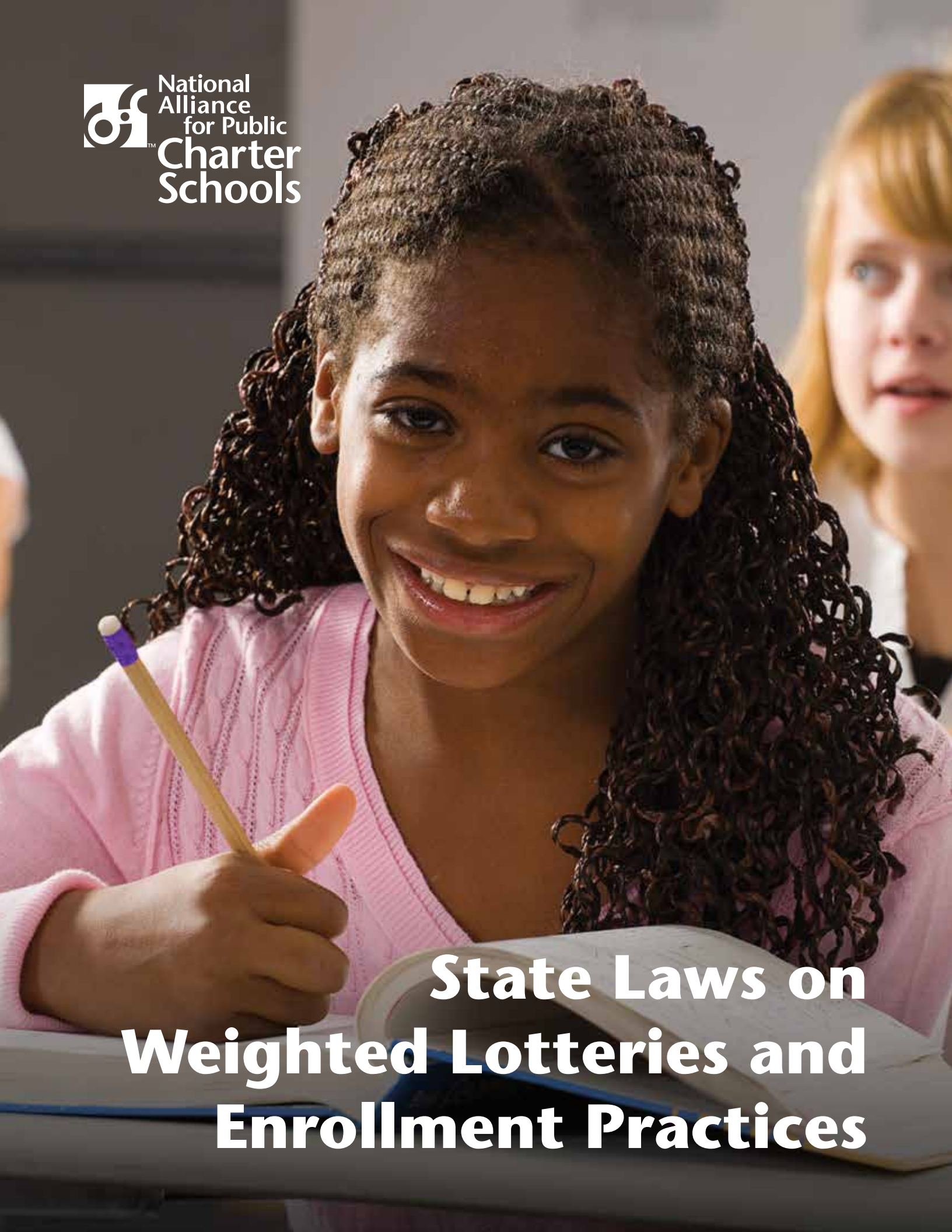
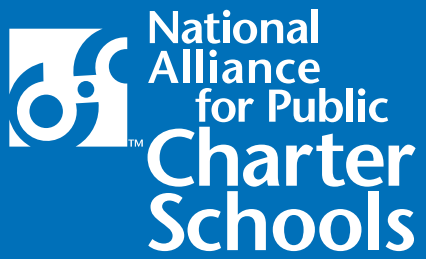




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State Laws on Weighted Lotteries and Enrollment Practices



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**STATE LAWS ON WEIGHTED LOTTERIES
AND ENROLLMENT PRACTICES:**

EXECUTIVE SUMMARY

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and Civil Rights Solutions, LLC



Introduction

In January 2014, the U.S. Department of Education issued updated guidance that expanded the circumstances under which public charter schools receiving Charter Schools Program (CSP) funds may elect to use a weighted lottery in admissions. According to the guidance, public charter schools receiving CSP funds may now use weighted lotteries to give slightly better chances for admission to all or a subset of educationally disadvantaged students if state law permits the use of such weighted lotteries.

The requirement that state law specifically permit the use of weighted lotteries—as made clear in the analysis that follows—is particularly limiting. Few states have language that clearly permits weighted lotteries for public charter schools. The National Alliance is concerned that without individual state legislative or regulatory action, the guidance will likely yield few waivers.

As Congress considers reauthorization of the Elementary and Secondary Education Act (ESEA), the National Alliance has recommended changes to law to ensure that weighted lotteries are permitted unless state law specifically prohibits the practice. This legislative proposal would make it significantly easier for schools to take advantage of weighted lotteries as a means to serve more educationally disadvantaged students. ESEA legislation in the House and Senate includes the National Alliance’s recommendations.

This paper is intended to offer a state-by-state analysis of whether weighted lotteries are permitted or may be permitted under current guidance from the Department of Education. As the reader will notice, in most cases this paper does not offer a straightforward answer to the question of whether weighted lotteries are allowable in a state, as that analysis often involves an examination of several factors and related laws and regulations that cannot be captured in this overview of state law and policy. However, the paper does offer considerations for how to proceed with such an evaluation, particularly in the majority of states where the answer is not immediately obvious.

Furthermore, this paper includes an appendix with references to the relevant state statutes and regulations to help guide the reader’s analysis of the applicability of weighted lotteries in a certain jurisdiction. In addition to reviewing state statutes, readers should also explore additional resources for supplementary, helpful information (e.g., state departments of education websites). Please note, however, that, given the ever-evolving landscape of this issue, the regulations or statutes outlined in this paper may have changed since our research began.

Findings

In light of the January 2014 guidance from the Department of Education, this document explores how states treat the use of weighted lotteries and answers the following questions:

- What states expressly permit the use of weighted lotteries?
- What states expressly prohibit the use of weighted lotteries?
- What states leave the door open for the use of weighted lotteries, subject to legal interpretation?
- What states expressly permit the use of admission preferences for educationally disadvantaged students?
- What states permit public charter schools to hold multiple lotteries, set aside seats, or otherwise limit admissions on behalf of educationally disadvantaged students?

States That Expressly Permit the Use of Weighted Lotteries (Four States)

Only four states expressly permit the use of weighted lotteries under certain conditions:

- Arkansas
- Louisiana
- Georgia¹
- Rhode Island.

States That Expressly Prohibit the Use of Weighted Lotteries (No States)

No states expressly prohibit the use of weighted lotteries.

State Statutes That May Be Interpreted to Prohibit the Use of Weighted Lotteries (16 States²)

States That Expressly Require Lotteries in Which Each Student Is Given Equal Weight (Four States)

State statutes that require all applicants in the lottery to be given equal weight would not permit the use of weighted lotteries, absent some explicit exception, because some students would be given more weight than others in the lottery. These states are:³

- Indiana
- Florida
- Maine
- Missouri

States That Expressly Prohibit Preferences beyond Those Permitted by Law (Four States)

State statutes that prohibit any preferences beyond those permitted by law could not be interpreted to permit the use of preferences or weighted lotteries beyond what is authorized. None of the states in this category authorize preferences or weighted lotteries for educationally disadvantaged students. These states are

- Indiana
- South Carolina
- Minnesota
- Washington

1 Georgia law was amended during the 2015-2016 regular legislative session through H.B. 474 to provide, among other things, for enrollment priorities in public charter schools for educationally disadvantaged students. Georgia law now expressly permits the use of a weighted lottery for educationally disadvantaged students.

2 Indiana falls under two of the categories listed below, making the total number of states whose statutes may be interpreted to prohibit the use of weighted lotteries 16 rather than 17.

3 Georgia generally requires the use of a lottery in which each student is given equal weight, but an explicit exception was added to the law during the 2015-2016 regular legislative session through HB 474 to provide, among other things, for use of a weighted lottery for educationally disadvantaged students.

State Statutes That May Be Interpreted to Significantly Limit the Opportunity to Use Preferences for Educationally Disadvantaged Students, Even If Such Preferences Were Permissible (Five States)

Some states expressly prohibit admissions decisions based on certain characteristics, which would significantly limit a public charter school's ability to administer any sort of preference for educationally disadvantaged students, even if additional preferences beyond those specifically authorized by law were permissible. These states are:

- Arizona
- District of Columbia
- Hawaii
- Oklahoma
- Oregon

States That Otherwise Seem to Limit Preferences to Those Expressly Authorized (Four States)

There are a handful of states whose statutes do not appear to leave much, if any, room for interpretation that would permit preferences beyond those explicitly authorized by law. The laws in these states, as currently written, would likely not be interpreted to allow weighted lotteries for educationally disadvantaged students. These states are:

- Idaho
- Michigan
- Texas
- Wisconsin

States That Are Silent on Preferences (Seven States)

A number of state public charter school laws are silent on whether any preferences are permitted in admissions. It may be difficult to interpret these states' laws as permitting weighted lotteries for educationally disadvantaged students. Alternatively, the lack of an express prohibition on the use of preferences such as a weighted lottery could leave the door open for their permissibility. States that are silent on preferences are:

- Alaska
- Colorado⁴
- Kansas
- Maryland
- New Hampshire
- Virginia
- Wyoming

State Statutes That May Be Interpreted to Permit the Use of Weighted Lotteries (19 States⁵)

A number of state statutes leave the door open for interpretation that would result in permission for the use of weighted lotteries for educationally disadvantaged students. In these states, a written state policy or written confirmation from the state's attorney general would be required to satisfy the Department of Education's CSP grant requirements.

States That Expressly Permit the Use of Admissions Preferences for Educationally Disadvantaged Students, Which Could Result in Permissible Use of Weighted Lotteries, Subject to Legal Interpretation (Seven States)

Some states expressly permit the use of preferences for various subsets of educationally disadvantaged students, but the term "preference" is not defined. If preference is interpreted to include a weighted

⁴ The Colorado Department of Education (CDE) successfully amended its CSP grant to provide for weighted lotteries after the Department of Education's January 2014 guidance was issued. In doing so, CDE provided evidence that Colorado law allows for the use of weighted lotteries through a letter from the state's attorney general.

⁵ Several states fall under more than one of the categories listed below, making the total number of states whose statutes may be interpreted to permit the use of weighted lotteries 19 rather than 27.

lottery, then these states would permit use of weighted lotteries for some subsets of educationally disadvantaged students. These states are:

- Delaware
- Illinois
- Missouri
- New York⁶
- Nevada
- Tennessee
- Utah

States That Permit Public Charter Schools to Limit Admissions to Educationally Disadvantaged Students (Nine States)

Some state statutes permit public charter schools to limit admissions to various subsets of educationally disadvantaged students. These state laws do not define what it means to limit admissions to such students. If use of a weighted lottery were a means to limit admissions to such students, then these state laws could be interpreted as such. These states are:⁷

- Connecticut
- Illinois
- Louisiana
- New Hampshire
- New Jersey
- Nevada
- North Carolina
- Ohio
- Pennsylvania

States That Allow Other Enrollment Preferences beyond Those Expressly Permitted (Four States)

A number of states expressly permit use of enrollment preferences beyond those authorized in their public charter school statutes, subject to authorizer approval. These states therefore leave the door open for potential preferences, and consequently weighted lotteries, for educationally disadvantaged students. These states are:

- California
- Connecticut
- Hawaii
- Oregon

States Whose Laws Express a Specific Intent to Ensure Access and Opportunities for Educationally Disadvantaged Students, and Therefore May Be Interpreted to Permit Use of Weighted Lotteries for Educationally Disadvantaged Students (Six States)

A number of states do not expressly prohibit or permit preferences for educationally disadvantaged students, but other statutory and/or regulatory provisions in their public charter school laws suggest that each state intends to guarantee access and opportunities for educationally disadvantaged students. This legislative intent could result in these states permitting the use of preferences for such students. These states are:

- Massachusetts
- Mississippi
- New Hampshire
- New Jersey
- New York
- Nevada

⁶ New York has submitted a grant amendment to allow for the use of a weighted lottery for at-risk applicants but that amendment has not yet been approved by the Department of Education.

⁷ Florida allows public charter schools to limit admissions to some subsets of students, but since Florida law expressly requires that each student in the lottery be given equal weight, it is unlikely that Florida law could be interpreted to allow for the use of weighted lotteries.

Preferences for Reasons Other Than Educational Disadvantage

A significant number of states permit or mandate some sort of preference for reasons other than educational disadvantage. These preferences may be for siblings, children of founders, board members and/or employees, etc. How these preferences are administered may be relevant in interpreting whether weighted lotteries are permissible as a form of preference in these states.

States That Permit Admissions Preferences for Reasons Other Than Educational Disadvantage (24 States)

- Arizona
- Arkansas
- Connecticut
- Delaware
- District of Columbia
- Florida
- Georgia
- Hawaii
- Idaho
- Indiana
- Louisiana
- Maine
- Michigan
- Minnesota
- Mississippi
- New Jersey
- North Carolina
- Ohio
- Oregon
- Pennsylvania
- Rhode Island
- South Carolina
- Tennessee
- Texas

States That Mandate Preferences for Reasons Other Than Educational Disadvantage (26 States)

- Arizona
- California
- District of Columbia
- Florida
- Hawaii
- Idaho
- Illinois
- Louisiana
- Maine
- Massachusetts
- Minnesota
- Mississippi
- New Jersey
- New Mexico
- New York
- Nevada
- North Carolina
- Ohio
- Oklahoma
- Pennsylvania
- South Carolina
- Tennessee
- Texas
- Utah
- Washington
- Wisconsin



Conclusions

It is clear that most state public charter school laws do not expressly authorize the use of weighted lotteries for educationally disadvantaged students. These states will need to consider adopting written state policies approving the use of such lotteries, if consistent with state law, or each state's attorney general will need to issue an opinion interpreting state law to permit their use.

One critical legal question will be whether a preference permitted by law can give rise to use of a weighted lottery. A weighted lottery could be deemed one type of preference and therefore would be sanctioned in states that permit preferences.

**STATE LAWS ON WEIGHTED LOTTERIES
AND ENROLLMENT PRACTICES:**

QUICK REFERENCE CHART

Lauren E. Baum, Law Office of Lauren E. Baum, PC
and Civil Rights Solutions, LLC

State	State Law Permits Admissions Preferences for Educationally Disadvantaged Students	State Law Mandates Admissions Preferences for Reasons Other than Educational Disadvantage	State Law Permits Admissions Preferences for Reasons Other than Educational Disadvantage	State Law Permits Schools to Limit Admissions to Educationally Disadvantaged Students Based on the School's Focus
Alaska				
Arizona		×	×	
Arkansas			×	
California		×		
Colorado				
Connecticut			×	×
Delaware	×		×	
District of Columbia		×	×	
Florida		×	×	
Georgia			×	
Hawaii		×	×	
Idaho		×	×	
Illinois	×	×		×
Indiana			×	
Kansas				
Louisiana		×	×	×
Maine		×	×	
Maryland				
Massachusetts		×		
Michigan			×	
Minnesota		×	×	

State	State Law Is Silent on Admissions Preferences	State Law Expressly Permits Weighted Lotteries	State Law May Be Interpreted to Permit Weighted Lotteries for Educationally Disadvantaged Students	State Law May Be Interpreted to Prohibit and/or Significantly Limit Weighted Lotteries for Educationally Disadvantaged Students
Alaska	×			
Arizona				×
Arkansas		×	×	
California			×	
Colorado	×			
Connecticut			×	
Delaware			×	
District of Columbia				×
Florida				×
Georgia		×	×	
Hawaii			×	×
Idaho				×
Illinois			×	
Indiana				×
Kansas	×			
Louisiana		×	×	
Maine				×
Maryland	×			
Massachusetts			×	
Michigan				×
Minnesota				×

State	State Law Permits Admissions Preferences for Educationally Disadvantaged Students	State Law Mandates Admissions Preferences for Reasons Other than Educational Disadvantage	State Law Permits Admissions Preferences for Reasons Other than Educational Disadvantage	State Law Permits Schools to Limit Admissions to Educationally Disadvantaged Students Based on the School's Focus
Mississippi		x	x	
Missouri	x			
Nevada	x	x		x
New Hampshire				x
New Jersey		x	x	x
New Mexico		x		
New York	x	x		
North Carolina		x	x	x
Ohio		x	x	x
Oklahoma		x		
Oregon			x	
Pennsylvania		x	x	x
Rhode Island			x	
South Carolina		x	x	
Tennessee	x	x	x	
Texas		x	x	
Utah	x	x		
Virginia				
Washington		x		
Wisconsin		x		
Wyoming				

State	State Law Is Silent on Admissions Preferences	State Law Expressly Permits Weighted Lotteries	State Law May Be Interpreted to Permit Weighted Lotteries for Educationally Disadvantaged Students	State Law May Be Interpreted to Prohibit and/or Significantly Limit Weighted Lotteries for Educationally Disadvantaged Students
Mississippi			×	
Missouri			×	×
Nevada			×	
New Hampshire	×		×	
New Jersey			×	
New Mexico				
New York			×	
North Carolina			×	
Ohio			×	
Oklahoma				×
Oregon			×	×
Pennsylvania			×	
Rhode Island		×	×	
South Carolina				×
Tennessee			×	
Texas				×
Utah			×	
Virginia	×			
Washington				×
Wisconsin				×
Wyoming	×			

**STATE LAWS ON WEIGHTED LOTTERIES
AND ENROLLMENT PRACTICES:**

SUMMARY OF FINDINGS

Lauren E. Baum, Law Office of Lauren E. Baum, PC
and Civil Rights Solutions, LLC



Introduction

In January 2014, the U.S. Department of Education issued updated guidance that expanded the circumstances under which public charter schools receiving Charter Schools Program (CSP) funds may elect to use a weighted lottery in admissions. According to the guidance, public charter schools receiving CSP funds may now use weighted lotteries to give slightly better chances for admission to all or a subset of educationally disadvantaged students if state law permits the use of such weighted lotteries.

The requirement that state law specifically permit the use of weighted lotteries—as made clear in the analysis that follows—is particularly limiting. Few states have language that clearly permits weighted lotteries for public charter schools. The National Alliance is concerned that without individual state legislative or regulatory action, the guidance will likely yield few waivers.

As Congress considers reauthorization of the Elementary and Secondary Education Act (ESEA), the National Alliance has recommended changes to law to ensure that weighted lotteries are permitted unless state law specifically prohibits the practice. This legislative proposal would make it significantly easier for schools to take advantage of weighted lotteries as a means to serve more educationally disadvantaged students. ESEA legislation in the House and Senate includes the National Alliance’s recommendations.

This paper is intended to offer a state-by-state analysis of whether weighted lotteries are permitted or may be permitted under current guidance from the Department of Education. As the reader will notice, in most cases this paper does not offer a straightforward answer to the question of whether weighted lotteries are allowable in a state, as that analysis often involves an examination of several factors and related laws and regulations that cannot be captured in this overview of state law and policy. However, the paper does offer considerations for how to proceed with such an evaluation, particularly in the majority of states where the answer is not immediately obvious.

Furthermore, this paper includes an appendix with references to the relevant state statutes and regulations to help guide the reader’s analysis of the applicability of weighted lotteries in a certain jurisdiction. In addition to reviewing state statutes, readers should also explore additional resources for supplementary, helpful information (e.g., state departments of education websites). Please note, however, that, given the ever-evolving landscape of this issue, the regulations or statutes outlined in this paper may have changed since our research began.

Background

In January 2014, the Department of Education issued updated nonregulatory guidance regarding the CSP authorized under the ESEA. One of the major changes to this guidance was the stance taken by the Department of Education with respect to the use of weighted lotteries in public charter school admissions. Specifically, the guidance expanded the circumstances under which public charter schools receiving CSP funds may use weighted lotteries in admissions.

Weighted lotteries may now be used under three circumstances:¹

- When necessary to comply with Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990, as applicable; the equal protection clause of the Constitution; or applicable state law;
- To give a slightly better chance for admission to students seeking to change schools under the public school choice provisions of Title I, Part A of the ESEA for the limited purpose of providing greater choice to students covered by those provisions; and
- To give slightly better chances for admission to all or a subset of educationally disadvantaged students *if state law permits* the use of such weighted lotteries.

An individual public charter school may use such weighted lotteries only if its state law permits. This permission could come from state public charter school law, state regulation, or written state policy. In the absence of express authorization, written confirmation from the state's attorney general interpreting state law to permit the use of weighted lotteries would be required.

The Department of Education's guidance provides further clarity that will be helpful to states and schools in determining whether and how to allow and use weighted lotteries for educationally disadvantaged students:

- First, the guidance indicates that the term "educationally disadvantaged students" includes students who are economically disadvantaged, students with disabilities, migrant students, limited-English-proficient students,

neglected or delinquent students, and homeless students.

- Second, the guidance prohibits the use of weighted lotteries for the purpose of creating schools exclusively to serve a particular subset of students. The Department of Education strongly encourages public charter schools that use weighted lotteries to do so as part of a broader strategy that includes fulfillment of their existing responsibilities related to outreach, recruitment, and retention for all students, including educationally disadvantaged students.
- Third, the guidance defines "weighted lotteries" as "lotteries that give additional weight to individual students who are identified as part of a specified set of students, but do not reserve or set aside seats for individual students or sets of students." This is a contrast to how the Department of Education previously defined weighted lotteries. The guidance issued in April 2011 defined "weighted lotteries" as "lotteries that give preference to one set of students over another."

