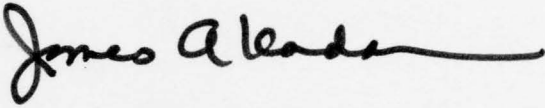




TO: The Honorable the Members of the Board of Regents

FROM: James A. Kadamus 

COMMITTEE: Full Board

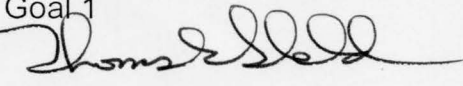
TITLE OF ITEM: Addendum to BR (A) 1: Approval of Charter School Charter Agreement

DATE OF SUBMISSION: January 10, 2003

PROPOSED HANDLING: Approval

RATIONALE FOR ITEM: Legislative authority to act on charter schools

STRATEGIC GOAL: Goal 1

AUTHORIZATION(S): 

SUMMARY:

On December 12, 2002 the Board of Regents voted to approve the charter school application for the Bronx Charter School for Children pursuant to Article 56 of the Education Law. Thereafter, pursuant to Article 56 of the Education Law, the Board of Regents, as the charter entity, is required to enter into an agreement allowing the applicants to organize and operate the charter school. The proposed charter agreement is attached hereto. A complete copy of the application for the school, which will be included as Ex. A to the charter agreement, is available for your review by contacting Shelia Evans-Tranumn at 718-722-2796 or 518-474-4715.

Upon final approval of the charter agreement by the Board of Regents, the charter is formally issued. Simultaneously, the Board of Regents incorporates the charter school as an education corporation by issuing a provisional charter pursuant to Education Law §§216 and 217.

VOTED: That the Board of Regents approve the charter agreement and issue a charter pursuant to Article 56 of the Education Law for the following charter school, and incorporate such school by granting it a provisional charter for a period of five years:

- Bronx Charter School for Children

CHARTER

This agreement is executed by and between the Board of Regents of the State of New York ("the **Regents**") and Patricia M. Cooper and Eleanor K. Sypher (the "**Applicants**") to establish and operate the Bronx Charter School for Children (the "**Charter School**"), an independent public school established under the New York Charter Schools Act of 1998.

W I T N E S S E T H:

WHEREAS, the State of New York enacted the New York Charter Schools Act of 1998 as Article 56 of the Education Law, effective December 18, 1998 (the "**Act**");

WHEREAS, pursuant to § 2852 of the Act, the Regents have the authority to approve applications to establish charter schools in the State of New York and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate;

WHEREAS, the Applicants submitted to the Regents an application, which is incorporated herein and attached hereto as Exhibit A, for establishment of a charter school pursuant to § 2851 of the Act (the "**Application**");

WHEREAS, at its meeting on December 12, 2002, the Regents approved the Application, subject to the Applicants meeting the conditions that are required by the Act;

WHEREAS, pursuant to the Act, the Regents are authorized to approve and issue a charter and incorporate an education corporation to establish and operate a charter school.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained here, the parties hereby agree as follows:

SECTION 1. ESTABLISHMENT OF SCHOOL

1.1 Charter. A charter is hereby authorized and granted to the Applicants on behalf and solely for the benefit of the Charter School as an education corporation incorporated by the Regents which, pursuant thereto, will be authorized to establish, organize and operate a school in accordance with the Act and the terms and conditions of the Charter. This agreement, the Application, which is incorporated herein and

attached hereto as Exhibit A, and the oversight plan, attached hereto and incorporated herein as Exhibit B (the "**Oversight Plan**"), shall constitute the charter (the "**Charter**") and shall be binding on the Charter School.

1.2 Effective Date: Term. The Charter shall take effect upon its issuance by the Regents (the "**Effective Date**") and shall expire five (5) years from the Effective Date, unless earlier terminated or renewed pursuant to the terms hereof.

1.3 Prior Actions. Paragraph 1.2 hereof notwithstanding, the Charter School shall not provide instruction to any student and shall not be eligible to receive funds from the local school districts as provided in § 2856 of the Act until and unless the State Education Department ("SED") shall issue a written statement to the Charter School, with a copy to the Regents, attesting to the Charter School's having completed or made satisfactory progress towards completing all or substantially all of the Prior Actions set forth in Section I of the Oversight Plan (the "**Prior Actions**"). Upon such confirmation, the restrictions on the Charter School set forth in the immediately foregoing sentence shall be of no further force and effect. Moreover, notwithstanding anything to the contrary in this paragraph, the Prior Actions are in addition to any other conditions set forth in the Charter or the Act.

