

STATE OF NEW YORK

6578

2017-2018 Regular Sessions

IN SENATE

June 5, 2017

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law and the state finance 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 amended by chapter 101 of the laws of 2010, is amended to read as
3 follows:

4 1. An application to establish a charter school may be submitted by
5 teachers, parents, school administrators, community residents or any
6 combination thereof. Such application may be filed in conjunction with
7 a college, university, museum, educational institution, not-for-profit
8 corporation exempt from taxation under paragraph 3 of subsection (c) of
9 section 501 of the internal revenue code or for-profit business or
10 corporate entity authorized to do business in New York state. Provided
11 however, for-profit business or corporate entities shall not be eligible
12 to submit an application to establish a charter school pursuant to
13 subdivision nine-a of section twenty-eight hundred fifty-two of this
14 article, or operate or manage a charter school for a charter issued
15 pursuant to subdivision nine-a of section twenty-eight hundred fifty-two
16 of this article. For charter schools established in conjunction with a
17 for-profit or not-for-profit business or corporate entity, the charter
18 shall specify the extent of the entity's participation in the management
19 and operation of the school.

20 § 2. Paragraph (h) of subdivision 2 of section 2851 of the education
21 law, as added by chapter 4 of the laws of 1998, is amended to read as
22 follows:

23 (h) The rules and procedures by which students may be disciplined[
24 ~~including but not limited to expulsion or suspension from the school,~~
25 ~~which shall be consistent with the requirements of due process and with~~

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

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1 ~~federal laws and regulations governing the placement of students with~~
2 ~~disabilities]~~ shall be in accordance with the provisions of subdivisions
3 two-a, three and three-a of section thirty-two hundred fourteen of this
4 chapter. The charters of all charter schools that were issued on or
5 before July first, two thousand seventeen shall be deemed amended to
6 require compliance with the procedures set forth in subdivisions two-a,
7 three and three-a of section thirty-two hundred fourteen of this
8 chapter.

9 § 3. Paragraph (e) of subdivision 4 of section 2851 of the education
10 law, as added by chapter 101 of the laws of 2010, is amended to read as
11 follows:

12 (e) The means by which the charter school will meet or exceed the
13 enrollment ~~[and retention targets as prescribed by the board of regents~~
14 ~~or the board of trustees of the state university of New York, as appli-~~
15 ~~cable, of students with disabilities, English language learners, and~~
16 ~~students who are eligible applicants for the free and reduced price~~
17 ~~lunch program which shall be considered by the charter entity prior to~~
18 ~~approving such charter school's application for renewal. When developing~~
19 ~~such targets, the board of regents and the board of trustees of the~~
20 ~~state university of New York shall ensure (1) that such enrollment~~
21 ~~targets are comparable to the enrollment figures of such categories of~~
22 ~~students attending the public schools within the school district, or in~~
23 ~~a city school district in a city having a population of one million or~~
24 ~~more inhabitants, the community school district, in which the charter~~
25 ~~school is located; and (2) that such retention targets are comparable to~~
26 ~~the rate of retention of such categories of students attending the~~
27 ~~public schools within the school district, or in a city school district~~
28 ~~in a city having a population of one million or more inhabitants, the~~
29 ~~community school district, in which the proposed charter school would be~~
30 ~~located]~~ requirements of subparagraph (ii) of paragraph (b) of subdivi-
31 sion two of section two thousand eight hundred fifty-four of this arti-
32 cle.

33 § 4. Subdivision 2 of section 2852 of the education law, as amended by
34 section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to
35 read as follows:

36 2. An application for a charter school shall not be approved unless
37 the charter entity finds in writing that:

38 (a) the charter school described in the application meets the require-
39 ments set out in this article and all other applicable laws, rules and
40 regulations;

41 (b) the applicant can demonstrate the ability to operate the school in
42 an educationally and fiscally sound manner;

43 (c) granting the application is likely to improve student learning and
44 achievement and materially further the purposes set out in subdivision
45 two of section twenty-eight hundred fifty of this article; and

46 (d) in a school district where the total enrollment of resident
47 students attending charter schools in the base year is greater than five
48 percent of the total public school enrollment of the school district in
49 the base year (i) granting the application would have a significant
50 educational benefit to the students expected to attend the proposed
51 charter school [~~or~~] and (ii) the school district in which the charter
52 school will be located consents to such application.

53 In reviewing applications, the charter entity is encouraged to give
54 preference to applications that demonstrate the capability to provide
55 comprehensive learning experiences to students identified by the appli-
56 cants as at risk of academic failure. Upon making a determination of

1 whether an application for a charter school shall be approved, the char-
2 ter entity shall provide detailed written findings related to each of
3 the requirements in this subdivision, which shall be made available to
4 the charter school applicant, board of regents and the school district
5 in which the proposed charter school would be located.

6 § 5. Subdivision 5 of section 2852 of the education law, as amended by
7 chapter 101 of the laws of 2010, is amended to read as follows:

8 5. (a) Upon approval of an application by a charter entity, the appli-
9 cant and charter entity shall enter into a proposed agreement allowing
10 the applicants to organize and operate a charter school. Such written
11 agreement, known as the charter, shall include [~~a~~] (i) the information
12 required by subdivision two of section twenty-eight hundred fifty-one of
13 this article, as modified or supplemented during the approval process,
14 [~~b~~] (ii) in the case of charters to be issued pursuant to subdivision
15 nine-a of this section, information required by such subdivision, [~~e~~]
16 (iii) a provision prohibiting the charter school from entering into,
17 renewing or extending any agreement with a for-profit or not-for-profit
18 corporate or other business entity for the administration, management or
19 operation of the charter school unless the agreement requires such enti-
20 ty to provide state and local officers having the power to audit the
21 charter school pursuant to this article with access to the entity's
22 records relating to the costs of, and fees for, providing such services
23 to the school, (iv) any other terms or conditions required by applicable
24 laws, rules and regulations, and [~~d~~] any other terms or conditions,
25 not inconsistent with law, agreed upon by the applicant and the charter
26 entity. In addition, the charter shall include the specific commitments
27 of the charter entity relating to its obligations to oversee and super-
28 viser the charter school. Within five days after entering into a proposed
29 charter, the charter entity other than the board of regents shall submit
30 to the board of regents a copy of the charter, the application and
31 supporting documentation for final approval and issuance by the board of
32 regents in accordance with subdivisions five-a and five-b of this
33 section.

