



## New York State Education Department

***Prior Actions Memo to Support New York State Charter Schools  
Authorized by the Board of Regents***

**April 2011**

The Regents of The University of the State of New York  
Charter School Office  
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## Acknowledgements

Much of the information provided in this Prior Actions Memo was derived from exemplar materials created by charter school authorizers and other supporting organizations that are nationally recognized for their policies and procedures aimed at increasing the number of high quality charter schools. The Board of Regents and the New York State Education Department wish to specifically acknowledge and thank the State University of New York's Charter School Institute for its contributions in creating this Memo.

### **Charter Schools Institute**

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## Overview

There are specific activities, or Prior Actions, that a Board of Regents-authorized charter school must complete, or make significant progress toward completing, before a new school may officially open to the public.<sup>1</sup> The purpose of this document is to provide guidance to SED's Charter School Office (CSO) regarding protocols and the types of information to be reviewed and collected before and during a Prior Actions charter school site visit – or initial monitoring visit that occurs at least two weeks prior to the charter school's officially-scheduled start date. This document is to be used as guidance, in conjunction with the Opening Procedures Checklist (Checklist). **CSO Staff will be responsible for approving all tasks marked "Yes" within the 'Submit to SED' and 'Prior Actions Site Visit' columns of the Checklist.**

Steps in this process include:

- 1. Prior Actions Document Review and Audit:** ongoing review and auditing of charter school documents submitted to SED by dates highlighted in Checklist;
- 2. Prior Actions Site Visit:** pre-opening site visit to new charter schools to ensure completion of specific Prior Actions; and,
- 3. Written Statement – SED Consent to Open:** written statement confirming completion or near completion of Prior Actions, drafted by CSO staff to schools and the Board of Regents.

There are three core school components under which all tasks and corresponding due dates are organized: I. Academic Program; II. Organizational Viability; and III. Material Terms.

- I. Academic Program:** Completed tasks provide evidence and help to ensure that schools are prepared to carry out functions pertaining to educational programming and general administration, including student learning time, curriculum and instruction, and accountability. Completed actions within this section are instrumental in creating the academic foundation upon which charter schools should be based.
- II. Organizational Viability:** Completed tasks provide evidence and help to ensure that the school's leadership and governance model can lead to appropriate oversight of the school's organizational affairs. Completion of these Prior Actions will further evidence a school's adherence to federal and state statute, fiscal solvency, facilities and insurance requirements, and successful operational planning.
- III. Material Terms:** Completed tasks provide evidence and help to ensure a school's adherence to specific terms upon which its charter was granted. These include student-related matters such as enrollment and admissions procedures, record keeping, attendance, and special needs students. Other material terms include policy development and implementation, as well as general compliance issues. All such terms are included in a school's charter contract, with any changes to these material terms requiring the school board to submit a request for a charter amendment to the Board of Regents.<sup>2</sup>

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<sup>1</sup>SED contract § 1.4 Prior Actions set forth in Section I, Opening Procedures, of the Oversight Plan.

<sup>2</sup>SED contract §§ 9.5 Terms and Conditions of Application and 9.6 Revision.

**Oversight Plan – Opening Procedures/Prior Actions**

**1. Prior Actions Document Review and Audit**

All newly authorized charter schools should receive the Opening Procedures Checklist upon approval and receipt of their charter contract. These schools, therefore, will have a comprehensive list of tasks mandated by SED and/or statute, as are noted within the **'Submit to SED' column on the Checklist. These tasks are considered Prior Actions that must be approved by SED before schools can officially open.** CSO staff will review all submissions and respond to schools within two weeks if there is a need for further clarification or additional information to support task completion. **This process will be ongoing, leading up to a school's Prior Actions Site Visit.** All documentation collected will be added to findings identified during the Site Visit and eventually used to inform SED's written statement to schools and the Board of Regents verifying the completion or near completion of all Prior Action tasks.

**Please note:** To view a snapshot of **all Prior Actions**, users must: 1. Select or highlight Row 1 (all headers shaded in grey); 2. Select *Data*; 3. Select *Auto Filter*; 4. Select arrows on *'Submit to SED'* header; 5. Select "Yes."

**2. Prior Actions Site Visit**

As briefly noted above, CSO staff will conduct Prior Action Site Visits **at least two weeks before a school's scheduled opening date.** The CSO should contact new charter school leaders at least four weeks prior to arriving on site to **clearly communicate expectations for all Prior Actions that must be completed or nearly completed before the school opens.** During this interaction, CSO staff can explain the purpose and scope of the visit, school requirements, and next steps and consequences for schools unable to meet particular Prior Actions by their assigned deadlines. Specifically, if a school does not substantially complete all Prior Actions by the time of the Prior Action Site Visit, the school may be required to take a planning year, or in serious cases of non-completion, SED may recommend to the Board of Regents that the school's charter be revoked. Non-completion of Prior Actions that may lead to charter revocation include but are not limited to key tasks that jeopardize students' health and safety and limit a school's ability to successfully execute the academic, organizational, and material terms within its charter contract. All tasks marked in the *'Prior Actions Site Visit'* column on the Checklist will be monitored during this visit.