1.4 Location. The Charter School at its inception shall be located at the following site: 334 East 148th Sreet, Bronx, New York (the "**School Building**"). The Charter School shall ensure that all necessary leases, contracts, certificates of occupancy and health and safety approvals for the school building are valid and in force as of July 31, 2003. SED may extend the July 31 deadline for good cause shown. The Charter School may change its physical location or obtain additional facilities within the same school district provided that the Charter School obtains the same permits and certificates as are required by this paragraph, as well as satisfies the provisions of the Act, including but not limited to § 2853(1)(b-1), and provided further that (i) the Charter School notifies SED of the proposed change in location or addition of facilities not less than sixty (60) days prior to taking any final action in connection therewith; and (ii) SED does not issue a rejection to the Charter School within thirty (30) days of its receipt of such notification. SED shall issue a rejection only for good cause. SED may shorten or otherwise waive the 60 day notice requirement for good cause shown.

SECTION 2. OPERATION OF SCHOOL

2.1 Mission Statement. The Charter School shall operate under the mission statement set forth in the Application.

2.2 Age; Grade Range; Number of Students. The Charter School shall provide instruction to pupils in such grades and numbers in each year of operation under the Charter as described in the Application, provided that the Charter School, upon making all reasonable efforts to recruit students, may enroll a lesser or greater number of students in each grade without being deemed in material breach of the Charter. Notwithstanding the foregoing sentence, the Charter School must obtain prior written approval from SED prior to (i) enrolling any student, who, if enrolled, would cause the school's total enrollment to exceed the projected enrollment of the school for that academic year (as set forth in the Application) (the "**Projected Enrollment**") or (ii) commencing or continuing instruction where the total number of students enrolled is less than eighty-five percent (85%) of the Projected Enrollment or the total enrollment is less than fifty (50) students.

2.3 Admission. Any child who is qualified under the laws of New York for admission to a public school is qualified for admission to the Charter School. Admission of students to the school shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry, provided that nothing in the Charter shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure, as may be provided in the Application. If there are more eligible applicants for enrollment in a particular grade than there are spaces available, applicants for such spaces shall be selected for enrollment by a random selection process. Notwithstanding the above, an enrollment preference shall be provided to pupils returning to the Charter School in the second or any subsequent year of operation, unless expelled for cause; pupils residing in the school district where the school is located; and siblings of pupils enrolled in the school. The Charter School may refuse admission to any student who has been expelled or suspended from a public school until such period of suspension or expulsion has expired, consistent with the requirements of due process. Additional admission policies and withdrawal procedures shall be implemented as set forth in the Application.

2.4 Student Learning and Achievement. The Charter School shall implement the educational programs set forth in the Application and the students shall meet or exceed the performance standards set forth in the Application. The educational programs of the Charter School shall be designed to meet or exceed the student performance standards adopted by the Regents.

2.5 Evaluation of Pupils. The Charter School shall implement student assessment requirements applicable to other public schools and administer regents examinations to the same extent such examinations are required of other public school students. In addition, the Charter School shall supplement the above assessment tools with the other assessment tools, if any, set forth in the Application.

2.6 Curriculum. The curriculum established by the Charter School shall be consistent with the model curriculum set forth in the Application. The Charter School shall have the right to make reasonable modifications to such curriculum to permit the school to meet its educational goals and student achievement standards. However, such modifications shall not be, either individually or cumulatively, of such a nature or degree as to cause the approved curricula as set forth in the Application to no longer be in operation. The approved curricula shall not be abandoned or substantially modified, and additional curricula shall not be adopted or implemented, without the prior written approval of the Regents in accordance with Education Law §2852(7).

2.7 School Calendar; Hours of Operation. The days and hours of the Charter School shall be as set forth in the Application and in no event shall the school provide less instructional time during a school year than is required of other public schools.

2.8 Disciplinary Code. The Charter School shall implement the rules and procedures for discipline, including guidelines for suspension and expulsion, set forth in the Application. The rules and procedures shall be consistent with the requirements of due process and with federal laws and regulations governing the placement of students with disabilities. The Charter School will adopt and implement the provisions of 34 CFR Part 300 relating to the discipline of students with disabilities. To the extent that any provision of the Application or its Appendices conflict with the provisions of this paragraph or 34 CFR Part

300, the provisions of this paragraph and 34 CFR Part 300 shall govern.

2.9 Nonsectarian Status. The Charter School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The Charter School shall ensure that the school is not wholly or in part under the control or direction of any religious denomination and that no denominational tenet or doctrine shall be taught.

2.10 Code of Ethics. The Charter School, its trustees, officers and employees shall be guided by the Code of Ethics of the school set forth in the Application, and the Charter School shall disseminate the code in written form to its trustees, officers and employees.

2.11 Non-discrimination. The Charter School shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by any other public school.

