

Memorandum

TO: John King, Senior Deputy Commissioner, New York State Education Department
Jonas Chartock, Executive Director, SUNY Charter Schools Institute

FR: James Merriman, CEO, New York City Charter School Center

RE: Questions about enrollment and retention “comparability” under the revised Charter School Law

June 10, 2010

As you know, recent changes in the New York State charter school law require schools to enroll and retain students with disabilities, English Language Learners, and students who are eligible for free or reduced lunch, at rates that are “comparable” to those of the local school district or city school district.

The law calls for the Board of Regents and SUNY to define “comparable” for each charter school through specific enrollment and retention targets, which will serve as criteria for 1) evaluating new charter school proposals, 2) evaluating charter renewal applications, and 3) decisions about possible charter revocation (with possible exceptions based on demonstrated effort).

This new aspect of the law can emerge as a positive part of New York’s acclaimed system of charter school regulation and accountability, but only if it is implemented in a thoughtful and fair way. If the system of numerical comparisons does *not* accurately reflect the reality of charter and district school enrollment, but is allowed to include statistical distortion or arbitrariness, the intent of the law will not have been served.

To avoid that danger, it is critical that the Board of Regents and SUNY take the necessary time to formulate a thoughtful method of establishing enrollment/retention targets for special student populations at charter schools. The following is a non-exhaustive list of key questions for any such method, offered to highlight some of the choices charter school authorizers face.

- Will comparisons be made on a same-grade, or same-grade-range, basis?
- Will “comparable” be strictly defined as “equal or greater,” or can lower-but-close rates be comparable?
- If there is a closeness standard, how is it determined? Will cutoffs be statistical (e.g. standard deviations)?
- Will the degree of demographic variation within a CSD be taken into account?
- Will post-lottery enrollment count? Will students who are held back, or de-certified as SpEd/ELL/FRL, be counted as retained? Will schools be penalized if they arrange private placements—or if a CSE does?
- Will “retention” be judged by tracking individual students, or will target calculations treat district students as “retained” if they actually left the school—but were replaced with other students with the same designation(s) through “backfill?”
- Will a distinction be made between non-retained students who 1) moved out of the city or state; or 2) transferred to another city school or dropped out (per ATS codes)? How will SpEd be defined?
- Will a given charter school grade level (e.g. rising 5th grade) be compared to the same grade from the previous year (district 5th grade) or the same cohort (district 4th grade, now rising 5th)?
- What are the grounds for denial/revocation? How will “repeated failure” be defined in practice?
- For charter high schools in NYC, will D75 and D79 enrollment/retention rates be factored in?

The New York City Charter School Center hopes this preliminary list helps begin a set of conversations about how “comparability” can be defined in a robust, clear, and fair way, so that students are served and charter schools evaluated as the law intended.