

Charter School Admissions and Enrollment Guidance

Introduction

The Minnesota Department of Education (MDE) developed this guidance to provide technical assistance to charter schools, authorizers, parents and other community members about admissions and enrollment policies and practices. This document does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. It is not a comprehensive or definitive response to a specific legal situation.

The Laws of Minnesota 2023, chapter 55, article 6, section 10 states a charter school cannot “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 [the Laws of Minnesota 2023, chapter 55, article 6, section 10].” In addition, charter schools are required to comply with the [Minnesota Human Rights Act](#), specifically the Laws of Minnesota 2023, chapter 52, article 19, sections 64 to 67, which prohibits educational institutions from discriminating against students based on a protected class including race, color, creed, religion, national origin, sex, gender identity, age, marital status, status with regard to public assistance, sexual orientation, or disability. These provisions set forth the guiding principles concerning charter school admissions and enrollment.

Information Allowed on Applications for Admission

The application for admission is a document provided to prospective students/families and/or made available on the charter school’s website. It is also known as an application for enrollment, admissions application, enrollment application, charter school application, etc. The application for admission is completed by families to indicate their desire for their student(s) to be admitted to the charter school. Based on the number of applications received, a charter school may have to conduct a [lottery](#) to determine who will be admitted to the school.

Charter schools may only seek basic information about applicants seeking admission, such as the student’s name, name of parent or guardian, contact information, and the grade or program for which the student is applying, and information related to possible enrollment preferences for which the prospective student may qualify. Additional information such as race, age, ethnicity and disability status can be collected on [enrollment forms](#) once a student has been admitted to the school.

The Minnesota Human Rights Act specifically protects the rights of Minnesota students in educational settings and governs what information may or may not be asked of an individual seeking admission to a charter school

on an application for admission or enrollment form. The Laws of Minnesota 2023, chapter 52, article 19 provides the following:

- It is an unfair discriminatory practice to exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, gender identify, age, marital status, status with regard to public assistance, sexual orientation, or disability.
- It is an unfair discriminatory practice to make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the creed, religion, gender identity, sexual orientation, or disability of a person seeking admission, except as permitted by rules of the department.
- 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, gender identity, sexual orientation, 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.

Questions designed to evaluate the effectiveness of marketing or recruitment strategies such as “How did you hear about us?” or “Why did you choose to apply to this school?” should not be asked on applications for admission, as the answers could disclose identifying characteristics about a student’s protected class status. These types of questions can be asked of a student or family after the student is formally admitted to the charter school if such information is maintained separately from the application.

Information Allowed on Enrollment Forms

The enrollment form is provided to families once their student has been formally accepted in order to register them at the charter school. It is also known as an enrollment packet, registration form, registration packet, etc. Enrollment forms request additional information about the student, such as date of birth, race/ethnicity, special education status, disability data, etc. This information is used to fulfill state and federal reporting requirements, place the student in an appropriate program or class, and identify resources or supports the charter school will provide to enable the student to succeed. In addition, all parents and guardians enrolling a student must complete a Minnesota Language Survey which should be on a separate page of the enrollment packet.

Limits on Admissions

The Laws of Minnesota 2023, chapter 55, article 6, section 10 sets forth three instances where charter schools, including its preschool or prekindergarten program established under Minnesota Statutes 2022, section 124E.06, subdivision 3, paragraph (b) may limit admission, which are as follows:

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](#) as amended by the Laws of Minnesota 2023, [chapter 25, section 44](#), and chapter 55, article 2, sections [54](#) and [55](#), and [article 7, section 6](#); 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.

Charter schools must comply with kindergarten and first grade eligibility requirements and may limit admission to students who meet these requirements. As provided in the Laws of Minnesota, chapter 55, article 6, section 10, to attend kindergarten, a student must be “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,” and to be eligible for first grade, a student must be “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 website a policy for admission of selected pupils at an earlier age” consistent with enrollment preferences and processes provided in Minnesota Statutes 2022, section 124E.11, paragraphs (b) and (c) as amended by the Laws of Minnesota 2023, chapter 55, article 6, section 10. The charter school determines the criteria that allows admission of kindergarten and first grade students at earlier ages than those required by statute. When developing early entrance admission policies, charter schools are encouraged to align with best practice based on Minnesota Statutes 2022, section 124D.02.

Per the Laws of Minnesota 2023, chapter 55, article 6, section 10, except as permitted regarding early entrance to kindergarten or first grade (as described in the paragraph below) and the optional enrollment preference for charter schools serving at least 90 % of enrolled students who are eligible for special education services and have a primary disability of deaf, deafblind, or hard-of-hearing (as described in the [section below](#)), “a charter school, including its preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), 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 [the Laws of Minnesota 2023, chapter 55, article 6, section]”.