The Department of Education's guidance further details how existing grantees who wish to use, or allow public charter schools receiving CSP funds to use, weighted lotteries under these circumstances must seek approval from the Department to do so by amending its grant application. Request for approval must include the following:²

- 1) Information concerning the circumstances in which a weighted lottery would be used, including the specific categories of students the weighted lottery would favor;
- 2) Evidence that:
 - a) When seeking approval to use weighted lotteries under the first circumstance described above,³ the use of weighted lotteries is necessary to comply with federal or state law; or
 - b) When seeking approval to use weighted lotteries under the second or third circumstances described above,⁴ state law permits such use, which could be evidenced by the fact that weighted lotteries for such students are expressly permitted under the

1 See U.S. Department of Education, Charter Schools Program, Title V, Part B of ESEA, Nonregulatory Guidance, Section E-3 (January 2014).

2 See U.S. Department of Education, Charter Schools Program, Title V, Part B of ESEA, Nonregulatory Guidance, Section E-3a (January 2014).

3 When necessary to comply with Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990, as applicable; the equal protection clause of the U.S. Constitution; or applicable state law.

4 To give a slightly better chance for admission to students seeking to change schools under the public school choice provisions of Title I, Part A of the ESEA for the limited purpose of providing greater choice to students covered by those provisions, or to give slightly better chances for admission to all or a subset of educationally disadvantaged students if state law permits the use of such weighted lotteries.

state public charter school law, a state regulation, or a written state policy consistent with the state public charter school law or regulation, or, in the absence of express authorization, confirmation from the state's attorney general, in writing, that state law permits the use of weighted lotteries in favor of such students;

- 3) Information concerning the mechanisms that exist (if any) for an oversight entity (e.g., the SEA⁵ or an authorized public chartering agency) to review, approve, or monitor specific lottery practices, including establishment of weight amounts if applicable;
- 4) Information concerning how the use of a weighted lottery for a permitted purpose is within the scope and objectives of the approved project; and
- 5) Information concerning the amount or range of lottery weights that will be employed or permitted and the rationale for these weights.

An applicant for future CSP competitions that wishes to use a weighted lottery should provide the pertinent information about its proposed lottery in its grant application.

The guidance also clarifies that the following categories of applicants may be exempted⁶ from the lottery, consistent with state law:

- 1) Students who are enrolled in a public school at the time it is converted into a public charter school;
- 2) Students who are eligible to attend, and are living in the attendance area of, a public school at the time it is converted into a public charter school;
- 3) Siblings of students already admitted to or attending the same public charter school;
- 4) Children of a public charter school's founders, teachers, and staff (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment); and
- 5) Children of employees in a worksite public charter school (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment).

The majority of state public charter school laws and regulations governing public charter school admissions make no mention of weighted lotteries, but do allow for a variety of

admission preferences to be used. Unfortunately, the term "preference" is not defined in law. In many states, a preference exempts students from the lottery. In other states, a preference gives certain students priority over others in the lottery. Given that there is no legal definition for the term, preference could be interpreted broadly such that a number of mechanisms for affording students preference may exist. These mechanisms may include, but are not limited to, exempting students from the lottery, or giving students priority through the use of weighted lotteries or through other means such as holding multiple lotteries or setting aside seats for certain groups of students. Whether the term "preference" includes the use of weighted lotteries will be an important point of interpretation for states that do not expressly permit the use of weighted lotteries.

Findings

State law on the use of weighted lotteries varies. This document answers the following questions:

- What states expressly permit the use of weighted lotteries, and under what circumstances?
- What states expressly prohibit the use of weighted lotteries?
- What states leave the door open for the use of weighted lotteries, subject to legal interpretation?
- What states expressly permit the use of admission preferences for educationally disadvantaged students?
- What states permit public charter schools to hold multiple lotteries, set aside seats, or otherwise limit admissions on behalf of educationally disadvantaged students?

⁵ State Education Agency

⁶ An exemption would allow a student to be enrolled without going through the lottery. Students eligible for exemptions would be enrolled prior to the lottery. All other applicants who are not eligible for an exemption would be included in the lottery when the public charter school is oversubscribed.

States That Expressly Permit Weighted Lotteries (Four States)

Only four states even use the term “weighted lottery” in their public charter school law and/or regulations governing public charter school admissions. Each of those four states permits the use of weighted lotteries under certain conditions.

- **Arkansas**

Arkansas permits the use of weighted lotteries “when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation.”

Arkansas law also permits public charter schools to adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to public charter schools. The use of weighted lotteries for educationally disadvantaged students is definitely permitted if necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the 14th Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation. In light of the Department of Education’s updated guidance, weighted lotteries may also now be permitted for educationally disadvantaged students more generally, if done so in a way that is consistent with the updated guidance, given that Arkansas law also permits public charter schools to adopt admissions policies that are consistent with federal guidance applicable to public charter schools.

- **Georgia**

Georgia law was amended during the 2015-2016 regular legislative session through H.B. 474 to provide, among other things, for enrollment priorities in public charter schools for educationally disadvantaged students. Georgia law now expressly permits the use of a weighted lottery for educationally disadvantaged students. “Educationally disadvantaged students” are defined as

students who are economically disadvantaged, students with disabilities, migrant students, limited-English-proficient students, neglected or delinquent students, and homeless students, as defined by state law and policy as well as federal guidelines and regulations.

Georgia’s law was amended after the Department of Education’s weighted lottery guidance was published. Georgia’s legislative changes can serve as a model for other states that are considering changes to their laws in light of the Department’s guidance on weighted lotteries.

- **Louisiana**

Louisiana requires public charter schools to conduct lotteries in a way that ensures compliance with all at-risk student population requirements, and expressly permits the use of a weighted lottery to ensure that these requirements are met. Louisiana law defines an “at-risk” student as any student about whom at least one of the following is true: (a) is eligible to participate in the federal free or reduced lunch program by demonstrating that he or she meets the income requirements established for participation in the program, not necessarily by participating in the program; (b) is under the age of 20 and has been withdrawn from school prior to graduation for not less than one semester; (c) is under the age of 20 and has failed to achieve the required score on any portion of the examination required for high school graduation; (d) is in the eighth grade or below and is reading two or more grade levels below grade level as determined by one or more of the tests required pursuant to R.S. 17:24.4; (e) has been identified as a student with an exceptionality as defined in R.S. 17:1942, not including gifted and talented; or (f) is the mother or father of a child.

- **Rhode Island**

Rhode Island permits the use of weighted lotteries if the state commissioner of education deems it necessary to fulfill statutory requirements.

States That Expressly Prohibit the Use of Weighted Lotteries (No States)

No states expressly prohibit the use of weighted lotteries, but a state’s treatment of admissions preferences could be interpreted to exclude the use of weighted lotteries.

An analysis of state treatment of admissions preferences is further discussed below.

State Statutes That May Be Interpreted to Prohibit the Use of Weighted Lotteries (16 States⁷)

States That Expressly Require Lotteries in Which Each Student Is Given Equal Weight (Four States)

While all states require the use of a lottery when a school is oversubscribed, some states go a step further to require lotteries in which each student is given equal weight. In these states, absent some explicit exception permitting the use of weighted lotteries, use of weighted lotteries would not be permissible because a weighted lottery results in some students being given more weight in the lottery than others.⁸

- **Florida**
All applicants “shall have an equal chance of being admitted”; students with disabilities and students served in ESOL⁹ programs shall have an “equal opportunity of being selected for enrollment”; admission criteria “shall not have the effect of restricting access by persons of a particular race, ethnicity, national origin, gender, or disability.”
- **Indiana**
Each applicant “must be given an equal chance of admission,” except that certain preferences are permitted (not for educationally disadvantaged students).
- **Maine**
Students in the lottery must have “an equal chance of being selected for enrollment.”
- **Missouri**
The public charter school admission process must ensure all applicants “an equal chance of gaining admission,” with the exception of certain permissible preferences.

States That Expressly Prohibit Preferences beyond Those Authorized by Law (Four States)

Four states expressly prohibit the use of admissions preferences beyond those explicitly permitted by law. These state statutes leave no room for interpretation that would result in allowable use of preferences or weighted lotteries for any subset of students.

- **Indiana**
The only preferences that may be given are to students who have attended the school in the previous school year and to siblings of enrolled students, provided that seats are available in the applicable grade level.
- **Minnesota**
Public charter schools may not establish any criteria or requirements for admission that are inconsistent with the law’s provisions regarding admissions.
- **South Carolina**
Public charter schools may not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of a single-gender public charter school.
- **Washington**
Public charter schools may not limit admission on any basis other than age group, grade level, or capacity. A public charter school is open to any student regardless of residence.¹⁰

States Statutes That May Be Interpreted to Significantly Limit the Opportunity to Use Preferences for Educationally Disadvantaged Students, Even If Such Preferences Were Permissible (Five States)

A handful of states expressly prohibit public charter schools from limiting admission based on certain characteristics. Although these states do not necessarily prohibit the use of preferences or weighted lotteries for educationally disadvantaged students, these provisions would significantly limit the ability of public charter schools to use such preferences.

- **Arizona**
Arizona law prohibits public charter schools from limiting admission based on ethnicity, national origin, income level, disabling condition, or proficiency in the English language. Given that admissions may not be limited on these bases, preferences for students who are economically disadvantaged, students with disabilities, migrant

⁷ Indiana falls under two of the categories listed below, making the total number of states whose statutes may be interpreted to prohibit the use of weighted lotteries 16 rather than 17.

⁸ Georgia generally requires the use of a lottery in which each student is given equal weight, but an explicit exception was added to the law during the 2015-2016 regular legislative session through H.B. 474 to provide for, among other things, use of a weighted lottery for educationally disadvantaged students.

⁹ English for Speakers of Other Languages.

¹⁰ Washington law permits the formation of a public charter school whose mission is to offer a specialized learning environment and services for particular groups of students, such as at-risk students, students with disabilities, or students who pose such severe disciplinary problems that they warrant a specific educational program.

students, and limited-English-proficient students would not be permissible.

- **District of Columbia**

District of Columbia law prohibits public charter schools from limiting enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual ability, measures of achievement or aptitude, or status as a student with special needs. Given that enrollment may not be limited on these bases, preferences for migrant students and limited-English-proficient students would not be permissible. The District of Columbia amended its law in 2014 to permit preferences for students with individualized educational programs (IEPs) or students in a disability category pursuant to Individuals with Disabilities Education Act (IDEA), in order to facilitate the planning, development, and maintenance of high-quality special education programs in the District of Columbia.

- **Hawaii**

Hawaii law prohibits public charter schools from limiting admission based on race, color, ethnicity, national origin, income level, disability, level of proficiency in the English language, need for special education services, or academic ability. As such, preferences or the use of weighted lotteries for students with disabilities, migrant students, limited-English-proficient students, and economically disadvantaged students would not be permissible.

- **Oklahoma**

Oklahoma law prohibits public charter schools from limiting admission on the basis of ethnicity, national origin,

gender, income level,¹¹ disabling condition, proficiency in the English language, measures of achievement, or aptitude. Given that enrollment may not be limited on these bases, preferences for students with disabilities, migrant students, limited-English-proficient students, and economically disadvantaged students would not be permissible.

- **Oregon**

Oregon law prohibits public charter schools from limiting student enrollment based on race, ethnicity, national origin, disability, income level, or English proficiency. Given that enrollment may not be limited on these bases, preferences for students with disabilities, migrant students, limited-English-proficient students, and economically disadvantaged students would not be permissible.

States That Otherwise Seem to Limit Preferences to Those Expressly Authorized (Four States)

There are a handful of states whose laws do not appear to leave much, if any, room for interpretation that would permit preferences beyond those explicitly authorized by law. The laws in these states, as currently written, would likely not be interpreted to allow weighted lotteries for educationally disadvantaged students. These states are:

- Idaho;
- Michigan;
- Texas;¹² and
- Wisconsin.

States That Are Silent on Preferences (Seven States)

Several states have public charter schools laws and regulations that are silent on whether any preferences are permitted in public charter school admissions. As a result, it may be difficult to interpret these states' laws as permitting weighted lotteries for educationally disadvantaged students. Alternatively, the lack of an express prohibition on the use of preferences such as a weighted lottery could leave the door open for their permissibility. These states are:

- Alaska;
- Colorado;¹³
- Kansas;
- Maryland;
- New Hampshire;
- Virginia; and
- Wyoming.

11 Oklahoma law allows public charter schools to designate attendance zones where the attendance zone is a geographic area in which 60 percent or more of the children in the area qualify for free or reduced-priced lunch.

12 Campus or Campus Program Charter Schools in Texas may be permitted to give preference to educationally disadvantaged students under certain conditions, but open enrollment public charter schools likely cannot.

13 The Colorado Department of Education (CDE) successfully amended its CSP grant to provide for weighted lotteries after the Department of Education's January 2014 guidance was issued. In doing so, CDE provided evidence that Colorado law allows for the use of weighted lotteries through a letter from the state's attorney general.

State Statutes That May Be Interpreted to Permit the Use of Weighted Lotteries (19 States¹⁴)

A number of state statutes and regulations leave the door open for interpretation that would result in approval of the use of weighted lotteries for educationally disadvantaged students. In these states, preferences for all or a subset of educationally disadvantaged students may be permitted. A permissible preference could then be extrapolated into approval of the use of a weighted lottery as a mechanism for affording students that preference.

Because these states do not expressly authorize the use of weighted lotteries, the Department of Education will require a written state policy or written confirmation from the state's attorney general that the state's law sanctions the use of weighted lotteries.

States That Expressly Permit the Use of Admissions Preferences for Educationally Disadvantaged Students, Which Could Result in Permissible Use of Weighted Lotteries, Subject to Legal Interpretation (Seven States)

Some states do expressly permit the use of preferences for various subsets of educationally disadvantaged students. It is unclear from the CSP guidance whether the Department of Education takes the position that a weighted lottery is a form of preference. If so, then a written state policy or written confirmation from the state's attorney general may not be necessary for states where law expressly authorizes use of preferences for educationally disadvantaged students. Unless otherwise noted, these state laws could be interpreted to permit the use of weighted lotteries because they permit preferences.

- **Delaware**
The state allows preferences for students at risk of academic failure.
- **Illinois**
Cities with populations exceeding 500,000 may create attendance boundaries for up to one-third of their public charter schools if the board of education determines that attendance boundaries are needed to relieve overcrowding or to better serve low-income and at-risk students, and students residing in those attendance boundaries may be given priority for enrollment.

Public charter schools with a mission exclusive to educating high school dropouts may grant priority admission to high school dropouts and/or students age 15 or 16 who are at risk of dropping out; a minimum of 90 percent of students enrolled must be high school dropouts.

- **Missouri**
Public charter alternative and special-purpose schools may give preference to high-risk students when a school targets these students through its mission, curriculum, teaching methods, and services.
- **New York¹⁵**
The state may establish enrollment preferences for students at risk of academic failure, students with disabilities, and English language learners.
- **Nevada**
The state allows preferences for students in a particular category of at-risk students who meet the eligibility for enrollment prescribed by the public charter school for that particular category.
- **Tennessee**
Tennessee law mandates preferences for students whose needs are included in the area in which the public charter school will focus. The law therefore may be interpreted to require the use of preferences for educationally disadvantaged students if the school is designed to serve such students.
- **Utah**
A school whose mission is to enhance learning opportunities for refugees may give preference to refugees or their children; a school whose mission is to enhance learning opportunities for English Language Learners (ELLs) may give enrollment preference to ELLs.

States That Permit Public Charter Schools to Limit Admissions to Educationally Disadvantaged Students (Nine States)

There are no states that expressly permit public charter schools to hold multiple lotteries or set aside seats for educationally disadvantaged students. However, there are a number of states that expressly permit public charter

¹⁴ Several states fall under more than one of the categories listed below, making the total number of states whose statutes may be interpreted to permit the use of weighted lotteries 19 rather than 27.

¹⁵ New York has submitted a grant amendment to allow for the use of a weighted lottery for at-risk applicants, but that amendment has not yet been approved by the Department of Education.

schools to limit admission to educationally disadvantaged students depending on the school's focus. These state laws do not define what it means to limit admission to such students. Use of a preference such as a weighted lottery could be effective in limiting enrollment to such students. Accordingly, state law may be interpreted to permit the use of weighted lotteries on this basis. However, states should be cautious in doing so in order to maintain CSP fund eligibility.

Public charter schools may not be eligible for CSP funds if they use weighted lotteries that reserve or set aside seats for students or if they use weighted lotteries for the purpose of creating schools exclusively to serve a particular subset of students. Allowing schools to use weighted lotteries to limit admission exclusively to certain sets of students will be problematic. States should issue policies clarifying how such limitations are to be imposed. These policies should address whether public charter schools can reserve or set aside seats for students, whether they can limit admission to only certain sets of students, and whether weighted lotteries can be used to provide preferences for certain sets of students without limiting admission to only those students. It will also be important for these states to notify public charter schools of the potential implications that their admissions policies might have on their eligibility for CSP funds.

States that allow public charter schools to limit admissions based on their focus are listed below.¹⁶

- **Connecticut**
Public charter schools may limit enrollment to a particular specialized educational focus.
- **Illinois**
Any public charter school with a mission exclusive to educating students from low-performing or overcrowded schools may restrict admission to students who are from low-performing or overcrowded schools.
- **Louisiana**
Public charter schools may impose admissions requirements related to their mission as long as students are not excluded on the basis of race, religion, gender, ethnicity, national origin, intelligence level, or disability.
- **New Hampshire**
Public charter schools may limit enrollment to pupil needs or areas of academic focus, including but not limited to at-risk pupils, vocational education pupils, mathematics, science, the arts, history, or languages.

These schools may select students based on aptitude, academic achievement, or need, provided that such selection is directly related to the academic goals of the school.

- **New Jersey**
Public charter schools may limit admission to the areas of concentration of the school, such as mathematics, science, or the arts.
- **Nevada**
Public charter schools may be dedicated to providing educational services exclusively to students with disabilities; students who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a public charter school specifically designed to serve a single gender, that emphasizes personal responsibility and rehabilitation; or students who are at risk.
- **North Carolina**
Law states that except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. This suggests that a public charter school may limit admission on these bases if consistent with the school's mission.¹⁷
- **Ohio**
Public charter schools may limit enrollment to students who are at risk, residents of a specific geographic area, or separate groups of autistic students and nondisabled students.
- **Pennsylvania**
Public charter schools may limit admission to a targeted population group composed of at-risk students, or areas of concentration of the school such as mathematics, science, or the arts.

States That Allow Other Enrollment Preferences beyond Those Expressly Permitted (Four States)

A number of states do not expressly permit the use of preferences for educationally disadvantaged students, but their laws allow other enrollment preferences beyond those expressly permitted, subject to approval. These laws leave

¹⁶ Florida allows public charter schools to limit admissions to at-risk students, but since Florida law expressly requires that each student in the lottery be given equal weight, it is unlikely that Florida law could be interpreted to allow for the use of weighted lotteries.

¹⁷ North Carolina's Office of Charter Schools' guidance states that public charter schools cannot include questions about a student's IEP, race, gender, or Grade Point Average (GPA) on the enrollment application.

the door open to the use of preferences for educationally disadvantaged students, subject to authorizer approval.

- **California**

California law permits the use of “other preferences” if approved by the chartering authority on an individual school basis and if consistent with the law. However, preferences for educationally disadvantaged students may be significantly limited. Guidance issued in California suggests that preferences on the basis of race/ethnicity, ELL status, migrant status, and nationality are not permitted, but preference based on free/reduced-price meal qualification may be permitted. As such, permissible preferences for educationally disadvantaged students will be limited to students who are economically disadvantaged, students with disabilities, neglected or delinquent students, and homeless students.

- **Connecticut**

Connecticut law allows public charter schools to apply to the state board of education for a waiver of the enrollment lottery requirements if the school’s primary purpose is to serve one or more of the following populations: students with a history of behavioral and social difficulties, students identified as requiring special education, or students who are English language learners. This could result in permission for some schools to use a weighted lottery for some subsets of educationally disadvantaged students.

- **Hawaii**

Hawaii law permits other enrollment preferences approved by the authorizer if consistent with law, and also permits the establishment of public charter schools whose mission is to serve certain subsets of educationally disadvantaged students. However, public charter schools may not limit admission based on race, color, ethnicity, national origin, income level, disability, level of proficiency in the English language, need for special education services, or academic ability. This would leave the door open for preferences for only neglected, delinquent students, or homeless students.

- **Oregon**

Oregon law permits the state board of education to grant a waiver of any provision of Oregon public charter school law if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students, or permits high-quality programs of unusual cost. This could open the door to preferences for educationally disadvantaged students. Oregon law prohibits public charter schools from limiting enrollment

based on race, ethnicity, national origin, disability, income level, or English proficiency. This would leave the door open for preferences for neglected, delinquent, or homeless students.

States Whose Laws Express a Specific Intent to Ensure Access and Opportunities for Educationally Disadvantaged Students, and Therefore May Be Interpreted to Permit Use of Weighted Lotteries for Educationally Disadvantaged Students (Six States)

There are a number of states that do not expressly permit or prohibit the use of preferences for educationally disadvantaged students, but other statutory and/or regulatory provisions suggest that each state intends to guarantee access and opportunities for educationally disadvantaged students. This intent could lead these states to permit the use of preferences, and therefore weighted lotteries, for such students.

- **Massachusetts**

Massachusetts law mandates that schools must have recruitment and retention plans that include deliberate, specific strategies that the school will use to attract, enroll, and retain a student population that has a comparable demographic profile to schools from which the public charter school is expected to enroll students. Specific demographic comparisons are noted for special education students, limited-English-proficient students, students eligible for free and reduced-price lunch, students who are subproficient on state testing, students who are determined to be at risk of dropping out of school, students who have dropped out of school, or other at-risk students who should be targeted in order to eliminate achievement gaps.

- **Mississippi**

Mississippi law states that admission and enrollment provisions are not intended to preclude the formation of a public charter school whose mission is focused on serving students with disabilities, students who pose such severe disciplinary problems that they warrant a specific educational program, or students who are at risk of academic failure. However, Mississippi law does not permit such schools to limit enrollment to students based on their mission. Rather, a Mississippi public charter school must be open to all students in the school district boundaries where the school is located and students must be selected through a lottery if capacity is insufficient to enroll all applicants. Additionally, Mississippi law requires underserved student enrollment to be at least 80 percent of the enrollment of students

attending the school district in which the public charter school is located.

- **New Hampshire**

New Hampshire law allows public charter schools to select students on the basis of aptitude, academic achievement, or need, provided that such selection is directly related to the academic goals of the school. The law therefore may be interpreted to allow for the use of preferences for educationally disadvantaged students if the school is designed to serve such students.

