

SECTION VI
APPENDICES

APPENDIX A-1

Categorization of Expenditures		
CFR-1 Account Code	CFR-1 Item Description	Cost Category
11999	Personal Services	Direct Care = job codes 200 - 390 Non-direct Care = job codes 100 - 190; 400; 500 - 590
12999	Vacation Accruals	Not Reimbursable
13200	Mandated Fringe Benefits	Based on personal services above
13300	Non-Mandated Fringe Benefits	Based on personal services above
14010	Food	Direct Care
14020	Repairs and Maintenance	Non-direct Care
14030	Utilities	Non-direct Care
14040	Transportation - Related	Direct Care
14250	Staff Travel	Non-direct Care
14050	Participant Incidentals	Direct Care
14070	Expensed Adaptive Equipment	Direct Care
14080	Expensed Equipment	Non-direct Care
14090	Raw Materials	Direct Care [Not Applicable]
14100	Participant Wages - Non-Contract	Not Applicable
14110	Participant Wages - Contract	Not Applicable
14120	Participant Fringe Benefits	Not Applicable
14130	Section 43.04 Services Assessments	Direct Care [Not Applicable]
14140	Staff Development	Direct Care
14150	Contracted Services	Direct Care
14160	Supplies and Matls - Non-Household	Direct Care
14170	Household Supplies	Non-direct Care
14190	Telephone	Non-direct Care
14260	Insurance - General	Non-direct Care
14998	Other - OTPS	Non-direct Care
15010	Lease/Rental - Vehicle	Direct Care
15020	Lease/Rental - Equipment	Direct Care
15040	Depreciation - Vehicle	Direct Care
15050	Depreciation - Equipment	Direct Care
15070	Interest - Vehicle	Direct Care
15998	Other - Equipment	Direct Care
16010	Lease/Rental - Real Property	Non-direct Care
16020	Leasehold/Leasehold Improvements	Non-direct Care
16030	Depreciation - Building	Non-direct Care
16040	Depreciation - Bldg/Land Improvements	Non-direct Care
16060	Mortgage Interest	Non-direct Care
16070	Mortgage Expenses	Non-direct Care

16080	Insurance - Property and Casualty	Non-direct Care
16090	Real Estate Taxes	Non-direct Care
16100	Interest - Capital Indebtedness	Non-direct Care
16110	Start-Up Expenses	Non-direct Care
16120	MCFFA Interest Expense	<u>Non-direct Care</u> [Not Applicable]
16130	MCFFA Administration Fees	Not Applicable
16140	Maintenance In Lieu of Rent	Not Applicable
16998	Other - Property	Non-direct Care

Note: All CFR-3 line items are categorized as non-direct care.

APPENDIX A-2

<u>Categorization of Revenues</u>		
CFR-1 Account Code	CFR-1 Revenue Description	Revenue Category
20010	Participant Fee	Offsetting
20020	SSI – SSA	Offsetting [Not Applicable]
20030	Home Relief	Offsetting [Not Applicable]
20040	Medicaid	Offsetting
20060	Medicare	Offsetting
20070	Other Third Parties	Offsetting
20080	OMRDD Residential Room and Board	Offsetting [Not Applicable]
20090	Transportation – Medicaid	Regular
20100	Transportation - Other	Regular
21070	Sales – Contract Total	Not Applicable
22040	Federal Grants	Offsetting
22030	State Grants	Offsetting
22080	LTSE Income Total OMH/OMRDD	Not Applicable
22160	Food Stamps/Food Revenue	Offsetting
22010	Gifts/Legacies/Bequests/Donations	Regular
22020	Section 202/8 HUD Funds	Not Applicable
22050	Interest/Dividend Income	Offsetting
22090	Prior Period Rate Adjustments	Regular
22100	Excessive Teacher Turnover Prevention Grant [VESID]	Regular
22110	LDSS County	Regular
22120	Article 89 Section 4402	Regular
22130	DOH Chapter 428	Regular
22140	Article 89 Section 4408	Regular
22150	Article 81 Section 4410	Regular
20110	Net Deficit Funding	Offsetting [Not Applicable]
22998	Other – Revenue	Regular

APPENDIX B
Purchasing Consortia

NAMES AND ADDRESSES

1. [Greater New York Hospital Association](#)

555 West 57th Street
15th floor
New York, New York 10019
Phone (212) 246-7100

2. [United Iroquois Shared Services](#)

17 Halfmoon Executive Park Drive
Clifton Park, New York 12065
Phone (518) 383-5060

[United Iroquois Shared Services](#)

5740 Commons Park
P.O. Box 160
East Syracuse, New York 13057
Phone (315) 445-1851

3. [Joint Purchasing Corporation](#)

11 Penn Plaza, 5th Floor New York, NY 10001
Phone (800) 416-8229

4. [Northern Metropolitan Hospital\[s Shared Services Corporation\]](#) Association

400 Stony Brook Court
Newburgh, New York 12550-5162
Phone (845) 562-7520

5. [RRHA Joint Ventures Corporation](#)

3445 Winton Place Suite #222
Rochester, New York 14623-2950 Phone (888) 732-4282

6. [Vector Healthsystems \(an affiliate of Amerinet, Inc.\)](#)

10 Charles Street
Providence, Rhode Island 02904-2249
Phone (800) 338-6524

APPENDIX C
Travel Guidelines

In-state and out-of-state meal and lodging allowances and per diem rates are available on the State Comptroller's Internet at website at: <http://www.osc.state.ny.us/agencies/> under "[New York State Travel Guidelines](#)".