Lottery Process

As required by the Laws of Minnesota 2023, chapter 55, article 6, section 10, all eligible students who submit timely applications to a charter school must be enrolled unless the number of applications exceeds the capacity of a program, class, grade level, or building. (Please note, “program” or “class” does not refer to a special education program or class for students with disabilities.) If a charter school faces a situation in which the number of applications exceeds the school’s capacity, then students must be accepted by lottery. The charter school must develop and publish on its website a lottery policy and process that it must use when accepting pupils via lottery. If a charter school’s policy allows for the use of waitlists following the lottery, please note that waitlists can only be used to fill seats in the school year for which the lottery occurred. Waitlists do not carry forward from year to year. In other words, a student’s presence on the waitlist cannot be used as an application to be entered directly into the next open enrollment period and lottery (as applicable) or to admit students in any subsequent years. Families of children not enrolled in the school must submit an application for each open enrollment period in order for the application to be considered timely and thus eligible for the lottery for that open enrollment period.

Enrollment Preferences

The Laws of Minnesota 2023, chapter 55, article 6, section 10 establishes certain preferential situations in which specific students must be given preference in admission over other students in the lottery pool. Enrollment preferences are as follows:

Mandatory enrollment preferences (these are legally required):

- Any eligible pupil who resides within Minnesota.
- A sibling of an enrolled student.
- Foster child of an enrolled student's parents.
 - Note: Statute does not indicate that foster children must be in "long-term placement."
- For Kindergarten – Grade 6 charter schools located in Duluth township in St. Louis County, students residing within a five-mile radius of the school and to siblings of enrolled students.

Optional enrollment preferences (these are preferences the law allows but are not required):

- Children of the school's staff.
 - Note: Statute indicates "staff", not "teachers". Statute does not draw any distinctions among staff.
- A charter school serving at least 90 % of enrolled students who are eligible for special education services and have a primary disability of deaf, deafblind, or hard-of-hearing may give enrollment preference to students who are eligible for special education services and have a primary disability of deaf, deafblind, or hard-of-hearing. The charter school may not limit admission based on a student's eligibility for additional special education services.

All enrollment preferences applicable to a specific charter school should be stated in that school's published lottery/enrollment policy and process (i.e., all applicable mandatory preferences, and all optional preferences approved by the school, should be explicitly stated).

Please note statute previously allowed charter schools to provide an enrollment preference to children enrolled in the school's free preschool or prekindergarten program who were eligible to enroll in kindergarten in the next school year. Per the Laws of Minnesota 2023, chapter 55, article 6, section 10, such children no longer receive an enrollment preference – they are simply considered enrolled in the charter school and advance to kindergarten without the need to reapply for admission into kindergarten.

Other Considerations

Students Remain Enrolled until Student Withdraws or is Expelled

Per the Laws of Minnesota 2023, chapter 55, article 6, section 10, "Once a student who resides in Minnesota is enrolled in the school in kindergarten through grade 12, or in the school's free preschool or prekindergarten program under section 124E.06, subdivision 3, paragraph (b), the student is considered enrolled in the school until the student formally withdraws or is expelled under the Pupil Fair Dismissal Act in sections 121A.40 to

121A.56.” Please note, only students in free preschool or prekindergarten programs retain enrollment. If a student is enrolled in a charter school preschool or prekindergarten program for free (via scholarship or some other funding source), but other students in the early learning program pay tuition, then the early learning program is not considered “free” because the early learning program is not free to all participants.

Per the [Laws of Minnesota 2023, chapter 55, article 6, section 2](#), “A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections [121A.40](#) to [121A.56](#) and [121A.575](#).” Please note various sections of the Pupil Fair Dismissal Act have been amended by the Laws of Minnesota 2023, chapter 55. The Pupil Fair Dismissal Act provides the requirements charter schools must follow when dismissing a student from the school’s education program. Per [Minnesota Statutes 2022, section 121A.41](#), subdivision 2, “‘Dismissal’ means the denial of the current educational program to any pupil, including exclusion, expulsion, and suspension. It does not include removal from class.” Per Minnesota Statutes, section 121A.41, subdivision 4, “‘Exclusion’ means an action taken by the school board to prevent enrollment or reenrollment of a pupil for a period of time that shall not extend beyond the school year.” Per Minnesota Statutes, section 121A.41, subdivision 5, “‘Expulsion’ means a school board action to prohibit an enrolled pupil from further attendance for up to 12 months from the date the pupil is expelled.”

