§ 2851. Eligible applicants; applications; submission. 1. An application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof. Such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation exempt from taxation under paragraph 3 of subsection (c) of section 501 of the internal revenue code or for-profit business or corporate entity authorized to do business in New York state. Provided however, for-profit business or corporate entities shall not be eligible to submit an application to establish a charter school pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article, or operate or manage a charter school for a charter issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article. For charter schools established in conjunction with a for-profit business or corporate entity, the charter shall specify the extent of the entity's participation in the management and operation of the school.

2. The information provided on the application shall be consistent with the provisions of this article and other applicable laws, rules and regulations. Such information shall include:

(a) A mission statement for the school and a description of an educational program that implements one or more of the purposes described in subdivision two of section twenty-eight hundred fifty of this article.

(b) A description of student achievement goals for the school's educational program and the chosen methods of evaluating that students have attained the skills and knowledge specified for those goals. Such educational program shall meet or exceed the student performance standards adopted by the board of regents for other public schools.

(c) The proposed governance structure of the school, including a list of members of the initial board of trustees, a description of the qualifications, terms and method of appointment or election of trustees, the organizational structure of the school, a procedure for conducting and publicizing monthly board of trustee meetings at each charter school, and the processes to be followed by the school to promote parental and staff involvement in school governance.

(d) Admission policies and procedures for the school, which shall be consistent with the requirements of subdivision two of section twenty-eight hundred fifty-four of this article.

(e) A proposed budget and fiscal plan for the school, including supporting evidence that the fiscal plan is sound and that sufficient start-up funds will be available to the charter school.

(f) Requirements and procedures for programmatic and independent fiscal audits at least once annually, with such audits being comparable in scope to those required of other public schools.

(g) The hiring and personnel policies and procedures of the school, including the qualifications to be used in the hiring of teachers, school administrators and other school employees, and a description of staff responsibilities.

(h) The rules and procedures by which students may be disciplined, including but not limited to expulsion or suspension from the school, which shall be consistent with the requirements of due process and with federal laws and regulations governing the placement of students with disabilities.

(i) The number of students to be served by the school, which number shall be at least fifty at a single site and the minimum number of teachers to be employed at the school, which shall be at least three. Provided, however, that a charter school may serve fewer than fifty students or employ fewer than three teachers in the school's first year of operation or if the applicant presents a compelling justification, such as the school would serve a geographically remote region.

(j) Information regarding the facilities to be used by the school, including the location of the school, if known, and the means by which pupils will be transported to and from the school. If the facilities to be used by the proposed school are not known at the time the application is submitted, the applicant shall notify the charter entity and, if applicable, the board of regents within ten business days of acquiring facilities for such school; provided, however, that the charter school must obtain a certificate of occupancy for such facilities prior to the date on which instruction is to commence at the school.

(k) The name of the proposed charter school, which shall include the words "charter school" and which shall not include the name or identification of a for-profit business or corporate entity.

(l) A description of the ages and grade levels to be served by the school.

(m) Identification and background information on all applicants and proposed members of the board of trustees.

(n) The school calendar and school day schedule, which shall provide at least as much instruction time during a school year as required of other public schools.

(o) Types and amounts of insurance coverage to be obtained by the school, which shall include adequate insurance for liability, property loss and the personal injury of students. The commissioner and the superintendent of financial services may jointly promulgate regulations to implement the provisions of this paragraph.

(p) The term of the proposed charter, which shall not exceed five years; provided however, in the case of charters issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article the term of such proposed charter shall not exceed five years in which instruction is provided to pupils plus the period commencing with the effective date of the charter and ending with the opening of the school for instruction.

(q) Evidence of adequate community support for and interest in the charter school sufficient to allow the school to reach its anticipated enrollment, and an assessment of the projected programmatic and fiscal impact of the school on other public and nonpublic schools in the area.

(r) A description of the health and food services to be provided to students attending the school.

(s) Methods and strategies for serving students with disabilities in compliance with all federal laws and regulations relating thereto.

(t) Procedures to be followed in the case of the closure or dissolution of the charter school, including provisions for the transfer of students and student records to the school district in which the charter school is located and for the disposition of the school's assets to the school district in which the charter school is located or another charter school located within the school district. Notwithstanding any other provision of law or of a charter to the contrary, such procedures shall ensure that upon dissolution of a charter school, any funds remaining in the possession of the charter school that can be attributed to public funding, after all of its debts and obligations have been

paid, shall be paid over to each school district having resident children served by the charter school in the school year in which the charter was dissolved or the last year in which students were enrolled in the charter school, in the same proportion as the number of students placed by each school district and served by the charter school in the last school year in which children were served by the charter school, bears to the total number of students served by the charter school in such school year. Provided, however, that nothing in this subdivision shall be construed to require a charter school to pay to such districts any remaining funds that can be attributed to gifts, donations, grants or other authorized charitable contributions.

(u) Requirements for the grant of a diploma, if the school serves the twelfth grade.

(v) A code of ethics for the charter school, setting forth for the guidance of its trustees, officers and employees the standards of conduct expected of them including standards with respect to disclosure of conflicts of interest regarding any matter brought before the board of trustees.

(w) A description of the residential facilities, if any, provided by the charter school.

(x) Any other information relevant to the issuance of a charter required by the charter entity.

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

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

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

(c) The board of regents.

The board of regents shall be the only entity authorized to issue a

charter pursuant to this article. Notwithstanding any provision of this subdivision to the contrary, an application for the conversion of an existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this subdivision. Notwithstanding any law, rule or regulation to the contrary, any such application for conversion shall be consistent with this section but shall not be subject to the process pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article, and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

4. Charters may be renewed, upon application, for a term of up to five years in accordance with the provisions of this article for the issuance of such charters pursuant to section twenty-eight hundred fifty-two of this article; provided, however, that a renewal application shall include:

(a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the board of regents.

(c) Copies of each of the annual reports of the charter school required by subdivision two of section twenty-eight hundred fifty-seven of this article, including the charter school report cards and the certified financial statements.

(d) Indications of parent and student satisfaction.

(e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to approving such charter school's application for renewal. When developing

such targets, the board of regents and the board of trustees of the state university of New York shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the charter school is located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

5. Notwithstanding any provision of law, rule or regulation to the contrary for a period of one year from the effective date of this subdivision, a charter school approved by a charter entity listed in subdivision three of this section may apply at any time during this period to another charter entity, defined in paragraph (a), (b) or (c) of subdivision three of this section to request such other charter entity to oversee and supervise such charter school. All standards and requirements established in the original charter agreement shall remain in effect until the scheduled expiration of such charter agreement and provided however that all obligations of the previous charter entity to oversee and supervise a charter school shall terminate upon the transfer of authorization of such charter school to a new charter entity, as defined in subdivision five of section twenty-eight hundred fifty-two of this article, and the previous charter entity shall provide in a timely fashion information relevant to the charter as requested by such other charter entity. A charter school that seeks to change its charter entity must have met all other requirements of this article and cannot be in violation of any legal requirement, in probationary status, or slated for closure.