APPENDIX D

Guidelines for Development, Review and Approval of Capital Projects for Students with Disabilities

I. School-Age-Only Projects and Combined School-Age/Preschool Projects

A. Guidelines for State review and approval of [applications for capital projects](#).

All applications for capital projects must be put in writing to their VESID Special Education and Quality Assurance Office and the Rate Setting Unit. The application must include line drawings of existing and proposed facilities with square footages listed for each room, cost estimates that include all estimated construction and incidental costs, current enrollment data and student staffing ratios. Additionally, documentation of health/safety issues or violations, building code non-compliance and/or non-compliance with accessibility requirements must be provided to justify the need for the proposed project.

- The agency will be notified if any additional information is needed to review the project application.
- Project plans will be reviewed by the RSU, VESID Special Education and Quality Assurance Office and the Office of Facilities Planning.
- The agency will be notified in writing of the capital project cost that is approved by the New York State Division of the Budget and will be considered for reimbursement in future tuition rates.

B. Guidelines for development of applications for capital projects.

All proposed projects will be reviewed to determine the adequacy and appropriateness of services and program space to meet the educational needs of the students with disabilities. Prior to incurring any obligation, it is recommended that the agency receives notification of the approved capital project costs that will be included as part of future tuition rates.

- Before capital projects¹ are approved for education funding for students with disabilities, it must be determined that current education space is not being reallocated to non-education programs causing a lack of appropriate space for the education programs.
- Administrative space may be approved in buildings to be constructed or renovated.
- Existing education areas may also be converted to administrative space when new education

¹Capital projects refer to construction, renovation and acquisition of real property for educational purposes, including administrative and ancillary space and facilities used to support educational functions.

facilities are being constructed.

Note: Where another state agency also has oversight responsibility for the applying program, the Department will confer with such other supervising agency prior to approving any application to construct administrative and/or other shared space.

1) Room Sizes for Special Education Classrooms

15:1 - approximately 770 square feet

12:1+1 - approximately 770 square feet

8:1+1 - approximately 550 square feet

6:1+1 - approximately 450 square feet

12:1+4 - approximately 900 square feet

Resource Room - approximately 300 square feet

Preschool Programs - 50 square feet per student or 60 square feet per student for classroom serving students who are non-ambulatory

The guidelines for preschool programs will be applied with the expectation that classrooms will serve a maximum of 12 students. The square footage requirement for preschool students includes space for a variety of recreational and instructional activities. Consideration will be given to less than 50 square feet per student if other areas of the building have been allocated, outside of the special education classroom, for such activities.

Note: For classrooms which are planned for use by more than one class, size should accommodate the largest requirement.

2) Specialized Areas

- Physical Education Space

While Department requirements are applicable, physical education space for secondary level students recommended for a building with an enrollment of 500 or less may be exceeded based on the programmatic needs of the students to be served and the physical education and recreation program planned by the school. These dimensions may also be exceeded for schools involved in interscholastic sports.

The construction of swimming pools may be considered only in those instances where the development of a pool is necessary to meet the programmatic needs of the population served.

This relates to programs serving students with multiple disabilities who are unable to access community pools, unable to adequately utilize other recreational areas, and require the pool for therapeutic purposes.

- Library

For secondary level students, a library or media center of up to 1,500 feet may be developed.

Dimensions are based on the projected enrollment and the number of students to use this room at any one time. This guideline may be exceeded based on the specialized needs of the population to be served. For elementary level students, library space of up to 900 square feet

may be developed based on enrollment and planned use of space.

- Art

Art rooms of 800 to 900 square feet may be developed for use by classes of 15:1, 12:1+1 or 12:1+4. Dimensions of 500 to 700 square feet are recommended for classes of 8:1+1 and 6:1+1. Additional classrooms may be needed based on enrollment.

- Industrial Arts

Industrial Arts rooms of between 800 and 1,500 square feet may be developed based on the proposed purpose of the space (e.g., an automotive shop normally requires more area than an electrical shop).

- Home Economics

Home Economics rooms of 800 to 1,000 square feet may be developed for use by classes of 15:1, 12:1+1 or 12:1+4. Dimensions for Home Economics classrooms for 8:1+1 and 6:1+1 classes may have less square footage based on planned use of space.

- Science (Laboratory Rooms)

Science rooms for laboratory instruction of approximately 900 square feet in addition to classroom space may be developed for classes of between 12 and 15 students. Dimensions for laboratory space for classes of 6 to 8 students are [is] recommended at approximately 600 - 700 square feet.