Schools cannot require enrolled students complete forms regarding their enrollment in the upcoming school year. These are sometimes called “Intent to Return” forms, “Returning Student Enrollment” forms, or even “Re-enrollment” forms. While schools may request for planning purposes information from enrolled students about their plans for the upcoming school year, schools cannot require enrolled students provide such information in order to remain enrolled in the school. Families of enrolled students have no obligation to complete these forms as their children are already enrolled and remain enrolled unless they formally withdraw or are expelled under the Pupil Fair Dismissal Act.

15 Consecutive Days Absent

MDE’s [Minnesota Automated Reporting Student System \(MARSS\) Manual](#) indicates, “Minnesota Statutes, section 126C.05, subdivision 8 requires students to be withdrawn after 15 consecutive days absent unless instruction is being provided in the home, e.g., homebound instruction. There are no Executive Orders that allow students to remain on the rolls after reaching 15 consecutive days of absence.” This financial statute and the MARSS Manual provide guidance for school finance purposes only, but under the Laws of Minnesota 2023, chapter 55, article 6, section 10, a charter school is not permitted to withdraw the student unless the student formally withdraws (i.e., through an direct, express action) or is expelled by the charter school according to the provisions of the Pupil Fair Dismissal Act. See the MARSS Data Elements guide, which provides guidance on using Status End Code 14 (page 109 in the MARSS Data Elements) when a student is “Absent for 15 consecutive school days during the regular school year and no notice of withdrawal or request for records have been received” (among other criteria)). When 15 consecutive absences are exceeded, a charter school must remove a student from the rolls for funding purposes using Status End Code 14; however, the student remains enrolled in the school and the school maintains its obligations to the student for education, special education services, truancy follow-up, etc.

Out-of-State Enrollment

The Laws of Minnesota 2023, chapter 55, article 6, section 10 states, “Admission to a charter school must be free to any eligible pupil who resides within the state. A charter school must give enrollment preference to a Minnesota resident pupil over pupils that do not reside in Minnesota. A charter school must require a pupil who does not reside in Minnesota to annually apply to enroll in accordance with [the Laws of Minnesota 2023, chapter 55, article 6, section].”

A Minnesota public school, including a charter school, may serve a resident of another state. However, that student would not be eligible for Minnesota state aid. The public school may charge the family tuition at whatever rate the two entities agree to. The school is not obligated to serve a student who is a resident of another state. The student would be reported in MARSS with State Aid Category 15 – ineligible for state funding. Residents of other states cannot be admitted before Minnesota residents. Residents of other states must reapply to re-enroll in the charter school annually, meaning that re-enrollment is not guaranteed.

Admission of Homeless Students

Please note that homeless youth and foster youth have additional legal protections which permit them to enroll in a school, even if the school has reached its enrollment cap, before documentation and paperwork may be in place with the school. Please ensure compliance with the law which provides for immediate enrollment of homeless, highly mobile and foster children in a new school if it is in the child’s best interest, even if the child is unable to produce records normally required for enrollment. See Minnesota Statutes 2022, section 260C.212 (8)(ii), the federal Every Student Succeeds Act, section 1111 (g)(1)(E)(ii), and the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act, section 722 (g)(3)(C).

Age Verification

Minnesota Statutes 2022, section 120A.20, subdivision 4 states, “Public schools may request documentation that verifies a pupil falls within the school’s minimum and maximum age requirements for admission to publicly funded prekindergarten, preschool, kindergarten, or grades 1 through 12. Documentation may include a passport, a hospital birth record or physician’s certificate, a baptismal or religious certificate, an adoption record, health records, immunization records, immigration records, previously verified school records, early childhood screening records, Minnesota Immunization Information Connection records, or an affidavit from a parent.”

Conclusion

Charter schools must comply with federal and state laws applicable to charter schools, including Minnesota’s Charter School Law, Chapter 124E as amended by the Laws of Minnesota 2023, chapter 55, and the Minnesota Human Rights Act, Chapter 363A as amended by the Laws of Minnesota 2023, chapters 3 and 52, when enrolling students and placing them in appropriate programs. Charter schools may seek basic information about students or their parents/guardians for the purposes of admissions, but may not use information sought about students or their parents/guardians for discriminatory purposes. Protected class data can only be collected after the

student has gone through the admissions process and is enrolled. Charter schools may seek additional information about a student to assist with placement once a student is enrolled if this information is kept separate from a student's initial application. Certain limits on admissions and enrollment preferences are required of charter schools, while others are optional.

Please contact the Charter Center at mde.charterschools@state.mn.us or 651-582-8297 if you have questions about charter school application and/or enrollment policies and processes.