2.12 Governance. The Charter School shall form a Board of Trustees (the "**School Board**") which shall consist initially of the individuals specifically identified in the Application (the "**Founding School Trustees**"). All individuals elected or appointed to the School Board shall possess the qualifications for such position as are set forth in the Application. Prior to the appointment or election of any individual to the School Board who is not a Founding School Trustee, the School Board must submit to SED (pursuant to and together with a duly approved resolution of the School Board) the name of the proposed member of the School Board and such individual must timely provide to SED, in writing and/or in person, such background information as SED shall require (the "**School Trustee Background Information**"). Within forty-five days of receiving the name of the proposed member of the School Board, SED shall in writing reject or approve such individual. In the event that SED does not provide in writing an approval or rejection within the forty-five (45) day time period, the proposed member may be seated by the School Board. A failure by the School Board or the proposed member to timely provide the School Trustee Background Information to SED shall be grounds for rejection. If the School Trustee Background Information contains material misstatements or material omissions of fact, this shall constitute misconduct and the Regents may remove the School Trustee. The School Board shall operate pursuant to the by-laws

and other rules and procedures set forth in the Application, including but not limited to, the term of office permitted and the provisions for the election and appointment of new members. The School Board shall have final authority for policy and operational decisions of the school, though nothing shall prevent the School Board from delegating decision-making authority to officers and employees of the Charter School.

2.13 Partnership with a Management Company. To the extent that the Application contemplates entering into a contract with any entity (whether for-profit or not-for-profit), under which such entity will provide all or a substantial portion of the services necessary to manage and operate the Charter School, then the Charter School shall, by May 1, 2003 enter into a legally binding and enforceable agreement with such entity named in the Application (the "**Management Company**") in a form substantially similar to that contained in the Application (the "**Management Contract**"). The Management Contract shall set forth with particularity inter alia, (i) the contingent obligations and responsibilities of each party in the event that the contract must be modified in order to obtain or maintain the Charter School's status under federal law as a 501(c)(3) entity, and (ii) the extent of the Management Company's participation in the organization, operation and governance of the Charter School. Thirty (30) days prior to entering into the Management Contract, the Charter School shall provide a copy of the Management Contract in proposed final form to the Regents. Such Management Contract shall be accompanied by a letter from a licensed attorney retained by the Charter School stating that the Management Contract meets the attorney's approval. Such attorney may not represent the Management Company. The Management Contract will not be executed until the charter school is notified by SED that the Management Contract meets its approval. The Charter School shall not enter into any contract for comprehensive school management services to be performed in substantial part by any other entity not identified as such in the Application without receiving prior written approval from the Regents in accordance with Education Law § 2852(7).

2.14 Parental Involvement. The Charter School shall take such steps and implement such processes as are described in the Application to promote parental and staff involvement in school governance.

2.15 Student Transportation. The Charter School shall meet the transportation needs of students not otherwise eligible for

transportation pursuant to Education Law §3635, as provided in the Application. The Charter School may contract with a school district for the provision of supplemental transportation services to the school. All transportation provided by the Charter School shall comply with all safety laws and regulations applicable to other public schools. The Charter School shall not require parents to transport their child to and/or from school or school-sponsored events related to the curriculum. Notwithstanding the above, the Charter School's failure to provide such supplemental transportation as is contemplated in the Application, where such transportation was to be provided by contract with the school district, shall not be deemed a material or substantial violation of the Charter, where the Charter School has attempted to negotiate such contract in good faith with the applicable school district. In such event, the Regents may require the Charter School to provide the contemplated supplemental transportation services by alternate means if such means would be reasonable under the circumstances.

2.16 Health Services. The Charter School shall provide health services as set forth in the Application and in accordance with Education Law § 2854(1)(b).

2.17 Food Services. The Charter School shall provide food services as set forth in the Application.

2.18 F.O.I.L. and Open Meetings Law. The Charter School shall implement policies to ensure that it is in full compliance with Articles Six and Seven of the Public Officers Law.

SECTION 3. STUDENTS WITH DISABILITIES

3.1 Provision of Services. The Charter School shall provide special education, related services and accommodations to students with disabilities as set forth in the Application and in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1401 et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), including such special education and related services set forth in a student's Individualized Education Program recommended by the committee or subcommittee on special education of the student's school district of residence.

3.2 Funding of Services. The Charter School is authorized to receive from a local school district direct payment of any federal or state aid attributable to a student with a disability attending the Charter School in proportion to the level of

services for such student with a disability that the Charter School provides directly or indirectly.

SECTION 4. PERSONNEL

4.1 Status. The School Board shall employ and contract with necessary teachers, administrators and other school personnel as set forth in the Application.

4.2 Personnel Policies: staff responsibilities. The School Board shall make available in written form its hiring and personnel policies and procedures, including the qualifications required by the School Board in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities. Such policies and procedures shall be consistent with those set forth in the Application.

