

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, 2851, 2852 and 2857 of the Education Law

Section 119.7 of the Regulations of the Commissioner of Education is added, effective March 12, 2013, as follows:

119.7 Renewal of Charters.

(a) Applicability. The provisions of this section shall apply to applications for the renewal of a charter pursuant to Education Law section 2851(4) that are submitted by charter schools for which the Board of Regents is the charter entity.

(b) Charter school obligations.

(1) The board of trustees of the charter school shall submit an application for charter renewal to the Board of Regents in a format and pursuant to a timeline prescribed by the Commissioner, consistent with Education Law section 2851(4).

(2) The board of trustees shall also submit such additional material or information as may be requested by the State Education Department.

(3) Where applicable, the charter school shall comply with the notification and submission requirements in subparagraph (d)(3) of this section.

(c) Department obligations.

(1) Notification of renewal application. Pursuant to Education Law section 2857(1), the State Education Department shall provide notification of receipt of an application for charter renewal and consider comments received concerning such application, consistent with Education Law section 2857(1).

(2) Renewal Site Visit and Report. The Department may, in its discretion, conduct or cause to be conducted a renewal site visit to the charter school for purposes

of obtaining information relevant to the renewal of such school's charter and prepare a renewal site visit report, consistent with guidelines established by the Department.

(3) Renewal Recommendation.

(i) The Department shall prepare and submit to the Board of Regents a renewal recommendation which shall be based upon application of the performance benchmarks pursuant to subdivision (e) of this section. In making this renewal recommendation, the Department shall consider evidence and data gathered about the charter school, including, but not limited to, the following:

(a) information in the renewal application submitted pursuant to paragraph (b)(1) of this section;

(b) any additional material or information submitted by the charter School pursuant to paragraph (b)(2) of this section;

(c) any information relating to the site visit and the site visit report, if any, pursuant to paragraph (c)(2) of this section;

(d) the charter school's annual reporting results including, but not limited to, student academic achievement; and

(e) any other information that the Department, in its discretion, determines is relevant to whether the charter should be renewed, including, but not limited to, information related to whether renewal should be denied to protect the interests of students, families and the public including, but not limited to, instances involving criminal violations, fraud, unsafe environment, organizational stability or other serious or egregious violations of law or of the school's charter.

(ii) Notification of recommendation. The Department shall notify the charter school of the Department's renewal recommendation. In the event that the recommendation is to not renew the charter school's charter, the charter school shall be provided with written notification of such recommendation and the reasons for the recommendation, and shall be given an opportunity to submit, within thirty days of its receipt of such written notification, a written response to such recommendation. Any such written response may include supporting affidavits, exhibits and other documentary evidence and may also include a written legal argument.

(d) Board of Regents procedures.

(1) Board of Regents determination.

(i) The decision concerning whether to approve a charter renewal application shall be wholly within the discretion of the Board of Regents, and shall be based on whether the Board can make the relevant findings specified in Education Law section 2852(2) for the approval of such an application.

(ii) The Board of Regents shall consider the following when making a decision concerning whether to approve a charter renewal application:

(a) the information in the renewal application submitted pursuant to paragraph

(b)(1) of this section;

(b) any additional material or information submitted by the charter school pursuant to subparagraph (b)(2) of this section;

(c) comments received pursuant to Education Law section 2857(1), as provided for in paragraph (c)(1) of this section;

(d) any information relating to the site visit and the site visit report, if any, pursuant to paragraph (c)(2) of this section;

(e) the charter school's annual reporting results including, but not limited to, student academic achievement;

(f) the Department's renewal recommendation pursuant to paragraph (c)(3) of this section and the charter school's written response, if any, pursuant to subparagraph (c)(3)(ii) of this section; and

(g) any other information that the Board, in its discretion, may deem relevant to its determination whether the charter should be renewed, including, but not limited to, information related to whether renewal should be denied to protect the interests of students, families and the public including, but not limited to, instances involving criminal violations, fraud, unsafe environment, organizational stability or other serious or egregious violations of law or of the school's charter.

(iii) In making its decision concerning whether to approve a charter renewal application, the Board of Regents shall consider the totality of the evidence presented in each case, and may accept or reject, in whole or in part, the Department's renewal recommendation, provided however that nothing in this subparagraph shall be construed as prohibiting the Board of Regents from weighing any one factor more heavily than another.

(iv) The decision of the Board of Regents with respect to whether to approve a renewal application shall be final.

(2) Renewal outcomes.

(i) The Board of Regents in its sole discretion may:

(a) renew a charter for a maximum term of five years;

(b) renew the charter for a term of less than five years; or

(c) deny renewal of the charter.

(ii) When deciding whether to grant a renewal application and/or for how long to renew a school's charter, the charter school's student academic achievement shall be considered of paramount importance by the Board of Regents. Furthermore, for all renewals subsequent to a first renewal, a charter school's student academic achievement shall be given greater weight than for a first renewal.

(3) In the event that the Department's renewal recommendation recommends that the Regents grant a renewal application, but the Board of Regents decides to reject such recommendation and deny renewal of a charter, the charter school shall be provided with written notification of such decision and the reasons for the decision, and shall be given an opportunity to submit a written response to such decision and request that the Board of Regents reconsider its action. If the charter school chooses to submit a written response, the charter school shall, within five days of receipt of the Department's notification, notify the Department in writing of its intent to submit a written response, and shall submit such written response within thirty days of receipt of the Department's notification. Any such written response may include supporting affidavits, exhibits and other documentary evidence and may also include a written legal argument. The Department shall submit any such submission to the Board of Regents for reconsideration. Following receipt of such submission, the Board of Regents shall reconsider the charter school's renewal application , provided that nothing in this paragraph shall be construed to require more than one reconsideration.

(e) Performance benchmarks. Each renewal charter for a charter school authorized by the Board of Regents shall include the performance benchmarks set forth in the Charter School Performance Framework, as issued by the Department, as part of the oversight plan in the charter school's charter agreement. For each such renewal charter, the analysis of qualitative and quantitative data and evidence concerning a charter school's performance, for purposes of the Department's renewal recommendation pursuant to paragraph (c)(3) of this section, shall be based on the charter school's achievement in each of the performance benchmarks set forth in the Charter School Performance Framework; provided that the charter school's performance under student academic achievement, as set forth in Benchmark 1: Student Performance shall be paramount when determining to renew a school's charter.