34 (b) No charter school having a charter that was issued and approved on
35 or before the effective date of this paragraph shall enter into, renew
36 or extend the duration of any agreement with a for-profit or not-for-
37 profit corporate or other business entity for the administration,
38 management or operation of the charter school unless the agreement
39 requires such entity to provide state and local officers having the
40 power to audit the charter school pursuant to this article with access
41 to the entity's records relating to the costs of, and fees for, provid-
42 ing such services to the school. Any agreement entered into, renewed or
43 extended in violation of this section shall be null, void and wholly
44 unenforceable, and a violation of this section shall be grounds for
45 revocation or termination of a charter pursuant to section twenty-eight
46 hundred fifty-five of this article.

47 § 6. Subparagraph (i) of paragraph (b) of subdivision 9-a of section
48 2852 of the education law, as amended by section 2 of subpart A of part
49 B of chapter 20 of the laws of 2015, is amended to read as follows:

50 (i) that the proposed charter school would meet or exceed the enroll-
51 ment [~~and retention targets, as prescribed by the board of regents or~~
52 ~~the board of trustees of the state university of New York, as applica-~~
53 ~~ble, of students with disabilities, English language learners, and~~
54 ~~students who are eligible applicants for the free and reduced price~~
55 ~~lunch program. When developing such targets, the board of regents and~~
56 ~~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]~~

requirements of subparagraph (ii) of paragraph (b) of subdivision two of section two thousand eight hundred fifty-four of this article; and

§ 7. Section 2853 of the education law is amended by adding a new subdivision 2-b to read as follows:

2-b. In any case where a charter school enters into, renews or extends any agreement with a for-profit or not-for-profit business or corporate entity for the administration, management or operation of a charter school, the charter school is required to have a formal contract with such entity. Any such contract shall be reviewed and approved by the charter entity.

§ 8. Paragraph (a) of subdivision 3 of section 2853 of the education law, as amended by chapter 101 of the laws of 2010, is amended to read as follows:

(a) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or in any other suitable location. Provided, however, before a charter school may be located in part of an existing public school building, the charter entity shall provide notice to the parents or guardians of the students then enrolled in the existing school building and shall hold a public hearing for purposes of discussing the location of the charter school. All contracts entered into by such charter school, or any education corporation organized to operate a charter school, or any other public entity, including the state, a public benefit corporation, municipal corporation, or any private entity acting on behalf of any of these entities, involving the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, or alteration of any charter school facility shall be subject to the requirements of section one hundred three of the general municipal law and articles eight and nine of the labor law. A charter school may own, lease or rent its space.

§ 9. The opening paragraph and subparagraph 1 of paragraph (e) of subdivision 3 of section 2853 of the education law, as added by section 5 of part BB of chapter 56 of the laws of 2014, are amended to read as follows:

~~[In]~~ Except as provided in subparagraph seven of this paragraph, a city school district in a city having a population of one million or more inhabitants, charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for the two thousand fourteen--two thousand fifteen school year or thereafter and request co-location in a public school building and demonstrates to the city school district that the charter school does not have the financial capacity to procure adequate facilities shall be provided access to facilities pursuant to this paragraph for such charter schools that first commence instruction or that require additional space due to an

1 expansion of grade level, pursuant to this article, approved by their
2 charter entity for those grades newly provided.

3 (1) Notwithstanding any other provision of law to the contrary, within
4 the later of (i) five months after a charter school's written request
5 for co-location and (ii) provided that a charter school demonstrates
6 that it lacks the financial capacity to procure adequate facilities,
7 thirty days after the charter school's charter is approved by its char-
8 ter entity, the city school district shall either: (A) offer at no cost
9 to the charter school a co-location site in a public school building
10 approved by the board of education as provided by law, or (B) offer the
11 charter school space in a privately owned or other publicly owned facil-
12 ity at the expense of the city school district and at no cost to the
13 charter school for three years. The space must be reasonable, appropri-
14 ate and comparable and in the community school district to be served by
15 the charter school and otherwise in reasonable proximity.

16 § 10. Paragraph (e) of subdivision 3 of section 2853 of the education
17 law is amended by adding a new subparagraph 7 to read as follows:

18 (7)(A) No charter school that, either alone or in combination with any
19 charter affiliate, has any direct or indirect interest in, or may be
20 entitled to receive any beneficial interest from, any asset or assets of
21 any kind or nature that alone or combined have a value exceeding one
22 million dollars, shall be offered or entitled to receive: (i) a co-lo-
23 cation site in a public school building at no cost; or (ii) a space in a
24 privately or publicly owned facility at the expense of the city school
25 district.

26 (B) Nothing in this subparagraph shall prohibit a charter school from
27 receiving a co-location in a public building at fair market value unless
28 doing so would negatively impact the size of classes in any other school
29 in the building.

30 (C) As used in this subparagraph the term "charter affiliate" means:
31 (i) any entity that is directly or indirectly controlled by, in control
32 of, or under common control with, the charter school or (ii) any entity
33 that provides management, fundraising or other administrative support
34 services to the charter school.

35 § 11. Paragraph (c) of subdivision 4 of section 2853 of the education
36 law, as amended by section 1 of part BB of chapter 56 of the laws of
37 2014, is amended to read as follows:

38 (c) A charter school may contract with the governing body of a public
39 college or university for the use of a school building and grounds, the
40 operation and maintenance thereof. Any such contract shall provide such
41 services or facilities at [~~cost~~] fair market value. [~~A school district~~
42 ~~shall permit any charter school granted approval to co-locate, to use~~
43 ~~such services and facilities without cost.~~]

44 § 12. Section 2853 of the education law is amended by adding a new
45 subdivision 5 to read as follows:

46 5. Disclosure. (a) A charter school shall report:

47 (i) by the fifteenth day of February of each calendar year, the name,
48 address and total compensation paid to each person serving as a charter
49 executive in the previous calendar year; and

50 (ii) within thirty days of receipt, the name and address of any indi-
51 vidual, corporation, association, or entity providing a contribution,
52 gift, loan, advance or deposit of one thousand dollars or more to the
53 charter school or charter affiliate and the amount of each such contrib-
54 ution, gift, loan, advance or deposit.

55 (b) If a charter school either alone or together with any charter
56 affiliate has any direct or indirect interest in, or may be entitled to

1 receive any beneficial interest in, any asset or assets of any kind or
2 nature, alone or together, with a value in excess of one million
3 dollars, the charter school shall:

4 (i) ensure that the financial statements of the charter school and
5 each charter affiliate conform to and are reported according to general-
6 ly accepted accounting principles; and

7 (ii) ensure that the financial statements of the charter school and
8 any charter affiliate are audited in accordance with generally accepted
9 auditing standards by an independent certified public accountant or an
10 independent public accountant, that such audit receives an "unqualified"
11 opinion as to, among other things, compliance with generally accepted
12 accounting principles and that such audit is completed within nine
13 months of the conclusion of the fiscal year.