- Music

Music rooms of 770 square feet for classes of 15:1, 12:1+1 and 8:1+1 or 450 square feet for classes of 6:1+1 and 900 square feet for classes of 12:1+4 may be developed.

- Storage

Storage space may be included in school building plans for general storage areas and storage within classrooms such as Art, Home Economics, Music, Science Laboratory and Industrial Arts.

- Related Services

A determination on the amount of space allocated for related services should be based on the number of staff and students using the room, activities to be conducted (group or individual speech therapy, counseling, physical therapy, etc.) and equipment to be used.

- Multi-Purpose Rooms

Other spaces may be developed. However, consideration must be given to using the following areas for multiple purposes (e.g., gym with stage for use as auditorium, cafeteria

with stage for use as auditorium, etc.). Size is based on student enrollment and/or the proposed use of the space, such as Auditorium, Cafeteria and remedial rooms or Music practice rooms.

- Administration Space

Administration space is determined based on the functions required to be conducted in the school building and the amount of staff using the space.

- Final Determination

In determining the appropriate number of classrooms to be included in the school building, the following factors should be considered:

- Student enrollment;
- Number of class size configurations and the number of students in each class;
- Proposed scheduling of classroom use;
- Number of staff for school building;
- Multiple use of classroom space and specialty area space.

II. Preschool- Only Projects

- A. All applications for capital projects for preschool only programs must be submitted via the “[Approved Preschool Special Education Program Modification Requests](#)” process. Preschool programs considering a capital project, a change in program location or adding a new site or deleting an existing site should contact their Regional Associate for further guidance on the required procedures.

The “Approved Preschool Special Education Program Modification Requests” forms and instructions are available from the Department’s VESID website at www.vesid.nysed.gov/specialed/home or from the link to the Department’s Rate Setting Unit’s webpage at www.oms.nysed.gov/rsu/home.

- B. Please be advised that cost parameter waivers will not be approved with respect to capital projects involving preschool-only space.

APPENDIX E

Acronyms

BEDS	Basic Educational Data Systems
BOCES	Boards of Cooperative Educational Services
CACFP	Child and Adult Care Food Program
CFR	Consolidated Fiscal Report
COASST	Central Office Administrative Support Services Team
COSO	Committee of Sponsoring Organizations
CSE	Committee on Special Education
CPA	Certified Public Accountant
DASNY	Dormitory Authority of the State of New York
Department	NYS Education Department
DOB	Division of the Budget
ERISA	Employee's Retirement Income Security Act
FTE	Full Time Equivalent
GAAP	Generally Accepted Accounting Principles
GASB	Governmental Accounting Standards Board
IDEA	Individuals with Disabilities Act
IEP	Individualized Education Program
IHO	Impartial Hearing Officer
IRA	Individual Retirement Account
IRS	Internal Revenue Service
LEA	Local Education Agency
LTAL	Less-than-arm's-length
Manual	Reimbursable Cost Manual
NYS	New York State
OCFS	Office of Children and Family Services
OSHA	Occupational Safety and Health Administration
OMS	Office of Management Services
OTPS	Other Than Personal Services
RSU	Rate Setting Unit
SASD	Special Act School District
SED	State Education Department
SEIT	Special Education Itinerant Teacher
SEQA	Special Education Quality Assurance
SERP	Supplemental Executive Retirement Plans
SOP	Statement of Position
STAC	System to Track and Account for Children
TSA	Tax Sheltered Annuity
VESID	Vocational and Educational Services for Individuals with Disabilities

APPENDIX F
Statement on the Governance Role of a Trustee or Board Member

Preface:

The Statement on the Governance Role of a Trustee or Board Member is intended to provide guidance and information to assist trustees and board members in exercising their fiduciary responsibilities. The statement is relevant for all institutions that have been incorporated by the Board of Regents or the New York State Legislature, including programs receiving funding under Article 81 and/or Article 89 of Education Law. Board members of these institutions should additionally be familiar with the requirements and provisions of this manual and Part 200 of the Regulations of the Commissioner of Education.

The Statement on the Governance Role of a Trustee or Board Member which follows is the most recent version available. To view the current Board of Regents, visit: <http://www.regents.nysed.gov/members/>

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Dear Colleague:

The University of the State of New York (USNY) is a vast multi-billion dollar enterprise encompassing schools, colleges, universities, libraries, museums, public broadcasting and other educational and cultural institutions incorporated by the Board of Regents or the New York State Legislature. This enterprise has one common characteristic among almost all of its components. Each institution is governed by a board of individuals who willingly volunteer their services.

This Statement on the Governance Role of a Trustee or Board Member is provided by the Board of Regents to assist trustees/board members in exercising their responsibilities. The Statement has been updated since it was originally issued in November of 2001. The most significant change is an enhanced discussion of conflict of interest. Other topics have also been updated including internal controls, the definition of proprietary schools, and best practices for boards to follow. Additional links to websites have been added, as well as information on methods to report instances of fraud, waste, and abuse.