- **New Jersey**

New Jersey law requires public charter schools to seek enrollment of a cross section of the community's school age population, including racial and academic factors. The law does not expressly prohibit the establishment of preferences for students on these bases, nor is there any express prohibition against the use of weighted lotteries. Thus, preferences may be permitted as a way to meet demographic targets.

- **New York**

New York law requires public charter schools to demonstrate good-faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students who are eligible applicants for free and reduced-priced lunch as compared to the school district in which the public charter school is located. Thus, preferences may be permitted as a way to meet demographic targets.

- **Nevada**

Nevada law states that nothing in the provisions related to student admissions should be interpreted to preclude the formation of a public charter school that is dedicated to providing educational services exclusively to pupils with disabilities, who pose severe disciplinary problems, or who are at risk. The law therefore may be interpreted to allow for the use of preferences for educationally disadvantaged students if the school is designed to serve such students.

Preferences for Reasons Other Than Educational Disadvantage

A significant number of states permit or mandate some sort of preference for reasons other than educational disadvantage. These preferences may be for siblings, children of founders, board members and/or employees, etc. How these preferences are administered may be relevant in interpreting whether weighted lotteries are permissible as a form of preference in these states.

States That Permit Admissions Preferences for Reasons Other Than Educational Disadvantage (24 States)

- Arizona
- Arkansas
- Connecticut
- Delaware
- District of Columbia
- Florida
- Georgia
- Hawaii
- Idaho
- Indiana
- Louisiana
- Maine
- Michigan
- Minnesota
- Mississippi
- New Jersey
- North Carolina
- Ohio
- Oregon
- Pennsylvania
- Rhode Island
- South Carolina
- Tennessee
- Texas

States That Mandate Preferences for Reasons Other Than Educational Disadvantage (26 States)

- Arizona
- California
- District of Columbia
- Florida
- Hawaii
- Idaho
- Illinois
- Louisiana
- Maine
- Massachusetts
- Minnesota
- Mississippi
- New Jersey
- New Mexico
- New York
- Nevada
- North Carolina
- Ohio
- Oklahoma
- Pennsylvania
- South Carolina
- Tennessee
- Texas
- Utah
- Washington
- Wisconsin

Conclusions

It is clear that most state public charter school laws do not expressly authorize the use of weighted lotteries for educationally disadvantaged students. These states will need to consider adopting written state policies approving the use of such lotteries, if consistent with state law, or each state's attorney general will need to issue an opinion interpreting state law to permit their use.

One critical legal question will be whether a preference permitted by law can give rise to use of a weighted lottery. A weighted lottery could be deemed one type of preference and therefore would be sanctioned in states that permit preferences.

**STATE LAWS ON WEIGHTED LOTTERIES
AND ENROLLMENT PRACTICES:**

APPENDIX

Lauren E. Baum, Law Office of Lauren E. Baum, PC
and Civil Rights Solutions, LLC

ALABAMA – N/A

ALASKA

State Statute – Alaska Statutes

AS 14.03.265

(a) The program of a charter school may be designed to serve

- (1) students within an age group or grade level;
- (2) students who will benefit from a particular teaching method or curriculum; or
- (3) nonresident students, including providing domiciliary services for students who need those services, if approved by the board.

(b) A charter school shall enroll all eligible students who submit a timely application, unless the number of those applications exceeds the capacity of the program, class, grade level, or building. In the event of an excess of those applications, the charter school and the local school board shall attempt to accommodate all of those applicants by considering providing additional classroom space and assigning additional teachers from the district to the charter school. If it is not possible to accommodate all eligible students who submit a timely application, students shall be accepted by random drawing. A school board may not require a student to attend a charter school.

State Regulations – N/A

Other Guidance

Alaska Department of Education and Early Development “Questions and Answers about Charter Schools”

A charter school can be designated to serve...students who will benefit from a particular teaching method or curriculum. The charter school and local school board need to define...who will benefit from the program. All eligible students may apply to the charter school.

ARIZONA

State Statute – Arizona Revised Statutes

ARS 15-184

A. A charter school shall enroll all eligible pupils who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building.

- B. A charter school shall give enrollment preference to pupils returning to the charter school in the second or any subsequent year of its operation and to siblings of pupils already enrolled in the charter school.
- C. A charter school that is sponsored by a school district governing board shall give enrollment preference to eligible pupils who reside within the boundaries of the school district where the charter school is physically located.
- D. A charter school may give enrollment preference to and reserve capacity for pupils who either:
1. Are children, grandchildren or legal wards of any of the following:
 - (a) Employees of the school.
 - (b) Employees of the charter holder.
 - (c) Members of the governing body of the school.
 - (d) Directors, officers, partners or board members of the charter holder.
 2. Attended another charter school or are the siblings of that pupil if the charter school previously attended by the pupil has the identical charter holder, board and governing board membership as the enrolling charter school or is managed by the same educational management organization, charter management organization or educational service provider as determined by the charter authorizer.
- E. If remaining capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall select pupils through an equitable selection process such as a lottery except that preference shall be given to siblings of a pupil selected through an equitable selection process such as a lottery.
- F. Except as provided in subsections A through D of this section, a charter school shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language or athletic ability.
- G. A charter school may limit admission to pupils within a given age group or grade level.
- H. A charter school may provide instruction to pupils of a single gender with the approval of the sponsor of the charter school. An existing charter school may amend its charter to provide instruction to pupils of a single gender, and if approved by the sponsor of the charter school, may provide instruction to pupils of a single gender at the beginning of the next school year.

- I. A charter school shall admit pupils who reside in the attendance area of a school or who reside in a school district that is under a court order of desegregation or that is a party to an agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination unless notice is received from the resident school that the admission would violate the court order or agreement. If a charter school admits a pupil after notice is received that the admission would constitute such a violation, the charter school is not allowed to include in its student count the pupils wrongfully admitted.
- J. A charter school may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

State Regulation – N/A

Additional Guidance – N/A

ARKANSAS

State Statute – Arkansas Code Annotated

A.C.A. § 6-23-306

An open-enrollment public charter granted under this subchapter shall:

(6) Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

- (A) The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;
 - (B) The open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and
 - (C) The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with this title;
- (14)** (A) Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

(B) (i) (a) Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

(b) (1) If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

(2) The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a) (1) Children of the founding members of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the equal protection clause of the Fourteenth Amendment to the United States Constitution.

State Regulations – Arkansas Department of Education Rules Governing Public Charter Schools

6.07 Contents of Open-Enrollment Public Charters

6.07.1 An open-enrollment public charter granted by the authorizer shall:

6.07.1.6 Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

6.07.1.6.1 The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;

6.07.1.6.2 Consistent with the requirements of Section 6.07.1.14.3 of these rules, the open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal civil rights act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order or a federal or state law requiring desegregation; and

6.07.1.6.3 The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with Title 6 of the Arkansas Code.

6.07.1.14 Specify the methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

6.07.1.14.1 Except as provided in Section 6.07.1.14.2 of these rules, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

6.07.1.14.1 If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

6.07.1.14.1.2 The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

6.07.1.14.2 However, an open-enrollment public charter school may allow a preference for:

6.07.1.14.2.1 Children of the founding members of the eligible entity. The number of enrollment preferences granted to children of founding members shall not exceed then percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

6.07.1.14.2.2 Siblings of students currently enrolled in the open-enrollment public charter school.

6.07.1.14.3 The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

6.07.1.14.3.1 Federal court order; or

6.07.1.14.3.2 Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972 and the equal protection clause of the Fourteenth Amendment to the United States Constitution.

Other Guidance – N/A

CALIFORNIA

State Statute – California Education Code

Section 47605

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Section 220.

Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) If the number of pupils who wish to attend the charter school exceeds the school's capacity,

attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

Section 47605.3.

Notwithstanding subdivision (d) of Section 47605, a charter school with a school site physically located in the attendance area of a public elementary school in which 50 percent or more of the pupil enrollment is eligible for free or reduced price meals may give a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter school site is located. This section is not intended to affect the requirement contained in subdivision (d) of Section 47605 that a public school converting partially or entirely to a charter school adopt and maintain a policy that gives an admission preference to pupils who reside within the former attendance area of that public school.

State Regulations – N/A

Other Guidance –

Santa Clara Office of Education Charter Schools Department FAQ

Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law. Ed. Code 47605

Enrolling students based upon their race, ethnicity or other characteristics is illegal. While charter schools may enroll pupils using legal preferences (i.e., previously enrolled, within district, etc.) racial/ethnic preferences are not legal.

LAUSD “Charter Schools’ Pre- and Post-Lottery Enrollment Forms Admissions Requirements and Materials”, 8/30/11

Student’s Race and/or Ethnicity

While charter schools may include this question on pre- and post-admission forms, they cannot require students to submit this information as a condition for admission without violating Education Code § 47505(d). Education Code § 47605(d) requires charter schools to admit all pupils who wish to attend the school and prevents charter schools from discriminating against any student on the basis of the identified characteristics, which include race or ethnicity. A student’s racial or ethnic status cannot have any bearing on

whether or not a student is admitted, although there may be legitimate grounds for seeking this information once he/she is admitted.

Student’s English Learner Status

While charter schools may include this question on pre- and post-enrollment forms, they cannot require students to submit this information as a condition for admission without violating Education Code § 47605. A student’s EL status cannot have any bearing on whether or not a student is admitted, although it will be relevant and necessary to the school’s evaluation of the educational needs and placement of the student once he/she is admitted.

Student’s Migrant Status

While charter schools may include this question on pre- and post-enrollment forms, they cannot require students to submit this information as a condition for admission without violating Education Code § 47605. Education Code § 47605(d) requires charter schools to admit all pupils who wish to attend the school and prevents charter schools from discriminating against any student on the basis of the identified characteristics which includes nationality. A student’s migrant status should have no bearing on whether or not a student is admitted.

Student’s Birthplace

While charter schools may include this question on pre- and post-enrollment forms, they cannot require students to submit this information as a condition for admission without violating Education Code § 47605. Education Code § 47605(d) requires charter schools to admit all pupils who wish to attend the school and prevents charter schools from discriminating against any student on the basis of those characteristics identified, including nationality.

Free/Reduced Price Meal Qualification

California law provides that preference in a charter school’s lottery may be given to children who qualify for free or reduced-price meals if approved by the chartering authority. As a result, if a charter school’s charter indicates that the school will give preference in the lottery to students who qualify for free or reduced-price meals, it is permissible to ask this question on a pre-admission application form so that the charter school can implement this preference in its lottery.

COLORADO

State Statute – Colorado Revised Statutes

CRS 22-30.5-104

(3) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services. A charter school shall be subject to any court-ordered desegregation plan in effect for the chartering school district. Enrollment in a charter school must be open to any child who resides within the school district; except that no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

State Regulations – Colorado Code of Regulations

1 CCR 301-88

2.02 Nondiscrimination:

- 2.02 (A) Charter Schools are subject to all federal and state laws regarding nondiscrimination. The Charter School provides evidence of annual training on nondiscrimination laws to employees and board members, and otherwise ensures that its board and leadership stay current on all relevant provisions.
- 2.02 (B) The Charter School provides access to services for students with disabilities and ensures that services are delivered to students with disabilities as required by federal and state law.
- 2.02 (C) The Charter School provides access to services for and appropriately serves other special populations of students, including English language learners, homeless students, and gifted students. The Charter School collaborates with its Charter School Authorizer to deliver appropriate services as required by federal and state law.
- 2.02 (D) The Charter School does not engage in or adopt discriminatory recruiting, marketing, or enrollment policies or practices. The Charter School strives for transparent and honest communication.
- 2.02 (E) The Charter School does not establish undue barriers to students applying for enrollment, such as mandated testing prior to acceptance, that have the effect of excluding students based on socioeconomic, family, or language background, prior academic performance, special education status, or parental involvement.
- 2.02 (F) The Charter School admits students through a publicly verifiable selection process that is either random in nature or first-come-first-served.
- 2.02 (G) The Charter School adopts enrollment practices

that ensure that enrollment decisions are non-discriminatory and consistent with the best interests of the student applicant. Such practices include a pre-enrollment admissions process that is in compliance with federal and state statutes, and that meets the following standards:

- 2.02 (G) (1) During the pre-enrollment admissions process, the Charter School, in consultation with the Charter School Authorizer, determines whether the Charter School is an appropriate placement for students with special needs, including but not limited to students with disabilities, English language learners, students with disciplinary history, and students who may pose a threat to the safety of themselves or other students.
- 2.02 (G) (2) The pre-enrollment admissions process requires, at a minimum, (i) a pre-enrollment admissions determination; (ii) prompt, collaborative, and individualized decisions in accordance with federal and state law; (iii) prompt record sharing; and (iv) fair and transparent decisions.
- 2.02 (G) (3) The Charter School annually reviews its discipline and enrollment records to ensure that its policies have been applied equitably to all students.

Other Guidance – Colorado Department of Education Request for Proposal for the Colorado Charter Schools Program Start-Up Grant, 2014-2015

Weighted Lotteries

Colorado has secured approval from the federal Charter Schools Program (CSP) to allow for the use of weighted lotteries by CCSP grant applicants according to the parameters outlined below.

This policy seeks to enable high quality charter schools to enroll and serve more educationally disadvantaged students in an effort to ensure all students in the state are ensured the opportunity to achieve state content standards, graduate from high school, and enter college or a career with the requisite knowledge and skills to succeed.

Colorado Charter Schools applying for a CSP subgrant may thus utilize a weighted lottery – defined as an individual school-based lottery or centralized lottery for multiple public schools that gives additional weight (eg. two or more chances to win the lottery) to students identified as part of a specified set of students, but that does not reserve or set aside seats for individual students or sets of students. For example, a charter school might provide each student in an identified category or set of students with two or more chances to win the lottery, while all other students would have only one chance to win.

The weighted lottery proposed by the school must only

utilize one or more of the approved categories below, and must be pre-approved by the grant applicant’s authorizer and the CDE Schools of Choice Process.

Category A: Weighted lotteries for schools within geographic school district with desegregation or federal/court orders issued to comply with title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; title II of the Americans with Disabilities Act of 1990, as applicable; the equal protection clause of the Constitution; or applicable State law. Weighted lotteries under this case would be allowed to be used only to address the specific deficiency and category of students outlined in the desegregation or federal/court order issued to them and/or their authorizer.

Category B: Provide additional weights within the lottery for students within one or more of the following sets or subsets of students:

- Students seeking to change schools under the public school choice provisions of title I, part A of the ESEA for the limited purpose of providing greater choice to students covered by those provisions.
- To all or a subset of educationally disadvantaged students that are described under section 1115(b)(2) of the ESEA, which include economically disadvantaged students (e.g., free or reduced priced lunch eligible students), students with disabilities (e.g., identified with an IEP), migrant students, English Language Learners, neglected or delinquent students, and homeless students.

Lottery policies where weights are used for student sets or subsets under Category B must identify the weight to be assigned to each set or subset of students and justify the use of such weight(s) in one of the following ways:

- When aligned to the school’s specific vision and mission to meet the needs of an allowable set or subset of students not currently served by existing high-quality schools in the area.
- When addressing specific targets to meet or exceed the geographic district’s or geographic area’s percentage of students in a set or subset of educationally disadvantaged students, or in the case of multi-district school meet or exceed state averages of such students.

Educationally Disadvantaged Student Subsets	Statewide population	Charter population
Economically Disadvantaged PK-12 (FRL Eligible)	41.9%	35.4%
Students with Disabilities (with IEP) PK-12	10.06%	6.22%
English Language Learners PK-12	14.45%	15.53%
Migrant Students PK-12	0.25%	0.09%
Homeless Students PK-12	1.91%	0.81%

Figures are official October pupil count figures for 2013-14.

Weighted lotteries may not be used for the purpose of creating schools exclusively to serve a particular subset of students. Utilizing a weighted lottery does not relieve a school from its existing responsibility under the Colorado CSP program to ensure a broad strategy of outreach, recruitment, and retention for all students, including educationally disadvantaged students.

Weighted lottery proposals should be included within the Lottery and Enrollment policy submitted by the school with their Eligibility Form and their subsequent CCSP Start-up Grant Application where they will be subject to review and approval on the basis of alignment to this policy and applicable federal CSP non-regulatory guidance, statute, and regulation.

Before any potential CCSP grant funds could be released, the school must demonstrate a signed and executed charter contract that includes the approved lottery and enrollment policy, and any subsequent amendment to the policy would require authorizer and CDE Schools of Choice approval.

What to include in your CCSP Grant Eligibility Form:

- A copy of any district or school desegregation or federal/court orders regarding which they are seeking to utilize a weighted lottery (if applicable).
- When seeking to utilize a weighted lottery, the Lottery and Enrollment Policy must include and address the following:
 - o Categories and Sets/Subsets of students to receive weights in lottery
 - o Amount of weights to be applied to each category/set/subset
 - o Rationale/justification for amount of weight to be applied to each category/set/subset (the amount of weight proposed needs to be based on actual

circumstances of the school/district and include an explanation and justification of how that particular weight is decided/justified).

- o Description of mechanism(s) and/or processes that will be utilized to carry out weighted lottery, including district oversight of process.
- o Sign-off from district and school certifying description provided adequately captures mechanisms that will be used to carry out the weighted lottery

its primary purpose the establishment of education programs designed to serve one or more of the following populations: (A) Students with a history of behavioral and social difficulties, (B) students identified as requiring special education, (C) students who are English language learners, or (D) students of a single gender.

- (2) An enrollment lottery described in subdivision (8) of subsection (d) of this section shall not be held for a local charter school that is established at a school that is among the schools with a percentage equal to or less than five per cent when all schools are ranked highest to lowest in school performance index scores, as defined in section 10-223e, as amended by this act. Subject to the provisions of subsection (b) of section 10-66dd, an application may include, or a charter school may file, requests to waive provisions of the general statutes and regulations not required by sections 10-66aa to 10-66ff, inclusive, as amended by this act, and which are within the jurisdiction of the State Board of Education.

CONNECTICUT

State Statute – Connecticut General Statutes

Sec. 10-66bb

(c)(3) The State Board of Education shall give preference to applicants for charter schools (A) whose primary purpose is the establishment of education programs designed to serve one or more of the following student populations: (i) Students with a history of low academic performance, (ii) students who receive free or reduced priced lunches pursuant to federal law and regulations, (iii) students with a history of behavioral and social difficulties, (iv) students identified as requiring special education, (v) students who are English language learners, or (vi) students of a single gender...

(d) Applications pursuant to this section shall include a description of:

(8) the student admission criteria and procedures to (A) ensure effective public information, (B) ensure open access on a space available basis, including the enrollment of students during the school year if spaces become available in the charter school, (C) promote a diverse student body, and (D) ensure that the school complies with the provisions of section 10-15c and that it does not discriminate on the basis of disability, athletic performance or proficiency in the English language, provided the school may limit enrollment to a particular grade level or specialized educational focus and, if there is not space available for all students seeking enrollment, the school may give preference to siblings but shall otherwise determine enrollment by a lottery, except the State Board of Education may waive the requirements for such enrollment lottery pursuant to subsection (j) of this section;

(j) (1) The governing council of a state or local charter school may apply to the State Board of Education for a waiver of the requirements of the enrollment lottery described in subsection (d) of this section, provided such state or local charter school has as

State Regulations – N/A

Other Guidance –

Connecticut State Department of Education “Charter School Questions and Answers”

Q. Who can attend a charter school?

A. Charter schools must allow open access to all students and may not discriminate on the basis of race, color, national origin, gender, religion, sexual preference, disability, athletic performance or proficiency in the English language. However, enrollment may be limited to particular grade levels. If more students apply than there are seats available, students are admitted by lottery. Charter schools may only give preference to siblings enrolled in the school. The governing council of a state or local charter school may apply to the State Board of Education for a waiver of the requirements of the enrollment lottery, provided the state or local charter school has at its primary purpose an educational program designed to serve one or more of the following populations: students with a history of behavioral and social difficulties; students identified as requiring special education; students who are English language learners; or students of a single gender.

Q. Must the SBE give any preferences in granting charters?

A. Yes. The SBE must give preference to applicants: whose primary purpose is the establishment of education programs designed to serve one or more of the

following student populations: students with a history of low academic performance; students who receive free or reduced-price lunches; students with a history of behavioral and social difficulties; students identified as requiring special education; students who are English language learners; students of a single gender...

Q. How selective can charter schools be as to admission?

A. Charter schools may not discriminate on the basis of race, color, national origin, gender, religion, sexual preference, disability, athletic performance or proficiency in the English language, but may limit enrollment to a particular grade level. In addition, charter schools may conceivably limit enrollment to particular towns in accordance with the mission enunciated. If there is not space available for all students seeking enrollment, preference may be given to siblings, but, otherwise, charter schools must determine enrollment by a lottery. The governing council of a state or local charter school may apply to the State Board of Education for a waiver of the requirements of the enrollment lottery, provided the state or local charter school has at its primary purpose an educational program designed to serve one or more of the following populations: students with a history of behavioral and social difficulties; students identified as requiring special education; students who are English language learners; or students of a single gender.

DELAWARE

State Statute – Delaware Code

Title 14, Chapter 5, § 506

(a) A charter school shall not:

(3) Restrict student admissions except:

- a. By age and grade;
- b. By lottery in the case of over-enrollment;
- c. By gender in the case of a same-gender school. (some other provisions related to same-gender school)

(4) Discriminate against any student in the admissions process because of race, creed, color, sex (except in the case of a same-gender school), handicap, or national origin, or because the student's school district of residence has a per student local expenditure lower than another student seeking admission; or

(5) Be formed to circumvent a court-ordered desegregation plan.

(b) Preferences in student admissions may be given to:

- (1) Siblings of students currently enrolled at the school;
- (2) Students attending an existing public school converted to charter status. Parents of students at a school converted to charter status shall be provided with a plan the district will use to address the educational needs of students who will not be attending the charter school;
- (3) Students enrolling in a new (nonconverted) charter school may be given preference under the following circumstances as long as the school has described its preferences in the school's charter:
 - a. Students residing within a 5-mile radius of the school;
 - b. Students residing within the regular school district in which the school is located;
 - c. Students who have a specific interest in the school's teaching methods, philosophy, or educational focus;
 - d. Students who are at risk of academic failure;
 - e. Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.
- (4) Children of a school's founders, so long as they constitute no more than 5% of the school's total student population. For the purposes of this paragraph "founder" shall not include anyone whose sole significant contribution to the school was monetary, but otherwise shall be determined by the founding Board of Directors subject to Department of Education regulations.