4.3 Instructional Providers. The Charter School shall employ or otherwise utilize in instructional positions only those individuals who are certified in accordance with the requirements applicable to other public schools, or who are otherwise qualified to teach under clauses (i)-(iv) of § 2854(3)(a-1) of the Act. For purposes of this section, "instructional positions" means all those positions involving duties and responsibilities that, if otherwise undertaken in the New York Public Schools, would require teacher certification. Teachers exempted from certification under clauses (i)-(iv) of § 2854(3)(a-1) of the Act shall not in total comprise more than thirty percent (30%) of the instructional employees of the Charter School, or five (5) teachers, whichever is less. A teacher certified or otherwise approved by the Commissioner of Education of the State of New York (the "**Commissioner**") shall not be counted against these numerical limits.

4.4 Criminal Background Checks. The Charter School shall establish procedures for conducting criminal history record checks of all employees of the Charter School as well as all other individuals who have regular access to the students enrolled in the school (including but not limited to volunteers and employees and agents of any company and organization which is party to a contract to provide services to the school) as is required or permitted by law.

4.5 Pension payments. The employees of the Charter School may be deemed employees of the local school district for the

purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial contributions for such benefits shall be the responsibility of the Charter School and its employees. Notwithstanding any contrary provision of the Charter, the parties shall comply with regulations promulgated by the Commissioner, in consultation with the New York State Comptroller, to implement the provisions of this paragraph.

SECTION 5. FINANCE AND MANAGEMENT

5.1 Management and Financial Controls. The Charter School shall at all times maintain appropriate management and financial controls. The Charter School shall retain an independent certified public accountant (CPA) that shall perform a review of the Charter School's management and financial controls. The CPA shall provide a report to the board of trustees no later than October 1, 2003 (the "**Initial Statement**"). The Initial Statement must address whether the Charter School has adequate policies, procedures and practices in place to ensure: (i) financial records are maintained in accordance with generally accepted accounting principles (GAAP); (ii) interim and annual financial statements and other reports contain valid and reliable data; (iii) assets including cash and equipment are safeguarded; (iv) applicable laws and regulations are complied with; (v) the payroll process results in valid transactions; (vi) the purchasing process results in the acquisition of necessary goods and services at the best price; and (vii) guidance is provided related to a code of ethics, budget development and administration, and cash management and investments. In the event that the Initial Statement reveals that any of the above controls are not in place, the Charter School shall remedy such deficiency no later than forty-five (45) days from the date the Initial Statement was received by the board of trustees. The board of trustees shall, upon receipt, provide a copy of the Initial Statement to SED, forward to SED any remedial plans undertaken as a result of any deficiencies identified in the Initial Statement, and upon implementation, forward a statement that the deficiencies have been corrected.

5.2 Financial Statements; Interim Reports. The Charter School shall maintain financial statements that are prepared in accordance with generally accepted accounting principles. All statements required by the Financial Accounting Standards Board Statement (FASB) Statement No. 117, *Financial Statements of Not-*

for Profit Organizations, should be presented including a Statement of Financial Position, Statement of Activities, and Statement of Cash Flows. In addition, the statements shall include the required note disclosures and a supplemental schedule of functional expenses. During the first year after it is incorporated, the Charter School shall prepare and submit to the Regents within forty-five (45) days of the end of each quarter of its fiscal year an unaudited statement of activities (revenues and expenses) for that preceding quarter in a form provided by SED. The first such unaudited statement of activities must be submitted by May 15, 2003. SED may by written request require submission of such statements in future years of the Charter School's operation.

5.3 Audits. The Charter School shall retain an independent CPA to perform an audit of the Charter School's annual financial statements. §2851(2)(f) of the Act requires that the audit be comparable in scope to those required of other public schools. The audit must be performed in accordance with generally accepted auditing standards and Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States. The audit must include a management letter, if applicable, and other reports required by GAGAS. The audited financial statements must be submitted to SED within one hundred twenty (120) days of the end of the Charter School's fiscal year. The first such audited financial statements must be submitted by October 28, 2003. The Charter School must submit this report along with a corrective action plan addressing any weaknesses or problems identified in the report. If the Charter School spends \$300,000 or more in federal awards during the fiscal year, an independent audit as prescribed in the federal Office of Budget and Management Circular A-133 must also be completed and filed with the federal government and SED. The Charter School must conduct programmatic audits as set forth in the application and provide copies of such audits to SED.