The Statement provides certain fundamental information regarding the stewardship role that members fulfill. The Regents recognize that USNY institutions vary greatly in the mission, size, form, and structure of their boards. This document provides guidance and information to assist all trustees/board members in the performance of their responsibilities. From the small historical society to the multi-million dollar college, university or school district, each board member has a fiduciary responsibility for the institution he/she governs.

We urge you to share this document with your board colleagues, become familiar with its contents, and integrate its provisions into your institution's governance process, e.g., included in orientation materials for new board members or in the institution's handbook, where one exists. It can also be accessed at the following web site: <http://www.regents.nysed.gov/>. If you have questions or comments regarding the Statement, please refer to Appendix E for offices to contact in the State Education Department.

On behalf of the Board of Regents and the State Education Department, we thank you for your contributions as a trustee/board member. You are performing a much-needed and valuable service to your institution and the community it serves.

Sincerely,

Robert M. Bennett
Chancellor, Board of Regents

Richard P. Mills
Commissioner of Education and President of
The University of the State of New York

Board of Regents
The University of the State of New York

The Board of Regents has authority over all elementary, secondary and postsecondary educational institutions, both public and private, libraries, museums, historical societies and other educational institutions chartered by the Regents or the Legislature and admitted to the membership of the University of the State of New York (USNY) by the Regents.

Various provisions of the Education Law, Not-For-Profit Corporation Law and General Municipal Law impose legal duties, fiduciary responsibilities and fiscal requirements upon USNY institutions and the trustees/board members who run them. As a trustee or board member, it is imperative that you understand and comply with applicable requirements. Non-compliance can result in the Regents' revocation of an institution's charter, the removal of trustees/board members from office, or other appropriate remedies under law.

What is the purpose of the institution?

As a trustee/board member, you should understand the purpose and mission of your institution, which is defined by its charter, certificate of incorporation laws or by legislation. USNY institutions encompass a wide array of education purposes. In the case of organizations incorporated or chartered by the Board of Regents, you should obtain a copy of the Regents-issued charter or certificate of incorporation and the institution's by-laws. Institutions chartered or incorporated by the Board of Regents are treated as not-for-profit entities. You should familiarize yourself with the institution's corporate status, powers, privileges, and duties, which are defined by its charter or certificate of incorporation. Independent colleges and universities derive their corporate powers from the Board of Regents as do certain non-degree granting institutions. Libraries, museums, historical societies, public television and/or radio stations also derive their corporate powers from the Board of Regents. All of these institutions are governed by a board of trustees which is legally responsible for assuring that the institution fulfills the distinctive purposes for which it was established.

On the other hand, the State University of New York, its four university centers and various colleges of arts and sciences, technical colleges, medical centers, and community colleges derive their authorities from Education Law, as does the City University of New York, all of which are part of the University of the State of New York (USNY) enterprise. A board of trustees governs and provides oversight for each.

Proprietary (for profit) colleges are incorporated under the provisions of the Business Corporation Law with the Department of State and are authorized by the Board of Regents to award degrees. Any amendment to the corporate purpose of these colleges requires the consent of the Commissioner of Education.

USNY encompasses school districts and Boards of Cooperative Educational Services (BOCES), which also obtain their authority from the Education Law and other relevant statutes. As a board member, you need to know whether the school district is considered a common, union free, central, central high, or small or large city school district. There are also "special act" school districts which have been established by the New York State Legislature on the grounds of charitable institutions caring for children and youth. BOCES are voluntary associations of school districts that agree to provide education and business services in a cooperative manner for purposes of economy and efficiency. The New York State School Boards Association publishes a handbook for school board members that provides more detailed information on the role of a school board member.

What is the financial status of the institution?

One of the most important issues you need to monitor is the financial status of your institution and whether its assets are being used for the accomplishment of the institution's mission. Scandals involving financial mismanagement of USNY institutions have been identified in the past and represent a serious violation of the public trust. As a Trustee or Board member, you should be aware of the institution's financial status. Among the things you should request and examine are copies of periodic fiscal reports including budget and actual revenue and expenses, year end financial statements, and tax returns where applicable. Talk to executive staff and other board members about the financial condition of the institution. Request to speak to the external auditors if you have specific questions regarding the financial statements.

For what am I responsible?

You should meet with other trustees/board members to discuss their expectations of you. Read the by-laws; inquire about committees; organizational structure; financial responsibility; and conflict of interest policies. Keep in mind that being a trustee/board member requires a commitment of personal time and effort generally with no fiscal remuneration.

What duties do trustees and board members have to fulfill?

Although varied in purpose and mission, USNY institutions are, for the most part, government entities and not-for-profit corporations subject to the Education Law, and other laws governing not-for-profit corporations wherein trustees/board members must fulfill certain duties to the institution and the community they serve. Such duties involve care, loyalty, and obedience.

