

New Charter School Law: Implications for Current Applicants

SUMMARY

The new State charter school law mandates an RFP process under which teams can apply for a charter to DOE, SED, and SUNY. While this changes the application timelines and process, according to an initial review by the New York City Charter School Center (and initial consultations with the authorizers), the new law should not require substantial revisions to existing applications. In a phrase, the changes are more process than substance. Rather, the new law will require applicants to meet some additional eligibility and preference criteria.

This document includes a likely timeline for fall applicants to SUNY, SED, and DOE; a summary of new eligibility and priority criteria; and Frequently Asked Questions and Answers.

TIMELINE FOR FIRST RFP

PROCESS	DOE	SED	SUNY
RFP Issued	8/1/2010 (issued by SED)	8/1/2010	8/1/2010
RFP Closed	TBD (determined by SED)	TBD	TBD
Send Recommendation to Board of Regents	TBD	N/A	11/1/2010
Final Decision	12/31/2010	12/31/2010	12/31/2010

*The next RFP will be issued on **January 1, 2011**, with timeline for submitting applications to be set by authorizers. For those who are planning to open in 2012, taking part in this process may make the most sense.

APPLICATION REQUIREMENTS: OLD LAW v. NEW LAW

Eligibility Criteria:

Old Law

Under the original law, successful applicants must:

- ✓ Meet the requirements set out in the law and applicable laws
- ✓ Demonstrate the ability to operate in an educationally and fiscally sound manner
- ✓ Show they are likely to improve student learning and achievement
- ✓ Provide a significant educational benefit in districts where charter enrollment exceeds 5% or the school district consents to such application.

New Law

All of the criteria under the old law still exist. There are now two additional findings an authorizer must make to approve a charter. Applicants must:

- ✓ Meet the enrollment and retention targets for English Language Learners, students with disabilities, and students eligible for free/reduced price lunch that meet or exceed the district
- ✓ Demonstrate they've implemented a community engagement plan as prescribed by the authorizer

Preference Criteria:

Old Law

The original law did not set out specific preference criteria. Instead, priority was given to applicants who demonstrated the following:

“In reviewing applications, the charter entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.”

New Law

The new law lays out much more specific priorities that bolster an applicant's chances of obtaining a charter. The law, however, leaves it up to the authorizers to develop a scoring rubric. Under the new law, priority will be given to applicants who:

- ✓ Demonstrate an ability to increase achievement and decrease achievement gaps in ELA and math.
- ✓ Demonstrate an ability to increase high school graduation rates and focus on serving specific high school students at risk of not graduating
- ✓ Focus on the academic achievement of middle school students and prepare them for high school
- ✓ Use a variety of high quality assessments designed to measure knowledge, understanding of, and ability to apply, critical concepts

- ✓ Acquire and adopt local instructional improvement systems that provide school staff with information to improve their instructional practices, decision-making, and overall effectiveness
- ✓ Partner with low-performing district schools to share best practices and innovations
- ✓ Demonstrate management and leadership capability to overcome start-up problems to establish a thriving, financially viable school
- ✓ Demonstrate the support of the school district in which the school will be located and intent to establish an ongoing relationship

FREQUENTLY ASKED QUESTIONS

Timeline:

Q: The timeline for the August 1st round seems very short. Is there enough time to actually review and approve applications?

A: The timeline is very tight and because neither SED nor SUNY has determined when the application in response to the RFP will be due, it is hard to say how much time there will be for reviewing the application. As such, we agree with the DOE that it should begin its initial review of applications that are currently submitted even before the actual RFP comes out. This should give applicants a leg up.

One issue the timeline raises is whether SUNY will have the opportunity to “override” a return of an application from the Board of Regents. Normally the process from submission-to-Regents to the charter-issuing (where the Regents return the application to SUNY) usually takes between five or six months. We will provide you with updated information when SUNY and SED have further considered this issue

Eligibility Criteria:

Issue: Meet or exceed enrollment and retention targets for English Language Learners, students with disabilities, and students eligible for free & reduced price lunch to the district

Q: What are the enrollment and retention targets for each subgroup and who sets them?

A: Both SED and SUNY are charged with setting targets for their applicants and the law provides that SED and SUNY shall ensure that they are “comparable” to those for the district.

Q: What does “comparable” mean?

A: SED and SUNY must determine that. What we can say at this point is that the law specifies that the “control” group is those schools in the community school district in which you will be located. What we can also say is that we fully appreciate that there are a number of methods to determine comparability and a lot of factors that fair-minded people would take into consideration.

We can assure you that we understand how important it is that charter schools and their advocates have a voice to ensure a fair and appropriate process and outcome and will be working aggressively with both the authorizers and you on this issue.

Q: How do we set targets if we don't know what district we're locating in?

A: For purposes of the application process, you will have to pick the community school district that you intend to be in. If that changes after approval, it is likely that the revision process will involve the authorizer finding that you can meet the enrollment targets for that new CSD.

Issue: Demonstrate they've implemented a community engagement plan as prescribed by the authorizer

Q: How do we engage a community if we don't know where we are locating?