State Regulations – N/A

Other Guidance – N/A

DISTRICT OF COLUMBIA

State Statute - D.C. Code

§ 38-1802.06

- (a) Open enrollment. — Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e) of this section.
- (b) Criteria for admission. — A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude,

or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) Random selection. -- If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process, except that a preference in admission may be given to an applicant who is a sibling of a student already attending or selected for admission to the public charter school in which the applicant is seeking enrollment, or to an applicant who is a child of a member of the public charter school's founding board, so long as enrollment of founders' children is limited to no more than 10% of the school's total enrollment or to 20 students, whichever is less.

(c-1) (l) Random selection special education. -- If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted in accordance with subsection (c) of this section; provided, that with the prior approval of the Public Charter School Board, a preference in admission may also be given to an applicant with an IEP or an applicant in a disability category pursuant to IDEA, in order to facilitate the planning, development, and maintenance of high quality special education programs in the District of Columbia.

(2) A public charter school seeking to establish a preference for admission under this subsection shall apply to the Public Charter School Board no later than July 1 of the year before the proposed effective date of the lottery preference.

(3) In reviewing an application by a public charter school to establish a preference for admission under this subsection, the Public Charter School Board shall ensure that the proposed preference will increase educational opportunities for, and not adversely impact, students with disabilities.

(4) In approving an application by a public charter school to establish a preference for admission under this subsection, the Public Charter School Board shall make publicly available a written document that specifies the preference established and the reasons for granting the preference.

(d) (1) Admission to an existing school. -- A District of Columbia public school that has been approved to be converted to a charter school under § 38-1802.01 shall give priority in enrollment to:

(A) Students enrolled in the school at the time the

petition is granted;

(B) The siblings of students described in subparagraph (A) of this paragraph; and

(C) Students who reside within the attendance boundaries, if any, in which the school is located.

(2) A private or independent school that has been approved to be converted to a charter school under § 38-1802.01 may give priority in enrollment to the persons described in paragraph (1)(A) and (1)(B) of this subsection for a period of 5 years, beginning on the date its petition is approved.

(e) Nonresident students. -- Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

State Regulations – District of Columbia Municipal Regulations

DCMR 5-E915

915.1 Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirements of the District of Columbia.

915.2 A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

915.3 If a public charter school has more applications to enroll in the school from students who are residents of the District of Columbia than there are available spaces, students shall be admitted using a random selection process. The documentation and results of the random selection process and a list of students on the waiting list as a result of such shall be available for review by the Board. The public charter school may give priority to the siblings of students enrolled in the school.

915.4 Beginning on the date that a petition is filed by an eligible applicant seeking to convert an existing school, the school may give priority to:

(a) Students enrolled in the school at the time the petition is granted;

(b) The siblings of students described in paragraph (a)

above;

- (c) In the case of the conversion of a District of Columbia public school, students who reside within the attendance boundaries, if any, in which the school is located.

Other Guidance – N/A

FLORIDA

State Statute – Florida Statutes

Title XLVIII (K-20 Education Code)

1002.33

(9) CHARTER SCHOOL REQUIREMENTS.—

- (b) A charter school shall admit students as provided in subsection (10).

(10) Eligible Students

- (b) The charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

- (c) When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. The district school board shall consult and negotiate with the conversion charter school every 3 years to determine whether realignment of the conversion charter school's attendance zone is appropriate in order to ensure that students residing closest to the charter school are provided with an enrollment preference.

- (d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.
2. Students who are the children of a member of the governing board of the charter school.
3. Students who are the children of an employee of the charter school.
4. Students who are the children of:
 - a. An employee of the business partner of a charter school-in-the-workplace established under paragraph (15)(b) or a resident of the municipality in which such charter school is

located; or

- b. A resident of a municipality that operates a charter school-in-a-municipality pursuant to paragraph (15)(c).

5. Students who have successfully completed a voluntary prekindergarten education program under ss. 1002.51-1002.79 provided by the charter school or the charter school's governing board during the previous year.

6. Students who are the children of an active duty member of any branch of the United States Armed Forces.

- (e) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.
2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.
3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (15).
4. Students residing within a reasonable distance of the charter school, as described in paragraph (20)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7)(a)8. or any federal provisions that require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.
5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards shall be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.
6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.
7. Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$10 million to be used as a charter school for the development.

Students living in the development shall be entitled to 50 percent of the student stations in the charter school. The students who are eligible for enrollment are subject to a random lottery, the racial/ethnic balance provisions, or any federal provisions, as described in subparagraph 4. The remainder of the student stations shall be filled in accordance with subparagraph 4.

- (f) Students with disabilities and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

- (iii) A student whose parent or guardian is a member of the governing board of the start-up charter school or is a full-time teacher, professional, or other employee at the start-up charter school; and
- (iv) Students matriculating from a local school designated in the charter;
- (v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school;

Section 1000.05(2)(b)

The criteria for admission to a program or course shall not have the effect of restricting access by persons of a particular race, ethnicity, national origin, gender, disability, or marital status.

State Regulations – N/A

Other Guidance – N/A

GEORGIA

State Statute – Official Code of Georgia Annotated

§ 20-2-2066¹

(a) A local charter school shall enroll students in the following manner:

(1)(A) A start-up charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building.

Except for educationally disadvantaged students who may be provided an increased chance of admission through a weighted lottery if permitted by the school's charter, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a start-up charter school may give enrollment preference to applicants in any one or more of the following categories in the order of priority specified in the charter:

- (i) A sibling of a student enrolled in the start-up charter school;
- (ii) A sibling of a student enrolled in another local school designated in the charter;

(B) A conversion charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter. If the number of applying students who reside in the attendance zone does not exceed the capacity as specified in the charter, additional students shall be enrolled based on a random selection process, except for educationally disadvantaged students who may be provided an increased chance of admission through a weighted lottery if permitted by the school's charter; provided, however, that a conversion charter school may give enrollment preference to applicants in any one or more of the following categories in the order of priority specified in the charter:

- (i) A sibling of a student enrolled in the conversion charter school or in any school in the high school cluster;
- (ii) A student whose parent or guardian is a member of the governing board of the conversion charter school or is a full-time teacher, professional, or other employee at the conversion charter school;
- (iii) Students who were enrolled in the local school prior to its becoming a conversion charter school; and
- (iv) Students who reside in the attendance zone specified in the charter; and
- (v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school; and

(2) A student who resides outside the school system in which the local charter school is located may not enroll in that local charter school except pursuant to

¹ Georgia law was amended during the 2015-2016 regular legislative session through HB 474 to provide, among other things, for enrollment priorities in charter schools for educationally disadvantaged students.

a contractual agreement between the local boards of the school system in which the student resides and the school system in which the local charter school is located. Unless otherwise provided in such contractual agreement, a local charter school may give enrollment preference to a sibling of a nonresident student currently enrolled in the local charter school.

(b) A state chartered special school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. The period of time during which an application for enrollment may be submitted shall be specified in the charter. Except for educationally disadvantaged students who may be provided an increased chance of admission through a weighted lottery if permitted by the school's charter, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a state chartered special school may give enrollment preference to applicants in any one or more of the following categories in order of priority specified in the charter:

- (1) A sibling of a student enrolled in the state chartered special school;
- (2) A sibling of a student enrolled in another local school designed in the charter;
- (3) A student whose parent or guardian is a member of the governing board of the state chartered special school or is a full-time teacher, professional, or other employee at the state chartered special school;
- (4) Students matriculating from a local school in the charter; and
- (5) Children who matriculate from a pre-kindergarten program which is associated with the state chartered special school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school.

(b.1) A charter system shall enroll students in its system charter schools per the terms of the charter and in accordance with state board rules.

(c) A charter school shall not discriminate on any basis that would be illegal if used by a school system.

(d) A student may withdraw without penalty from a charter school at any time and enroll in a local school in the school

system in which such student resides as may be provided for by the policies of the local board. A student who is suspended or expelled from a charter school as a result of disciplinary action taken by a charter school shall be entitled to enroll in a local school within the local school system in which the student resides, if, under the disciplinary policy of the local school system, such student would not have been subject to suspension or expulsion for the conduct which gave rise to the suspension or expulsion. In such instances, the local board shall not be required to independently verify the nature or occurrence of the applicable conduct or any evidence relating thereto.

State Regulation – N/A

Other Guidance – Georgia Department of Education “General FAQs about Charter Schools”²

Admissions and Enrollment

Is there an admissions process for charter schools?

The typical admissions process for a charter school is as follows:

- a) Application – can require information regarding contact information, residency and grade level. The application to a charter school should NEVER include information that screens applicants such as: prior test data, letters of recommendation or special services, gender, race, language spoken at home.
- b) Enrollment preferences are then applied to the pool of applicants.
- c) If the number of applicants exceeds the number of spaces, then a random selection (lottery) will be held. The lottery must be open to the public.
- d) Student registration - admitted students submit information that is excluded from the admissions application. Enrollment procedures for charter schools are the same as those for traditional public schools. To read these requirements, see SBOE Rule 160-5-1-.28

Can charter schools select their students?

Charter schools, as public schools, must adhere to the same open admission and enrollment standards as traditional public schools. With the exception of certain allowable admissions preferences, charter schools may not select their students, nor deny admission to any applicant provided that there is space for that student within the school's capacity.

What is a legally allowable enrollment preference?

A legally allowable enrollment preference allows applicants

² Georgia law was amended to allow weighted lotteries for educationally disadvantaged students after this FAQ document was published, so the FAQ responses may not align with the new statutory provisions related to charter school admissions and enrollment.

in certain categories admission to the charter school outside of the random selection (lottery) process. In the case of start-up charters the categories allowable under the Charter Schools Act are as follows: siblings of a student enrolled in the start –up charter school; a sibling of a student enrolled in another local school designated in the charter; a student whose parent or guardian is a member of the governing board of the charter school or is a full time teacher, professional, or other employee at the charter school; and students matriculating from a local school designated in the charter.

Conversion charter schools may legally allow enrollment preferences for: a sibling of a student enrolled in the charter school or in any school in the high school cluster; a student whose parent or guardian is a member of the governing board of the charter school or is a full time teacher, professional, or other employee at the charter school; students who were enrolled in the local school before it became a charter; students who reside in the charter attendance zone specified in the charter.

State-chartered special schools may give enrollment preferences to a student whose parent is a full time teacher, professional, or other employee at the charter school or to a student currently enrolled in a state chartered special school or a sibling of a student currently enrolled in a state-chartered special school.

A charter system shall enroll students pursuant to the terms of its system charter.

HAWAII

State Statute – Hawaii Revised Statutes

Chapter 302D

§302D-C Enrollment. (a) A public charter school shall not discriminate against any student or limit admission based on race, color, ethnicity, national origin, religion, gender, sexual orientation, income level, disability, level of proficiency in the English language, need for special education services, or academic or athletic ability.

(b) A start-up charter school:

- (1) Shall be open to any student residing in the State;
- (2) Shall enroll all students who submit an application, unless the number of students who submit an application exceeds the capacity of a program, class, grade level, or building;
- (3) Shall select students through a public lottery if, as described in paragraph (2), capacity is insufficient to enroll all students who have submitted a timely

application;

- (4) May give an enrollment preference to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the charter school's application and as approved by the charter school's authorizer;
- (5) May give an enrollment preference to students enrolled in the charter school during the previous school year and to siblings of students already enrolled at the charter school; and
- (6) May give any other enrollment preference permitted by the charter school's authorizer, on an individual charter school basis, if consistent with law; provided that nothing in this subsection shall preclude the formation of a start-up charter school whose mission is focused on serving students with disabilities, who are of the same gender, who pose such severe disciplinary problems that they warrant a specific educational program, or who are at a risk of academic failure.

(c) A conversion charter school shall:

- (1) Enroll any student who resides within the school's former geographic service area pursuant to section 302A-1143, for the grades that were in place when the public school converted to a charter school; provided that the department may consult with a conversion charter school every three years to determine whether realignment of the charter school's service area is appropriate given population shifts and the department's overall service area reviews;
- (2) Follow the department's procedures regarding enrollment, including but not limited to geographic exceptions and enrollment preferences; and
- (3) Be subject to subsection (b) for grades that were not in place when the school converted to a public charter school.

State Regulation – N/A

Other Guidance – N/A

IDAHO

State Statute – Idaho Code

33-5206

(1) In addition to any other requirements imposed in this chapter, a public charter school shall be nonsectarian in its programs, affiliations, admission policies, employment

practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a public charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new or conversion public charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the primary attendance area of that public charter school.

33-5205(3)(k)

Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; third, to students residing within the primary attendance area of the public charter school; and fourth, by an equitable selection process such as a lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as a lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available. If so stated in its petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

(i) The children of full-time employees of the public charter

school;

(ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible.

State Regulation – Idaho Administrative Code

IDAPA 08.02.04 (203)

01. Model Admission Procedures. The Board has approved model admission procedures that may be utilized and adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.12 of these rules. Petitioners are not required to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures.

05. Admission Preferences. A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish additional admission preferences, as authorized by Section 33-5205(3)(i), Idaho Code.

06. Proposed Attendance List for Lottery. Each year the public charter school shall create an attendance list containing the names of all prospective students on whose behalf a written request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated "A" for returning student preference; "B" for founders preference; "C" for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and "D" for attendance area preference.

all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows:

a. The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, with the order for each grade level selected randomly.

The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container.

- b. A neutral, third party shall draw the grade level to be completed first and then draw each index card from the container for that grade level, and such person shall write the selection number on each index card as drawn, beginning with the numeral "1" and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person.
- c. If the name of the person selected is a returning student, then the letter "A" shall be written on such index card. If the name of the person selected is the child of a founder, the letter "B" shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter "C" shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter "D" shall be written on such index card.
- d. With regard to the sibling preference, if the name of the person selected has a sibling who has already been selected, but the person previously selected did not have the letter "C" written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter "C" shall now be written on that person's index card at this time. (4-4-13)
- e. With regard to the founder's preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter "B." When the number of index cards marked with the letter "B" equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter "B," even if such person selected would otherwise be eligible for the founders preference.
- f. After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter "A" shall be sorted first, based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written

on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card.

- g. After the index cards have been drawn and sorted for all grade levels, the names shall be transferred by grade level, and in such order as preferences apply, to the final selection list.

Other Guidance – N/A

ILLINOIS

State Statute – Illinois Compiled Statutes

105 ILCS 5

Sec. 27A-3. Definitions. For purposes of this Article:

"At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

Sec. 27A-4. General Provisions.

- (a) The General Assembly does not intend to alter or amend the provisions of any court-ordered desegregation plan in effect for any school district. A charter school shall be subject to all federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, or need for special education services.
- (d) Enrollment in a charter school shall be open to any pupil who resides within the geographic boundaries of the area served by the local school board, provided that the board of education in a city having a population exceeding 500,000 may designate attendance boundaries for no more than one-third of the charter schools permitted in the city if the board of education determines that attendance boundaries are needed to relieve overcrowding or to better serve low-income and at-risk students. Students residing within an attendance boundary may be given priority for enrollment, but must not be required to attend the charter school.
- (h) If there are more eligible applicants for enrollment in a charter school than there are spaces available, successful applicants shall be selected by lottery. However, priority shall be given to siblings of pupils enrolled in the charter school and to pupils who were enrolled in the charter school the previous school year, unless expelled for cause, and priority may be given to pupils residing

within the charter school's attendance boundary, if a boundary has been designated by the board of education in a city having a population exceeding 500,000. Dual enrollment at both a charter school and a public school or non-public school shall not be allowed. A pupil who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the public schools of the school district in which the pupil resides. Notwithstanding anything to the contrary in this subsection (h):

- (1) any charter school with a mission exclusive to educating high school dropouts may grant priority admission to students who are high school dropouts and/or students 16 or 15 years old at risk of dropping out and any charter school with a mission exclusive to educating students from low-performing or overcrowded schools may restrict admission to students who are from low-performing or overcrowded schools; "priority admission" for charter schools exclusively devoted to re-enrolled dropouts or students at risk of dropping out means a minimum of 90% of students enrolled shall be high school dropouts; and
- (2) any charter school located in a school district that contains all or part of a federal military base may set aside up to 33% of its current charter enrollment to students with parents assigned to the federal military base, with the remaining 67% subject to the general enrollment and lottery requirements of subsection (d) of this Section and this subsection (h); if a student with a parent assigned to the federal military base withdraws from the charter school during the course of a school year for reasons other than grade promotion, those students with parents assigned to the federal military base shall have preference in filling the vacancy.

Sec. 27A-5 (j) A charter school may limit student enrollment by age or grade level.

Sec. 27A-8. Evaluation of charter proposals. (a) In evaluating any charter school proposal submitted to it, the local school board and the Commission shall give preference to proposals that:

- (3) are designed to enroll and serve a substantial proportion of at-risk children; provided that nothing in the Charter Schools Law shall be construed as intended to limit the establishment of charter schools to those that serve a substantial portion of at-risk children or to in any manner restrict, limit, or discourage the establishment of charter schools that enroll and serve other pupil populations under a nonexclusive, nondiscriminatory admissions policy.

State Regulation – N/A

Other Guidance – N/A

INDIANA

State Statute – Indiana Code

IC 20-24-2-2

Discrimination prohibited

Sec. 2. A charter school is subject to all federal and state laws and constitutional provisions that prohibit discrimination on the basis of the following:

- (1) Disability.
- (2) Race.
- (3) Color.
- (4) Gender.
- (5) National origin.
- (6) Religion.
- (7) Ancestry.

IC 20-24-5-1

Charter schools open to all Indiana students

Sec. 1. A charter school, including a conversion charter school, must be open to any student who resides in Indiana.

IC 20-24-5-4

Admission policies

Sec. 4. (a) Except as provided in this chapter, a charter school may not establish admission policies or limit student admissions in any manner in which a public school is not permitted to establish admission policies or limit student admissions.

- (b) Notwithstanding subsection (a), a charter school may operate as a single gender school if approved to do so by the authorizer. A single gender charter school must be open to any student of the gender the school serves who resides in Indiana.

IC 20-24-5-5

Limits on attendance

Sec. 5. (a) Except as provided in subsections (b), (c), and (d), a charter school must enroll any eligible student who submits a timely application for enrollment.

- (b) This subsection applies if the number of applications

for a program, class, grade level, or building exceeds the capacity of the program, class, grade level, or building. If a charter school receives a greater number of applications than there are spaces for students, each timely applicant must be given an equal chance of admission.

The organizer must determine which of the applicants will be admitted to the charter school or the program, class, grade level, or building by random drawing in a public meeting.

- (c) A charter school may limit new admissions to the charter school to:
 - (1) ensure that a student who attends the charter school during a school year may continue to attend the charter school in subsequent years; and
 - (2) allow the siblings of a student who attends a charter school to attend the charter school.
- (d) This subsection applies to an existing school that converts to a charter school under IC 20-24-11. During the school year in which the existing school converts to a charter school, the charter school may limit admission to:
 - (1) those students who were enrolled in the charter school on the date of the conversion; and
 - (2) siblings of students described in subdivision (1).

State Regulation – N/A

Other Guidance - Indiana Charter School Board “Start Up Manual” June 2013

Charter schools “may not establish admission policies or limit student admissions on the basis of test scores, socio-economic status, race or ethnicity, or a variety of other factors.” Charter schools “may give enrollment preference to students who have already attended the school, and any siblings of a student who attends the school.” “In addition, if there are more applicants than there are spaces for students, the school must hold a public random drawing (e.g., lottery), giving each applicant an equal chance of admission.”

“According to IC § 20-24-5-5, lotteries must be open to all students who submit a timely application and should give each student in a particular grade level an equal chance to enroll. The only preferences that may be given are to students who have attended the school in the previous school year and to siblings of enrolled students, provided that seats are available in the applicable grade level.”

KANSAS

State Statute – Kansas Statutes Annotated

K.S.A. 2013 Supp. 72-1906

- (c) The charter must contain the following key elements:
 - (8) criteria for admission of pupils, including a description of the lottery method to be used if too many pupils seek enrollment in the school
- (d) In addition to satisfying a board of education with regard to the key elements contained in the charter, a charter school must comply with the following requirements in order to qualify for establishment or continuation:
 - (2) pupils in attendance at the school must be reasonably reflective of the racial and socio-economic composition of the school district as a whole;
- (h) If a charter school that has been approved for establishment has sought waiver from any school district policy or state board of education rules and regulations, the board of education of the school district in which the charter school will be established may consider the reasons for which the waivers have been requested. If the board of education determines that the reasons for seeking such waivers are meritorious and legitimately related to successful operation of the charter school, the board of education may grant waiver of school district policy and may make application, on behalf of the charter school, to the state board of education for waiver of state board rules and regulations. The state board may consider the application for waiver and approve, deny, or amend and approve the application. Upon approval or amendment and approval of the application, the charter school may operate under the terms and conditions of the waiver. The manner and method of exercising the rights and performing the responsibilities, duties and functions provided for under any school district policy or state board rules and regulations that are waived under authority of this subsection shall be prescribed in the charter and governed thereby.

State Regulation – N/A

Other Guidance – N/A

KENTUCKY – N/A

LOUISIANA

State Statute – Louisiana Revised Statutes

§3991. Charter schools; requirements; limitations; renewal; amendment; revocation

§3991(B). Each proposed charter shall contain or make provision for the following:

(1)(a)(i) That for Type 1 and Type 2 charter schools created as new schools, the percentage of the total number of pupils enrolled in the charter school based on the October first pupil membership who are at risk, in the manner provided in R.S. 17:3973(1)(a), shall be equal to not less than eighty-five percent of the average percentage of pupils enrolled in the local public school districts from which the charter school enrolls its students who are eligible to participate in the federal free and reduced lunch program. The remaining number of pupils enrolled in the charter school which would be required to have the same percentage of at-risk pupils as the percentage of pupils in the district who are eligible to participate in the federal free and reduced cost lunch program may be comprised of pupils who are at risk as is otherwise provided in R.S. 17:3973(1). For the purposes of fulfilling the provisions of this Section, the at-risk percentage for the city or parish school system shall remain fixed during the term of the approved charter at the percentage which existed during the school year that the charter proposal was approved, unless otherwise specified in the charter that the charter school will reflect the current year's at-risk percentage.