Duty of Care

A trustee or board member must act in good faith and exercise the degree of diligence, care, and skill that an ordinary prudent individual would use under similar circumstances in a like position. To conform with this standard, trustees and board members should:

- Regularly attend and participate in board meetings and committee meetings where applicable;
- Read, review, and inquire about materials that involve the institution, especially board minutes, annual reports, other reports, plans, policies, and any literature that involves the institution;
- Have a fiduciary responsibility for the assets, finances, and investments of the institution and exercise due diligence, care, and caution as if handling one's own personal finances; and
- Use one's own judgment in analyzing matters that have an impact on the institution

Duty of Loyalty/Conflicts of Interest

Trustee/board members owe allegiance to the institution and must act in good faith with the best interest of the institution in mind. The conduct of a trustee/board member must, at all times, further the institution's goals and not the member's personal or business interests. Consequently, trustees/board members should not have any personal or business interest that may conflict with their responsibilities to the institution. A trustee/board member should avoid even the appearance of impropriety when conducting the institution's business. Acts of self-dealing constitute a breach of fiduciary responsibility that could result in personal liability and removal from the board.

The board of trustees/board of education should have a written conflict of interest policy that clearly sets forth the procedures to be followed in instances where a board member's personal or business interests may be advanced by an action of the board, including a provision that the trustee/board member may not participate

in any decision to approve any transaction where such conflicting interests may be advanced. The policy should also include a requirement that each trustee/board member provide full, ongoing disclosure to the institution of any interest the trustee/board member and/or his or her family has in any entity that the board transacts business with. The policy should be reviewed and discussed with the institution's attorneys and auditors prior to its adoption.

In addition, there are specific provisions concerning conflicts of interest in Article 18 of the General Municipal Law (applicable to school districts, boards of cooperative educational services [BOCES], county vocational education and extension boards and public libraries), and Section 715 of the Not-for-Profit Corporation Law (applicable to education corporations chartered by the Board of Regents). General Municipal Law §806 requires the governing body of each school district to adopt a code of ethics, including standards for officers and employees with respect to disclosure of interest in legislation before the governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment and such other standards relating to the conduct of officers and employees as may be deemed advisable.

A sample conflict of interest policy is available on the Internal Revenue Service website at (<http://www.irs.gov/instructions/i1023/ar03.html>).

School board members may contact the New York State School Boards Association (NYSSBA) at 1-800-342-3360 or go to the respective NYSSBA websites shown below to access the following sample policies:

2160 School District Officer and Employee Code of Ethics at
http://www.nyssba.org/ScriptContent/VA_Custom/va_cm/ContentPageDisplay.cfm?content_id=6120

9120.1 Conflict of Interest at
http://www.nyssba.org/ScriptContent/VA_Custom/va_cm/ContentPageDisplay.cfm?content_id=2148

Duty of Obedience

A trustee/board member has a responsibility to insure that the institution's resources are dedicated to the fulfillment of its mission. The member also has a duty to ensure that the institution complies with all applicable laws and does not engage in any unauthorized activities.

The NYS Attorney General publishes *Right from the Start-Responsibilities of Directors and Officers of Not-for-Profit Corporations*, which may be obtained from the following web-site: http://www.oag.state.ny.us/charities/not_for_profit_booklet.pdf. The booklet contains more detailed information on the duties of a trustee/board member of a not-for-profit corporation.

What is the difference between provisional and absolute charters?

Corporations formed for the principal purpose of operating a college, university, school conducting some of or the entire grades prekindergarten (including organizations with whom schools contract) through twelve, library, museum, historical society, public television and/or radio station or nursery school are created by the Board of Regents by issuance of an instrument called a charter, which sets forth the powers of the corporation.

The initial incorporation of the educational institution is executed by the issuance of a provisional charter that is valid for a fixed term of one-to-five years. If the Board of Regents is not satisfied that the corporation can qualify for an absolute charter, it may extend the provisional charter for an additional term of years.

The process for the issuance of a certificate of incorporation is the same as that pertaining to a provisional charter. The legal effect of a certificate of incorporation is the same as that of an absolute charter.

If you are a trustee of a chartered institution, you need to be aware of the following:

- Whether your institution has a provisional or absolute charter from the Board of Regents;
- The specific standards that apply to your institution (**see Appendix C**);
- The specific powers of the corporation contained in the charter; and
- Whether the board has the number of members stipulated in its charter

How do I distinguish between my governance role and that of a supporter or team player for my institution?

There is a fine line between governance and being a supporter of an institution. Members need to avoid meddling in managing daily affairs. Trustees/board members must balance their role as supporters for the institution's success against their governance role as overseers of the institution's management to ensure that assets are used properly, laws and regulations are followed, and the public interest is best served. The board needs to support the institution's management but must also govern by holding the chief executive officer (CEO) accountable for the institution's operations and service to the public.

In the governance role, trustees/board members should be concerned with protecting the public interest which they serve. Members exercise this role by hiring a CEO to manage the operation of the institution and evaluating his/her overall performance in providing services to the public.

In a supportive role, board members assist by fund-raising, liaison, and networking with other community leaders, and providing expertise in specialty areas such as law, planning, accounting, and overall corporate management.