5.4 Fiscal Year. The fiscal year of the Charter School shall commence on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

5.5 Annual Budget and Cash Flow Projections. The Charter School shall prepare and provide to SED a copy of its annual budget and monthly cash flow projection for each fiscal year no later than 45 days prior to the start of such fiscal year, except that the Charter School need only provide to SED an annual budget and cash flow projections for the first full

fiscal year after it is incorporated (July 1, 2003 to June 30, 2004) if such budget or projections differ in any material respect from those set forth in the Application.

5.6 Funding Procedure. The Charter School shall maintain accurate enrollment data and daily records of student attendance and shall report enrollment to school districts of residence of its students in a timely manner. Pursuant to § 2856(1) of the Act, payments by the districts of residence shall be made in six substantially equal installments each year, the first on the first business day of July and every two months thereafter, such amounts to be calculated as set forth at 8 NYCRR 119.1.

5.7. Exemption from Taxation. The Charter School shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special ad valorem levies on its earnings and its property, including property leased by the Charter School. Instruments of conveyance to or from the Charter School and any bonds or notes issued by the Charter School, together with income therefrom, shall at all times be exempt from taxation.

5.8. Collateral for Debt. The Charter School may pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit. However, the Charter School shall not pledge or assign monies provided pursuant to § 2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation, or improvement of a school facility.

5.9. Tuition and Fees. The Charter School shall not charge tuition or fees to any student, provided that the Charter School may require the payment of fees on the same basis and to the same extent as other public schools.

5.10. Outside Funding. The School Board may accept gifts, donations or grants of any kind made to the Charter School and expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor. However, no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the Charter.

5.11. Maintenance of Corporate Status: Tax Exemptions. The Charter School shall maintain its status as an education corporation. The School Board shall obtain federal tax-exempt status no later than one (1) year following the Effective Date. The Charter School shall provide the Regents with copies of all

applications and filings relating to its seeking and maintaining its federal tax-exempt status.

5.12. Insurance. The Charter School shall, at its own expense, purchase and maintain the insurance coverage for liability, property loss, and the personal injury of students as described in the Application, together with any other additional insurance that the Charter School deems necessary. Such insurance shall be effective on or before July 31, 2003. No later than July 31, 2003, and any time thereafter upon request, the Charter School shall provide SED with certificates of insurance or other satisfactory proof evidencing coverage. All such insurance policies shall contain a provision requiring notice to the Regents, at least thirty days (30) in advance, of any material change, nonrenewal or termination. Notwithstanding any provision to the contrary, the Charter School shall take all steps necessary to comply with any regulations promulgated by the Commissioner and Superintendent of Insurance to implement § 2851(2)(o) of the Act.

SECTION 6. REPORTS AND OVERSIGHT

6.1. Annual Reports. No later than August 1 of each year, beginning August 1, 2004, the Charter School, pursuant to § 2857(2) of the Act, shall submit to the Regents an annual report (the "**Annual Report**") setting forth the academic program and performance of the Charter School for the preceding school year. The Annual Report shall be in the format prescribed by the Commissioner and shall include at least the following components:

(a) a report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the Commissioner in 8 NYCRR 119.3. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil;

(b) a discussion of the progress made toward achievement of the goals set forth in the Charter; and

(c) a financial statement certified by the president of the board of trustees and the director of the Charter School setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the Charter School.

In addition, the Charter School shall provide the following information:

(d) the school calendar for the following school year, setting forth the days and hours of operation for the regular school session as well as the summer session, if any; and

(e) a statement that all applicable leases, certificates and approvals necessary to operate the school at the school building are in full force and effect.

The Regents may require the Charter School to provide other reasonable supplements to the Annual Report.

6.2. Oversight Plan. The Charter School and the School Board acknowledge that the Regents are authorized to oversee the Charter School's operations in all respects, including the right to visit, examine into and inspect the school and its records. To permit the Regents to fulfill this oversight function under the Act and ensure that the Charter School is in compliance with all applicable laws and regulations, and the terms and conditions of the Charter, the Charter School agrees to abide by and implement the Oversight Plan, appended to this Charter as Exhibit B. The Oversight Plan consists of two elements:

(a) A checklist of the Prior Actions required to be completed before the Charter School is permitted to provide instruction and receive public funds pursuant to Paragraph 1.3 hereof. The Prior Actions Checklist is set forth at section I of Exhibit B;

(b) A monitoring plan that the Regents will implement (the "**Monitoring Plan**"), the requirements of which are set forth at section II of Exhibit B. It is understood that the Monitoring Plan is preliminary in nature and that amendments and revisions may be made to such plan, in consultation with the Charter School.

6.3. Corrective Action. If SED determines that the Charter School is not progressing toward one or more of the performance or education goals set forth in the Charter, that the quality of the Charter School's educational program or governance is not satisfactory, or that the Charter School is not in compliance with the terms and conditions of the charter, then SED, in consultation with the Charter School, may develop and implement a corrective action plan. Nothing contained herein shall be in

derogation of the Regents' ability to revoke the Charter, place the Charter School on probationary status, or initiate mandatory remedial action in accordance with the Act and section 8.3 of this Charter Agreement.