A: Again, for purposes of the application process, you are going to have to select the likely CSD; and, again, if there is a revision and change in CSD, it may involve a new engagement process.

Q: Who do we have to engage and should we do it now even before SED or SUNY has prescribed the process?

A: It is not clear at this point and we will have to wait for guidance from SUNY and SED respectively. However, for those schools that know where they will be located, we believe strongly that you should be engaged in building community support for your school regardless of this provision. It is likely that much of what you do will be able to be incorporated into the process that SUNY or SED come up with.

Preference Criteria:

Issue: Demonstrate an ability to increase achievement and decrease achievement gaps in ELA and math.

Q: What evidence do we need to provide?

A: While SUNY and SED will prescribe the evidence they require, the fact is that both they and the Chancellor's application already ask for much of this information since the authorizer is already required to find that you will improve student learning and achievement. They may ask you to reformat and be more specific around gap-closing measures—and such measures may become standard within the accountability measures/plan that you will be held to meeting upon renewal.

Issue: Demonstrate an ability to increase high school graduation rates and focus on serving specific high school students at risk of not graduating

Q: I'm proposing an elementary and/or middle school. Does this lower my chances for approval?

A: Again, for certainty around these answers, we must wait for the RFP to come out; our preliminary thinking is that it is not likely to hurt your application. The fact is that given the number of applicants proposing high schools (not many) and the number of charters that are available in each round, these preferences may make it more likely for some applicants to be approved; it does not follow however that it makes it less likely for highly-qualified applicants who do not meet one or more of the preferences to be approved. After all, these are preferences and not eligibility criteria.

Issue: Focus on the academic achievement of middle school students and prepare them for high school

Q: I'm proposing an elementary school. Does this lower my chances for approval?

A: Please see above answer

Issue: Use a variety of high quality assessments designed to measure knowledge, understanding of, and ability to apply, critical concepts

Q: How detailed does this have to be? Do I have to show actual assessments?

A: The authorizers will determine in their RFPs the evidence that you will need to supply. The present application already required you to discuss in detail what your assessment program looks like so that a well-prepared applicant should be able to meet whatever hurdle this preference ends up requiring. The preference does not in and of itself call for submitting the actual assessments and both SUNY and SED understand that providing actual assessments before a school's curriculum and program are built and the school is operating doesn't make a lot of sense. We will certainly impress upon them this common-sense point.

Issue: Acquire and adopt local instructional improvement systems that provide school staff with information to improve their instructional practices, decision-making, and overall effectiveness

Q: What does this mean?

A: We wish we knew. The actual language comes from the Race to the Top RFP put out by the federal government. We are seeking clarification on this point. The general sense is that you will have to present evidence that you will be a data-driven and responsive organization. Again, in the present applications, you are already asked in a number of places to provide evidence of this.

Issue: Partner with low-performing district schools to share best practices and innovations

Q: How will I know which schools to identify in my district?

A: There are many ways to identify schools in your district. Detailed information is available on the DOE web site (<http://schools.nyc.gov>). Your authorizer may help you identify good partner schools. And your school may be co-located with a school that meets this specific criterion.

Q: In what ways am I expected to partner with district schools?

A: SED and SUNY will have to set the guidelines, but areas may include sharing best practices around data and assessment, professional development, leadership development, curriculum and instruction, and parent engagement.

Issue: Demonstrate the capability to overcome start-up problems to establish a thriving, financially viable school

Q: How do I demonstrate this?

A: You can demonstrate this by having a strong governance structure starting with the Board of Trustees; presenting a clear accountability plan for governance for the proposed school; and having comprehensive operations, management, and finance plans. Remember that an authorizer already was required (and will continue to be required) to find that you can run the school in an educationally and fiscally sound manner.

Issue: Demonstrate the support of the school district in which the school will be located and intent to establish an ongoing relationship

Q: How do I demonstrate this?

A: This is up to SED and SUNY, but we believe a letter from the Chancellor will go a long way towards showing this, and we think the current Chancellor has shown that he is likely to be supportive of strong applications.

Additional Questions:

Q: SUNY still has 12 charters give under the old law. If I'm applying for one of those spots, do these new requirements affect me?

A: No.

Q: What is the difference in terms of opening a school if I apply in August vs. January?

A: If you apply in the August round, you could potentially open, but would not be required to open, in September 2011. If you apply in the January round, the earliest you would open is fall 2012.

Q: I was planning to contract with a for-profit manager but understand the new law prohibits those relationships. What should I do now?

A: You will be able to apply in conjunction with a for-profit manager for one of the 12 charters SUNY still has left to issue under the original 200. Whether any will be left and under what timeline they'll be awarded is not known.

Q: Given that for-profits have been barred moving forward, will SUNY reserve some of its remaining 12 charters for schools applying in conjunction with a for-profit manager?

A: We don't know at this time

Q: Where can I find the old law and the new law?

A: you can visit the Charter Center's Web site at www.NYCCharterSchools.org.