What if I lack knowledge or experience in fiscal governance?

One of the most important responsibilities of a trustee or board member is to ensure that financial resources are being used efficiently and effectively toward meeting the institution's goals, in compliance with applicable law and regulation, and that its assets are properly safeguarded. The area of fiscal governance is one in which board members may feel the least qualified and rely entirely on the CEO for guidance.

Trustees/board members should be cautious about relying completely on the guidance and judgment of the institution's CEO and management. Members have ultimate responsibility for governance of the institution's resources and their primary role of protecting the public interest. In monitoring the institution's budget, board members should ask questions about the assumptions made in preparing the budget. What types of data are used to prepare the budget? How were estimates developed for such expenditures as payroll, supplies and materials, travel and conferences, capital outlays, etc.? Are accounting and/or management processes adequate to ensure accurate and reliable data? What will be accomplished by passing this budget? How will outcomes be measured, evaluated and reported? How will the board hold the CEO accountable for budget outcomes? How are variances from expectations handled?

Trustees/board members should also ask questions about the institutional year end financial statements. Inquire as to what they mean; what is the fiscal condition of the entity? If the auditors' issued a management letter, request to review the letter.

Similar questions may be raised about other areas, such as the institution's system of financial controls, processes employed to comply with applicable laws and regulations, accountability with performance results, etc. Board members should be aware of an institution's internal control system. The existence of adequate systems of internal controls is also critical for the protection and oversight of the institution's assets. Internal controls are systems to protect the assets of an organization, create reliable financial reporting, promote compliance with laws and regulations, and achieve effective and efficient operations.

The NYS Attorney General publishes *Internal Controls and Financial Accountability for Not-for-Profit Boards* which may be obtained from the following website address: The document contains more detailed information on evaluating internal control systems.

What if the institution needs more expertise with fiscal matters?

When matters of fiscal governance become very technical and require greater expertise in assessing the fiscal condition of the institution or its long-term well-being, a board should seek the advice of experts. One mechanism for giving emphasis to the responsibility of fiscal governance is to create an audit committee composed of board members who have expertise in dealing with fiscal affairs.

An audit committee is organized pursuant to a charge or mission approved by the board. It should be established in the institution's charter, certificate of incorporation or by-laws.

- Helping set the fiscal environment or "tone at the top," which promotes a theme of fiscal responsibility and ethical conduct among all institution staff and board members;
- Reviewing the certified financial audit report of the institution and providing input on the results to the full board;
- Assessing the effectiveness of the institution's system of internal controls and reporting on any weaknesses;
- Assessing any risk associated with the validity and reliability of financial data; and
- Monitoring compliance with laws and regulations applicable to the institution's operations

These are just some of the many activities that an audit committee can pursue to assist a board in its role of fiscal governance. (**Appendix D**) provides links to web sites that contain more information on audit committees and other issues relevant to the duties and responsibilities of trustees and board members.

Where can I get additional help?

There are many sources available to trustees and board members needing further information and guidance on their role. Members are encouraged to seek additional guidance, evaluate the need for additional training, and contact the NYS Education Department (SED) for guidance. The offices and contact information for SED are illustrated in (**Appendix E**).

The procedures for the creation of education corporations by the Regents, and other related matters, are outlined in the pamphlet entitled “Education Corporations–Law Pamphlet 9.” This pamphlet is available from the NYS Education Department Office of Counsel, and is available on the SED website: (<http://www.counsel.nysed.gov/>).

Members are strongly encouraged to seek the advice of an attorney in matters involving the interpretation of laws and regulations pertaining to the institution’s operations. The information contained in this document is not a substitute for the guidance provided by legal counsel.

The appendices contain additional information that may be helpful in fulfilling your role as a trustee or board member. Their content is listed below.

SECTION VII
TOPIC APPENDICES

Topic	Appendix
Top Ten Warning Signs for Boards	A
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Select Regulations of the Commissioner of Education Applicable to Chartered Institutions	C
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Appendix A
The University of the State of New York
The State Education Department

Top Ten Warning Signs for Boards

1. Lack of available documentation on the organization's by-laws, charter, mission statement, organization chart, and prior year financial statements.
 2. Lack of independent attitude or excessive conflict among trustees/board members.
 3. Infrequent board meetings. Absence of board minutes.
 4. Poor board attendance at meetings.
 5. Lack of access to key, fiscal, budget, program, and operations information.
 6. Lack of access to the chief financial officer.
 7. Existence of conflict of interest relationships or less than arm's length transactions between the institution's board members and organizations that conduct business with the institution.
 8. Lack of internal financial controls and written policies and procedures to safeguard, promote, and protect the organization's funds and other assets. Lack of fidelity bonds.
 9. Lack of involvement in the hiring of key employees.
 10. Failure to file documents with key control agencies such as the NYS Education Department, Internal Revenue Service, and NYS Department of Taxation and Finance.
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Appendix B
The University of the State of New York
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Best Practices for Boards to Follow

