

STATE OF NEW YORK

3621

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to charter entities; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 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 3. An applicant shall submit the application to a charter entity for
5 approval. For purposes of this article, a charter entity shall be:

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

13 (b) [~~The board of trustees of the state university of New York, or~~
14 ~~(e)~~] The board of regents.

15 The board of regents shall be the only entity authorized to issue a
16 charter pursuant to this article. Notwithstanding any provision of this
17 subdivision to the contrary, an application for the conversion of an
18 existing public school to a charter school shall be submitted to, and
19 may only be approved by, the charter entity set forth in paragraph (a)
20 of this subdivision. Notwithstanding any law, rule or regulation to the
21 contrary, any such application for conversion shall be consistent with
22 this section but shall not be subject to the process pursuant to subdivi-
23 sion nine-a of section twenty-eight hundred fifty-two of this article,
24 and the charter entity shall require that the parents or guardians of a

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

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1 majority of the students then enrolled in the existing public school
2 vote in favor of converting the school to a charter school.

3 § 1-a. Subdivision 5 of section 2851 of the education law is REPEALED.

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

7 (e) The means by which the charter school will meet or exceed enroll-
8 ment and retention targets as prescribed by the board of regents [~~or the~~
9 ~~board of trustees of the state university of New York, as applicable,~~]
10 of students with disabilities, English language learners, and students
11 who are eligible applicants for the free and reduced price lunch program
12 which shall be considered by the charter entity prior to approving such
13 charter school's application for renewal. When developing such targets,
14 the board of regents [~~and the board of trustees of the state university~~
15 ~~of New York~~] shall ensure (1) that such enrollment targets are compara-
16 ble to the enrollment figures of such categories of students attending
17 the public schools within the school district, or in a city school
18 district in a city having a population of one million or more inhabit-
19 ants, the community school district, in which the charter school is
20 located; and (2) that such retention targets are comparable to the rate
21 of retention of such categories of students attending the public schools
22 within the school district, or in a city school district in a city
23 having a population of one million or more inhabitants, the community
24 school district, in which the proposed charter school would be located.

25 § 3. Subdivision 5-b of section 2852 of the education law, as added by
26 chapter 4 of the laws of 1998, is amended to read as follows:

27 5-b. If the board of regents returns a proposed charter to the charter
28 entity pursuant to the provisions of subdivision five-a of this section,
29 such charter entity shall reconsider the proposed charter, taking into
30 consideration the comments and recommendation of the board of regents.
31 Thereafter, the charter entity shall resubmit the proposed charter to
32 the board of regents with modifications, provided that the applicant
33 consents in writing to such modifications, resubmit the proposed charter
34 to the board of regents without modifications, or abandon the proposed
35 charter. The board of regents shall review each such resubmitted
36 proposed charter in accordance with the provisions of subdivision five-a
37 of this section[~~, provided, however, that it shall be the duty of the~~
38 ~~board of regents to approve and issue a proposed charter resubmitted by~~
39 ~~the charter entity described in paragraph (b) of subdivision three of~~
40 ~~section twenty eight hundred fifty one of this article within thirty~~
41 ~~days of the resubmission of such proposed charter or such proposed char-~~
42 ~~ter shall be deemed approved and issued at the expiration of such peri-~~
43 ~~od].~~

44 § 4. Subdivision 9 of section 2852 of the education law, as amended by
45 section 2 of subpart A of part B of chapter 20 of the laws of 2015, is
46 amended to read as follows:

47 9. The total number of charters issued pursuant to this article state-
48 wide shall not exceed four hundred sixty. (a) All charters issued on or
49 after July first, two thousand fifteen and counted toward the numerical
50 limits established by this subdivision shall be issued by the board of
51 regents upon application directly to the board of regents [~~or on the~~
52 ~~recommendation of the board of trustees of the state university of New~~
53 ~~York~~] pursuant to a competitive process in accordance with subdivision
54 nine-a of this section. Fifty of such charters issued on or after July
55 first, two thousand fifteen, and no more, shall be granted to a charter
56 for a school to be located in a city having a population of one million

1 or more. The failure of any body to issue the regulations authorized
2 pursuant to this article shall not affect the authority of a charter
3 entity to propose a charter to the board of regents or the board of
4 regents' authority to grant such charter. A conversion of an existing
5 public school to a charter school, or the renewal or extension of a
6 charter approved by any charter entity, shall not be counted toward the
7 numerical limits established by this subdivision.

8 (b) A charter that has been surrendered, revoked or terminated on or
9 before July first, two thousand fifteen, including a charter that has
10 not been renewed by action of its charter entity, may be reissued pursu-
11 ant to paragraph (a) of this subdivision by the board of regents either
12 upon application directly to the board of regents [~~or on the recommenda-~~
13 ~~tion of the board of trustees of the state university of New York~~]
14 pursuant to a competitive process in accordance with subdivision nine-a
15 of this section. Provided that such reissuance shall not be counted
16 toward the statewide numerical limit established by this subdivision,
17 and provided further that no more than twenty-two charters may be reis-
18 sued pursuant to this paragraph.