(ii) Except as provided in Subitem (cc) of this Item, the requirements of Item (i) of this Subparagraph shall not apply to any charter school which is established with the educational mission of meeting the needs of pupils who are the dependent children of military personnel provided that all of the following conditions are met:

(aa) The charter school predominantly enrolls pupils who, at the time of enrollment, are the dependent children of military personnel.

(bb) All dependent children of military personnel who seek admission to the school and who are at risk as defined in R.S. 17:3973(1) are admitted to the school.

(cc) In the enrollment of pupils from the general population in the community where the charter school is located who are not dependent children of military personnel, the charter school shall comply with the provisions of Item (i) of this Subparagraph, except that the requirements contained therein shall apply to and be based upon only such general population pupils admitted.

(b)(i) That for Type 2 charter schools created as a result

of a conversion, Type 3 and Type 4 charter schools, the percentage of the total number of pupils enrolled in the charter school based on the October first pupil membership who are at-risk, in the manner provided in R.S. 17:3973(1)(a), unless otherwise agreed to as part of the charter agreement by the chartering authority, shall be equal to not less than the percentage of the total of pupils enrolled in the school in the school year prior to the establishment of the charter school that were eligible to participate in the federal free and reduced cost lunch program.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, that for Type 2, Type 3, and Type 4 charter schools in Richland Parish, the percentage of the total number of pupils enrolled in the charter school based on the October first pupil membership who are at risk, in the manner provided in R.S. 17:3973(1)(a), shall be, as near as practicable, not more than the percentage of the total number of pupils enrolled in the public elementary and secondary schools and in the state-approved non-public elementary and secondary schools located in the local public school district in which the charter school is located who are eligible to participate in the federal free and reduced lunch program. However, in no case shall the initial enrollment of such a school nor the cohort of students enrolled for each new school year have, as near as practicable, fewer than fifty percent students who are at risk in the manner provided in R.S. 17:3973(1)(a).

(c) For the purposes of this Section, students holding a valid passport from the country of France shall not be counted when calculating the overall at-risk percentage of the charter school.

(d) The provisions of this Paragraph and Paragraph (3) of this Subsection shall not apply to Type 5 or 3B charters.

§3991 (B)(3) Admission requirements, if any, that are consistent with the school's role, scope, and mission may be established pursuant to rules promulgated by the state board. Such admission requirements shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a student with an exceptionality as defined in R.S. 17:1942(B). Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or proficiency in a foreign language for schools with a language immersion mission. Any school which was chartered prior to July 1, 2012, and which incorporated achievement of a certain academic record as part of its admission requirements may continue to utilize such admission requirements. No local

board shall assign any pupil to attend a charter school.

§3991 (B)(4)(a) A description of the jurisdiction within which a pupil shall reside or otherwise be eligible to attend a public school in order to be eligible for admission.

(b) A description of the geographic boundaries circumscribing the neighborhood immediately surrounding the charter school from which students residing within may be given preference for enrollment as provided in Subsection C of this Section.

§3991(C). A charter school shall:

(1)(a) Enroll an eligible pupil who is eligible under the residency requirements established in the charter as required in Paragraph (B)(4) of this Section and who submits a timely application unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

(b) An application shall be timely if it is submitted within the period designated by the charter school, which period shall not be less than one month nor more than three months. There shall be an established application period for each successive school year.

(c)(i) Except as is provided in Items (ii) and (iii) of this Subparagraph, the charter school shall admit no pupil during the application period, but shall wait until the period has ended. If fewer eligible pupils have applied than is the maximum the school can admit, then all eligible pupils shall be admitted and additional pupils may apply and be admitted for the school year to which the application period applies until the maximum number is admitted, except as is necessary to meet the requirements of Paragraph (B)(1) of this Section. If the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school, admission to the program, class, grade level, or school shall be based on an admissions lottery conducted from among the total number of eligible applicants done in such a fashion as to assure compliance with Paragraph (B)(1) of this Section.

(ii) In the case of the creation of a charter by the conversion of a preexisting school, pupils enrolled in the preexisting school shall be given preference over all other applicants and the applications procedure shall be established in a fashion that provides ample opportunity for such pupils to exercise the right for preferential admission.

(iii) A charter school may modify its enrollment procedures in order to give preference to students previously enrolled in the school and their siblings and to give preference to siblings submitting their applications to

enroll in the school for the first time, as long as there is compliance with the provisions of Paragraph (B)(1) of this Section.

(iv) Unless otherwise provided for within the charter, charter schools may not enroll in any given year more than one hundred twenty percent of the total number of students which had been approved in their charter without formally amending their charter. The state board may authorize the state superintendent of education and the superintendent of the Recovery School District to amend the charter of any Type 5 charter school participating in a unified enrollment system administered by the Recovery School District for the purpose of adjusting student enrollment limitations.

(d) Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a Type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority.

State Regulation - Louisiana Charter School Policy - BESE Bulletin 126

§107. Types of Charter Schools

- A. A type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.
- B. A type 1B charter school is a new school or a preexisting public school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local charter authorizer.
- C. A type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the state Board of Elementary and Secondary Education.
- D. A type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.
- E. A type 3B charter school is a former type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

- F. A type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the state Board of Elementary and Secondary Education.
- G. A type 5 charter school is a preexisting public school transferred to the recovery school district as a school determined to be failing pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the state Board of Elementary and Secondary Education.

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

- A. Type 2 Charter Schools. Students meeting residency requirements established in a Type 2 charter school's charter are eligible to attend a Type 2 charter school. A Type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.
- B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the Type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a Type 4 charter school, unless an agreement with another city, parish, or other local school board is reached to allow students to attend the charter school.
- C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such Type 5 charter schools which have capacity for another student in the appropriate grade.
- D. Type 5 Charter School Transferred Pursuant to R.S. 17:10.7. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the recovery school district include any student eligible to attend any school in the system from which the school was transferred. Students eligible to attend such Type 5 charter

schools may be required to reside in a designated attendance zone, as set forth in a charter school's approved charter.

- E. Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a Type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this Bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5 charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

§2703. Enrollment Capacity

- A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter.
- B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

§2705. Admission Requirements

- A. A charter school may have admission requirements that are consistent with the school's role, scope, and mission.
- B. Admission requirements imposed by a school must be set forth in the charter school's approved charter and shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a child with an exceptionality as defined in R.S. 17:1942(B). Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or proficiency in a foreign language for schools with a language immersion mission. Any charter school which began operation prior to July 1, 2012, and which incorporated achievement of a certain academic record as part of its admissions requirements may continue to utilize such admission requirements. No charter school beginning operation on or after July 1, 2012 may incorporate the

achievement of a certain academic record as part of its admission requirements.

§2709. Enrollment of Students, Lottery, and Waitlist

- A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school.
- B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.
- C. A charter school shall admit no pupil during the school's designated application period, but shall wait until the period has ended.
- D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.
 - 1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.
 - 2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.
 - a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.
- E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.
- F. A charter school's lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with all at-risk student population requirements. Nothing herein shall preclude the implementation of a weighted lottery to ensure all at-risk student population requirements are met.
- G. Any charter school not participating in the recovery school district's unified enrollment system in Paragraph J of this Section shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.
 - 1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.
 - 2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.
- H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.
- I. The charter school shall repeat the student admission process described in this Section each year.
- J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.
 - 1. Upon request of a charter operator, the department shall allow an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.
 - 2. In addition, for the process of enrolling students for the 2013-2014 school year, the Department of Education shall manage a pilot program wherein the department shall allow an enrollment preference for those students matriculating or transferring into ninth grade or above between eligible BESE-authorized charter schools for a limited percentage of the seats in the charter school, to be determined by the department. The department shall develop an application process for participation in the pilot program which shall evaluate factors including the applying charter schools' past demonstration of success in preparing at-risk and low-performing students for college and/or career, and the submission of an innovative proposal to utilize the enrollment preference to further this success. The department shall collect relevant data on the pilot program in order to prepare a report to be presented by the state

superintendent to BESE no later than January 2014, at which time BESE shall consider the continuation of the pilot program based on the results of the report. The report shall include data and information including, but not limited to:

- a. the demographic and academic backgrounds of students utilizing the preference;
 - b. the number and percentage of students who matriculated or transferred into participating schools;
 - c. the number and percentage of students who were admitted to the school utilizing the enrollment preference; and
 - d. the number and percentage of students attempting to enroll or transfer in the charter school who were ineligible to utilize the enrollment preference.
- K. Beginning with the enrollment process to place students for the 2014-2015 school year, all BESE-authorized charter schools (type 2, type 4, and type 5 charter schools) and type 1b charter schools physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools. The department of education shall have discretion to determine on an individual basis whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools and type 1B charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain authority over the approval of amendments to charter contracts for such type 2 and type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

§2711. Lottery Exemptions

- A. Students seeking enrollment to a charter school that was created through the conversion of a pre-existing school shall be exempt from a lottery and shall be automatically admitted following the charter school's application period.
- B. Students previously enrolled in the charter school and their siblings shall be exempt from a lottery, and shall maintain enrollment or be automatically admitted

following the charter school's application period. Students attending a pre-kindergarten or early childhood program operated by a charter school may be considered to have been previously enrolled at the charter school for the purpose of lottery exemptions. Requests by charter schools to apply this lottery exemption for students who attend a publicly-funded program at no cost to the student shall be automatically approved by the LDE for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. For a charter school that requests to apply this lottery exemption for students who were admitted to a pre-kindergarten or early childhood program that utilizes admission requirements and/or charges tuition for some or all of its students, the use of the lottery exemption shall be subject to the approval of the LDE for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. In such a case, the LDE or the charter school's authorizer, as applicable, shall require the charter school to set enrollment targets that ensure the charter school provides equity of access for at-risk applicants to its kindergarten classes.

- C. Students seeking enrollment to a Type 5 charter school that is assigned a facility formerly occupied by a pre-existing public school may be exempt from a lottery and may be automatically admitted following the charter school's application period, if authorized in the charter operator's charter.

§2713. At-Risk Students

- A. Except as otherwise provided by charter school law, Type 1 and Type 2 charter schools created as new schools shall maintain an at-risk student population percentage, based on the October 1 pupil membership count, that is equal to the percentage of students eligible for the federal free or reduced lunch program in the district in which the charter school is located or the average of districts from which students served by the charter school reside.
 1. The charter school's at-risk population shall consist of 85 percent of students who are eligible for the federal free and reduced lunch program and thus defined as at-risk pursuant to §103.B.1 of this bulletin.
 2. The remaining 15 percent of a charter school's at-risk population may consist of at students defined as at-risk in §103.B.1 through §103.B.6 of this bulletin.
- B. A charter school's required at-risk percentage, based on the percentages of a city or parish school system, shall remain fixed during the term of its approved charter at the percentage which existed during the school year that the charter proposal was approved, unless otherwise specified in the charter that the charter school will reflect

the current year's at-risk percentage.

**Other Guidance - Louisiana Department of Education
"Louisiana Charters 101 for Charter Applicants"
February 2013**

"Charter schools may include mission-oriented, non-achievement based admissions criteria such as auditions for schools with a performing arts mission, proficiency in a foreign language for schools with a language immersion mission, or a specific at-risk categorization for schools serving alternative populations."

MAINE

State Statute – Maine Revised Statutes

§2404

1. Eligibility. Any student residing in the State is eligible to apply to a public charter school.
2. Enrollment. A public charter school shall enroll students in accordance with this subsection.
 - A. Public charter school organizers shall include all segments of the populations served by the existing noncharter public schools in their area in their recruitment efforts.
 - B. A public charter school shall enroll all students who wish to attend the school, unless the number of students exceeds the enrollment capacity of a program, class, grade level or building.
 - C. Except as provided in paragraphs H and I, if capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a random selection process. A list maintained to fill potential vacancies may be carried over to the succeeding year.
 - D. For a school administrative unit with an enrollment of 500 or fewer students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 5% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation.
 - E. For a school administrative unit with an enrollment of more than 500 students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 10% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation.

- F. A public charter school may limit enrollment to pupils within a given age group or grade level and may be organized around a special emphasis, theme or concept as stated in the school's application for a charter contract pursuant to section 2407.
 - G. Any noncharter public school converting partially or entirely to a public charter school shall adopt and maintain a policy that gives enrollment preference to pupils who reside within the former attendance area of that noncharter public school.
 - H. A public charter school shall give enrollment preference to pupils enrolled in the public charter school the previous school year and to siblings of pupils already enrolled in the public charter school.
 - I. A public charter school may give enrollment preference to children of a public charter school's founders, governing board members and full-time employees, as long as they constitute no more than 10% of the school's total student population.
 - J. A public charter school may enroll students from outside the State if space is available.
3. Discrimination prohibited. A public charter school may not discriminate on the basis of race, ethnicity, national origin, religion, gender, sexual orientation, income level, disabling condition, proficiency in the English language or academic or athletic ability, except that nothing in this subsection may be construed to limit the formation of a public charter school that is dedicated to focusing education services on at-risk pupils, students with disabilities and students who pose such severe disciplinary problems that they warrant a specific education program.

State Regulation – Code of Maine Regulations

05 – 071 CMR Chapter 140

Section 3: Charter School Operations

2. Enrollment

- A. Declaration of student intent. A charter school shall require a written declaration of intent to enroll in the charter school in the upcoming school year from each student who wishes to enroll in the charter school, including students who have an enrollment preference. The written declaration must be signed by the student's parent, guardian or legal guardian and submitted to the charter school within the deadline established by the charter school. The charter school must set the deadline so that sufficient time is allowed to conduct a lottery within the time frame set forth in this rule if the number of declarations of intent to enroll exceeds the number of seats available in a grade, level or division of the charter

school. The declaration of student intent may request only such information as is needed to determine which grade, level or division of the school the student wishes to enter, whether the student is eligible for a preference, and the identity of the student's resident school administrative unit (SAU).

B. Enrollment commitments when declarations do not exceed openings. If the number of students submitting declarations of intent by the submission deadline is smaller than the number of openings in any grade, level or division of the school, the charter school shall notify each student and his or her parent, guardian or legal guardian of the right to enroll in the upcoming school year, and shall seek a written commitment to enroll signed by the student and the parent, guardian or legal guardian. The charter school may enroll students to fill remaining openings, on a rolling basis or by other means specified in the charter application or contract, once all students who filed a declaration of intent prior to the deadline have been offered the opportunity to enroll or commit to enroll.

C. Random selection process. If the number of students submitting a declaration of intent to enroll exceeds the number of openings in a school, grade, level or division, the charter school must notify students with preferences of their right to enroll and then shall conduct a random selection process to fill remaining openings.

(1) The selection process must be conducted not later than April 1st, unless the authorizer, for compelling reasons, sets a different date. For purposes of this section, the term "compelling reasons" includes, but is not limited to, the need for a date later than April 1st in the first year of implementation of the charter school law and the need for flexibility for at-risk students and their families. Any date set by an authorizer under this subparagraph (1) must be designed to ensure that students will have an equal opportunity to seek enrollment in the school and that information is provided to each student's resident SAU in as timely a manner as possible.

(2) The selection must be conducted in public and must be designed to ensure that each student has an equal chance of being selected for enrollment. If the process is a lottery involving drawing of names or other objects to make a selection, a disinterested party must perform the drawing of names or objects.

(3) Reasonable public notice must be given at least one week prior to the lottery or other selection process.

(4) The names of students and the order in which they

were selected must be recorded. All names must be placed in the order of selection, and any names that exceed the enrollment limit for a grade, level or division of the charter school must be placed on a waiting list for that grade, level or division. The charter school shall use eligible students on the waiting list to fill any openings that occur in the grade, level or division during the school year for which names were selected. If all students on the waiting list have been offered enrollment, the charter school may enroll students on a rolling basis, or such other basis as may be set forth in the charter application or charter contract.

(5) If the number of students selected for enrollment from any school administrative unit exceeds the applicable 5% or 10% limit set forth in Title 20-A, section 2404, subsection 2, paragraphs D and E, the excess names must be moved from the enrollment list to the top of the waiting list, in the order selected. If an opening occurs after the initial selection process, a student placed on a waiting list under this subparagraph may be selected for enrollment from the waiting list only if the student's enrollment is within the 5% or 10% limit; otherwise, the student's name remains on the waiting list. For purposes of the 5% and 10% limits, the charter school shall use enrollment figures for a school administrative unit (SAU) as determined by the most recent October subsidizable pupil count, excluding students who are attending any charter school on the date of the October pupil count.

Other Guidance –

Maine Department of Education "Summary of Maine's Public Charter School Law Public Law 2011, chapter 414 (LD 1553)"

Enrollment

- All students residing in Maine may apply to enroll in a charter school
- The charter school may limit enrollment to students of specific ages or grade levels
- Charter schools may not discriminate against students based on race, ethnicity, national origin, religion, gender, sexual orientation, disability, income level, limited English proficiency, or academic or athletic ability
- Charter school must give preference to its prior year students and to their siblings. A charter school may give preference to the children of charter school founders, board members and full-time staff, but not more than 10% of student body

- If the charter school is a conversion of a noncharter school, it must give preference to children who reside in the attendance area of the noncharter school

Maine Department of Education “Questions and Answers”

E-2. Can charter schools choose which students they want to enroll?

No. A charter school must accept any student who wants to enroll there, provided the student falls within the age or grade levels served by the school. If there are not enough slots at the school, or in a program or a class, for all students who want to attend, the school must conduct a random selection process to determine which students may attend the charter school. There are some exceptions to the general rule.

Exceptions to this general rule are as follows:

- A charter school that is formed by converting a non-charter public school to a public charter school must give enrollment preference to students who reside in the former attendance area of the noncharter public school.
- Students who are attending the public charter school, and their siblings, must be given enrollment preference in the next school year.
- A charter school may give priority to the children of the charter school’s founders, members of the governing board and full-time employees. No more than 10 percent of the total student population may receive priority under this provision.

From Maine Department of Education Website “Enrolling in an Approved Charter School”

Enrollment cannot be denied based on where the student lives within Maine, nor on the basis of race, ethnicity, national origin, religion, gender, sexual orientation, disability, income level, limited English proficiency, or academic or athletic ability.

Charter school enrollment may be limited as follows:

- Enrollment may be limited to students of specific ages or grade levels
- Enrollment is not on a first-come, first-enrolled basis. Each school has an enrollment window, and if student interest within that window exceeds capacity, the names of all interested students are placed in a pool and drawn at random
- The charter school law limits the number of students who can be drawn from surrounding schools districts in the first three years of a charter school’s operation.

No more than 5 percent of a grade level can be drawn from school administrative units with fewer than 500 students, and no more than 10 percent of a grade level can be drawn from school administrative units with 500 or more students.

Charter school slots may be reserved only for certain students, as follows:

- A charter school must give preference to its prior-year students and to their siblings.
- A charter school may give preference to the children of charter school founders, board members and full-time staff, but not more than 10 percent of the student body.

MARYLAND

State Statute – Code of Maryland

MD Educ. § 9-102.

In this title, “public charter school” means a public school that:

- (3) Is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;
- (8) Is subject to federal and State laws prohibiting discrimination;

§ 9-106.

- (a) In general.- Subject to subsection (b) of this section, a public charter school shall comply with the provisions of law and regulation governing other public schools.
- (b) Waiver.- Subject to subsection (c) of this section, a waiver of the requirements under subsection (a) of this section may be sought through an appeal to the State Board.
- (c) Waiver - Exceptions.- A waiver may not be granted from provisions of law or regulation relating to:

- (1) Audit requirements;
- (2) The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the school; or
- (3) The health, safety, or civil rights of a student or an employee of the charter school.

State Regulation – N/A

Other Guidance –

Waivers have been granted to allow enrollment preferences for siblings and children of founding board members.

MASSACHUSETTS

State Statute - Massachusetts General Laws

Part I, Title XII, Chapter 71, Section 89

Subsection (m) Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language or a foreign language or academic achievement. Charter schools may limit enrollment to specific grade levels and may structure curriculum around particular areas of focus such as mathematics, science or the arts. There shall be no application fee for admission to a charter school. There shall be no tuition charge for students attending charter schools.

(n) Preference for enrollment in a commonwealth charter school shall be given to students who reside in the city or town in which the charter school is located. Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled in the school on the date that the application is filed with the board and to their siblings; second to other students actually enrolled in the public schools of the district where the Horace Mann charter school is to be located; and third to other resident students.

If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located or are siblings of students already attending said charter school, is greater than the number of spaces available, an admissions lottery, including all eligible students applying, shall be held to fill all of the spaces in that school from among the students. If there are more spaces available than eligible applicants from the city or town in which the charter school is located and who are siblings of current students and more eligible applicants than spaces left available, a lottery shall be held to determine which of the applicants shall be admitted; provided, however, that a lottery conducted for Horace Mann charter schools shall reflect the enrollment priorities of this section. Notwithstanding this subsection, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the board may amend or grant a charter designating such school a regional charter school; provided, however, that such regional charter school shall be exempt from the local

preference provision of this paragraph; provided further, that such regional charter school shall continue to grant a preference of siblings of currently enrolled students; and provided further, that if the number of applicants remaining is greater than the number of spaces available, such regional charter school shall conduct a single lottery to determine which applicants shall be admitted.

Subsection (e) requires charter school applicants to include a description of (xiv) a statement of equal educational opportunity which shall state that charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or academic achievement; (xv) a student recruitment and retention plan, including deliberate, specific strategies the school will use to ensure the provision of equal educational opportunity as stated in clause (xiv) and to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school is expected to enroll students, contains a comparable academic and demographic profile

Subsection (f) The student recruitment and retention plan required under clause (xv) of subsection (e) shall include, but not be limited to, a detailed description of deliberate, specific strategies the school will use to maximize the number of students who successfully complete all school requirements and prevent students from dropping out. The student recruitment and retention plan shall be updated annually and shall include annual goals for: (i) recruitment activities; (ii) student retention activities; and (iii) student retention.

Subsection (i) requires some applicants to include, but not limited to: (i) a detailed description of deliberate, specific strategies the charter school shall use to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school shall enroll students, contains a comparable or greater percentage of special education students or students who are limited English-proficient of similar language proficiency as measured by the Massachusetts English Proficiency Assessment examination and 2 or more of the following categories: students eligible for free lunch; (ii) students eligible for reduced price lunch; students who are sub-proficient, those students who have scored in the “needs improvement”, “warning” or “failing” categories on the mathematics or English language arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a similar measurement; (iii) students who are determined to be at risk of dropping out of school based on predictors

determined by the department; (iv) students who have dropped out of school; or (v) other at-risk students who should be targeted in order to eliminate achievement gaps among different groups of students.