SECTION 7. OTHER COVENANTS AND WARRANTIES

7.1. Compliance with Laws and Regulations. The Charter School shall operate at all times in accordance with the Act and shall meet the same health and safety, civil rights, and student assessment requirements, as applicable to other schools. The Charter School acknowledges that the laws that it must comply with include Education Law § 409-h and the regulations promulgated thereunder which set forth requirements for notification of pesticide applications.

7.2. Transactions with Affiliates. The Charter School shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the Charter School, any member of the School Board or any employee of the Charter School, unless the terms of such transaction (considering all the facts and circumstances) are no less favorable to the Charter School than those that could be obtained at the time from a person that is not such an affiliate, member or employee.

SECTION 8. RENEWAL AND REVOCATION

8.1. Renewal Applications. No later than the first of July in the year prior to expiration of the Charter, the Charter School may provide to the Regents an application to renew the Charter in accordance with § 2851(4) of the Act (the "**Renewal Application**"). The Renewal Application shall contain (i) a report of the progress of the Charter School in achieving the educational objectives set forth in the Charter; (ii) a detailed financial statement, in a form prescribed by the Regents, disclosing the cost of administration, instruction, and other spending categories for the Charter School that will allow a comparison of such costs to other schools, both public and private; (iii) copies of each of the annual reports of the Charter School, required by § 2857(2) of the Act, including the Charter School report cards and the certified financial statements; and (iv) evidence of parent and student satisfaction.

Nothing herein shall require the Regents to approve a Renewal Application. In the event that an application for renewal is not approved, the parties to the Charter shall fulfill their respective obligations hereunder until expiration of the term of the Charter, and the Charter School shall follow the procedures for dissolution as set forth in § 2851(2)(t) of the Act and section 8.4 of this Charter.

8.2. Grounds for Revocation. This Charter may be terminated and revoked:

- (a) by Regents in accordance with § 2855 of the Act; or
- (b) by mutual agreement of the parties hereto.

8.3. Notice and Procedures. Should the Regents determine that one or more of the grounds set forth in § 2855(1) of the Act exists for revocation of the Charter, the Regents may, at their discretion, elect:

(a) to revoke the Charter in accordance with the procedures set forth in § 2855(2) of the Act; or

(b) to place the Charter School on probationary status, pursuant to § 2855(3) of the Act, and cause the Charter School to implement a remedial action plan, the terms and conditions of which the Charter School must agree to abide by in all respects. The failure of a Charter School to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's Charter.

8.4. Dissolution. In the event of termination or revocation of the Charter, the Charter School shall follow the procedures set forth in the Application and § 2851(2)(t) of the Act, for the transfer of students and student records to the school district in which the Charter School is located and for the disposition of the Charter School's assets to the school district in which the Charter School is located or to another charter school located within the school district. In addition, in case of such an event, the Charter School will follow any additional procedures required by SED to ensure an orderly dissolution process, including compliance with the applicable requirements of Education Law §§ 219 and 220.

8.5. Escrow Account for Dissolution. The Charter School agrees to establish an escrow account of no less than \$25,000 to pay for legal and audit expenses that would be associated with a dissolution should it occur.

SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The parties acknowledge that the Charter School is not operating as the agent, or under the direction and control, of SED, or the Regents, except as required by law, and that SED or the Regents do not assume any liability for any loss or injury resulting from: (i) the acts and omissions of the Charter School, its directors, trustees, agents or employees; (ii) the use and occupancy of the building or buildings, occupied by the Charter School, or any matter in connection with the conditions of such building or buildings; or (iii) any debt or contractual obligation incurred by the Charter School. The Charter School acknowledges that it is without authority to extend the faith and credit of SED or the Regents or the public schools, to any third party.

9.2 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of New York without regard to its conflicts of laws provisions.

9.3. Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach.

9.4 Counterparts: Signature by Facsimile. This Charter may be signed in counterparts, which shall together constitute the original Charter. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.5 Terms and Conditions of Application. The parties hereto expressly agree that the Application sets forth the overall goals, standards and general operational policies of the Charter School, and that the Application is not a complete statement of each detail of the Charter School's operation. To the extent that the Charter School desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise differ from those set forth in the Application, the Charter School shall be permitted to implement such policies, procedures, and specific terms of operation, provided that such policies, procedures and terms of operation are (i) not otherwise prohibited or circumscribed by the Act or the Charter, and (ii) are not materially different from those set forth in the Charter.

9.6 Revision. This Charter may be revised only by written consent of the parties hereto and, in the case of material revisions, only pursuant to § 2852(7) of the Act.