19 (c) For purposes of determining the total number of charters issued
20 within the numerical limits established by this subdivision, the
21 approval date of the charter entity shall be the determining factor.

22 (d) Notwithstanding any provision of this article to the contrary, any
23 charter authorized to be issued by chapter fifty-seven of the laws of
24 two thousand seven effective July first, two thousand seven, and that
25 remains unissued as of July first, two thousand fifteen, may be issued
26 pursuant to the provisions of law applicable to a charter authorized [~~to~~
27 ~~be issued~~] by [~~such~~] a chapter [~~in effect as of June fifteenth, two~~
28 ~~thousand fifteen~~] of the laws of two thousand twenty-one that amended
29 this section; provided however that nothing in this paragraph shall be
30 construed to increase the numerical limit applicable to a city having a
31 population of one million or more as provided in paragraph (a) of this
32 subdivision, as amended by a chapter of the laws of two thousand fifteen
33 which added this paragraph.

34 § 5. Subdivision 9-a of section 2852 of the education law, as amended
35 by section 2 of subpart A of part B of chapter 20 of the laws of 2015,
36 is amended to read as follows:

37 9-a. (a) The board of regents is hereby authorized and directed to
38 issue four hundred sixty charters statewide upon [~~either~~] applications
39 submitted directly to the board of regents [~~or upon the recommendation~~
40 ~~of the board of trustees of the state university of New York~~] pursuant
41 to a competitive request for proposals process.

42 The board of regents shall make a determination to issue a charter
43 pursuant to a request for proposals no later than December thirty-first
44 of each year.

45 (b) The board of regents [~~and the board of trustees of the state~~
46 ~~university of New York~~] shall [~~each~~] develop such request for proposals
47 in a manner that facilitates a thoughtful review of charter school
48 applications, considers the demand for charter schools by the community,
49 and seeks to locate charter schools in a region or regions where there
50 may be a lack of alternatives and access to charter schools would
51 provide new alternatives within the local public education system that
52 would offer the greatest educational benefit to students. Applications
53 shall be evaluated in accordance with the criteria and objectives
54 contained within a request for proposals. The board of regents [~~and the~~
55 ~~board of trustees of the state university of New York~~] shall not consid-

1 er any applications which do not rigorously demonstrate that they have
2 met the following criteria:

3 (i) that the proposed charter school would meet or exceed enrollment
4 and retention targets, as prescribed by the board of regents [~~or the~~
5 ~~board of trustees of the state university of New York, as applicable,~~]
6 of students with disabilities, English language learners, and students
7 who are eligible applicants for the free and reduced price lunch
8 program. When developing such targets, the board of regents [~~and the~~
9 ~~board of trustees of the state university of New York,~~] shall ensure (1)
10 that such enrollment targets are comparable to the enrollment figures of
11 such categories of students attending the public schools within the
12 school district, or in a city school district in a city having a popu-
13 lation of one million or more inhabitants, the community school
14 district, in which the proposed charter school would be located; and (2)
15 that such retention targets are comparable to the rate of retention of
16 such categories of students attending the public schools within the
17 school district, or in a city school district in a city having a popu-
18 lation of one million or more inhabitants, the community school
19 district, in which the proposed charter school would be located; and

20 (ii) that the applicant has conducted public outreach, in conformity
21 with a thorough and meaningful public review process prescribed by the
22 board of regents [~~and the board of trustees of the state university of~~
23 ~~New York,~~] to solicit community input regarding the proposed charter
24 school and to address comments received from the impacted community
25 concerning the educational and programmatic needs of students.

26 (c) The board of regents [~~and the board of trustees of the state~~
27 ~~university of New York~~] shall grant priority based on a scoring rubric
28 to those applications that best demonstrate how they will achieve the
29 following objectives, and any additional objectives the board of regents
30 [~~and the board of trustees of the state university of New York,~~] may
31 prescribe:

32 (i) increasing student achievement and decreasing student achievement
33 gaps in reading/language arts and mathematics;

34 (ii) increasing high school graduation rates and focusing on serving
35 specific high school student populations including, but not limited to,
36 students at risk of not obtaining a high school diploma, re-enrolled
37 high school drop-outs, and students with academic skills below grade
38 level;

39 (iii) focusing on the academic achievement of middle school students
40 and preparing them for a successful transition to high school;

41 (iv) utilizing high-quality assessments designed to measure a
42 student's knowledge, understanding of, and ability to apply, critical
43 concepts through the use of a variety of item types and formats;

44 (v) increasing the acquisition, adoption, and use of local instruc-
45 tional improvement systems that provide teachers, principals, and admin-
46 istrators with the information and resources they need to inform and
47 improve their instructional practices, decision-making, and overall
48 effectiveness;

49 (vi) partnering with low performing public schools in the area to
50 share best educational practices and innovations;

51 (vii) demonstrating the management and leadership techniques necessary
52 to overcome initial start-up problems to establish a thriving, finan-
53 cially viable charter school;

54 (viii) demonstrating the support of the school district in which the
55 proposed charter school will be located and the intent to establish an
56 ongoing relationship with such school district.