1. Be informed of the institution's activities by:
 - Discussing operations with board members and officers
 - Reviewing materials provided by the institution
 - Actively participating in meetings of the board and the committees
 - Asking questions and obtaining an understanding of the issues facing the institution
 - Attending fiscal training for board members and Trustees
2. Establish an audit and finance committee with responsibility to periodically meet with management and the auditors to consider:
 - The adequacy of internal controls and financial reporting processes, and the reliability of fiscal reports
 - The independence and performance of the internal and external auditors
 - Steps taken by management to address audit report findings
 - Compliance with legal and regulatory requirements
 - Steps taken by management to minimize significant risks to the institution
 - School districts and BOCES are required to have an audit committee
 - Museums, historical societies and cultural agencies are required to have an audit committee
3. Ensure the institution is carrying out its purpose without extravagance or waste and is not engaging in any questionable or illegal activities by:
 - Requiring management to provide periodic reports on how well the institution is fulfilling its mission and the activities accomplished for the period
 - Approving strategic plans, budgets, policies, plans of operation, development plans and goals, contracts, implementing standards of operation, key financial and program reports, and other items

- Holding the chief executive officer accountable for results
- Being involved in the selection and compensation of the chief executive officer
- Using good judgment in analyzing matters that may impact the institution
- School districts are required to have an internal committee to review internal controls
- Reviewing all claims

4. Monitor the financial condition and management practices of the institution by:

- Reviewing periodic fiscal reports, financial statements, audit reports, management letter; including managerial letters, and tax returns
- Ensuring reserve funds are used for their intended purposes
- Verifying fund raising expenses are reasonable in relation to the amount of fund raising revenue generated
- Ensuring net assets are positive, but not excessive
- Verifying that deficits are being addressed with remedial action
- Ensuring records are complete and accurate, and required reports are filed with federal and state agencies
- Issuing a Request for Proposal (RFP) for an external auditor at least once every five years

5. To help ensure effectiveness, trustees/board members need to ensure boards address the following, consistent with statute:

- Consist of a minimum of five voting members who are independent
- Meet at least twice a year, and more often as needed or required by statute
- Keep complete and accurate minutes of all meetings.
- Convene an annual meeting and elections as required by law
- Not compensate their members for services in their role as trustee or board member (see note below)
- Develop a training program for both new and experienced board members.
- Seek expert advice when needed
- Avoid any conflicts of interests or even the appearance of a conflict and maintain a conflict of interest policy for board members and employees

- Require each member to file an annual written disclosure of any business involvement with the institution or related parties
- Assess the need for liability insurance to protect board members and officers from legal liability
- Ensure processes for selecting new members result in diversity of viewpoints and seek out individuals with commitment, skills, life experience, background, and other characteristics that will serve the institution and its needs
- Be aware of the requirement to petition the Regents to amend the charter or certificate of incorporation to change the name, address or purposes of the corporation.
- Be aware of the laws and regulations relating to dissolution of the corporation, and not distribute, disperse or spend down any assets without going through the proper dissolution procedure.

Note: Reimbursement for expenses in the ordinary course of business does not constitute compensation. Trustees/board members who also serve as officers may receive compensation in their role as an officer (e.g., treasurer, secretary). In addition, some school districts are allowed under the law to compensate their Board Members.

Appendix C
The University of the State of New York
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Select Rules of the Board of Regents and Regulations of the Commissioner of Education Applicable to Chartered Institutions

Elementary and Secondary Schools	Part 100 and Sections 170.2, 170.3, and 170.12 of the Commissioner's Regulations
Nursery Schools and Kindergartens	Part 125 of the Commissioner's Regulations
Prekindergarten Programs	Part 151 of the Commissioner's Regulations
Libraries and Library Systems	Part 90 of the Commissioner's Regulations
Historical Societies without Collections and Cultural Agencies	Section 3.30 of the Rules of the Board of Regents and Section 52.22 of the Commissioner's Regulations
Museums and Historical Societies with Collections	Section 3.27 of the Rules of the Board of Regents and Section 52.22 of the Commissioner's Regulations
Public Television and/or Radio Stations	Part 26 of the Rules of the Board of Regents and Part 179 of the Commissioner's Regulations
Colleges and Universities	Parts 50 through 54 of the Commissioner's Regulations

Note: This list is not exhaustive. Moreover, it does not include relevant provisions of the Education law or other laws affecting these institutions.