State Regulation – Code of Massachusetts Regulations

603 CMR 1.00

1.05: Student Recruitment, Enrollment, and Retention

- (1) Recruitment and Retention Plan: A charter school must develop a plan that includes deliberate, specific strategies the school will use to attract, to enroll, and to retain a student population that is demographically comparable to similar grades in schools from which the charter school enrolls students. Charter schools shall submit recruitment and retention plans for approval by the Department that meet the requirements of M.G.L. c. 71, § 89; 603 CMR 1.05; and any guidelines issued by the Department.
- (2) Non-Discrimination: Charter schools shall not discriminate on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or prior academic achievement. For purposes of 603 CMR 1.05, gender identity shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.
- (3) Enrollment Process and Applications for Admission:
 - (a) Enrollment Process. Charter schools may not administer tests to potential applicants or predicate enrollment on results from any test of ability or achievement. Charter schools may not use financial incentives to recruit students. Requirements for enrollment in a charter school, including but not limited to attendance at informational meetings and interviews, shall not be designed, intended, or used to discriminate. Charter schools may not require potential students and their families to attend interviews or informational meetings as a condition of enrollment.
 - (b) Application for Admission. Every charter school must submit its proposed application for admission, and any subsequent revisions, beyond changing dates indicated and correcting minor grammatical errors, to the Department for approval.
 - (c) Principal Application Deadlines. Charter schools may not set any principal application deadlines or hold any enrollment lotteries for student admissions for the upcoming school year until after January 1st. Every charter school shall conclude its principal enrollment process no later than March 15th of each year.
- (4) Written Notice: Charter schools shall notify all applicants in writing of the rights of students with diverse learning needs to attend the charter school and to receive accommodations and support services, including students who may have disabilities, require special education, or are English language learners. Charter schools must include this notice as part of the school's application and enrollment materials. Every charter school must make information regarding the availability of services for students generally available in the school's outreach materials, through the student handbook, and on the school's website.
- (5) Application Deadlines: Charter schools shall give reasonable public notice, of at least one month, of all application deadlines.
- (6) Enrollment in Commonwealth Charter Schools: In conformance with M.G.L. c. 71, § 89, enrollment in Commonwealth charter schools shall be conducted as follows:
 - (a) In such cases where there are fewer spaces than eligible applicants, students shall be accepted for admission by a lottery process.
 - (b) A Commonwealth charter school shall provide an enrollment preference to:
 1. Siblings of students already attending the school; and
 2. Students who reside in the city or town in which a Commonwealth charter school is located or, in the case of a regional charter school, to students who reside within the charter school's region.
 - (c) If there are fewer spaces for admission to the charter school than eligible applicants, the charter school shall hold an enrollment lottery for all such applicants.
 - (d) The Department shall notify each Commonwealth

charter school no later than February 15th of any limitation(s) on the number of students from a district that may be enrolled in charter schools for the upcoming school year.

(e) A charter school may initiate a request once a year for a mailing to the students enrolled in each district specified in the school's charter, and a district may initiate a request once a year for a mailing to the students enrolled in any charter school serving that district. When such a request is made, the district or school, as the case may be, shall provide the names and addresses of students within 30 days, in electronic format, to an approved third party mailing service. Any vendor listed on the statewide procurement or master services agreement for mailing services shall be deemed approved for the purposes of 603 CMR 1.05(6)(e). The district or school must provide parents or guardians with the opportunity to request that such information be withheld. The cost of copying and mailing shall be borne by the charter school or district requesting the mailing. Neither school districts nor charter schools shall charge for the provision of the required names and addresses. Charter schools shall provide any such mailing in the prevalent languages of the district. A language shall be deemed a prevalent language if it is the primary language of 1% or more of the district's total enrollment.

(7) Enrollment in Horace Mann Charter Schools: In conformance with M.G.L. c. 71, § 89, enrollment in a Horace Mann charter school shall be conducted as follows:

- (a) In such cases where there are fewer spaces for admission than eligible applicants, students shall be accepted for admission from among applicants by lottery.
- (b) In order of priorities, a Horace Mann charter school shall provide an enrollment preference to:
 1. for the initial lottery, any students attending said school, or attending school in the school building previously occupied by said school, on the date that the final application is filed with the Board;
 2. for the initial lottery, siblings, of any students attending said school, or attending school in the school building previously occupied by said school, on the date that the final application is filed with the Board;
 3. in all subsequent lotteries, siblings of students currently attending the school;

4. students who are currently enrolled in the public schools of the district in which the Horace Mann charter school is located; and
5. students who reside in the city or town in which the Horace Mann charter school is located.

(8) Repeat Enrollment Process: If the principal enrollment process fails to fill the available admission spaces, a school may repeat the process more than once, providing such process is fair and open and the school gives reasonable public notice at least one month prior to the application deadline. As spaces become available during the school year, a school may repeat the enrollment process to fill these openings and to meet the requirements of M.G.L. c. 70, § 89(n). No student entering an enrollment process may be admitted ahead of other eligible students who were previously placed on a wait list during a prior enrollment process, except in cases where enrollment preferences change or as described in to 603 CMR 1.05(10)(b). The total number of students attending a charter school in a given school year cannot exceed the total number of students reported to the Department in the previous spring in accordance with 603 CMR 1.08(5).

(9) Public Lotteries: All lotteries for charter school seats shall be conducted in a public place with a neutral party drawing names and with reasonable public notice given at least one week prior to the lottery. Such lotteries may be conducted electronically; in such cases a neutral party shall certify that the process is fair and that selection is random.

(10) Waitlist: Charter schools shall place the names of students not selected in an enrollment lottery on a wait list in the order the names are drawn.

- (a) Schools shall maintain waitlists only for the school year for which the students applied, provided that a charter school may choose to maintain any waitlists that were established prior to March 31, 2014 until such waitlists are exhausted, provided that such maintenance is clearly articulated in the school's enrollment policy approved by the Department. Charter schools must keep accurate records of their wait list containing students' names (first, middle, last), dates of birth, cities or towns of residence, and grades levels of students who entered the lottery but did not gain admission. When an offer of admission is made, reasonable proof of current residency or sibling status may be required at the time an offer of admission is made.

(b) In cases where the enrollment of a student, who is

not a sibling of another currently enrolled student, from the waitlist would exceed the district charter tuition cap, the student should be skipped over but kept on the waitlist. In cases where the enrollment of a student who is a sibling of a student already attending a charter school would exceed the district charter school tuition cap, the sibling may be enrolled with the Commonwealth of Massachusetts providing tuition for the sibling, subject to appropriation.

(c) In conformance with M.G.L. c. 71, § 89, charter schools shall, when a student stops attending the school for any reason, fill vacant seats up to February 15th, excluding seats in the last half of the grades offered and grades 10, 11, and 12. If a school has an odd number of grades, more than half of grades offered shall be included in grades for which the school must fill vacant seats. A vacancy not filled after February 15th moves into the subsequent grade, to be filled the following September if such grade is not in the last half of the grades offered and is not grades 10, 11, or 12. Seats for students who have accepted an offer of admission in the charter school but have never attended are exempt from 603 CMR 1.05(10)(c).

(11) Integrated Enrollment Process: A school may integrate its enrollment process with that of the school district(s).

(12) Maximum Age and Thresholds: Each charter school shall specify age thresholds for kindergarten and maximum ages for high school programs, consistent with state and federal law.

(13) Multiple Campuses Under Single Charter: A charter school that operates multiple campuses under a single charter may assign students, in accordance with the charter school's enrollment policy, to a specific campus for reasons of geographic proximity, student safety, or program delivery.

Other Guidance – N/A

MICHIGAN

State Statute – Michigan Compiled Laws

MCL 380.504

(2) A public school academy shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a public school

academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a resident of this state. For a public school academy authorized by a school district, intermediate school district, or community college, enrollment in the public school academy may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries of that authorizing body who meet the admission policy, except that admission to a public school academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 502(2)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a public school academy authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to enroll using a random selection process. A public school academy shall allow any pupil who was enrolled in the public school academy in the immediately preceding school year to enroll in the public school academy in the appropriate grade unless the appropriate grade is not offered at that public school academy.

(4) A public school academy may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the public school academy.

(b) A pupil who transfers to the public school academy from another public school pursuant to a matriculation agreement between the public school academy and other public school that provides for this enrollment priority, if all of the following requirements are met:

(i) Each public school that enters into the matriculation agreement remains a separate and independent public school.

(ii) The public school academy that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(iii) The matriculation agreement allows any pupil

who was enrolled at any time during elementary school in a public school that is party to the matriculation agreement and who was not expelled from the public school to enroll in the public school academy giving enrollment priority under the matriculation agreement.

- (c) A child of a person who is employed by or at the public school academy or who is on the board of directors of the public school academy. As used in this subdivision, "child" includes an adopted child or a legal ward.

MCL 380.524

(2) An urban high school academy shall not charge tuition. Except as otherwise provided in this section, an urban high school academy shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, an urban high school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, an urban high school academy shall not enroll a pupil who is not a resident of this state. Enrollment in an urban high school academy shall be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the urban high school academy than there are spaces available, pupils shall be selected to attend using a random selection process. An urban high school academy shall allow any pupil who was enrolled in the urban high school academy in the immediately preceding school year to enroll in the urban high school academy in the appropriate grade unless the appropriate grade is not offered at that urban high school academy.

- (4) An urban high school academy may give enrollment priority to 1 or more of the following:
- (a) A sibling of a pupil enrolled in the urban high school academy.
 - (b) A child of a person who is employed by or at the urban high school academy or who is on the board of directors of the urban high school academy. As used in this subdivision, "child" includes an adopted child or a legal ward.

MCL 380.556

(2) A school of excellence shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a school of excellence may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, a school of excellence shall not enroll a pupil who is not a resident of this state. For a school of excellence authorized by a school district, intermediate school district, or community college, enrollment in the school of excellence may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries of that authorizing body who meet the admission policy, except that admission to a school of excellence authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 552(6)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a school of excellence authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. If there are more applications to enroll in the school of excellence than there are spaces available, pupils shall be selected to attend using a random selection process. A school of excellence shall allow any pupil who was enrolled in the school of excellence in the immediately preceding school year to enroll in the school of excellence in the appropriate grade unless the appropriate grade is not offered at that school of excellence.

- (4) A school of excellence may give enrollment priority to 1 or more of the following:
- (a) A sibling of a pupil enrolled in the school of excellence.
 - (b) A pupil who transfers to the school of excellence from another public school pursuant to a matriculation agreement between the school of excellence and another public school that provides for this enrollment priority, if all of the following requirements are met:
 - (i) Each school of excellence or other public school that enters into the matriculation agreement remains a separate and independent public school.

(ii) The school of excellence that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(iii) The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a public school that is party to the matriculation agreement and who was not expelled from the public school to enroll in the school of excellence giving enrollment priority under the matriculation agreement.

(c) A child of a person who is employed by or at the school of excellence or who is on the board of directors of the school of excellence. As used in this subdivision, "child" includes an adopted child or a legal ward.

(5) Subject to subsection (6), a school of excellence may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a school of excellence may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

(6) In addition to any other grade levels it operates, a school of excellence shall work toward operating all of grades 9 to 12 within 6 years after it begins operations, unless a matriculation agreement has been reached with another public school that provides grades 9 to 12.

(7) If a school of excellence is a cyber school and its authorizing body is a school district or intermediate school district, the school of excellence shall give enrollment priority to pupils who reside in the school district or intermediate school district that is the authorizing body.

State Regulation – N/A

Other Guidance – N/A

MINNESOTA

State Statute - Minnesota Statutes

124D.10 (Chapter 124D, Section 10)

Subd. 9

(a) A charter school may limit admission to:

(1) pupils within an age group or grade level;

(2) pupils who are eligible to participate in the

graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area in which the school is located when the majority of students served by the school are members of underserved populations.

(b) A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. The charter school must develop and publish, including on its Web site, a lottery policy and process that it must use when accepting pupils by lot.

(c) A charter school shall give enrollment preference to a sibling of an enrolled pupil and to a foster child of that pupil's parents and may give preference for enrolling children of the school's staff before accepting other pupils by lot.

(d) A person shall not be admitted to a charter school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a first grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that a charter school may establish and publish on its Web site a policy for admission of selected pupils at an earlier age, consistent with the enrollment process in paragraphs (b) and (c).

(e) Except as permitted in paragraph (d), a charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this subdivision.

(f) The charter school shall not distribute any services or goods of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

State Regulation – N/A

Other Guidance - Minnesota Department of Education, July 26, 2007 Memo Re: Charter School Enrollment Applications

Advised charter schools of the statutory limitations related to charter school student admission policies by addressing what charter schools can and cannot ask on an application form, when charter schools can request additional information from students, and legitimate enrollment limits.

- Minn. Stat. § 124D.10, subd. 8(h) provides that “a charter school is subject to and must comply with chapter 363A ...,” the Minnesota Human Rights Act. In addition to compliance with Chapter 363A, Minn. Stat. 124D.10, subd. 9 states that “[A] charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.”
- Minn. Stat. § 363A.14 states:
 - o “Subd. 2. Exclude, expel, or selection. It is an unfair discriminatory practice to exclude, expel, or otherwise discriminate against a person seeking admission as a student because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability. (emphasis added)
 - o Subd. 3 Admission form or inquiry. It is an unfair discriminatory practice to make or use a ... form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the creed, religion, sexual orientation, or disability of a person seeking admission, except as permitted by rules of the department (emphasis added)
 - o Subd. 4. Purpose for information and record. It is an unfair discriminatory practice to make or use a written or oral inquiry or form of application that elicits or attempts to elicit information, or to keep a record concerning the race, color, national origin, sex, age, or marital status of a person seeking admission, unless the information is collected for purposes of evaluating the effectiveness of recruitment, admissions, and other educational policies, and is maintained separately from the application.” (emphasis added)
- Pursuant to the Minnesota Human Rights Act, it is unlawful for charter schools to ask potential students about their religion, ethnicity, race, disability status, and sexual orientation at any point during the admission process, including on the admission forms
- Under Minn. Stat. § 124D.10, subd. 9, a charter school can limit admission in three situations. A charter school may limit admission to:
 - o (1) pupils within an age group or grade level;
 - o (2) people who are eligible to participate in the graduation incentives program under section 124D.10; or
 - o (3) residents of a specific geographic area where the percentage of the population of non-Caucasian

people of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area.

- Under the statute, if a charter school faces a situation in which the “number of applications exceeds the capacity of a program, class, grade level, or building,” students must be accepted by lottery. Id Certain preferential situations also exist in which specific students are given priority in admission over students in the lottery pool, such as siblings of an already enrolled student. Id Additionally, pursuant to the Minn. Stat 124D.10, subd. 9, “a charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability ..” Id
- It is a violation of state law for charter schools to ask students for information pertaining to race, ethnicity, national origin, age, sexual orientation, gender, disability status, marital status, public assistance status, creed, or religion on an application form.

A bill was introduced in the Minnesota legislature in 2013 that would have allowed charter schools to establish a preference for low-income students. This legislation did not pass.

MISSISSIPPI

State Statute - Mississippi Code Annotated

Miss. Code Ann. § 37-28-23

- (1) A charter school must be open to any student residing in the geographical boundaries of the school district in which the charter school is located.
- (2) A school district may not require any student enrolled in the school district to attend a charter school.
- (3) Except as otherwise provided under subsection (8)(d) of this section, a charter school may not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.
- (4) A charter school may limit admission to students within a given age group or grade level, including pre-kindergarten students, and may be organized around a special emphasis, theme or concept as stated in the school’s application.
- (5) The underserved student composition of a charter school’s enrollment collectively must reflect that of

students of all ages attending the school district in which the charter school is located, to be defined for the purposes of this chapter as being at least eighty percent (80%) of that population. If the underserved student composition of an applicant's or charter school's enrollment is less than eighty percent (80%) of the enrollment of students of all ages in the school district in which the charter school is located, despite the school's best efforts, the authorizer must consider the applicant's or charter school's recruitment efforts and the underserved student composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the authorizer that a charter school is operating in a discriminatory manner justifies the revocation of a charter.

- (6) A charter school must enroll all students who wish to attend the school unless the number of students exceeds the capacity of a program, class, grade level or building.
- (7) If capacity is insufficient to enroll all students who wish to attend the school based on initial application, the charter school must select students through a lottery.
- (8) (a) Any noncharter public school or part of a noncharter public school converting to a charter school shall adopt and maintain a policy giving an enrollment preference to students who reside within the former attendance area of that public school. If the charter school has excess capacity after enrolling students residing within the former attendance area of the school, students outside of the former attendance area of the school, but within the geographical boundaries of the school district in which the charter school is located, are eligible for enrollment. If the number of students applying for admission exceeds the capacity of a program, class, grade level or building of the charter school, the charter school must admit students on the basis of a lottery.
 - (b) A charter school must give an enrollment preference to students enrolled in the charter school during the preceding school year and to siblings of students already enrolled in the charter school. An enrollment preference for returning students excludes those students from entering into a lottery.
 - (c) A charter school may give an enrollment preference to children of the charter school's applicant, governing board members and full-time employees, so long as those children constitute no more than ten percent (10%) of the charter school's total student population.
 - (d) This section does not preclude the formation of a charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they

warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend the school, the charter school must select students through a lottery.

State Regulation – N/A

Other Guidance – N/A

MISSOURI

State Statute – Missouri Revised Statutes

160.405. 1(12) – Charter shall include description of school's policies on student admission, which shall include procedures that ensure admission of students with disabilities in a nondiscriminatory manner.

160.405. 2(5) – proposed charter schools subject to the following requirements: The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining high school credits for graduation, has dropped out of school, is at risk of dropping out of school, needs drug and alcohol treatment, has severe behavioral problems, has been suspended from school three or more times, has a history of severe truancy, is a pregnant or parenting teen, has been referred for enrollment by the judicial system, is exiting incarceration, is a refugee, is homeless or has been homeless sometime within the preceding six months, has been referred by an area school district for enrollment in an alternative program, or qualifies as high risk under department of elementary and secondary education guidelines. "Dropout" shall be defined through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

160.410. 1. A charter school shall enroll:

- (1) All pupils resident in the district in which it operates;
- (2) Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program;
- (3) In the case of a charter school whose mission includes student drop-out prevention or recovery, any nonresident pupil from the same or an adjacent county who

resides in a residential care facility, a transitional living group home, or an independent living program whose last school of enrollment is in the school district where the charter school is established, who submits a timely application; and

(4) In the case of a workplace charter school, any student eligible to attend under subdivision (1) or (2) of this subsection whose parent is employed in the business district, who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. The configuration of a business district shall be set forth in the charter and shall not be construed to create an undue advantage for a single employer or small number of employers.

2. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education;

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school or in the case of a workplace charter school, a child whose parent is employed in the business district or at the business site of such school; and

(3) Charter alternative and special purpose schools may also give a preference for admission to high-risk students, as defined in subdivision (5) of subsection 2 of section 160.405, when the school targets these students through its proposed mission, curriculum, teaching methods, and services.

3. A charter school shall not limit admission based on race, ethnicity, national origin, disability, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level. Charter schools may limit admission based on gender only when the school is a single-gender school. Students of a charter school that are present for the January membership count as defined in section 163.011 shall be counted in the performance of the charter school on the statewide assessments in that calendar year, unless otherwise exempted as English language learners.

State Regulation – N/A

Other Guidance - Missouri Department of Elementary and Secondary Education - Charter School FAQ - November 15, 2012

11. Can anyone attend a charter school?

A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process lottery that assures all applicants of an equal chance of gaining admission.

NACSA - Charter Agreement A Model Resource for Missouri Charter Public School Sponsors

2.9 Admissions and enrollment.

The Charter School shall adhere to the following admissions and enrollment requirements:

2.9.1 Admit and enroll all pupils resident in the district in which it operates, contingent on available capacity. [applicable in St. Louis and Kansas City]

2.9.2 Admit and enroll nonresident pupils eligible to attend a district's school under an urban voluntary transfer program. [applicable for St. Louis charter schools, only]

2.9.3 If capacity is insufficient to enroll all pupils who submit a timely application, the Charter School shall implement a random admissions policy as presented in the Charter Application or otherwise approved by the Sponsor subject to the exceptions presented in the following subsection.

2.10 Admissions and enrollment preferences.

The Charter School may establish Admissions and Enrollment Preferences consistent with this part provided that such preferences must be clearly presented in the Charter Application or must be otherwise approved in writing by the Sponsor.

2.10.1 The Charter School may limit admission to pupils according to given age group(s) or grade level(s).

2.10.2 The Charter School may give preference for admission of children whose siblings attend the School provided the sibling is eligible to attend pursuant to section 160.410(1) and/or (2) RSMo.

2.10.3 The Charter School may give preference for children whose parents are employed at the School provided the children are eligible to attend pursuant to section 160.410(1) and/or (2) RSMo.

2.10.4 The Charter School may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education.

2.10.5 If the Charter School is a workplace charter as defined in section 160.400.3, RSMo, the School may give preference for admission to children of a parent employed by the School provided the children are eligible to attend pursuant to section 160.410 (1) and/or (2), RSMo. [applicable for St. Louis charter schools, only].

2.10.6 In no event may the Charter School limit admission based on race, ethnicity, national origin, disability, gender, income level, athletic ability, or proficiency in the English language.

(c)(1) Chartered public schools may select pupils on the basis of aptitude, academic achievement, or need, provided that such selection is directly related to the academic goals of the school.

(2) If the number of otherwise eligible applicants to a particular chartered public school exceeds that school's maximum published enrollment, that school shall use lottery selection as a basis for admission.

(3) If the number of otherwise eligible applicants to chartered public schools located inside and outside the school district exceeds that district's published maximum percentage of pupils authorized to attend such schools, the district shall use lottery selection as a basis for pupil eligibility, and in accordance with RSA 194-B:2, IV.

State Regulation – N/A

Other Guidance – N/A

MONTANA – N/A

NEBRASKA – N/A

NEW HAMPSHIRE

State Statute – New Hampshire Revised Statutes

Title XV, Section 194-B

Section 194-B 2 (IV). All chartered public schools shall accept qualified pupils from any school district. A pupil who meets the admission requirements of a chartered public school, and who is a resident of the district where the school is located, shall be given absolute admission preference over a nonresident pupil. Once admitted and unless expelled, chartered public school pupils need not reapply for admission for subsequent years.

