMPARABLE  
56 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 CHARTER SCHOOL IS 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.

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

1. A charter entity that receives an application for approval of a charter school shall act on each request received prior to July first of a calendar year on or before January first of the succeeding calendar year, and a proposed charter between the applicant and the charter entity resulting from such application shall be executed on or before February first of such succeeding year. Nothing in this subdivision shall be construed to prevent a charter entity from receiving or acting upon an application at any time. THIS SUBDIVISION SHALL NOT APPLY TO APPLICATIONS THAT ARE SUBMITTED PURSUANT TO SUBDIVISION NINE-A OF THIS SECTION.

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

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

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

5-a. Upon receipt of a proposed charter submitted by a charter entity, the board of regents shall review such proposed charter in accordance with the standards set forth in subdivision two of this section, AND ANY OTHER APPLICABLE SPECIFICATIONS REQUIRED BY THIS ARTICLE. The board of regents shall either (a) approve and issue the charter as proposed by the charter entity or (b) return the proposed charter to the charter entity for reconsideration with the written comments and recommendations of the board of regents. If the board of regents fails to act on such proposed charter within ninety days of its submission to the board of regents in accordance with the previous sentence, the proposed charter shall be deemed to have been approved and issued by the board of regents at the expiration of such period.

S 10. Intentionally omitted.

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

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

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

35 9-A. (A) THE BOARD OF REGENTS IS HEREBY AUTHORIZED AND DIRECTED TO  
36 ISSUE TWO HUNDRED SIXTY CHARTERS PURSUANT TO A COMPETITIVE REQUEST FOR  
37 PROPOSALS PROCESS.

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

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

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

52 (3) EACH REQUEST FOR PROPOSALS TO BE ISSUED BY THE BOARD OF REGENTS  
53 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK ON JANUARY  
54 FIRST, TWO THOUSAND TWELVE SHALL BE FOR A MAXIMUM OF THIRTY-TWO CHARTERS  
55 TO BE ISSUED FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL  
56 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 AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, MAY PRESCRIBE:

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

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

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

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

(V) INCREASING THE ACQUISITION, ADOPTION, AND USE OF LOCAL INSTRUCTIONAL IMPROVEMENT SYSTEMS THAT PROVIDE TEACHERS, PRINCIPALS, AND ADMINISTRATORS WITH THE INFORMATION AND RESOURCES THEY NEED TO INFORM AND IMPROVE THEIR INSTRUCTIONAL PRACTICES, DECISION-MAKING, AND OVERALL EFFECTIVENESS;

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

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

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

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

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

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

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

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

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

(a) Upon the approval of a charter by the board of regents, the board of regents shall incorporate the charter school as an education corpo-

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

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

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

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

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

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

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

1 (A-1) (I) FOR CHARTERS ISSUED PURSUANT TO SUBDIVISION NINE-A OF  
2 SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE LOCATED OUTSIDE A  
3 CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR  
4 MORE INHABITANTS, THE DEPARTMENT SHALL APPROVE PLANS AND SPECIFICATIONS  
5 AND ISSUE CERTIFICATES OF OCCUPANCY FOR SUCH CHARTER SCHOOLS. SUCH CHAR-  
6 TER SCHOOLS SHALL COMPLY WITH ALL DEPARTMENT HEALTH, SANITARY, AND SAFE-  
7 TY REQUIREMENTS APPLICABLE TO FACILITIES AND SHALL BE TREATED THE SAME  
8 AS OTHER PUBLIC SCHOOLS FOR PURPOSES OF LOCAL ZONING, LAND USE REGU-  
9 LATION AND BUILDING CODE COMPLIANCE. PROVIDED HOWEVER, THAT THE DEPART-  
10 MENT SHALL BE AUTHORIZED TO GRANT SPECIFIC EXEMPTIONS FROM THE REQUIRE-  
11 MENTS OF THIS PARAGRAPH TO CHARTER SCHOOLS UPON A SHOWING THAT  
12 COMPLIANCE WITH SUCH REQUIREMENTS CREATES AN UNDUE ECONOMIC HARDSHIP OR  
13 THAT SOME OTHER GOOD CAUSE EXISTS THAT MAKES COMPLIANCE WITH THIS PARA-  
14 GRAPH EXTREMELY IMPRACTICAL. A DEMONSTRATED EFFORT TO OVERCOME THE STAT-  
15 ED OBSTACLES MUST BE PROVIDED.

