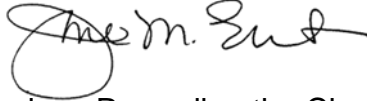





**TO:** P-12 Education Committee

**FROM:** Jhone M. Ebert 

**SUBJECT:** Follow-up Discussions Regarding the Charter School Performance Framework, §3.16 of the Rules of the Board of Regents, and Key Decision-Making Points

**DATE:** November 2, 2017

**AUTHORIZATION(S):** 

### **SUMMARY**

#### **Issues for Discussion**

The Board of Regents will discuss the key areas of decision-making regarding the Charter School Performance Framework that guide the performance oversight of Board of Regents-authorized charter schools, and discuss the components of §3.16 of the Rules of the Board of Regents that govern the oversight of charter schools and the delegation of authority to the Commissioner of Education.

#### **Reason(s) for Discussion**

Review of Regents policy.

#### **Proposed Handling**

These issues will be before the Board of Regents P-12 Education Committee for discussion at the November 2017 meeting and is a continuation of the discussion held during the October Board meeting to allow for further conversation.

#### **Procedural History**

The Charter School Performance Framework is the document which enumerates the standards by which all Board of Regents-authorized charter schools are held accountable to at the time of renewal. Through the Rules of the Board of Regents, procedural guidelines are provided to govern the oversight of all charter schools.

## *Charter School Performance Framework*

The Charter School Performance Framework (see Attachment A) was initially endorsed by the Board of Regents in October 2012. In creating the Performance Framework, the Department surveyed other states' and authorizers' frameworks, and designed this Framework specifically for use with Regents-authorized charter schools and to fit with the Strategic Plan<sup>1</sup> for the Department's Charter School Office. When developing this Framework, Department staff adhered to the following guiding principles which are outlined in the Performance Framework: 1) Focus on student performance over compliance; 2) Preserve operational autonomy; 3) Facilitate transparent feedback to schools; 4) Align to the ongoing accountability and effectiveness work for all public schools; and 5) Balance clear performance benchmarks with Regents discretion.

Discussions with the field have taken place across the State where board members and administrators of Regents-authorized schools were given the opportunity to provide feedback and suggested changes to the Performance Framework, and affirmed the importance of a performance-based accountability system as envisioned in Education Law §2850(2)(f). That feedback was presented to the Board of Regents at the October 2017 meeting where the Board was given an opportunity to provide their feedback. At the November 2017 meeting, the Board of Regents will continue this discussion, and should the Board suggest revisions to the Framework, a revised Charter School Performance Framework would be submitted to the Board of Regents at a subsequent meeting for adoption.

## *Rules of the Board of Regents*

In September 2012, the Board of Regents voted to adopt a technical amendment of §3.16 of the Rules of the Board of Regents (see Attachment B), relating to the delegation to the Commissioner of Education of the Board of Regents authority.

## **Background Information**

### *Charter School Performance Framework*

A full background of the history of the Charter School Performance Framework for Board of Regents-authorized charter schools can be found in the Regents item presented at the October 2017 Board meeting.

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<sup>1</sup> The Charter School Office Strategic Plan is available at the following location:  
<http://www.p12.nysed.gov/psc/homepage/NYSEDCSOStrategicPlanJuly2011FINALrev.pdf>

### *Key 2015 Performance Framework Decision Points for Discussion*

The Board of Regents may want to consider revisions to certain key areas of the Charter School Performance Framework, as evidenced by previous Board discussions regarding charter school renewals and they are:

1. Comparative academic outcome measures and sub-group performance;
2. Enrollment and retention of student subgroups;
3. Measures used to evaluate non-academic indicators of school quality  
i.e., chronic absenteeism rates, school climate survey results, suspension rates;
4. Standards for full-term, short-term, or non-renewal;
5. The quality of teachers:
  - Teacher turnover
  - Teacher professional development
  - Teacher education achievement
  - Teacher evaluations

### *Rules of the Board of Regents*

Education Law §2852(7) requires that a public charter school receive approval from the Board of Regents for any revision to its charter.

In 2010, the Board of Regents voted to delegate authority to the Commissioner to approve, on behalf of the Board of Regents, revisions to a school's charter with certain specified exceptions, so that revisions could be approved and issued expeditiously. The purpose of the proposed technical amendment was to conform additional provisions in §3.16(c) of the Regents Rules to the Department's existing practices of having the Commissioner, on behalf of the Board of Regents, consider non-material school revision requests, such as changes in school policies, charter school hearings, charter school complaints, and certain minor charter revisions. Material revision requests must be presented to the Board for a decision. Non-material revision requests may be decided by the Commissioner of Education, and are not required to be presented to the Board of Regents for a decision. The presentation to the Board at the November meeting will provide an opportunity for the Board to discuss the list of material and non-material revisions, and suggest whether to make changes to the decision-making process for revision requests.

### **Related Regents Items:**

*Charter School Performance Framework*

[October 2017 Charter School Performance Framework Discussion Regents Item](#)

<https://www.regents.nysed.gov/common/regents/files/1017p12d1.pdf>

[October 2017 Charter School Performance Framework Discussion Supplemental Presentation](#)

<https://www.regents.nysed.gov/common/regents/files/P12%20-%20New%20York%20State%20Charter%20Schools%20-%20Overview%20of%20the%20Charter%20School%20Performance%20Framework.pdf>

[October 2012 Charter School Performance Framework Regents Item](#)

<http://www.regents.nysed.gov/common/regents/files/documents/meetings/2012Meetings/October2012/1012p12d2.pdf>

[November 2012 Charter School Performance Framework Regents Item](#)

<http://www.regents.nysed.gov/common/regents/files/documents/meetings/2012Meetings/November2012/1112p12a1.pdf>

*Rules of the Board of Regents*

[August 2010 Amendment to §3.16 of the Rules of the Board of Regents](#)

<http://www.regents.nysed.gov/common/regents/files/documents/meetings/2010Meetings/September2010/0910brca14.pdf>

**Timetable for Implementation**

Based on the feedback from the Board of Regents at the October and November 2017 meeting, the Department anticipates presenting a proposed Charter School Performance Framework for adoption at a subsequent meeting. Similarly, it is anticipated that any proposed changes to the Rules of the Board of Regents may be presented for action at a subsequent meeting as well. If adopted at that meeting, the proposed amendments will become effective after a public comment period in 2018.

