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TO: Superintendents of Public Schools
Administrators of Public Schools
Charter School Leaders

FROM: Renee Rider, Assistant Commissioner

SUBJECT: Basic Tuition Payments to Charter Schools

It has come to the Department's attention that, in some instances, school districts may not be receiving sufficient information from charter schools to document students' district of residence and that charter schools at times may not be receiving tuition payments due to them from school districts. The Department is issuing this guidance to provide a framework to facilitate the exchange of relevant information between charter schools and school districts in order to ensure prompt and accurate payment of tuition to charter schools.

Charter School Basic Tuition Payments from School District of Residence

According to State Education Law and Commissioner's regulations, charter school basic tuition payments are made directly from students' school district of residence to charter schools in substantially equal installments once every two months of each year, beginning July 1 (see Education Law §2856[1]; 8 NYCRR §119.1[d]). The charter school supplies an invoice to the resident district(s) at least 30 days prior to the first business day of the two-month period (see 8 NYCRR §119.1[c][1]). The invoice is to be accompanied by a roster of resident students, with physical addresses and names of parents/guardians, as well as any updated proof of residency. It is recommended that charter schools contact school districts of residence to determine whether additional specific information should be included on the invoice.

In order to ensure that the appropriate school district of residence is being invoiced for tuition, charter schools must make an accurate determination of each student's district of residence by collecting **current** documentation upon enrollment in the charter school and at the beginning of each school year thereafter. In addition, should a charter school obtain information that a student has moved during the course of a school year, the charter school should collect updated student residency documentation and supply that documentation to the school district in which the student resides. It is recommended that charter schools review surrounding school districts' enrollment/proof of residency requirements, which can vary, to ensure that the documentation collected by the charter school aligns to the extent practicable with surrounding districts' requirements and that charter school staff urge parents/guardians to register their students in their respective districts of residence, although this is not required for purposes of enrolling in a charter school.

Upon receipt of an invoice from a charter school, the school district should review the information and promptly share any questions or concerns with the charter school. Should a school district find the documentation of residency to be insufficient or disagree that the student

is a district resident, school district staff should notify the charter school promptly and both parties should work together to attempt to resolve the issue. It is in the best interest of all concerned – the school district, the charter school and the parents/guardians of charter school students – to resolve residency issues at an early stage so that protracted legal disputes can be avoided.

The school district is entitled to make a formal residency determination using the process set forth in Commissioner's regulations §100.2(y)(6), as with any student whose parents claim to be district residents, be they students attending the district's schools, charter schools or nonpublic schools, since the school district must be able to verify that public funds are being appropriately expended. In addition, by law, the school district of residence of a charter school student has responsibility to recommend special education services and programs for charter school students with disabilities through its Committee on Special Education (CSE) and to provide various services, such as textbook loans, transportation, and health services. Even for a student who is not currently identified as a student with a disability, under the Individuals with Disabilities Education Act, there must always be an identifiable school district of residence with CSE responsibility. Charter schools should encourage parents/guardians to participate in the residency determination process once commenced by the school district. If they do not participate, they risk having a binding determination that their child is not a school district resident.

If, as a result of this residency determination process, the school district determines that the student does not reside in the district, the school district should promptly advise the charter school of the determination and request that the charter school revise the roster and invoice accordingly. The charter school may request to review the school district's documentation supporting the determination, and the district should comply with this request. After resolution of any issues related to the invoice, the school district must provide payment to the charter school within 30 days of receipt of the revised invoice. In addition, once a final determination is made that the student is not a resident (after any appeals), the school district should notify the Department at charterschools@nysed.gov and no State aid intercepts for charter school tuition for that student will be made unless and until there is another residency determination confirming that the student is in fact a district resident.

If a residency issue cannot be resolved, the school district may file a complaint with the charter school's board of trustees (Education Law §2855[4]). If the district determines that the board of trustees has not adequately addressed its complaint, it may present the complaint to the charter school's authorizer and then, if necessary, to the Board of Regents (Education Law §2855[4]).

It is the Department's expectation that school districts and charter schools cooperate in sharing information regarding students' districts of residence so that issues are resolved at the local level.

Intercept Process

In the event that a school district fails to make a tuition payment to the charter school, Education Law §2856(2) provides that, upon certification of the Commissioner of Education, the Office of the State Comptroller will deduct funds from the school district's State aid payment(s) and transfer the funds to the charter school.

Prior to submitting an intercept request to the Department, the charter school should notify the school district of its intent to submit the request, and the charter school should submit

documentation of such notification to the Department when an intercept request is submitted. The school district may ask the charter school for the information to be submitted with the request, including student rosters.

It is the Department's expectation that the State aid intercept process will be used only as a last resort, when school districts and charter schools cannot resolve issues related to payment of charter school basic tuition.

We hope that this information provides clarification regarding the roles and responsibilities of school districts and charter schools in the matter of resident student tuition payment. Questions may be directed to charterschools@nysed.gov.