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

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

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

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

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

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

53 (C) JUSTIFICATION OF THE FEASIBILITY OF THE PROPOSED ALLOCATIONS AND  
54 SCHEDULES SET FORTH IN CLAUSES (A) AND (B) OF THIS SUBPARAGRAPH AND HOW  
55 SUCH PROPOSED ALLOCATIONS AND SHARED USAGE WOULD RESULT IN AN EQUITABLE  
56 AND COMPARABLE USE OF SUCH PUBLIC SCHOOL BUILDING;



1 (D) BUILDING SAFETY AND SECURITY;

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

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

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

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

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

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

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

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

54 (D) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, IN A CITY  
55 SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE  
56 INHABITANTS, THE CHANCELLOR MUST FIRST AUTHORIZE IN WRITING ANY PROPOSED

1 CAPITAL IMPROVEMENTS OR FACILITY UPGRADES IN EXCESS OF FIVE THOUSAND  
2 DOLLARS, REGARDLESS OF THE SOURCE OF FUNDING, MADE TO ACCOMMODATE THE  
3 CO-LOCATION OF A CHARTER SCHOOL WITHIN A PUBLIC SCHOOL BUILDING. FOR  
4 ANY SUCH IMPROVEMENTS OR UPGRADES THAT HAVE BEEN APPROVED BY THE CHAN-  
5 CELLOR, CAPITAL IMPROVEMENTS OR FACILITY UPGRADES SHALL BE MADE IN AN  
6 AMOUNT EQUAL TO THE EXPENDITURE OF THE CHARTER SCHOOL FOR EACH NON-CHAR-  
7 TER PUBLIC SCHOOL WITHIN THE PUBLIC SCHOOL BUILDING. FOR ANY CAPITAL  
8 IMPROVEMENTS OR FACILITY UPGRADES IN EXCESS OF FIVE THOUSAND DOLLARS  
9 THAT HAVE BEEN APPROVED BY THE CHANCELLOR, REGARDLESS OF THE SOURCE OF  
10 FUNDING, MADE IN A CHARTER SCHOOL THAT IS ALREADY CO-LOCATED WITHIN A  
11 PUBLIC SCHOOL BUILDING, MATCHING CAPITAL IMPROVEMENTS OR FACILITY  
12 UPGRADES SHALL BE MADE IN AN AMOUNT EQUAL TO THE EXPENDITURE OF THE  
13 CHARTER SCHOOL FOR EACH NON-CHARTER PUBLIC SCHOOL WITHIN THE PUBLIC  
14 SCHOOL BUILDING WITHIN THREE MONTHS OF SUCH IMPROVEMENTS OR UPGRADES.

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

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

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

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

33 S 19. Paragraph (b) of subdivision 2 of section 2854 of the education  
34 law, as amended by section 5 of part D-2 of chapter 57 of the laws of  
35 2007, is amended to read as follows:

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

1 the school district in which the charter school is located shall mean,  
2 for the city school district of the city of New York, the community  
3 district in which the charter school is located.

4 S 20. Paragraph (a) of subdivision 2 of section 2854 of the education  
5 law, as amended by section 5 of part D-2 of chapter 57 of the laws of  
6 2007, is amended to read as follows:

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

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

33 1. The charter entity, or the board of regents, may terminate a char-  
34 ter upon any of the following grounds:

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

40 (b) Serious violations of law;

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

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

49 (E) REPEATED FAILURE TO COMPLY WITH THE REQUIREMENT TO MEET OR EXCEED  
50 ENROLLMENT AND RETENTION TARGETS OF STUDENTS WITH DISABILITIES, ENGLISH  
51 LANGUAGE LEARNERS, AND STUDENTS WHO ARE ELIGIBLE APPLICANTS FOR THE FREE  
52 AND REDUCED PRICE LUNCH PROGRAM PURSUANT TO TARGETS ESTABLISHED BY THE  
53 BOARD OF REGENTS OR THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW  
54 YORK, AS APPLICABLE. PROVIDED, HOWEVER, IF NO GROUNDS FOR TERMINATING A  
55 CHARTER ARE ESTABLISHED PURSUANT TO THIS SECTION OTHER THAN PURSUANT TO  
56 THIS PARAGRAPH, AND THE CHARTER SCHOOL DEMONSTRATES THAT IT HAS MADE

1 EXTENSIVE EFFORTS TO RECRUIT AND RETAIN SUCH STUDENTS, INCLUDING  
2 OUTREACH TO PARENTS AND FAMILIES IN THE SURROUNDING COMMUNITIES, WIDELY  
3 PUBLICIZING THE LOTTERY FOR SUCH SCHOOL, AND EFFORTS TO ACADEMICALLY  
4 SUPPORT SUCH STUDENTS IN SUCH CHARTER SCHOOL, THEN THE CHARTER ENTITY OR  
5 BOARD OF REGENTS MAY RETAIN SUCH CHARTER.

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

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

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

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

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

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

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

44 (a) a charter school report card, which shall include measures of the  
45 comparative academic and fiscal performance of the school, as prescribed  
46 by the commissioner in regulations adopted for such purpose. Such meas-  
47 ures shall include, but not be limited to, graduation rates, dropout  
48 rates, performance of students on standardized tests, college entry  
49 rates, total spending per pupil and administrative spending per pupil.  
50 Such measures shall be presented in a format that is easily comparable  
51 to similar public schools. In addition, the charter school shall ensure  
52 that such information is easily accessible to the community including  
53 making it publicly available by transmitting it to local newspapers of  
54 general circulation and making it available for distribution at board of  
55 trustee meetings.

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

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

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

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

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

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

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

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

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

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

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