14 (c) If a charter school either alone or together with any charter
15 affiliate has any direct or indirect interest in, or may be entitled to
16 receive any beneficial interest in, any asset or assets of any kind or
17 nature, alone or together, with a value in excess of one million
18 dollars, it shall also report by the fifteenth day of February of each
19 ensuing calendar year the following:

20 (i) the most recent audited financial statements of the charter school
21 and any charter affiliate which shall conform to and be reported accord-
22 ing to generally accepted accounting principles;

23 (ii) the most recent auditor's report on the financial statements of
24 the charter school and any charter affiliate;

25 (iii) the "unqualified" opinion received from the auditor of the most
26 recent financial statements as to, among other things, compliance with
27 generally accepted accounting principles; and

28 (iv) any compensation or remuneration, whether paid or given, includ-
29 ing but not limited to salary, bonus, and deferred compensation and any
30 benefit having monetary value, including but not limited to, perqui-
31 sites, fringe benefits, employer contributions to defined contribution
32 retirement plans and other retirement or severance benefits received by
33 a charter executive from any source.

34 (d)(i) Each report required by this subdivision shall be accompanied
35 by a statement, under oath, by the chairperson of the school's board of
36 trustees or other appropriate member of the board of trustees, that,
37 after the due inquiry, the reports are true and correct to the best of
38 his or her knowledge and have been provided to each member of the
39 school's board of trustees.

40 (ii) A charter school to which paragraphs (b) and (c) of this subdivi-
41 sion do not apply shall, by the fifteenth day of February of each calen-
42 dar year, submit a statement as part of its report pursuant to subpara-
43 graph (ii) of paragraph (a) of this subdivision, under oath, by the
44 chairperson of the school's board of trustees or other appropriate
45 member of the board of trustees, that, after the due inquiry, the char-
46 ter school either alone or together with any charter affiliate does not
47 have any direct or indirect interest in or may be entitled to receive
48 any beneficial interest in any asset or assets of any kind or nature,
49 alone or together, with a value in excess of one million dollars.

50 (e) Any report required pursuant to this subdivision shall be made to
51 the board of regents, the school's charter entity, and the comptroller
52 of the city of New York for charter schools located in New York city and
53 the comptroller of the state of New York for charter schools located
54 outside of the city of New York. The commissioner shall ensure that such
55 report is made publicly available via the department's official internet
56 website within five days of its receipt.

1 (f) A charter school's failure to comply with the provisions of this
2 subdivision shall be a very significant factor in determining whether
3 the charter entity or the board of regents terminates the school's char-
4 ter.

5 (g) As used in this subdivision:

6 (i) "total compensation" shall include: (A) any compensation or remun-
7 eration, whether paid or given, by or on behalf of the charter school or
8 any charter affiliate, for services rendered to, on behalf of, or at the
9 request of the charter school, including but not limited to salary,
10 bonus, and deferred compensation and (B) any benefit having monetary
11 value provided by or on behalf of the charter school or any charter
12 affiliate, including but not limited to, perquisites, fringe benefits,
13 employer contributions to defined contribution retirement plans and
14 other retirement or severance benefits.

15 (ii) "charter affiliate" means: (A) any entity that is, directly or
16 indirectly, controlled by, in control of, or under common control with
17 the charter school or (B) any entity or affiliate thereof that provides
18 management, fundraising, or other administrative support services to the
19 charter school.

20 (iii) "charter executive" means: (A) an officer, director, trustee,
21 consultant, supervisory employee of a charter school or charter affil-
22 iate or (B) anyone who exerts operational or managerial influence or
23 control over the school including, but not limited to, influence or
24 control over the school through a charter management company.

25 § 13. Section 2853 of the education law is amended by adding a new
26 subdivision 6 to read as follows:

27 6. Executive compensation. (a) No charter school shall provide any
28 compensation to any individual who is also an officer, director, trus-
29 tee, consultant, or employee of a charter affiliate or to any individual
30 who exerts operational or managerial influence or control over the
31 school through a charter affiliate.

32 (b)(i) No charter school or charter affiliate shall permit the total
33 compensation received by a charter executive to be greater than one
34 hundred ninety-nine thousand dollars per annum, including not only state
35 funds and state-authorized payments but also any other sources of fund-
36 ing, and greater than the seventy-fifth percentile of that compensation
37 provided to charter executives of other charter schools and charter
38 affiliates within the same or comparable geographic area as established
39 by a compensation survey identified, provided, or recognized by the
40 department and the director of the division of the budget.

41 (ii) If the department and the director of the division of the budget
42 find good cause after considering the factors set forth in subparagraph
43 (iv) of this paragraph, a waiver of the limit on total compensation that
44 a charter executive may receive may be granted, provided, however, that
45 in no event shall the total compensation exceed one hundred and fifty
46 percent of Level I of the federal government's Rates of Basic Pay for
47 the Executive Schedule promulgated by the United States Office of
48 Personnel Management.

49 (iii) The application for a waiver must be filed no later than the
50 fifteenth day of February of the year for which the waiver is sought.
51 The application shall be transmitted in the manner and form specified by
52 the department and the director of the division of the budget. A waiver
53 may be only for the single calendar year in which it is granted.

54 (iv) The following factors, in addition to any other deemed relevant
55 by the department and the director of the division of the budget, shall

1 be considered in the determination of whether good cause exists to grant
2 a waiver:

3 (A) the extent to which the executive compensation that is the subject
4 of the waiver request is comparable to that given to comparable charter
5 executives of charter schools or charter affiliates of the same size and
6 within the same or comparable geographic area;

7 (B) the extent to which the charter school would be unable to provide
8 educational services at the same levels of quality and availability
9 without a waiver of the limit on total compensation that a charter execu-
10 tive may receive;

11 (C) the nature, size, and complexity of the charter school or charter
12 affiliate's operations;

13 (D) the charter school or charter affiliate's review and approval
14 process for the total compensation that is the subject of the waiver,
15 including whether such process involved a review and approval by the
16 board of trustees of the school, whether such review was conducted by at
17 least two independent directors or independent members of the board of
18 trustees, whether such review included an assessment of comparability
19 data including a compensation survey, and a contemporaneous substanti-
20 ation of the deliberation and decision to approve the total compen-
21 sation;

22 (E) the qualifications and experience possessed by or required for the
23 charter executive's position; and

24 (F) the charter school or charter affiliate's efforts, if any, to
25 secure a charter executive with the same levels of experience, exper-
26 tise, and skills for the position of the charter executive at lower
27 levels of compensation.

28 (v) To be considered, an application for such a waiver shall comply
29 with this paragraph in its entirety.