1 (d) [~~No later than November first, two thousand ten, and of each~~
2 ~~succeeding year, after a thorough review of applications received, the~~
3 ~~board of trustees of the state university of New York shall recommend~~
4 ~~for approval to the board of regents the qualified applications that it~~
5 ~~has determined rigorously demonstrate the criteria and best satisfy the~~
6 ~~objectives contained within a request for proposals, along with support-~~
7 ~~ing documentation outlining such determination.~~

8 (e) Upon receipt of a proposed charter to be issued pursuant to this
9 subdivision submitted by a charter entity, the board of regents [~~or the~~
10 ~~board of trustees of the state university of New York,~~] shall review,
11 recommend and issue, as applicable, such charters in accordance with the
12 standards established in this subdivision.

13 [(f)] (e) The board of regents shall be the only entity authorized to
14 issue a charter pursuant to this article. The board of regents shall
15 consider applications submitted directly to the board of regents [~~and~~
16 ~~applications recommended by the board of trustees of the state universi-~~
17 ~~ty of New York~~]. Provided, however, that all such recommended applica-
18 tions shall be deemed approved and issued pursuant to the provisions of
19 subdivisions five, five-a and five-b of this section.

20 [(g)] (f) Each application submitted in response to a request for
21 proposals pursuant to this subdivision shall also meet the application
22 requirements set out in this article and any other applicable laws,
23 rules and regulations.

24 [(h)] (g) During the development of a request for proposals pursuant
25 to this subdivision the board of regents [~~and the board of trustees of~~
26 ~~the state university of New York~~] shall [~~each~~] afford the public an
27 opportunity to submit comments and shall review and consider the
28 comments raised by all interested parties.

29 § 6. Subdivision 10 of section 2852 of the education law, as added by
30 section 3 of part D-2 of chapter 57 of the laws of 2007, is amended to
31 read as follows:

32 10. Except in the case of a charter school formed by a school district
33 as a charter entity pursuant to paragraph (a) of subdivision three of
34 section twenty-eight hundred fifty-one of this article, a charter school
35 formed by approval of the regents [~~or by operation of law~~] on or after
36 March fifteenth in any school year shall not commence instruction until
37 July of the second school year next following.

38 § 7. Subdivision 2-a of section 2853 of the education law, as added by
39 chapter 4 of the laws of 1998, is amended to read as follows:

40 2-a. For schools approved by an entity described in paragraph (b) [~~or~~
41 ~~(e)~~] of subdivision three of section twenty-eight hundred fifty-one of
42 this article, the school district in which the charter school is located
43 shall have the right to visit, examine into, and inspect the charter
44 school for the purpose of ensuring that the school is in compliance with
45 all applicable laws, regulations and charter provisions. Any evidence of
46 non-compliance may be forwarded by such school district to the board of
47 regents [~~and the charter entity~~] for action pursuant to section twenty-
48 eight hundred fifty-five of this article.

49 § 8. Paragraph (e) of subdivision 1 of section 2855 of the education
50 law, as added by chapter 101 of the laws of 2010, is amended to read as
51 follows:

52 (e) Repeated failure to comply with the requirement to meet or exceed
53 enrollment and retention targets of students with disabilities, English
54 language learners, and students who are eligible applicants for the free
55 and reduced price lunch program pursuant to targets established by the
56 board of regents [~~or the board of trustees of the state university of~~

1 ~~New York, as applicable~~]. Provided, however, if no grounds for terminat-
2 ing a charter are established pursuant to this section other than pursu-
3 ant to this paragraph, and the charter school demonstrates that it has
4 made extensive efforts to recruit and retain such students, including
5 outreach to parents and families in the surrounding communities, widely
6 publicizing the lottery for such school, and efforts to academically
7 support such students in such charter school, then the charter entity or
8 board of regents may retain such charter.

9 § 9. Paragraph (d) of subdivision 2 of section 2857 of the education
10 law, as added by chapter 101 of the laws of 2010, is amended to read as
11 follows:

12 (d) efforts taken by the charter school in the existing school year,
13 and a plan for efforts to be taken in the succeeding school year, to
14 meet or exceed enrollment and retention targets set by the board of
15 regents [~~or the board of trustees of the state university of New York,~~
16 ~~as applicable,~~] of students with disabilities, English language lear-
17 ners, and students who are eligible applicants for the free and reduced
18 price lunch program established pursuant to paragraph (e) of subdivision
19 four of section twenty-eight hundred fifty-one of this article.

20 § 10. Subdivision 2-a of section 355 of the education law is REPEALED.

21 § 11. Nothing in this act shall revoke or terminate any charters that
22 have been authorized by the board of trustees of the state university of
23 New York prior to the effective date of this act unless cause for revo-
24 cation or termination is warranted pursuant to section 2855 of the
25 education law and provided further, that all applications for charter
26 renewals after the effective date of this act shall be approved by the
27 board of regents.

28 § 12. All obligations to oversee and supervise charters authorized by
29 the trustees of the state university of New York prior to the effective
30 date of this act shall be transferred to the board of regents on the
31 effective date of this act.

32 § 13. This act shall take effect immediately.