9.7 Assignment. This Charter may not be assigned or delegated by the Applicants under any circumstances, it being expressly understood that the Charter granted hereby runs solely and exclusively to the benefit of the Charter School incorporated herein.

9.8 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if, as of the required date, it is delivered by hand, overnight courier or facsimile (with confirmation and followed by the original). If delivered by registered or certified mail, postage prepaid, such notice, demand, request or submission shall be mailed 5 days prior to the date required. All notices, demands, requests or submissions will be provided to the charter school at the address provided by the charter school to SED for the purposes of receiving such notices. Such notices will be provided to the Regents at the following address:

Shelia Evans-Tranumn
Associate Commissioner
NYSED
55 Hanson Place
Bronx, New York 10456

9.9 Severability. In the event that any provision of this Charter or its application thereof to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter shall continue to be valid and may be enforced to the fullest extent permitted by law.

9.10 Entire Charter. This Charter supersedes and replaces any and all prior agreements and understandings between the Regents and the Applicants. To the extent that any conflict or incompatibility exists between the Application and the other

terms of this Charter, such other terms of this Charter shall control.

9.11 Construction. This Charter shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter.

Patricia M. Cooper

Subscribed and sworn to before me
this _____ day of _____, 200_.

Notary Public

Eleanor K. Sypher

Subscribed and sworn to before me
this _____ day of _____, 200_.

Notary Public

Chancellor
New York State Board of Regents

Subscribed and sworn to before me
this _____ day of _____, 200_.

Notary Public

EXHIBIT B

Oversight Plan

Oversight Plan Section I

State Education Department

Charter Schools Unit

**CHARTER SCHOOL PRIOR ACTIONS REVIEW
CHECKLIST**

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT

Charter Schools Unit

Introduction

Prior to the Board of Regents authorizing any proposed charter school to actually commence instruction, the Board and/or its agents shall conduct a prior actions review pursuant to Section 1.3 of the Charter Agreement to ensure that:

- the proposed charter school is in compliance with all applicable laws, rules, regulations, and provisions of its charter;
- the necessary facilities, systems, equipment, staff, and other resources are in place; and,
- the charter school has sufficient enrollment.

Such reviews will occur no later than July 31 of the year in which the charter school is to open, and again one week prior to the anticipated opening date of the charter school. Similar reviews may occur prior to those times, or afterward. Not all visits will be announced.

Prior Actions Checklist

Cover Page

Charter School:

Address:

Principal:

Telephone:

Fax:

Grades:

Opening Date:

District of Location:

Institutional Partner(s):

Visitor(s) Names and Offices:

Date of Visit:

Facilities, Furnishings, and Equipment

Data Item	Yes	No	Comments
A certificate of occupancy is on file.			
All required insurance has been obtained and is in effect.			
Classroom space is adequate.			
Office space is adequate.			
All other space is adequate and appropriate for its intended use.			
The building is fully accessible to individuals with disabilities.			
The building is well-lit, clean and is in good repair.			
All required furnishings (e.g., desks) are on-site and have been distributed.			
All furnishings are appropriate for their intended use (e.g., students desks are of appropriate size).			
All rooms have the necessary furnishings and equipment appropriate for their intended use.			

Management and Operations

Data Item	Yes	No	Comments
The board of trustees has been established.			
A permanent head of the school has been named.			
Other key leadership positions have been filled.			
All required teachers and staff have been appointed.			
Food services are in place.			
Health services are in place.			
Student transportation services are in place.			
Emergency plans have been developed and have been shared with staff.			

Curriculum and Instruction

Data Item	Yes	No	Comments
All staff have copies of the curricula.			
All appropriate staff have been trained in the required instructional methodologies.			
All classrooms have been provided with the necessary materials and supplies.			
Copies of IEPs for all students with disabilities have been obtained from the students' districts of residence, and arrangements have been made for the provision of all appropriate programs and services for students with disabilities.			
All appropriate programs and services are available for LEP students.			
Arrangements have been made to provide all accommodations appropriate under Section 504 to eligible students.			
The school calendar and daily schedule has been provided to each student and his/her family.			

Students

Data Item	Yes	No	Comments
Student enrollment procedures have been documented.			
Parent/student orientation is completed or scheduled.			
A student roster by grade has been developed and provided to staff.			
Student records have been received and shared with teachers.			
Proof of student immunization is received and is on file.			
Lists of students with special needs have been developed and shared with appropriate staff.			
Student policies, including discipline policies and procedures, comply with applicable law and have been shared with students and parents in written form or their dominant method of communication.			
Procedures are in place for storing and maintaining all student records.			