194-B:9 Chartered Public Schools; Pupil Selection; Enrollment; Separation. –

I. Except as provided for under RSA 194-B:8, IV:

- (a) Chartered public schools may set maximum enrollment as they deem appropriate.
- (b) Chartered public schools may limit enrollment to specific grade or age levels, pupil needs, or areas of academic focus including, but not limited to, at-risk pupils, vocational education pupils, mathematics, science, the arts, history, or languages.

NEW JERSEY

State Statute – New Jersey Statutes Annotated

N.J.S.A. 18A:36A

18A:36A-7. Student admissions to charter school

A charter school shall be open to all students on a space available basis and shall not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, proficiency in the English language, or any other basis that would be illegal if used by a school district; however, a charter school may limit admission to a particular grade level or to areas of concentration of the school, such as mathematics, science, or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

18A:36A-8. Enrollment preference

- a. Preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. If there are more applications to enroll in the charter school than there are spaces available, the charter school shall select students to attend using a random selection process. A charter school shall not charge tuition to students who reside in the district
- b. A charter school shall allow any student who was enrolled in the school in the immediately preceding school year to enroll in the charter school in the appropriate grade

unless the appropriate grade is not offered at the charter school.

- c. A charter school may give enrollment priority to a sibling of a student enrolled in the charter school.
- d. If available space permits, a charter school may enroll non-resident students. The terms and condition of the enrollment shall be outlined in the school's charter and approved by the commissioner.
- e. The admission policy of the charter school shall, to the maximum extent practicable, seek the enrollment of a cross section of the community's school age population including racial and academic factors.

State Regulation – N/A

Other Guidance – N/A

NEW MEXICO

State Statute – New Mexico Statutes Annotated

NMSA 22-2C-7.1. Failing school subject to reopening as state-chartered charter school ; requirements.

B. To reopen as a state-chartered charter school :

- (2) the students enrolled at the time of its reopening as a state-chartered charter school , as well as those students' siblings, shall be given enrollment preference;

22-8B-4. Charter schools' rights and responsibilities; operation.

- A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services.
- K. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

22-8B-4.1. Charter schools' enrollment procedures.

- A. Start-up schools and conversion schools are subject to the following enrollment procedures:
 - (1) a start-up school may either enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the start-up school; and

- (2) a conversion school shall give enrollment preference to students who are enrolled in the public school at the time it is converted into a charter school and to siblings of students admitted to or attending the charter school . The conversion school may either enroll all other students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the conversion school.

B. In subsequent years of its operation, a charter school shall give enrollment preference to:

- (1) students who have been admitted to the charter school through an appropriate admission process and remain in attendance through subsequent grades; and
- (2) siblings of students already admitted to or attending the same charter school.

State Regulation – New Mexico Administrative Code

NMAC 6.80.4.12

D. Enrollment in a start-up charter school shall be guided by the following.

- (1) A charter applicant must enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available.
- (2) A charter applicant shall advertise its enrollment process using newspapers, bulletin boards and other methods designed to disseminate its availability to seek student enrollment and to ensure that there is equal opportunity for all parents and students to learn about the school and apply.
- (3) A charter school shall not charge tuition or have admission requirements, except as otherwise provided in the Public School Code, Sections 22-1-1 et seq., NMSA 1978.
- (4) In subsequent years of its operation, a charter school will give enrollment preference to previously properly admitted students who remain in attendance and siblings of students already admitted to or attending the school.

L. A charter school shall have an admissions process that does not discriminate against anyone on the basis of race, gender, national origin, color, disability, or age.

Other Guidance – N/A

NEW YORK

State Statute – Consolidated Laws of New York

Title 2, New York Education Article 56 § 2854

2. Admissions; enrollment; students. (a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A 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 a school. Admission of students 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, however, that nothing in this article 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 or students with disabilities and English language learners; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school. The commissioner shall establish regulations to require that the random selection process conducted pursuant to this paragraph be performed in a transparent and

equitable manner and to require that the time and place of the random selection process be publicized in a manner consistent with the requirements of section one hundred four of the public officers law and be open to the public. For the purposes of this paragraph and paragraph (a) of this subdivision, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

State Regulation – New York Codes, Rules and Regulations

8 N.Y. Comp. Codes R. & Regs. 119.5

Random Selection Process for Charter School Student Applicants

If the number of timely submitted applications of eligible students for admission to a charter school exceeds the capacity of the grade level of a charter school (or building if the school does not distinguish between grades), students shall be accepted for admission from among such applicants by a random selection process (lottery) pursuant to the requirements of this section.

(a) Preferences.

- (1) Notwithstanding the provisions of this section, a charter school shall provide an enrollment preference to:
 - (i) pupils returning to the charter school in the second or any subsequent year of operation;
 - (ii) pupils residing in the school district in which the charter school is located, or in the case of the City School District of the City of New York, pupils residing in the community school district in which the charter school is located; and
 - (iii) siblings of pupils already enrolled in the charter school.
- (2) Establishment of specific school design. Consistent with the requirements of federal law and with the school design described in the school's charter, a charter school may also establish a single-sex charter school and/or establish enrollment preferences for students at-risk of academic failure, students with disabilities and English language learners.

Other Guidance –

SUNY Charter Schools Institute Guidance and Reporting Requirements: Student Recruitment, Application and Admissions, January 2015

Special Note to Charter School Program Recipients

The U.S. Department of Education has determined that

schools offering absolute preferences or set-asides for at-risk applicants are not eligible for federal Charter Schools Program (“CSP”) grant funds through NYSED. While a weighted lottery process for at-risk applicants is generally allowed under CSP guidelines, New York has not yet been approved by the U.S. Department of Education for weighted lotteries for schools receiving state CSP funds. Such approval, however, may come in the next few months. Therefore, schools in their first three years of operation may want to contact the Institute to:

- 1) revise their admission policies to eliminate absolute preferences and/or set-asides; and/or,
- 2) offer a weighted lottery process for at-risk applicants in the event weighted lotteries are permitted in the near future.

NYC Charter School Center “Changes to the State Charter Schools Law: A Guide for NYC Charter Schools”, 9/29/10

“Optional enrollment preferences for students with disabilities and ELLs Charter schools are now explicitly allowed, but not required, to give admissions preferences for students with disabilities and English Language Learners. As always, a charter amendment is required to begin offering such a preference.”

NEVADA

State Statute – Nevada Revised Statutes

NRS 386.580

1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which

the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school may enroll a child who:

- (a) Is a sibling of a pupil who is currently enrolled in the charter school;
- (b) Was enrolled, free of charge and on the basis of a lottery system, in a prekindergarten program at the charter school or any other early childhood educational program affiliated with the charter school;
- (c) Is a child of a person who is:
 - (1) Employed by the charter school;
 - (2) A member of the committee to form the charter school; or
 - (3) A member of the governing body of the charter school;

(d) Is in a particular category of at-risk pupils and the child meets the eligibility for enrollment prescribed by the charter school for that particular category; or

(e) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 8, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;

- (c) Religion;
- (d) Ethnicity; or
- (e) Disability, of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.
5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the charter school if:
 - (a) Space for the child in the class or extracurricular activity is available;
 - (b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and
 - (c) The child is a homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 392.705.

If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of

services to the child.

7. The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.
8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:
 - (a) With disabilities;
 - (b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or
 - (c) Who are at risk.

If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

State Regulation – Nevada Administrative Code

NAC 386.353

1. The governing body of a charter school shall not limit the enrollment of pupils in the charter school to a specified number of pupils unless:
 - (a) The written charter of the charter school identifies a limit on the number of pupils the charter school will enroll or identifies a ratio of pupils to teachers for the charter school;
 - (b) The charter school limits the enrollment of pupils to a number that corresponds with the maximum capacity of persons allowed to occupy the facility of the charter school as determined by the building, fire or health authority which inspected the facility; or
 - (c) The charter school has obtained written permission from the Superintendent of Public Instruction pursuant to subsection 5 to set a limit on the enrollment of pupils.
2. If more pupils who are eligible for enrollment apply for enrollment in a charter school than the number of spaces available, the governing body of the charter school shall establish a waiting list for enrollment in the charter school and place the pupils who were not enrolled in the

charter school on the waiting list. The governing body of the charter school shall make available for inspection during the business hours of the charter school a list of the names of pupils on the waiting list.

3. Except as otherwise provided in subsections 5 and 6, if a space for a new pupil becomes available for enrollment, the governing body of the charter school shall fill the available space using the lottery system described in its written charter to determine to which pupil on the waiting list established pursuant to subsection 2 the governing body will offer the available space for enrollment in the charter school. The governing body of the charter school shall provide notice to the pupil selected pursuant to this subsection of the availability of a space for enrollment in the charter school.
4. Except as otherwise provided in subsection 5, a charter school must enroll the pupil notified by the governing body of the charter school pursuant to subsection 3 if that pupil seeks enrollment in the charter school. If the pupil notified by the governing body of the charter school does not wish to enroll in the charter school, the governing body shall, using the lottery system to select another pupil on the waiting list, provide notice of the available space for enrollment to another pupil until the available space is filled.
5. Not later than the first day of the school year, a charter school may submit an application, on a form prescribed by the Superintendent of Public Instruction, to the Superintendent of Public Instruction for:
 - (a) Written permission to limit the enrollment of pupils in the charter school pursuant to subsection 1; or
 - (b) A waiver from the requirement to enroll a pupil from the waiting list pursuant to subsection 4.
6. The Superintendent of Public Instruction may approve an application submitted pursuant to subsection 5 if the governing body of the charter school:
 - (a) Has entered into an agreement with a provider of software for a program of education used in the charter school; and
 - (b) Submits documentation which demonstrates that the enrollment of additional pupils in the charter school will be an undue financial burden on the charter school.
7. If the Superintendent of Public Instruction denies an application submitted pursuant to subsection 5, the governing body of the charter school may appeal the decision to the State Board.
8. A charter school that limits the enrollment of pupils

pursuant to:

- (a) Paragraph (a) of subsection 1 must submit a request to the sponsor of the charter school to amend the written charter before enrolling pupils in excess of the approved limit.
- (b) Paragraph (b) of subsection 1 must obtain permission from the appropriate building, fire or health authority before enrolling pupils in excess of the maximum capacity allowed to occupy the facility.

Other Guidance – N/A

NORTH CAROLINA

State Statute – North Carolina General Statutes

N.C.G.S. § 115C-238.29F

(g) Admission Requirements. -

- (1) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.
- (2) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.
- (3) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.
- (4) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.
- (5) A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. Within one year after the charter school begins operation, the charter school shall make efforts for the population of the school to reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located.

The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(5a) The charter school may give enrollment priority to any of the following:

- a. Siblings of currently enrolled students who were admitted to the charter school in a previous year. For the purposes of this subsection, the term “siblings” includes any of the following who reside in the same household: half siblings, stepsiblings, and children residing in a family foster home.
- b. Siblings of students who have completed the highest grade level offered by that school and who were enrolled in at least four grade levels offered by the charter school or, if less than four grades are offered, in the maximum number of grades offered by the charter school.
- c. Limited to no more than fifteen percent (15%) of the school’s total enrollment, unless granted a waiver by the State Board of Education, the following:
 1. Children of the school’s full-time employees.
 2. For its first year of operation, children of the initial members of the charter school’s board of directors.
- d. A student who was enrolled in the charter school within the two previous school years but left the school (i) to participate in an academic study abroad program or a competitive admission residential program or (ii) because of the vocational opportunities of the student’s parent.

(5b) Lottery procedures for siblings:

- a. If siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g) (6), the charter school may enter one surname into the lottery to represent all of the siblings applying at the same time. If that surname of the siblings is selected, then all of the siblings shall be admitted to the extent that space is available and does not exceed the grade level capacity.
- b. If multiple birth siblings apply for admission to a charter school and a lottery is needed under G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings applying at the same time. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted.

(6) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(7) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

State Regulation – N/A

Other Guidance - North Carolina Office of Charter Schools “Enrollment and Lottery Guidance”, 1/14/14

Instructs charter schools not to include questions about a student’s IEP, race, gender, GPA, religion or other nonessential information on the initial enrollment application. Specifically discusses the statutorily permitted preferences, implying that no other preferences beyond those specifically identified are permitted. All preferences are permissible, none required.

NORTH DAKOTA – N/A

OHIO

(Charter schools referred to as “community schools”)

State Statute – Ohio Revised Code

3314.06

The governing authority of each community school established under this chapter shall adopt admission procedures that specify the following:

(A) That, except as otherwise provided in this section, admission to the school shall be open to any individual age five to twenty-two entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code in a school district in the state.

Additionally, except as otherwise provided in this section, admission to the school may be open on a tuition basis to any individual age five to twenty-two who is not a resident of this state. The school shall not receive state funds under section 3314.08 of the Revised Code for any student who is not a resident of this state.

An individual younger than five years of age may be admitted to the school in accordance with division (A)(2)

of section 3321.01 of the Revised Code. The school shall receive funds for an individual admitted under that division in the manner provided under section 3314.08 of the Revised Code.

(B)

(1) That admission to the school may be limited to students who have attained a specific grade level or are within a specific age group; to students that meet a definition of "at-risk," as defined in the contract; to residents of a specific geographic area within the district, as defined in the contract; or to separate groups of autistic students and nondisabled students, as authorized in section 3314.061 of the Revised Code and as defined in the contract.

(2) For purposes of division (B)(1) of this section, "at-risk" students may include those students identified as gifted students under section 3324.03 of the Revised Code.

(C) Whether enrollment is limited to students who reside in the district in which the school is located or is open to residents of other districts, as provided in the policy adopted pursuant to the contract.

(D)

(1) That there will be no discrimination in the admission of students to the school on the basis of race, creed, color, disability, or sex except that:

(a) The governing authority may do either of the following for the purpose described in division (C) of this section:

- (i) Establish a single-gender school for either sex;
- (ii) Establish single-gender schools for each sex under the same contract, provided substantially equal facilities and learning opportunities are offered for both boys and girls. Such facilities and opportunities may be offered for each sex at separate locations.

(b) The governing authority may establish a school that simultaneously serves a group of students identified as autistic and a group of students who are not disabled, as authorized in section 3314.061 of the Revised Code. However, unless the total capacity established for the school has been filled, no student with any disability shall be denied admission on the basis of that disability.

(2) That upon admission of any student with a disability, the community school will comply with all federal and state laws regarding the education of students with disabilities.

(E) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or

aptitude, or athletic ability, except that a school may limit its enrollment to students as described in division (B) of this section.

(F) That the community school will admit the number of students that does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(G) That the purpose of single-gender schools that are established shall be to take advantage of the academic benefits some students realize from single-gender instruction and facilities and to offer students and parents residing in the district the option of a single-gender education.

(H) That, except as otherwise provided under division (B) of this section or section 3314.061 of the Revised Code, if the number of applicants exceeds the capacity restrictions of division (F) of this section, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and to students who reside in the district in which the school is located. Preference may be given to siblings of students attending the school the previous year.

Notwithstanding divisions (A) to (H) of this section, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

State Regulation – N/A

Other Guidance - Ohio Alliance for Public Charter Schools, "2013 Ohio Charter Law Guidebook", September 2013

Discusses admissions requirements and permissible restrictions.

A. Public charter schools must:

1. Be open to any individual age 5 to 22 who is entitled to attend a public school in Ohio.
 - a. A charter school may admit a child to kindergarten if he or she meets standards from an accepted standardized testing program that has been approved by the board.
 - b. A child younger than five years of age may be admitted to school early in accordance with ORC 3321.01.
2. Be free of tuition.
3. Provide a copy of its most recent report card to parents during the admissions process.

B. Restrictions

1. Charter schools cannot restrict admission based on any of the following:

- a. Race
- b. Creed
- c. Color
- d. Disabling condition
 - The school must comport with all state and federal laws dealing with education of children with disabilities.
 - A charter school can contract for special education services⁵

2. Charter schools may restrict by:

- a. Certain grade levels
- b. Age groups
- c. "At risk" students
- d. Geographical residence. A charter school board must adopt a policy identifying from which districts it will admit students. It can restrict admission to students to the following:
 - Sub-section of "home" district.
 - "Home" district.
 - "Home" district and adjacent districts.
 - All of Ohio.
- e. Gender
- f. Capacity

ENROLLMENT

A. Lottery. If a school cannot accommodate all students who wish to attend it, the school must hold a lottery.

1. The lottery must be based on students who submitted applications.
2. The lottery must give preference to:
 - a. Students residing in "home" district.
 - b. Students who attended the previous year.
3. The lottery may give preference to siblings of students who attended the previous year.

State Statute - Oklahoma Statutes §70-3-140/ AKA Oklahoma School Code, Section 42.22

§70-3-140.

A. Except for a charter school sponsored by the State Board of Education, a charter school shall enroll those students whose legal residence is within the boundaries of the school district in which the charter school is located and who submit a timely application, or those students who transfer to the district in which the charter school is located in accordance with Section 8-103 or 8-104 of this title, unless the number of applications exceeds the capacity of a program, class, grade level, or building. Students who reside in a school district where a charter school is located shall not be required to obtain a transfer in order to attend a charter school in the school district of residence. If capacity is insufficient to enroll all eligible students, the charter school shall select students through a lottery selection process. Except for a charter school sponsored by the State Board of Education, a charter school shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located. Except for a charter school sponsored by the State Board of Education, a charter school created after the effective date of this act shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located and who attend a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. A charter school may limit admission to students within a given age group or grade level. A charter school sponsored by the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs shall limit admission to youth that are in the custody or supervision of the Office of Juvenile Affairs.

B. Except for a charter school sponsored by the State Board of Education, a charter school shall admit students who reside in the attendance area of a school or in a school district that is under a court order of desegregation or that is a party to an agreement with the United States Department of Education Office for Civil Rights directed towards mediating alleged or proven racial discrimination unless notice is received from the resident school district that admission of the student would violate the court order or agreement.

C. A charter school may designate a specific geographic area within the school district in which the charter school is located as an academic enterprise zone and may limit admissions to students who reside within that area. An academic enterprise zone shall be a geographic

OKLAHOMA

area in which sixty percent (60%) or more of the children who reside in the area qualify for the free or reduced school lunch program.

- D. Except as provided in subsections B and C of this section, a charter school shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measures of achievement, aptitude, or athletic ability.

State Regulation – N/A

Other Guidance - Oklahoma Charter School Program, Charter FAQ

Who can attend charter schools?

Charter schools cannot “limit admission based on ethnicity, national origin, gender, income level, disabling condition, English proficiency, measures of achievement, aptitude, or athletic ability.” They may enroll students whose legal residence is within the boundaries of the school district in which the school is located or who have transferred into the school district. Preference shall be given to resident students. If capacity is insufficient to enroll all interested eligible students, then charter schools must select students through a lottery.

OREGON

State Statute – Oregon Revised Statutes

ORS 338.125

- (1) Student enrollment in a public charter school is voluntary.
- (2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available.
- (b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available and subject to subsection (4) of this section.
- (c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability.
- (3)(a) Except as provided by paragraph (b) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable

lottery selection process.

- (b) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:
- (A) Were enrolled in the school in the prior year;
- (B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or
- (C) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

338.025

- (1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.
- (2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost.

State Regulation – N/A

Other Guidance – N/A

PENNSYLVANIA

State Statute – Pennsylvania Code

24 Pa. Code § 17-1723-A

- (a) – all resident children in Pennsylvania qualify for admission to a charter school within the provisions of subsection (b). If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.

- (b)(1) – a charter school shall not discriminate in its admission policies or practices on the basis of intellectual ability, except as provided in paragraph (2), or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district.
- (b)(2) – a charter school may limit admission to a particular grade level, a targeted population group composed of at-risk students, or areas of concentration of the school such as mathematics, science or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school’s charter.
- (c) if available classroom space permits, a charter school may enroll nonresident students on a space-available basis, and the student’s district of residence shall permit the student to attend the charter school.

22 Pa. Code § 11.11

- (a)(1) - A school age child is entitled to attend the public schools of the child’s district of residence.
- (b) - A school district or charter school shall normally enroll a child the next business day, but no later than 5 business days of application. The school district or charter school has no obligation to enroll a child until the parent, guardian or other person having control or charge of the student making the application has supplied proof of the child’s age, residence, and immunizations as required by law.

§ 12.4. Discrimination.

Consistent with the Pennsylvania Human Relations Act (43 P. S. § 951—963), a student may not be denied access to a free and full public education, nor may a student be subject to disciplinary action on account of race, sex, color, religion, sexual orientation, national origin or disability.

22 Pa. Code § 32.3 (2)(i)

The institution may not subject students to unlawful discrimination in the admission process on the basis of race, color, religious creed, ancestry, national origin, handicap or disability, age or sex, except an institution not listed in section 9 of the Pennsylvania Fair Educational Opportunities Act (24 P. S. § 5009) and not a community college may be required by its charter to admit students of one sex.

State Regulation – N/A

Other Guidance - 24 P.S. §17-1701-A Basic Education Circular, 10/1/04

Based on §1723-A of the Charter School law, any student in

the Commonwealth is eligible to enroll in a charter school. A charter school may not discriminate in its admission policies or practices on the basis of intellectual ability or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal is used by a school district.

However, the law authorizes that a charter school may have a specific mission or focus that addresses a specific population listed in the law as “at risk student,” specific grade levels or curricula areas such as mathematics, science or the arts. These charter schools may limit admission and develop reasonable criteria to evaluate prospective students. The information related to the evaluation process for prospective students must be outlined in the Charter application submitted to the local school district. The procedures and evaluation process may not vary from what is presented in the Charter application without review and approval by the chartering school district board of directors as an amendment to the Charter.

A charter school may not use achievement tests, entrance examination tests, or other means of testing a student’s intellectual ability in order to grant or deny admission. A charter school also may not require that a student has obtained or maintained a particular grade point average in order to be admitted to the charter school.

RHODE ISLAND

State Statute – N/A

State Regulation - BOARD OF REGENTS’ REGULATIONS GOVERNING RHODE ISLAND PUBLIC CHARTER SCHOOLS, CHAPTER 5

C-5-2. Enrollment Lotteries. — (a) When fewer students apply than there are seats available, all applicants shall be offered enrollment into the school. When more students apply than are seats available, the school shall conduct a random lottery to determine enrollment. For Charter schools that do not have defined enrollment percentages from their sending districts in their Charter, lotteries shall be held no later than a date set by the Commissioner in the school year before the year in which students are to enroll. Charter schools shall use a lottery application developed by the Commissioner. Weighted lotteries are permissible if the Commissioner deems it necessary to fulfill statutory requirements.