30 (vi) Unless additional information has been requested but not received
31 from the charter school or charter affiliate, a decision on a timely
32 submitted waiver application shall be provided no later than sixty
33 calendar days after submission of the application.

34 (vii) If granted, a waiver to a charter executive shall remain in
35 effect for the calendar year it is issued in, but shall be deemed
36 revoked if:

37 (A) the total compensation that is the subject of the waiver
38 increases; or

39 (B) notice of revocation is provided to the charter executive at the
40 discretion of the department as a result of additional relevant circum-
41 stances.

42 (viii) Information provided in connection with a waiver application
43 shall be subject to public disclosure pursuant to article six of the
44 public officers law.

45 (ix) Where a waiver is granted, the department shall make it publicly
46 available via the department's official internet website within five
47 days.

48 (c) No charter school shall use funds received pursuant to section
49 twenty-eight hundred fifty-six of this article or allow a charter affil-
50 iate to use funds received from the charter school to provide a total
51 compensation to a charter executive greater than one hundred ninety-nine
52 thousand dollars per annum.

53 (d) Failure to comply with the provisions of this subdivision shall
54 result in the assessment of a penalty against the payor in an amount
55 equal to the amount of compensation paid or provided in violation of
56 this subdivision.

1 (e) A charter school's failure to comply with the provisions of this
2 subdivision shall be a very significant factor in determining whether
3 the charter entity or the board of regents terminates the school's char-
4 ter.

5 (f) As used in this subdivision:

6 (i) "total compensation" shall include: (A) any compensation or remun-
7 eration, whether paid or given, by or on behalf of the charter school or
8 any charter affiliate, for services rendered to, on behalf of, or at the
9 request of the charter school, including but not limited to salary,
10 bonus, and deferred compensation and (B) any benefit having monetary
11 value provided by or on behalf of the charter school or any charter
12 affiliate, including but not limited to, perquisites, fringe benefits,
13 employer contributions to defined contribution retirement plans and
14 other retirement or severance benefits.

15 (ii) "charter affiliate" means: (A) any entity that is, directly or
16 indirectly, controlled by, in control of, or under common control with
17 the charter school or (B) any entity or affiliate thereof that provides
18 management, fundraising, or other administrative support services to the
19 charter school.

20 (iii) "charter executive" means: (A) an officer, director, trustee,
21 consultant, supervisory employee of a charter school or charter affil-
22 iate or (B) anyone who exerts operational or managerial influence or
23 control over the school including, but is not limited to, influence or
24 control over the school through a charter management company.

25 § 14. Section 2853 of the education law is amended by adding a new
26 subdivision 7 to read as follows:

27 7. Notification of disenrollment. Within five business days of a
28 student who was enrolled by the charter school ceasing to be enrolled, a
29 charter school shall notify the superintendent of the district in which
30 the charter school is located or, for charter schools located within the
31 geographic area served by the city school district of the city of New
32 York, the chancellor of the city school district of the city of New
33 York, of the name of such student.

34 § 15. Subparagraph 5 of paragraph (e) of subdivision 3 of section 2853
35 of the education law, as amended by section 11 of part A of chapter 54
36 of the laws of 2016, clause (B) as amended by section 5 of part YYY of
37 chapter 59 of the laws of 2017, is amended to read as follows:

38 (5) For a new charter school whose charter is granted or for an exist-
39 ing charter school whose expansion of grade level, pursuant to this
40 article, is approved by their charter entity, if the appeal results in a
41 determination in favor of the charter school, for six years the city
42 school district shall pay the charter school (A) for the initial three
43 years in which aid is payable, an amount attributable to the grade level
44 expansion or the formation of the new charter school that is equal to
45 the lesser of:

46 [~~(A)~~] (i) the actual rental cost of an alternative privately owned
47 site selected by the charter school or

48 [~~(B)~~] (ii) thirty percent of the product of the charter school's basic
49 tuition for the current school year and [~~(i)~~] (I) for a new charter
50 school that first commences instruction on or after July first, two
51 thousand fourteen, the charter school's current year enrollment; or
52 [~~(ii)~~] (II) for a charter school which expands its grade level, pursuant
53 to this article, the positive difference of the charter school's enroll-
54 ment in the current school year minus the charter school's enrollment in
55 the school year prior to the first year of the expansion; and

1 (B) in the fourth year, the city school district shall pay ninety
2 percent multiplied by the amount calculated pursuant to clause (A) of
3 this subparagraph; and

4 (C) in the fifth year, the city school district shall pay sixty
5 percent multiplied by the amount calculated pursuant to clause (A) of
6 this subparagraph; and

7 (D) in the sixth year, the city school district shall pay thirty
8 percent multiplied by the amount calculated pursuant to clause (A) of
9 this subparagraph.

10 § 16. Paragraph (b) of subdivision 1 of section 2854 of the education
11 law, as amended by section 10-b of part A of chapter 56 of the laws of
12 2014, is amended to read as follows:

13 (b) A charter school shall meet the same health and safety, civil
14 rights, and student assessment requirements applicable to other public
15 schools, except as otherwise specifically provided in this article. A
16 charter school shall be exempt from all other state and local laws,
17 rules, regulations or policies governing public or private schools,
18 boards of education, school districts and political subdivisions,
19 including those relating to school personnel and students, except as
20 specifically provided in the school's charter or in this article. Noth-
21 ing in this subdivision shall affect the requirements of compulsory
22 education of minors established by part one of article sixty-five of
23 this chapter, nor shall anything in this subdivision affect the require-
24 ments of the charter school to comply with section one hundred three of
25 the general municipal law and articles eight and nine of the labor law
26 with respect to the construction, reconstruction, demolition, exca-
27 vation, rehabilitation, repair, renovation, or alteration of any charter
28 school facility.

29 § 17. Subdivision 2 of section 2854 of the education law, as added by
30 chapter 4 of the laws of 1998, paragraph (a) as amended by chapter 101
31 of the laws of 2010, and paragraph (b) as amended by section 3 of
32 subpart A of part B of chapter 20 of the laws of 2015, is amended to
33 read as follows:

34 2. Admissions; enrollment; students. (a) A charter school shall be
35 nonsectarian in its programs, admission policies, employment practices,
36 and all other operations and shall not charge tuition or fees; provided
37 that a charter school may require the payment of fees on the same basis
38 and to the same extent as other public schools. A charter school shall
39 not discriminate against any student, employee or any other person on
40 the basis of ethnicity, national origin, gender, or disability or any
41 other ground that would be unlawful if done by a school. Admission of
42 students shall not be limited on the basis of intellectual ability,
43 measures of achievement or aptitude, athletic ability, disability, race,
44 creed, gender, national origin, religion, or ancestry; provided, howev-
45 er, that nothing in this article shall be construed to prevent the
46 establishment of a single-sex charter school or a charter school
47 designed to provide expanded learning opportunities for students at-risk
48 of academic failure or students with disabilities and English language
49 learners; and provided, further, that the charter school shall demon-
50 strate good faith efforts to attract and retain [~~a-comparable~~] an equal
51 or greater enrollment of students with disabilities, English language
52 learners, and students who are eligible applicants for the free and
53 reduced price lunch program when compared to the enrollment figures for
54 such students in the school district in which the charter school is
55 located. A charter shall not be issued to any school that would be whol-
56 ly or in part under the control or direction of any religious denomi-

1 nation, or in which any denominational tenet or doctrine would be
2 taught.