Finance

Data Item	Yes	No	Comments
An accounting system with internal controls is in place.			
Fiscal policies have been established.			
Policies and procedures regarding purchasing have been established.			
A payroll system has been established.			
Start-up funds are sufficient to carry the school through until the first per-pupil payment arrives.			
A staff person has been assigned primary responsibility for all fiscal matters.			

Oversight Plan Section II

Charter School Monitoring Plan

As provided in Paragraph 6.2 of the Agreement, the Charter School agrees to abide by a Monitoring Plan, the general components of which are set forth below. The requirements of the Monitoring Plan are in addition to any notification, record-keeping, or reporting requirements set forth in the Agreement or required by law, including any obligation to receive the written approval of the Board of Regents.

- A. To ensure the Charter School's full compliance with the Act and the Charter, the Regents and/or their agents will:
1. conduct a pre-opening on or before July 31 of the year in which the charter school is to open, and no later than one week prior to the opening date. The form prepared for such a visit will be completed and filed in the New York State Education Department's Charter Schools Unit ("Charter Schools Unit") (If the school is located in New York City, the form will be filed with the New York State Education Department's New York City Charter Schools Unit.) In the event that significant issues and concerns exist regarding the ability of the Charter School to open and present an educationally- and fiscally-sound program, the State Education Department, on behalf of the Board of Regents, may delay the opening date until such time as the deficiencies are corrected to its satisfaction;
 2. visit the Charter School at least twice annually, to conduct an informal review of the school's progress to date. Reports will be filed in the Charter Schools Unit.;
 3. conduct comprehensive and special education monitoring at least once during the Charter School's initial charter. Such comprehensive monitoring will include, but not be limited to assessing compliance with: applicable provisions of the Elementary and Secondary Education Act of 1965, English Language Learner Requirements, and Charter provisions. Special education monitoring will be conducted by the staff of the Office of Vocational and Educational Services for Individuals with Disabilities. To the extent possible, such monitoring will occur on the same schedule as the district of location, but may occur at other times as well;
 4. assign a staff member from the Charter Schools Unit as the primary contact for the Charter School. The staff member will respond to all queries from and about the Charter School, and investigate, on behalf of the Regents, any formal complaints that may be received;
 5. conduct announced and unannounced visits, as well as reviews, interviews and audits, and institute any other procedures deemed necessary, as circumstances warrant, to ascertain the ongoing fiscal and educational soundness of the Charter School;

6. conduct investigations as appropriate in response to (a) concerns raised by students, parents, employees, local school districts, and other individuals or groups, including but not limited to complaints brought pursuant to § 2855(4) of Education Law, and (b) material changes in the items set forth at subsections B or the occurrence of items set forth at subsection C of this Monitoring Plan. Where appropriate, the Regents shall issue remedial orders as permitted by § 2855(4) of Education Law; and,
7. review the Charter School's operations to determine whether any changes in such operations require formal revision of the charter pursuant to § 2852(7) of Education Law.

B. The Charter School shall provide written notice to the State Education Department thirty (30) days prior to the occurrence of any of the following:

1. a change in the Charter School's curriculum or instructional approach;
2. a change in the Charter School's by-laws; and,
3. a change in the Charter School's code of ethics.

C. The Charter School shall provide written notice to the State Education Department within five (5) business days of the occurrence of any of the following:

1. additions to or removals of members of the board of trustees;
2. hiring or dismissal of the director/principal of the Charter School;
3. execution of contracts or incurring of debt in excess of \$25,000; and,
4. receipt of a summons and/or complaint in which either the Charter School or any member of the board of trustees (acting in his or her capacity as a member of the board of trustees) is named a party to the action.

D. The Charter School shall maintain the following records in its offices for inspection by the Regents and/or their agents:

1. records concerning the enrollment and admissions process including all applications received and documents concerning the lottery process, if conducted;
2. student academic and health records;
3. attendance records for students including withdrawals of students from the school;

4. Individualized Education Programs (IEPs) for students with disabilities enrolled in the Charter School;
5. staff rosters, including records of hiring and termination of employees of the Charter School;
6. evidence of credentials for all teachers including certifications;
7. evidence that required background checks, if any, have been conducted;
8. certificates of occupancy;
9. other facility-related certifications or permits;
10. lease agreements;
11. deeds;
12. loan documents;
13. contracts in excess of \$1,000;
14. school policies in areas such as financial management, personnel, student discipline (including suspension and expulsion), health and safety, student records access, and transportation;
15. complaints and/or grievances received by the Charter School, including but not limited to, complaints received by the board of trustees pursuant to §2855(4) of Education Law, together with all documentation of all actions taken in response;
16. inventory of all assets of the Charter School; and,
17. all records regarding the events and occurrences set forth in subsections B-D of the Monitoring Plan.