*Attachments*

Attachment A – Overview of the 2015 Charter School Performance Framework

Attachment B –The Rules of The Board of Regents – §3.16

<b>New York State Education Department Charter School Performance Framework: Performance Benchmarks</b>	
<b>Educational Success</b>	<b>Benchmark 1: Student Performance:</b> The school has met or exceeded achievement indicators for academic trends toward proficiency, proficiency and high school graduation. At all grade levels and all assessments, scoring proficiently means achieving a performance level of 3 or higher (high school Regents and Common Core Regents exam score of 65 or higher).
	<b>Benchmark 2: Teaching and Learning:</b> School leaders have systems in place designed to cultivate shared accountability and high expectations and that lead to students' well-being, improved academic outcomes, and educational success. The school has rigorous and coherent curriculum and assessments that are aligned to the Common Core Learning Standards (CCLS) for all students. Teachers engage in strategic practices and decision-making in order to address the gap between what students know and need to learn so that all students experience consistent high levels of engagement, thinking and achievement.
	<b>Benchmark 3: Culture, Climate, and Family Engagement:</b> The school has systems in place to support students' social and emotional health and to provide for a safe and respectful learning environment. Families, community members and school staff work together to share in the responsibility for student academic progress and social-emotional growth and well-being. Families and students are satisfied with the school's academics and the overall leadership and management of the school.
<b>Organizational Soundness</b>	<b>Benchmark 4: Financial Condition:</b> The school is in sound and stable financial condition as evidenced by performance on key financial indicators.
	<b>Benchmark 5: Financial Management:</b> The school operates in a fiscally sound manner with realistic budgets pursuant to a long-range financial plan, appropriate internal controls and procedures, and in accordance with state law and generally accepted accounting practices.
	<b>Benchmark 6: Board Oversight and Governance:</b> The board of trustees provides competent stewardship and oversight of the school while maintaining policies, establishing performance goals, and implementing systems to ensure academic success, organizational viability, board effectiveness and faithfulness to the terms of its charter.
	<b>Benchmark 7: Organizational Capacity:</b> The school has established a well-functioning organizational structure, clearly delineated roles for staff, management, and board members. The school has systems and protocols that allow for the successful implementation, evaluation, and improvement of its academic program and operations.
<b>Faithfulness to Charter &amp; Law</b>	<b>Benchmark 8: Mission and Key Design Elements:</b> The school is faithful to its mission and has implemented the key design elements included in its charter.
	<b>Benchmark 9: Enrollment, Recruitment, and Retention:</b> The school is meeting or making annual progress toward meeting the enrollment plan outlined in its charter and its enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced priced lunch program; or has demonstrated that it has made extensive good faith efforts to attract, recruit, and retain such students.
	<b>Benchmark 10: Legal Compliance:</b> The school complies with applicable laws, regulations, and the provisions of its charter.

## Charter Schools Regulation

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE  
STATE OF NEW YORK  
TITLE 8. EDUCATION DEPARTMENT  
CHAPTER I. RULES OF THE BOARD OF REGENTS PART  
3. UNIVERSITY OF THE STATE OF NEW YORK; STATE EDUCATION DEPARTMENT

Last reviewed April 13, 2016

[Disclaimer](#)

### 8 NYCRR 3.16 Delegation of authority with respect to charter schools.

#### (a) Complaints against charter schools.

The Board of Regents delegates to the Commissioner of Education the authority to receive, investigate and respond to complaints presented to the Board of Regents pursuant to Education Law § 2855(4), the authority to issue appropriate remedial orders pursuant to Education Law §2855(4), and the authority to place a charter school on probationary status and to develop and impose a remedial action plan pursuant to Education Law §2855(3).

#### (b) Hearings.

The Board of Regents delegates to the Commissioner of Education the authority to conduct and hold public hearings as required pursuant to article 56 of the Education Law to solicit comments from the community including, but not limited to, hearings in connection with the issuance, revision or renewal of a charter pursuant to Education Law §2857(1-a) and hearings to discuss the location of a charter school pursuant to Education Law §2853(3)(a).

#### (c) Charter revisions.

(1) The Board of Regents delegates the Commissioner of Education the authority to approve, on behalf of the Board of Regents, proposed revisions of a charter pursuant to Education Law § 2852(7), except for proposed revisions relating to:

- (i) educational philosophy, mission or vision;
- (ii) governance or leadership structure;
- (iii) the curriculum model or school design changes that are inconsistent with that approved in the current charter;
- (iv) hiring or termination of a management company;
- (v) school name;
- (vi) location, if such revision results in relocation to another school district;
- (vii) maximum enrollment, as set forth in the current charter; and/or
- (viii) grades served, as set forth in the current charter.

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, revisions relating to subparagraphs (1)(i) through (iii) of this subdivision that are determined by the commissioner not to be significant may be approved by the commissioner pursuant to this delegation of authority.