3 (b) (i) Any child who is qualified under the laws of this state for
4 admission to a public school is qualified for admission to a charter
5 school. Applications for admission to a charter school shall be submit-
6 ted on a uniform application form created by the department and shall be
7 made available by a charter school in languages predominately spoken in
8 the community in which such charter school is located. [~~The~~]

9 (ii) A charter school shall enroll and continually keep enrolled the
10 minimum number of students in each of the following categories: (A)
11 students who are English language learners as defined in regulations of
12 the commissioner, (B) students who receive or are mandated to receive
13 any special education service, (C) students who have individual educa-
14 tion plans that mandate they receive services for at least sixty percent
15 of the school day outside the general education setting, (D) students
16 who are eligible to receive free lunch in accordance with title I of the
17 elementary and secondary education act, and (E) students who reside in
18 temporary or transitional housing. The minimum number of students a
19 charter school must enroll and continually keep enrolled in each such
20 category shall be the number of students that, as a percentage of the
21 students authorized to be served by the charter school in its charter,
22 is equal to the percentage of students in each category that non-charter
23 public schools in the district where the charter school is located
24 enrolled in the preceding June in all of the grades combined which are
25 served by the charter school. For purposes of this subparagraph, for the
26 city school district of the city of New York, district shall mean the
27 community school district and shall include all non-charter public
28 schools, except those in district seventy-five, geographically located
29 in the community school district.

30 (iii) Prior to a charter school selecting or enrolling students for
31 the next school year, the commissioner shall provide the charter school
32 with the minimum number of students it must enroll and continually keep
33 enrolled in each category pursuant to subparagraph (ii) of this para-
34 graph. The minimum number of students each charter school must enroll
35 and continually keep enrolled in each category pursuant to subparagraph
36 (ii) of this paragraph shall be made public by the commissioner no later
37 than five business days after it has been provided to the charter
38 school.

39 (iv) A charter school shall enroll each eligible student who submits a
40 timely application by the first day of April each year[7] unless the
41 number of applications exceeds the capacity of the grade level or build-
42 ing or would cause the charter school to be below the minimum number of
43 students it must enroll and continually keep enrolled in each category
44 pursuant to subparagraph (ii) of this paragraph. In such cases, students
45 shall be accepted from among applicants by a random selection process,
46 provided[~~however,~~] that separate random selection processes shall be
47 conducted for students that are not in any category set forth in subpar-
48 agraph (ii) of this paragraph and for students in each category set
49 forth in subparagraph (ii) of this paragraph such that a charter school
50 enrolls at least the minimum number of students required pursuant to
51 subparagraph (ii) of this paragraph.

52 (v) Where a charter school does not enroll the minimum number of
53 students it must enroll and continually keep enrolled in each category
54 set forth in subparagraph (ii) of this paragraph, the charter school
55 shall hold open a sufficient number of enrollment spaces such that it is
56 possible for the charter school, consistent with its charter, to subse-

1 quently enroll the number of students required by subparagraph (ii) of
2 this paragraph.

3 (vi) A charter school may provide an enrollment preference [~~shall be~~
4 ~~provided~~] to pupils returning to the charter school in the second or any
5 subsequent year of operation and pupils residing in the school district
6 in which the charter school is located, and siblings of pupils already
7 enrolled in the charter school provided that the charter school enrolls
8 and continually keeps enrolled the minimum number of students required
9 in each category pursuant to subparagraph (ii) of this paragraph and
10 holds open the number of enrollment spaces as required by subparagraph
11 (v) of this paragraph. Preference may also be provided to children of
12 employees of the charter school or charter management organization,
13 provided that the charter school enrolls and continually keeps enrolled
14 the minimum number of students required in each category pursuant to
15 subparagraph (ii) of this paragraph and holds open the number of enroll-
16 ment spaces as required by subparagraph (v) of this paragraph and
17 provided further that such children of employees may constitute no more
18 than fifteen percent of the charter school's total enrollment.

19 (vii) For purposes of this paragraph, if a student withdraws from a
20 charter school as a result of a voluntary decision of the student's
21 parent or guardian and, as a direct result, the charter school no longer
22 has the minimum number of students in each category required pursuant to
23 subparagraph (ii) of this paragraph, the charter school shall neverthe-
24 less be considered to have continually kept enrolled the minimum number
25 of students required by subparagraph (ii) of this paragraph if, within
26 thirty days of the student being withdrawn, the charter school replaces
27 the student that was withdrawn with a different student such that the
28 charter school has the minimum number of students in each category
29 required pursuant to subparagraph (ii) of this paragraph, provided
30 however, that this subparagraph shall not apply (A) if the charter
31 school was already in violation of the requirements of subparagraph (ii)
32 of this paragraph at the time the student was withdrawn or (B) if the
33 decision of the student's parent or guardian was substantially motivated
34 by any action or inaction of the charter school, or any of its agents or
35 employees, that was in violation of any law, rule, or regulation.

36 (viii) (A) A charter school shall report the names of any parents or
37 guardians of students who are on a waitlist for enrollment in the char-
38 ter school to the superintendent of the district in which the charter
39 school is located or, for charter schools located within the geographic
40 area served by the city school district of the city of New York, the
41 chancellor of the city school district of the city of New York, whether
42 each such student is in one of the categories set forth in subparagraph
43 (ii) of this paragraph and, if so, which one.

44 (B) A charter school that, at any time, does not have enrolled the
45 minimum number of students required in each category pursuant to subpar-
46 agraph (ii) of this paragraph shall notify the superintendent of the
47 district in which the charter school is located or, for charter schools
48 located within the geographic area served by the city school district of
49 the city of New York, the chancellor of the city school district of the
50 city of New York, within five days of the date of the school being below
51 the minimum number of students. A separate notification shall be
52 provided each time a charter school's enrollment falls below the minimum
53 in any category pursuant to subparagraph (ii) of this paragraph.