**Please note:** To view a snapshot of **Prior Actions to be reviewed on-site**, users must: 1. Select or highlight Row 1 (all headers shaded in grey); 2. Select *Data*; 3. Select *Auto Filter*; 4. Select arrows on *Prior Actions Site Visit* header; 5. Select "Yes."

Staff should plan to be on-site for **at least 4 - 5 hours** to complete a full review/audit of all Prior Actions Site Visit tasks. The following **sample schedule can be used to maximize productivity** during this visit:

| <b>Visit Components</b>             | <b>Description</b>  | <b>Timing</b> |
|-------------------------------------|---|---------------|
| <b>Key School Personnel Meeting</b> | Discuss purpose and scope of visit; discuss issues in need of additional context.   | 1 hour        |
| <b>Desk Audit</b>                   | Review certificates and evidence of task completion (e.g., School Policies, Organizational Charts, Management Contracts, and Certificate of Occupancy). | 2 hours       |
| <b>Facilities Inspection</b>        | Ensure that building space is safe and secure, meets academic program requirements, and is accessible to all students.                                  | 1 hour        |
| <b>Next Steps</b>                   | Provide overview of findings and reiterate next steps addressed during introduction.  | ½ hour        |

CSO staff will populate the following Checklist columns while on-site to support and inform final approval to open:

| <b>Column Header</b>                         | <b>Recommended Use</b>  |
|--|---|
| <b><i>Prior Actions Site Visit</i></b>       | Evidence of task completion to be reviewed during the pre-opening site visit.   |
| <b><i>Scope of SED Review</i></b>            | Guidance regarding whether staff need to review documents on site or conduct additional analyses and/or provide feedback to school at a later date. |
| <b><i>Status Progress</i></b>                | Indication of a school’s status and progress toward task completion.  |
| <b><i>Comments</i></b>                       | Opportunity for staff to insert additional commentary, where applicable.  |
| <b><i>Completed – SED Staff Initials</i></b> | Staff initials in this column indicate task completion.   |

Once on-site, CSO team members will be privy to the many exciting opportunities and unexpected challenges often prevalent for new charter schools. CSO staff should listen and remain attuned to the culture and school environment around them. The state of the school and its readiness to open will depend on components of the school model that are beyond actions committed to paper and collected for statutory purposes.

### **3. Written Statement – SED Consent to Open**

The CSO team is required to draft and **submit a written statement to the new charter school, verifying the completion or near completion of such activities**, and forward a **copy of this statement to the Board of Regents**.<sup>3</sup> For each item on the Prior Actions Site Visit list not completed at the time of this visit, the charter school must submit a status report and a due date for which it will be accountable or risk school probation and/or closure. (Please see attached template.)

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<sup>3</sup>SED contract § 1.4 Prior Actions.



New York State Education Department

September 1, 20\_\_

**VIA FACSIMILE and/or ELECTRONIC MAIL AND FIRST CLASS MAIL**

Mr. / Ms. \_\_\_\_\_

Executive Director

(INSERT SCHOOL NAME) Charter School

(INSERT SCHOOL ADDRESS)

CC: New York State Board of Regents

Re: Prior Actions/Consent to Commence Instruction for \_\_\_\_\_ Charter School

Dear Sir or Madam:

Please be advised that, pursuant to the New York State Education Department's (SED) visit and inspection of the (INSERT SCHOOL NAME) Charter School (the "School") on August \_\_, 20\_\_ (and documentation provided to or inspected by SED at that visit and previously), SED has determined that the School has completed, as of the date of this letter, substantially all of the Prior Actions required of it as defined in Paragraph 1.4 of the charter agreement between the School and the New York State Board of Regents (the "Charter"). Therefore, the School is permitted to provide instruction to students in accordance with the plan provided in the Charter.

Please be further advised that while the School has completed substantially all of the Prior Actions required of it, the School will be required to take additional actions in regards to (INSERT ALL PRIOR ACTION TASKS THAT HAVE NOT BEEN COMPLETED) as set forth below. Permission to commence instruction is conditional upon timely completion of those actions. In addition, the School must complete all of the Prior Actions before (INSERT DATE) of the next school year or risk having its charter voided *ab initio* (revoked) per Paragraph 1.4 of the Charter.

In closing, and on behalf of the New York State Board of Regents, please accept our congratulations for the accomplishment of turning your vision of a public charter school into reality. We wish you success in the first year and look forward to visiting (INSERT SCHOOL NAME). As always, please feel free to contact us at any time.

Sincerely,

(INSERT MORE DETAILED LIST OF INCOMPLETE ACTIONS)