Appendix D
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Links to Websites

Government Agencies

- Internal Revenue Service: <http://www.irs.ustreas.gov/>
NYS Attorney General: <http://www.oag.state.ny.us/>
NYS Education Department: <http://www.nysed.gov/>
Office of General Services: <http://www.ogs.state.ny.us/>
Department of State: <http://www.dos.state.ny.us/>
Civil Service: <http://www.cs.state.ny.us/>
Taxation & Finance: <http://www.tax.state.ny.us/>
NYS Office of the State Comptroller: <http://www.osc.state.ny.us/>

Education Associations

- American Association of School Administrators: <http://www.aasa.org/>
Education Commission of the States: <http://www.ecs.org/>
Educational Research Service: <http://www.ers.org/>
National Association of State Boards of Education: <http://www.nasbe.org/>
National School Boards Association: <http://www.nsba.org/>
New England School Development Council: <http://www.nesdec.org/>
New York State School Boards Association: www.nyssba.org

Not-for-Profit Associations

- Center for Non-Profit Corporations: <http://www.njnonprofits.org/>
Guidestar (IRS Form 990 database): <http://www.guidestar.org/>
Internet Nonprofit Center: <http://www.nonprofit-info.org/>
Law about Nonprofit Organizations: www.law.cornell.edu/topics/nonprofits

National Center for Nonprofit Boards: <http://www.ncnb.org/>

Nonprofit Evaluation Tools: <http://www.innonet.org/>

Nonprofit Resource Center: <http://www.not-for-profit.org/>

Nonprofit Risk Management Center: <http://www.nonprofitrisk.org/>

Urban Institute – Center on Nonprofits: <http://www.urban.org/>

Museums/Art Associations

American Association for State and Local History (AASLH): <http://www.aaslh.org/>

American Association of Museums (AAM): <http://www.aam-us.org/>

Museum Association of New York (MANY): <http://www.manyonline.org/>

New York State Council on the Arts, Museum Program (NYSCA):
<http://www.nysca.org/>

New York State Museum Chartering: www.nysm.nysed.gov/charter

The International Council of Museums (ICOM): <http://www.icom.org/>

Library Associations

American Library Association's Association for Library Trustees and Advocates:
www.ala.org/alta

New York Library Association: <http://www.nyla.org/>

New York State Association of Library Boards: <http://www.nysalb.org/>

New York State Library: www.nysl.nysed.gov/libdev

DISCLAIMER: These sites are provided for the user's convenience. The State Education Department (SED) does not control or guarantee the accuracy, relevance, timeliness or completeness of web sites not maintained by SED. Further, the inclusion of such sites on this list is not intended to reflect their importance, nor is it intended to endorse views expressed, or products or services offered, on these outside sites, or the organizations sponsoring the sites.

Appendix E
The University of the State of New York
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Contact Offices in SED by Type of Institution

To obtain further guidance about the governance role of a trustee or board member, you may contact the following addresses, telephone numbers, and web sites for your respective institution.

Institution	Contact Office
Public schools, Boards of Cooperative Educational Services	School Operations and Management Services Office of Elementary, Middle, Secondary, and Continuing Education Room 874 EBA Albany, New York 12234 http://www.emsc.nysed.gov/ 518-474-2238
Nonpublic schools	Office for Nonpublic School Services Room 481 EBA Albany, New York 12234 www.emsc.nysed.gov/nonpub/ 518-474-3879 Charter Schools Room 462 EBA Albany, NY 12234 518-474-1762
Museums, historical societies, and other Cultural agencies	NYS Museum Room 3097 CEC Albany, New York 12230 www.nysm.nysed.gov/charter 518-473-3131
Libraries and library systems	Division of Library Development NYS Library NYS Education Department Room 10C50 CEC Albany, New York 12230 http://www.nysl.nysed.gov/libdev/libs/index.html#Trustees 518-474-7196
Public Television and Radio stations	Office of Educational Television & Public Broadcasting Room 10A75 CEC Albany, New York 12230 518-474-5862

	http://www.oce.nysed.gov/etvpb/
Public, independent, and propriety colleges and universities, licensed private and registered business schools	Office of Higher Education NYS Education Department 89 Washington Avenue 2 M West Wing Albany, NY 12234 http://www.highered.nysed.gov/ 518-474-3862
Independent living centers	Office of Vocational and Educational Services for Individuals with Disabilities One Commerce Plaza Albany, New York 12234 http://www.vesid.nysed.gov/ 518-474-3946
Psychotherapy Institutes	Executive Secretary to the State Board for Psychology Office of the Professions 89 Washington Avenue Albany, New York 12234 psychbd@mail.nysed.gov 518-474-3817 ext. 150

Appendix F
The University of the State of New York
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Report Fraud, Waste, and Abuse

The New York State Education Department is interested in information pertaining to fraud, waste, abuse, or mismanagement of local, state, or federal education funds (including information on vendors who receive education funds). Both the Board of Regents and the Commissioner of Education take these concerns very seriously.

Individuals who make an allegation are not required to identify themselves; they may remain anonymous. In such cases, the State Education Department will assess the information provided, given the constraints of an anonymous contact. Therefore, persons making a complaint may wish to provide contact information in the event additional questions arise.

Preferred Method:

Fill out electronic complaint form the following address:

www.forms.nysed.gov/oms/oas/fraud/Form.html.

Other Methods:

- Email: OAS@mail.nysed.gov
- Phone: 518-473-4516
- Fax: 518-473-0259
- Mail:

New York State Education Department
The Office of Audit Services (OAS)
89 Washington Avenue, Room 524 EB
Albany, NY 12234