54 (C) Where the superintendent of the district or the chancellor of the
55 city school district of the city of New York receives notification
56 pursuant to clause (B) of this subparagraph, he or she shall first offer

1 the enrollment spaces to any parents or guardians of students who are in
2 a category in which the charter school is below the minimum set forth in
3 subparagraph (ii) of this paragraph who are on the school's waitlist,
4 then to any parents or guardians of students who are in a category in
5 which the charter school is below the minimum set forth in subparagraph
6 (ii) of this paragraph who are on the waitlist of another charter school
7 in the district in which the charter school is located or, for charter
8 schools located within the geographic area served by the city school
9 district of the city of New York geographically located in the community
10 school district, and then to any other parents or guardians of students
11 who are in a category in which the charter school is below the minimum
12 set forth in subparagraph (ii) of this paragraph who reside in the
13 district; such process of enrollment offers shall continue until the
14 charter school is no longer below such minimum in any category or such
15 superintendent or chancellor certifies there are no such students seek-
16 ing enrollment.

17 (D) Offers made pursuant to this subparagraph shall be made in writing
18 in the parent or guardian's primary language. Where an offer is made
19 pursuant to this subparagraph and the parent or guardian accepts, the
20 charter school shall enroll the student within five calendar days of the
21 offer being accepted.

22 (ix) (A) For each month during the school year, a charter school shall
23 report the number of students then enrolled, as of the first day of the
24 month, in each category set forth in subparagraph (ii) of this paragraph
25 and the number of students then enrolled, as of the first day of the
26 month, that are in none of the categories set forth in subparagraph (ii)
27 of this paragraph.

28 (B) Reports pursuant to this subparagraph shall be made to the board
29 of regents, the school's charter entity, the comptroller of the city of
30 New York for charter schools located in New York city and the comp-
31 troller of the state of New York for charter schools located outside of
32 the city of New York, and the superintendent of the district in which
33 the charter school is located or, for charter schools located within the
34 geographic area served by the city school district of the city of New
35 York, the chancellor of the city school district of the city of New
36 York. The commissioner shall ensure that such report is made publicly
37 available via such department's official internet website within five
38 days of its receipt.

39 (C) Reports pursuant to this subparagraph shall be made on the fifth
40 day of the ensuing month during the school year and shall be accompanied
41 by a statement, under oath, by the chairperson of the school's board of
42 trustees or other appropriate member of the board of trustees, that,
43 after the due inquiry, the reports are true and correct and have been
44 provided to each member of the school's board of trustees.

45 (x) The commissioner shall establish regulations to require that the
46 random selection [~~process~~] processes conducted pursuant to this para-
47 graph be performed in a transparent and equitable manner and to require
48 that the time and place of the random selection process be publicized in
49 a manner consistent with the requirements of section one hundred four of
50 the public officers law and be open to the public. [~~For~~] Except where
51 another definition is provided, for the purposes of this paragraph and
52 paragraph (a) of this subdivision, the school district in which the
53 charter school is located shall mean, for the city school district of
54 the city of New York, the community district in which the charter school
55 is located.

1 (xi) The commissioner may, by regulation, require the board of educa-
2 tion of each school district or the chancellor of the city school
3 district of the city of New York to provide to him or her such informa-
4 tion as is necessary to calculate the minimum number of students a char-
5 ter school must enroll and continually have enrolled pursuant to subpar-
6 agraph (ii) of this paragraph. Such information shall be made public by
7 the commissioner within five business days of receipt.

8 (xii)(A) If a charter school fails to enroll the number of students
9 required by subparagraph (ii) of this paragraph the appropriate school
10 district shall withhold from the charter school's funding an amount
11 equal to the additional per pupil funding the charter school would have
12 received had each student not enrolled as required by subparagraph (ii)
13 of this paragraph been enrolled.

14 (B) Money withheld by the school district in accordance with this
15 subparagraph shall be returned to the commissioner for distribution to
16 each of the school districts, using an equitable formula determined by
17 the commissioner, provided the charter school or schools from which the
18 monies are withheld shall not be entitled to the return of any money
19 withheld pursuant to this subparagraph or any additional monies as a
20 result of the commissioner's distribution of funds pursuant to this
21 subparagraph.

22 (xiii) (A) No charter school shall first commence instruction if it is
23 operated by, managed by, affiliated with, in the same chain as, shares
24 the same management company as, or has any common charter applicant as,
25 a school that has been in violation, within the last two years, of the
26 enrollment requirements of subparagraph (ii) of this paragraph.

27 (B) No charter school shall expand beyond the grades with enrolled
28 students, even if such expansion is authorized by its charter, if it has
29 been in violation, within the last two years, of the enrollment require-
30 ments of subparagraph (ii) of this paragraph.

31 (C) A charter school that does not have enrolled the minimum number of
32 students as required by subparagraph (ii) of this paragraph shall not be
33 offered or entitled pursuant to paragraph (e) of subdivision three of
34 section two thousand eight hundred fifty-three of this article (1) a
35 co-location site in a public school building at no cost or (2) space in
36 a privately owned or other publicly owned facility at the expense of the
37 city school district. A charter school that has already been co-located
38 in a public school building or given space in a privately owned or other
39 publicly owned facility pursuant to this paragraph and then fails to
40 continually have enrolled the required minimum number of students shall
41 be required to pay the fair market value of such space for such period
42 of time of non-compliance.

43 (xiv) The provisions of this paragraph shall be enforceable by the
44 commissioner or by a court of competent jurisdiction. Any employee of
45 the school district in which the charter school is located or the parent
46 or guardian of a student attending the district in which the charter
47 school is located shall have standing to enforce the provisions of this
48 paragraph.

49 (xv) A charter school's failure to comply with the provisions of this
50 paragraph shall be a very significant factor in determining whether the
51 charter entity or the board of regents terminates the school's charter.