(b) All students in the lottery pool at the time of the lottery shall be drawn from the lottery. Once all available seats have been filled, the remaining applicants in the pool shall be drawn and placed on a waiting list ranked in the

order that they were drawn. The school shall notify RIDE at least two (2) weeks before the lottery so that a RIDE representative may be present during the lottery.

- (c) Schools are permitted to adopt a siblings policy to exempt siblings of currently enrolled students from participation in the lottery. Schools further permitted to adopt a policy to exempt the students of teachers or school founders from participation in the lottery so long as these students constitute no more than 10% of the school's total enrollment.

Other Guidance – N/A

SOUTH CAROLINA

State Statute – South Carolina Code

SECTION 59 40 40(2)(b)

Charter School is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school

SECTION 59 40 50 (B)(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59 40 70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

SECTION 59 40 50 (B) (8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to the school; a charter school may give enrollment priority to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year. An

enrollment preference for returning students excludes those students from entering into a lottery. A charter school also may give priority to children of a charter school employee and children of the charter committee, if priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school. In addition, a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school as its principal location also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed fifty percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority;

SECTION 59 40 145

A child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend pursuant to Sections 59 40 40(2)(b) and 59 40 50(B)(7) and (8) according to the terms of the charter after in district children have been given priority in enrollment. However, the out of district enrollment shall not exceed twenty percent of the total enrollment of the charter school without the approval of the sponsoring district board of trustees. The district sending children to the charter school under the terms of this section must be notified immediately of the transferring students. Out of district students must be considered based on the order in which their applications are received. If the twenty percent out of district enrollment is from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school. The charter school to which the child is transferring shall be eligible for state and federal funding according to the formula defined in Section 59 40 140(A), (B), and (C), as applicable. However, this section does not apply to a charter school sponsored by the South Carolina Public Charter School District Board of Trustees.

State Regulation – South Carolina Code of Regulations

Chapter 43, Article 26

43-601 (III)(B)(1) The admission policies and procedures must reflect compliance with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special

education services.

- (2) The admission policies and procedures must provide that, subject to space limitations, the charter school admits all children who are eligible to attend public school in the school district where the charter school is operating, except in the case of an application to create single-gender schools. For schools within the South Carolina Public Charter School District, or institutions of higher education, the enrollment is open to all children who are eligible to attend public school in the state. If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, as specified in federal or state guidance. There is no appeal to the local school board of trustees.
- (3) The policies and procedures must not limit or deny admission or show preference to any individual group except in the case of an application to create single-gender schools; however, priority, which may not exceed twenty percent of the enrollment of the charter school for the categories in (b) and (c) below, may be given to
 - (a) a sibling of a pupil currently enrolled or attending, or who within the last six years attended the school for at least one complete academic year,
 - (b) children of charter school employees, and
 - (c) children of the charter school committee.
- (4) Admission priority must be given to all students enrolled in a school undergoing a conversion.
- (5) The policies and procedures must include provisions to grant or deny permission for students to attend the charter school if they reside in a school district other than the one where the charter school is located. This section is not applicable to schools authorized by the South Carolina Public Charter School District or institutions of higher education.
 - (a) In-district students will be given priority.
 - (b) Out-of-district student enrollment must not exceed 20 percent of the total enrollment of the charter school without the approval of the receiving district board of trustees. The sending district must be notified immediately of the transferring students. Out-of-district students must be considered on the basis of the order in which their applications are received.
 - (c) If the 20 percent of the out-of-district students are from one school district, then the sending district must concur with any additional students' transferring from that district to attend the charter school.

- (6) If a charter school denies admission to a student for reasons other than the results of a lottery, the student may appeal the denial to the sponsor. The decision will be binding on the student and the charter school.

Other Guidance – Department of Education South Carolina Public Charter School Application Guidance

The admission policies and procedures must provide that, subject to space limitations, the charter school admits all students who are eligible to attend public school in the school district where the charter school is operating. For schools sponsored by the SCPCSD and the board of trustees or area commission of a public or independent institution of higher learning, the enrollment is open to all students who are eligible to attend public school in the state. If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lottery, as specified in federal or state guidance. There is no appeal to the local school board of trustees.

The policies and procedures must not limit or deny admission or show preference to any individual group, except if the application is to create a single-gender charter school. Priority may be given to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. Priority, which may not exceed 20 percent of the enrollment of the charter school, may be given to children of charter school employees and children of the charter committee. For a conversion school, admission priority must be given to all students enrolled in the school prior to the conversion.

SOUTH DAKOTA – N/A

TENNESSEE

State Statute – Tennessee Code Annotated

Tenn. Code Ann. § 49-13-113

- (a) Participation in a public charter school shall be based on parental choice or the choice of the legal guardian or custodian.
- (b) (1) A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building.
 - (2) (A) If applications exceed the planned capacity of the public charter school, the following preferences shall apply:

(i) Pupils in attendance in the previous school year at any public school that converts to become a public charter school;

(ii) Pupils attending during the previous school year:

(a) Another charter school that has an articulation agreement with the enrolling public charter school; provided, that the articulation agreement has been approved by the chartering authority; or

(b) A pre-K program operated by the charter school sponsor;

(iii) Children residing within the LEA service area in which the public charter school is located, but who are not enrolled in public schools, if those children would otherwise be included in the area in which the public charter school will focus; and

(iv) Children residing outside the LEA in which the public charter school is located and whose needs would be included in the area in which the public charter school will focus.

(B) If enrollment within a group of preference set out in subdivision (b)(2)(A) exceeds the planned capacity of the school, enrollment within that group shall be determined on the basis of a lottery.

(c) Subject to the requirements of subsections (a) and (b), preference may be afforded to the children of a teacher, sponsor or member of the governing body of the charter school, not to exceed ten percent (10%) of total enrollment or twenty-five (25) students, whichever is less.

(d) Subject to the requirement of subsections (a) and (b), preference may be afforded to the siblings of a pupil who is already enrolled.

(e) (1) A charter school shall provide to the department of education certification by an independent accounting firm or by a law firm that each lottery conducted for enrollment purposes complied with the requirements of this section. In lieu of such certification, a charter school may request that the department of education review and approve the lottery process.

(2) The charter school shall comply with the Family Education Rights and Privacy Act, codified in 20 U.S.C. § 1232g, with respect to the publication of any list of students' names before, during or after the enrollment and lottery process.

(3) The state board of education shall promulgate rules and regulations concerning enrollment lotteries to be conducted under this subsection (e). The rules and

regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Tenn. Code Ann. § 49-13-111 (b) A public charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry or need for special education services. A public charter school may not violate or be used to subvert any state or federal court orders in place in the local school district.

State Regulation – Rules of the State Board of Education

0520-14-01-.04

(1) Enrollment of eligible students, as defined in T.C.A. § 49-13-106, shall comply with T.C.A. § 49-13-113.

(2) Students currently enrolled in a specific charter school do not need to re-apply if they remain in that specific charter school. Students moving from one charter school to another- even if both schools share a sponsor or governing body- are subject to the priority and preferences outlined in T.C.A. § 49-13-113.

(3) Charter schools shall apply the enrollment preferences in T.C.A. § 49-13-113(b) and (c).

(a) Charter schools shall conduct an initial student application period of at least thirty (30) days. During this period, all eligible students may apply.

(b) If, at the end of the initial student application period, the number of eligible students seeking to be enrolled exceeds the school's capacity or the capacity of a program.

Other Guidance – Department of Education FAQ's

Who may attend charter schools?

All students residing within the jurisdiction of the authorizing LEA may attend a public charter school. Also, an LEA may authorize charters to enroll students residing outside the LEA in which the public charter school is located pursuant to the LEA out-of-district enrollment policy. For those charters authorized by the Achievement School District, all students within the LEA who are zoned to attend or enrolled in a school that is eligible to be placed in the achievement school district. Charter schools must enroll all students if they submit a timely application and if space permits.

What happens if the school does not have space for all the students who want to attend the charter school?

Subject to T.C.A. § 49-13-113, if the number of applicants exceeds the capacity of the school, then preference must be

given to students in the following order:

- Pupils in attendance in the previous school year at any public school that converts to a charter school;
- Pupils attending public schools within the school district in which the charter school is located, if those pupils would otherwise be included in the area in which the public charter school will focus;
- Children residing within the school district but who are not enrolled in public schools;
- Children residing outside the school district whose needs are included in the area in which the charter school will focus.

TEXAS

State Statute – Texas Education Code, Chapter 12

Sec. 12.002 – three types of charter

- (1) Home-rule school district charter
- (2) campus or campus program charter
- (3) open-enrollment charter

Home-Rule School District Charter

- Sec. 12.013(b)(3)(D) – subject to student admission provision under Section 25.001

Campus or Campus Program Charter

- Sec. 12.059(4) – charter must prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability
- Sec. 12.065. ADMISSION. (a) Eligibility criteria for admission of students to the campus or program for which a charter is granted under this subchapter must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials in general or in a specific area, as necessary for the type of program offered.

- (b) The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Open Enrollment Charter

Sec. 12.111(a)(5) – charter must prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability, or

the district the child would otherwise attend in accordance with this code, although the charter may:

- (A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and
- (B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;

Sec. 12.117. ADMISSION. (a) For admission to an open-enrollment charter school, the governing body of the school shall:

- (1) require the applicant to complete and submit an application not later than a reasonable deadline the school establishes; and
- (2) on receipt of more acceptable applications for admission under this section than available positions in the school:
 - (A) fill the available positions by lottery; or
 - (B) subject to Subsection (b), fill the available positions in the order in which applications received before the application deadline were received.
 - (b) An open-enrollment charter school may fill applications for admission under Subsection (a)(2)(B) only if the school published a notice of the opportunity to apply for admission to the school. A notice published under this subsection must:
 - (1) state the application deadline; and
 - (2) be published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline.
 - (c) An open-enrollment charter school authorized by a charter granted under this subchapter to a municipality:
 - (1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and
 - (2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment.

Sec. 12.1171. ADMISSION TO OPEN-ENROLLMENT CHARTER SCHOOLS SPECIALIZING IN PERFORMING ARTS. Notwithstanding Section 12.117, the governing body of an open-enrollment charter school that specializes in one or more performing arts may require an applicant to audition for admission to the school.

State Regulation – Texas Administrative Code

Chapter 100. Charters, Subchapter AA. Commissioner's Rules Concerning Open-Enrollment Charter Schools

§100.1207. Student Admission.

- (a) Application deadline. For admission to a charter school, a charter holder shall:
- (1) require the applicant to complete and submit an application not later than a reasonable deadline the charter holder establishes; and
 - (2) on receipt of more acceptable applications for admission under this section than available positions in the school:
 - (A) except as permitted by subsection (b) of this section, fill the available positions by lottery; or
 - (B) subject to subsection (c) of this section, fill the available positions in the order in which all timely applications were received.
- (b) Lottery exemption. The charter holder may exempt students from the lottery required by subsection (a) of this section to the extent this is consistent with the definition of a "public charter school" under the No Child Left Behind Act of 2001, P.L. 107-110, §5210 (NCLB), as interpreted by the United States Department of Education (USDE).
- (c) Newspaper publication. To the extent this is consistent with the definition of a "public charter school" under the NCLB, as interpreted by the USDE, a charter holder may fill applications for admission under subsection (a) (2)(B) of this section only if it published a notice of the opportunity to apply for admission to the charter school. A notice published under this subsection must:
- (1) state the application deadline; and
 - (2) be published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline.
- (d) Student admission and enrollment. Except as provided by this section, the governing body of the charter holder must adopt a student admission and enrollment policy that:

- (1) prohibits discrimination on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend under state law; and
 - (2) specifies any type of non-discriminatory enrollment criteria to be used at each charter school operated by the charter holder. Such non-discriminatory enrollment criteria may make the student ineligible for enrollment based on a history of a criminal offense, a juvenile court adjudication, or discipline problems under Texas Education Code (TEC), Chapter 37, Subchapter A, documented as provided by local policy.
- (e) Student admission and enrollment at charter schools specializing in performing arts. In accordance with the TEC, §12.111 and §12.1171, a charter school specializing in performing arts, as defined in this subsection, may adopt a student admission and enrollment policy that complies with this subsection in lieu of compliance with subsections (a)-(d) of this section.
- (1) A charter school specializing in performing arts as used in this subsection means a school whose open-enrollment charter includes an educational program that, in addition to the required academic curriculum, has an emphasis in one or more of the performing arts, which include music, theatre, and dance. A program with an emphasis in the performing arts may include the following components:
 - (A) a core academic curriculum that is integrated with performing arts instruction;
 - (B) a wider array of performing arts courses than are typically offered at public schools;
 - (C) frequent opportunities for students to demonstrate their artistic talents;
 - (D) cooperative programs with other organizations or individuals in the performing arts community; or
 - (E) other innovative methods for offering performing arts learning opportunities.
 - (2) To the extent this is consistent with the definition of a "public charter school" under the NCLB, as interpreted by the USDE, the governing body of a charter holder that operates a charter school specializing in performing arts may adopt an admission policy that requires a student to demonstrate an interest or ability in the performing arts or to audition for admission to the school.
- (3) The governing body of a charter holder that

operates a charter school specializing in performing arts must adopt a student admission and enrollment policy that prohibits discrimination on the basis of sex, national origin, ethnicity, religion, disability, academic or athletic ability, or the district the child would otherwise attend under state law.

(4) The governing body of a charter holder that operates a charter school specializing in performing arts must adopt a student admission and enrollment policy that specifies any type of non-discriminatory enrollment criteria to be used at the charter school. Such non-discriminatory enrollment criteria may make the student ineligible for enrollment based on a history of a criminal offense, a juvenile court adjudication, or discipline problems under TEC, Chapter 37, Subchapter A, documented as provided by local policy.

(f) Maximum enrollment; transfers. Total enrollment shall not exceed the maximum number of students approved in the open-enrollment charter. Students who reside outside the geographic boundaries stated in the open-enrollment charter shall not be admitted to the charter school until all eligible applicants who reside within the boundaries and have submitted a timely application have been enrolled. Then, if the open-enrollment charter so provides, the charter holder may admit transfer students to the charter school in accordance with the terms of the open-enrollment charter.

Other Guidance –

Texas Education Agency Letter, “Charter School Attendance, Admission, Enrollment Records and Tuition”, 07/28/2011

Unlike a school district, an open-enrollment charter school may have an application deadline. Once the application deadline has expired, a charter school is required to accept all timely applications from students who meet the residency requirements for the open-enrollment charter school’s designated geographic boundary up to the maximum enrollment capacity set out in the charter.

If a charter school has first enrolled all eligible applicants from its designated geographic boundary but its enrollment has not reached the maximum number of students approved in its charter, it may admit students from outside its designated geographic boundary in accordance with the terms of its charter. If more students apply to the charter school than can be accommodated, a charter school should allocate spaces through a lottery process or fill available positions in the order in which applications were received before the application deadline if notice to the public is provided as required in by statute. In order to receive

federal Charter School Program (CSP) funds, a charter must provide a lottery.

UTAH

State Statute – Utah Code

53A-1a-506. Eligible students.

- (2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.
- (3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.
- (b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through (6).
- (4) A charter school may give an enrollment preference to:
- (a) a student of a parent who has actively participated in the development of the charter school;
 - (b) siblings of students presently enrolled in the charter school;
 - (c) a student of a parent who is employed by the charter school;
 - (d) students articulating between charter schools offering similar programs that are governed by the same governing body;
 - (e) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or
 - (f) students who reside within:
 - (i) the school district in which the charter school is located;
 - (ii) the municipality in which the charter school is located; or
 - (iii) a two-mile radius from the charter school.
- (5) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise

attended it as a district school.

(6) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(7) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Nonresident school district" means a school district other than a student's school district of residence.

(c) "School district of residence" means a student's school district of residence as determined under Section 53A-2-201.

(d) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

(2) (a) The State School Board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) (I) the school's opening date, if the school has not yet opened; or

(II) the school calendar; and

(C) information on how a student may transfer

from a charter school to another charter school or a district school;

(ii) use of standard application forms prescribed by the State Board of Education;

(iii) written notification to a student's parent or legal guardian of an offer of admission;

(iv) written acceptance of an offer of admission by a student's parent or legal guardian;

(v) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and

(vi) the admission of students, provided that the admission does not disqualify the charter school from federal funding, at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by

the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

- (b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.
- (5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.
- (6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.
- (7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.
 - (b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:
 - (i) the student's grade level, if the student is an elementary school student; or
 - (ii) the core classes that the student needs to take, if the student is a secondary school student.
 - (c) State Board of Education rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).
- (8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.
- (9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

State Regulation – N/A

Other Guidance - Board of Education FAQ's

6. May a charter school limit its enrollment to certain students?

No. A charter school is part of the public education system and must be open to all students, without discrimination, on the same basis as other public schools. If the number of students applying to enroll in a charter school exceeds the capacity of the school or of programs, classes, or grade levels within the school, then those to be admitted are chosen at random from among the applicants, subject to certain preferences:

Mandatory preference. If a public school converts to charter school status, students who would have attended the public school must be given preference in enrollment.

Optional preference. Based on the written charter, preference may also be given to the following:

- Students whose parents were actively involved in the development of the charter school (Founders)
- Students who have a sibling currently attending the charter school
- Students returning from the previous school year
- Students who reside within the school district where the charter school is located
- Students who reside in the municipality in which the school is located
- Students who reside within a two mile radius from the school
- Students whose parent is a licensed classroom teacher in the charter school

VERMONT – N/A

VIRGINIA

State Statute – Code of Virginia

Section 22.1-212.6. Establishment and operation of public charter schools; requirements.

A. A public charter school shall be subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services and shall be subject

to any court-ordered desegregation plan in effect for the school division or, in the case of a regional public charter school, any court-ordered desegregation plan in effect for relevant school divisions.

Enrollment shall be open to any child who is deemed to reside within the relevant school division or, in the case of a regional public charter school, within any of the relevant school divisions, as set forth in Section 22.1-3, through a lottery process on a space-available basis. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.

Virginia law encourages development of charter schools for "at-risk" students:

- "At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which research indicates may negatively influence educational success. Virginia Code Section 22.1-212.5 (B).
- A charter school for at-risk pupils may be established as a residential school. Virginia Code Section 22.1-212.5 (B).
- Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be for at-risk students. Virginia Code Section 22.1-212.11 (A).

State Regulation – N/A

Other Guidance – N/A

WASHINGTON

State Statute – Revised Code of Washington

RCW 28A.710.050

- (1) A charter school may not limit admission on any basis other than age group, grade level, or capacity and must enroll all students who apply within these bases. A charter school is open to any student regardless of his or her location of residence.
- (2) A charter school may not charge tuition, but may charge fees for participation in optional extracurricular events and activities in the same manner and to the same extent as do other public schools.
- (3) A conversion charter school must provide sufficient capacity to enroll all students who wish to remain enrolled

in the school after its conversion to a charter school, and may not displace students enrolled before the chartering process.

- (4) If capacity is insufficient to enroll all students who apply to a charter school, the charter school must select students through a lottery to ensure fairness. However, a charter school must give an enrollment preference to siblings of already enrolled students.
- (5) The capacity of a charter school must be determined annually by the charter school board in consultation with the charter authorizer and with consideration of the charter school's ability to facilitate the academic success of its students, achieve the objectives specified in the charter contract, and assure that its student enrollment does not exceed the capacity of its facility. An authorizer may not restrict the number of students a charter school may enroll.
- (6) Nothing in this section prevents formation of a charter school whose mission is to offer a specialized learning environment and services for particular groups of students, such as at-risk students, students with disabilities, or students who pose such severe disciplinary problems that they warrant a specific educational program. Nothing in this section prevents formation of a charter school organized around a special emphasis, theme, or concept as stated in the school's application and charter contract.

State Regulation – N/A

Other Guidance – N/A

WEST VIRGINIA – N/A

WISCONSIN

State Statute – Wisconsin Statutes

118.40

4) Charter school duties and restrictions.

- (a) Duties. A charter school shall do all of the following:
 1. If the charter school replaces a public school in whole or in part, give preference in admission to any pupil who resides within the attendance area or former attendance area of that public school.
- (b) Restrictions. A charter school may not do any of the following:

2. Except as provided in par. (c), discriminate in admission or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

(c) Single-sex schools and courses. A school board may enter into a contract for, and an entity under sub. (2r) may establish or enter into a contract for, the establishment of a charter school that enrolls only one sex or that provides one or more courses that enroll only one sex if the school board or entity under sub. (2r) makes available to the opposite sex, under the same policies and criteria of admission, schools or courses that are comparable to each such school or course.

State Regulation – N/A

Other Guidance – N/A

WYOMING

State Statute – Wyoming Statutes

Wyo. Stat. § 21-3-304 (c)

A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application. Enrollment decisions shall not discriminate against at-risk students or special program students.

Wyo. Stat. § 21-3-304 (p)

Admission to a charter school shall not be determined solely on academic abilities or achievements, including minimum test scores or intelligence quotient scores.

State Regulation – Wyoming Department of Education Rules and Regulations

Ch. 32, Sec. 20 (e).

Charter school enrollment decisions "shall not be made: (i) in a discriminatory manner as specified by the charter school applicant in the charter school application, which includes that at risk or special program students may not be discriminated against; and (ii) solely on academic abilities or achievements, including test scores or intelligence quotient scores.

Other Guidance – N/A

About the Author

Lauren E. Baum is an attorney in private practice in Washington, DC, representing charter schools in DC and Maryland, and is a partner at the national civil rights charter school consulting firm, Civil Rights Solutions. In these roles, Lauren advises charter schools on a variety of civil rights issues, including but not limited to issues related to students with disabilities, English Language learners, bullying/harassment, student discipline, single gender schools and other Title IX issues, enrollment, weighted lotteries and other access and equity challenges. Since 2008, Lauren has represented over 30 charter schools in the District of Columbia and Maryland. Lauren also has led multiple trainings and presentations to members of the charter school community across the country on civil rights issues. Lauren received her undergraduate degrees from the University of Texas and her J.D. from Washington College of Law.