52 (b-1) Prior to submission of enrollment counts to a school district
53 pursuant to subdivision one of section twenty-eight hundred fifty-six of
54 this article, on or after October first of the two thousand seventeen--
55 two thousand eighteen school year and October first of each school year
56 thereafter, a charter school shall determine whether that school

1 district is the school district of residence of each student for whom
2 enrollment is claimed. Such residency determination shall be made in
3 accordance with the regulations of the commissioner and the residency
4 policy of the school district in which the charter school is located,
5 provided that the charter school may fulfill such requirement by requir-
6 ing that the parents or other persons in parental relation register
7 their child with the school district they have identified as their
8 school district of residence. Notwithstanding any other provision of
9 law to the contrary, the parents or other persons in parental relation
10 shall not be required to annually prove their continued residency,
11 provided that they either annually certify to the charter school and the
12 school district of residence that their residency has not changed or
13 notify the charter school and the school district that their residency
14 has changed and that a new school district of residence should be iden-
15 tified pursuant to this paragraph. Upon making a residency determi-
16 nation, a charter school making its own residency determination shall
17 promptly submit its proof of residence to the school district identified
18 as the district of residence for purposes of enrollment of the student
19 in such school district in accordance with subdivision one of section
20 twenty-eight hundred fifty-six of this article, and the provision of
21 services pursuant to subdivision four of section twenty-eight hundred
22 fifty-three of this article. In the event of a dispute over the residen-
23 cy of a student, the school district shall make its own residency deter-
24 mination pursuant to the regulations of the commissioner after consider-
25 ing the proof of residency submitted by the charter school, and such
26 determination may be appealed to the commissioner by the charter school
27 or by the parent or other person in parental relation or both pursuant
28 to section three hundred ten of this chapter. During the pendency of
29 such appeal, the student shall be deemed enrolled in the school
30 district, shall be entitled to services pursuant to subdivision four of
31 section twenty-eight hundred fifty-three of this article, and the school
32 district shall be liable for charter school tuition, provided that upon
33 a final determination in such appeal that the student is not a resident
34 of the school district, the school district may deduct the cost of such
35 tuition and services from future payments due the charter school. The
36 provisions of this paragraph shall not apply to charter schools located
37 in a city having a population of one million or more.

38 (c) A charter school shall serve one or more of the grades one through
39 twelve, and shall limit admission to pupils within the grade levels
40 served. Nothing herein shall prohibit a charter school from establishing
41 a kindergarten program.

42 (d) A student may withdraw from a charter school at any time and
43 enroll in a public school. [~~A charter school may refuse admission to any
44 student who has been expelled or suspended from a public school until
45 the period of suspension or expulsion from the public school has
46 expired, consistent with the requirements of due process~~]

47 (i) A student may only be disciplined, suspended or expelled from a
48 charter school in accordance with the applicable provisions of subdivi-
49 sions two-a, three, and three-a of section thirty-two hundred fourteen
50 of this chapter. Every charter school shall develop a code of conduct in
51 accordance with the provisions of section twenty-eight hundred one of
52 this title.

53 (ii) Every charter school shall submit a detailed annual report
54 regarding disciplinary measures imposed on students. The report shall be
55 submitted to the charter entity and the board of regents as part of the
56 annual report required pursuant to subdivision two of section twenty-

eight hundred fifty-seven of this article. The report shall be in a form prescribed by the commissioner, and shall include, but not be limited to, number of classroom removals, number of in-school suspensions, number of out-of-school suspensions, number of expulsions, and the action the student took that led to each disciplinary measure imposed. Such data shall be disaggregated by race/ethnicity, status as a student with a disability and status as an English language learner. The report shall be posted on the department's website.

(iii) For the purposes of this subdivision:

(A) the term "superintendent," "superintendent of schools," "district superintendent of schools," or "community superintendent," as used in subdivision three of section thirty-two hundred fourteen of this chapter, as such terms relate to charter schools shall mean the chairperson of the board of trustees of the charter school or the chief school officer of the charter school; and

(B) the term "board of education" or "board," as used in subdivision three of section thirty-two hundred fourteen of this chapter, as such terms relate to charter schools shall mean the board of trustees of the charter school.

§ 18. Subdivision 1 of section 2855 of the education law, as amended by chapter 101 of the laws of 2010, 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) ~~Material and substantial~~ A violation of law;

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

(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]~~ has violated 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 the national labor relations board created pursuant to subchapter II of chapter seven of title twenty-nine of the United States Code, or any person or entity to whom the national labor relations board has lawfully delegated its authority, makes a determination that the charter school has violated section 158(a) of title twenty-nine of the United States Code; 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.]~~ Failure to comply with the

1 requirements of paragraph (b) of subdivision two of section two thousand
2 eight hundred fifty-four of this article; or

3 (f) Failure to comply with the data reporting requirements prescribed
4 in subdivisions two and two-a of section twenty-eight hundred fifty-sev-
5 en of this article.

6 § 19. Subdivision 3 of section 2855 of the education law, as added by
7 chapter 4 of the laws of 1998, is amended to read as follows:

8 3. (a) In addition to the provisions of subdivision two of this
9 section, the charter entity or the board of regents may place a charter
10 school falling within the provisions of subdivision one of this section
11 on probationary status to allow the implementation of a remedial action
12 plan. The failure of a charter school to comply with the terms and
13 conditions of a remedial action plan may result in summary revocation of
14 the school's charter.

15 (b) A charter school that is placed on probationary status shall annu-
16 ally notify the parents or guardians of all students and applicants of
17 the placement. The initial notice shall be distributed within two weeks
18 of being placed on probationary status. Such notice shall be written and
19 delivered via mail. The department shall identify all charter schools on
20 probationary status on the department's website and shall also post the
21 remedial action plan.

22 § 20. Subdivision 4 of section 2855 of the education law, as added by
23 chapter 4 of the laws of 1998, is amended to read as follows:

24 4. (a) Any individual or group may bring a complaint to the board of
25 trustees of a charter school alleging a violation of the provisions of
26 this article, the charter, or any other provision of law relating to the
27 management or operation of the charter school. If, after presentation of
28 the complaint to the board of trustees of a charter school, the individ-
29 ual or group determines that such board has not adequately addressed the
30 complaint, they may present that complaint to the charter entity, which
31 shall investigate and respond. If, after presentation of the complaint
32 to the charter entity, the individual or group determines that the char-
33 ter entity has not adequately addressed the complaint, they may present
34 that complaint to the board of regents, which shall investigate and
35 respond. The charter entity and the board of regents shall have the
36 power and the duty to issue appropriate remedial orders to charter
37 schools under their jurisdiction to effectuate the provisions of this
38 section.

39 (b) At the beginning of each school year, a charter school shall
40 provide the parent or guardian of each student enrolled in the charter
41 school information detailing the process by which a complaint can be
42 brought against the charter school pursuant to paragraph (a) of this
43 subdivision. In addition to detailing the process by which a complaint
44 can be brought, the information provided shall include, but not be
45 limited to the contact information for the board of trustees of the
46 charter school in which the student is enrolled, the contact information
47 for the charter entity of the charter school, and the contact informa-
48 tion for the board of regents, if the board of regents is not the char-
49 ter entity. Such information shall also be posted and updated annually
50 on the charter school's website.

51 § 21. Subdivisions 2 and 3 of section 2856 of the education law are
52 renumbered subdivisions 3 and 4 and a new subdivision 2 is added to read
53 as follows:

54 2. In the event that in any school year a charter school receives
55 combined payments from any local, state, or federal source that exceed
56 expenditures for such school year related to the operation of such char-

1 ter school by seven percent, then any excess funds above such amount
2 shall be returned proportionately to all school districts that have paid
3 tuition to such charter school.

4 § 22. Subdivision 3 of section 2856 of the education law, as added by
5 chapter 4 of the laws of 1998 and as renumbered by section twenty-one of
6 this act, is amended to read as follows:

7 3. (a) In the event of the failure of the school district to make
8 payments required by this section, the state comptroller shall deduct
9 from any state funds which become due to such school district an amount
10 equal to the unpaid obligation. The comptroller shall pay over such sum
11 to the charter school upon certification of the commissioner. The
12 commissioner shall promulgate regulations to implement the provisions of
13 this subdivision.

14 (b) At least thirty days prior to submission of a request for an
15 intercept of state funds pursuant to paragraph (a) of this subdivision,
16 the charter school shall provide the school district of residence with a
17 list of students whose tuition is proposed to be included in the inter-
18 cept and documentation of any special education services provided by the
19 charter school, the cost of which would be included in the intercept.
20 If the school district objects to inclusion of the tuition or cost of
21 services in the intercept, the school district shall provide the charter
22 school with a written statement of its reasons for objecting to the
23 intercept that identifies the students whose costs are in dispute and
24 the charter school shall schedule a resolution session for the purpose
25 of resolving the dispute, which shall be held within five business days
26 of receipt of the school district's objection. Each party shall ensure
27 that their representatives who attend the resolution are fully author-
28 ized to bind the school district or charter school, and any agreement
29 reached at the resolution session shall be final and binding upon both
30 parties. In the event the school district does not notify the charter
31 school of its objections within ten days of its receipt of the list of
32 students or fails to participate in a resolution session, the school
33 district shall be deemed to have waived its objections to the intercept
34 and the charter school shall not be required to offer a resolution
35 session. If the parties are unable to reach agreement at a resolution
36 session, they may agree to schedule additional resolution sessions or,
37 if one of the parties informs the other that agreement is not possible,
38 the dispute may be raised by the district as a charter school complaint
39 pursuant to subdivision four of section twenty-eight hundred fifty-five
40 of this article, or, if the dispute concerns the residency of a student,
41 an appeal may be brought pursuant to paragraph (c) of this subdivision.
42 The department shall not process an intercept for tuition or the cost of
43 services of a student whose costs are in dispute until the charter
44 school notifies the department that a resolution session has been held
45 and no agreement has been reached, or that no resolution session is
46 required because the school district failed to provide timely notice or
47 failed to participate in a scheduled resolution session.

48 (c) In the event of a dispute over the residency of a student, the
49 school district shall make its own residency determination pursuant to
50 the regulations of the commissioner after considering the proof of resi-
51 dency submitted by the charter school, and such determination may be
52 appealed to the commissioner by the charter school or by the parent or
53 other person in parental relation or both pursuant to section three
54 hundred ten of this chapter. During the pendency of such appeal, the
55 student shall be deemed enrolled in the school district, shall be enti-
56 tled to services pursuant to subdivision four of section twenty-eight

1 hundred fifty-three of this article, and the school district shall be
2 liable for charter school tuition, provided that upon a final determi-
3 nation in such appeal that the student is not a resident of the school
4 district, the school district may deduct the cost of such tuition and
5 services from future payments due the charter school.

6 § 23. Subdivision 2 of section 2857 of the education law, as amended
7 by chapter 101 of the laws of 2010, is amended and a new subdivision 2-a
8 is added 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 both the charter school's [~~website~~] and the department's websites. The
14 annual report shall be in such form as shall be prescribed by the
15 commissioner and shall include at least 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 (d) efforts taken by the charter school in the existing school year,
36 and a plan for efforts to be taken in the succeeding school year, to
37 meet or exceed ~~the enrollment [and retention targets set by the board of~~
38 ~~regents or the board of trustees of the state university of New York, as~~
39 ~~applicable, of students with disabilities, English language learners,~~
40 ~~and students who are eligible applicants for the free and reduced price~~
41 ~~lunch program established pursuant to paragraph (e) of subdivision four~~
42 ~~of section twenty-eight hundred fifty-one of this article.] requirements~~
43 of subparagraph (ii) of paragraph (b) of subdivision two of section two
44 thousand eight hundred fifty-four of this article;

45 (e) for any charter school that contracts with a management company or
46 any other entity that provides services to the charter school, a
47 detailed statement of services provided to the charter school by the
48 management company and/or any other entity and the amount the charter
49 school pays for such services. The department shall post the annual
50 reports submitted by charter schools on the department's website; and

51 (f) a notice of any relationship that may exist between any member of
52 a charter school's board of trustees or charter school staff and any
53 for-profit or not-for-profit corporate or other business entity that is
54 responsible for the administration, management or operation of such
55 charter school or related vendor.

1 2-a. Each charter school shall post contact information for the
2 school's board of trustees as well as the name and contact information
3 of the school's charter entity on the website of the charter school.

4 § 24. Subdivision 7 of section 179-q of the state finance law, as
5 added by chapter 166 of the laws of 1991, is amended to read as follows:

6 7. "Not-for-profit organization" or "organization" means a domestic
7 corporation incorporated pursuant to or otherwise subject to the not-
8 for-profit corporation law, a charitable organization registered with
9 the secretary of state, a special act corporation created pursuant to
10 chapter four hundred sixty-eight of the laws of eighteen hundred nine-
11 ty-nine, as amended, a special act corporation formed pursuant to chap-
12 ter two hundred fifty-six of the laws of nineteen hundred seventeen, as
13 amended, a corporation authorized pursuant to an act of congress
14 approved January fifth, nineteen hundred five, (33 stat. 599), as
15 amended, a corporation established by merger of charitable organizations
16 pursuant to an order of the supreme court, New York county dated July
17 twenty-first, nineteen hundred eighty-six and filed in the department of
18 state on July twenty-ninth, nineteen hundred eighty-six, or a corpo-
19 ration having tax exempt status under section 501(c)(3) of the United
20 States Internal revenue code, and shall further be deemed to mean and
21 include any federation of charitable organizations. Provided, however,
22 that a public educational entity within the meaning of section seventy-
23 one of part C of chapter fifty-seven of the laws of two thousand four
24 shall not be deemed a "not-for-profit organization" or "organization"
25 for purposes of this article.

26 § 25. This act shall take effect immediately; provided, however, that
27 the amendments to clause (B) of subparagraph 5 of paragraph (e) of
28 subdivision 3 of section 2853 of the education law made by section
29 fifteen of this act shall take effect on the same date and in the same
30 manner as subdivision 1 of section 63 of part YYY of chapter 59 of the
31 laws of 2017, takes effect.