



Massachusetts Department of Elementary and Secondary Education

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MEMORANDUM

To: Charter Leaders
From: Marlon Davis, Director of Charter Schools, Innovation, and School Redesign
Date: September 7, 2011
Subject: Implementation Guidance on Enrollment Policies

The amended Charter School Statute, M.G.L. c. 71, § 89, and the Charter School Regulations, 603 CMR 1.00 contain new requirements relating to charter school enrollment. The memorandum clarifies key new requirements.

Definitions

Terms in this document shall have the following meanings:

Enrollment Policy: The document that clearly communicates the charter school's adherence to applicable laws and regulations with the objective of creating a transparent and fair enrollment process.

Application: As defined in the school's enrollment policy, the primary document/form used to make a request for admission to a school.

Applicant: Someone who formally asks (applies) for admission to a school.

Siblings: Children who share a common biological or legal guardian as opposed to children who live in the same household but do not share a common parent. Charter schools may require proof of sibling status.

Receive Sibling Preference

- Children who live in different households but share a common biological or legal parent
- Siblings of students who are due to graduate at the end of the school year in which the lottery is held
- If a student moves out of the local city or town but remains enrolled, that student's siblings have preference in admission even though they are nonresidents at the time of application

Do Not Receive Sibling Preference

- Children who live in the same household but do not share a common biological or legal parent
- Foster children
- Siblings and children of alumni/ae
- Siblings of applicants who have been accepted for admission but are not yet attending (including twins)

Residents: Students who live in the city, or town in which the charter school is located or who live in the districts of the region served by the charter school at the time of the lottery. Residents enrolled in district, charter, private, or parochial schools get equal preference for Commonwealth charter schools. Residency is determined by where the child actually lives, irrespective of guardianship, custody, and domicile. A student who lives for part of the time in the charter school's preference region is given preference. Students must be residents of the relevant city, town, or school district at the time of application. Charter schools may require proof of residency.

Non-residents: Are students who live within Massachusetts but outside the city or town in which the charter school is located. For regional charter schools, non-resident students are those students who live outside of the school districts specified in the school's charter. All applicants must be residents of Massachusetts at the time of lottery and in order to apply for admission to and to attend a charter school.

Admitted: To accept an offer of admission to a school.

Currently attending: Student who is currently participating in classes at the school.

Attending: A student is considered to be attending a charter school if s/he goes to school.

Enrollment: A student is considered to be enrolled in a charter school if an offer of admission is made and an acceptance is received in accordance with the school's enrollment policy. After the student is enrolled, the school may determine through placement testing provided to all students, whether the student needs to be placed in a grade other than the one for which he/she applied. If this is the case, the charter school must provide a space in the appropriate grade.

Third-Party Mail House:

The charter school statute now requires that, upon request, both school districts and Commonwealth charter schools provide the names and addresses of students to a third party mail house for mailings (M.G.L. c. 71, § 89(g)). Please review the August 17th, 2010 memorandum about the use of an approved mail house at <http://www.doe.mass.edu/news/news.aspx?id=5691>. Highlights include:

- Charter schools or districts may request student names and addresses once a year.
- Any mailings sent through the mail house must be in the district's prevalent language(s).
- Charter schools and sending districts should contact the Charter School Office if they encounter difficulties in obtaining student information as per required by statute.

Eligibility for Admittance/Enrollment:

Informational Meetings:

One key new prohibition, 603 CMR 1.06(2), is that “Charter schools may not require potential students and their families to attend interviews or informational meetings as a condition of enrollment.”

Solicitation of Funds and Time:

In addition to the prohibition, we would like to clarify that schools may not ask for financial donations or commitments of volunteer time during the enrollment process.

Lottery Process:

The charter school regulations, 603 CMR 1.06(6), state that enrollment lotteries shall be conducted in public with a disinterested party drawing student names. Drawing numbers, which have been specifically assigned to each application received by the school, rather than drawing individual student names, is permissible to ensure the privacy of student information as required by state and federal law. The parent or guardian of each student, however, is entitled to know his or her lottery number in advance of the drawing to ensure the transparency and fairness of the process. If the charter school uses names, the school needs to notify parents of this practice when they complete an application and allow parents to opt out of having their child(ren)’s names publicly used.

Waitlists:

The new statute and regulations require charter schools to “submit to the Department, no later than June 1st and as of March 15th, the names, home addresses, telephone numbers, and grade levels of students who entered the lottery but did not gain admission” (603 CMR 1.06(f)). Implementation of this requirement is being deferred until the Department has the funding and is able to develop an appropriate data collection tool. The Department requires schools to maintain accurate records and once a system is in place, schools will be notified about the submission protocol for waitlist information.

Recruitment and Retention:

Charter Schools are expected to follow their recruitment and retention plan when conducting their enrollment process. Additionally, as much as possible, charter schools should track the outcomes of each of the schools recruitment and retention activities throughout the school year. The Annual Report will require charter schools to provide a report on how well the school implemented the recruitment and retention plan each year, and amend the plan as needed. See the Annual Report Guidelines for additional information about the recruitment and retention plan: <http://www.doe.mass.edu/chartre/acct.html?section=annual>.

Backfilling:

General Backfilling:

One key new requirement, 603 CMR 1.06(4)(d), is that “Charter schools shall, when a student stops attending for any reason, attempt to fill vacant seats up to February 15th, excluding seats in the last half of the grades offered and in grades 10, 11, and 12. 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 1.06(4)(d)). If a school has an odd number of grades, the number of grades in the last half shall be rounded up to the nearest whole number.”

Determining Which Grades Require Backfill:

For example, because a 5-8 school has an even number of grades (four grade levels: 5, 6, 7, & 8), the school is required to backfill seats in the first half of the grades offered (grade 5 and 6).

For example, because a K-8 school has an odd number of grades (nine grade levels: K, 1, 2, 3, 4, 5, 6, 7, & 8), the number of grades in the last half is rounded up to the nearest whole number (from 4.5 to 5.) This results in five grade levels being excluded from backfilling (4, 5, 6, 7, & 8); therefore, the school needs to backfill only in the lower four grade levels (grades K through 3).

QUESTIONS AND ANSWERS

Eligibility for Admittance/Enrollment:

Q. Do previously enrolled students have enrollment preference over other students?

A. No, except in the first year of a Horace Mann “conversion”. Previously enrolled students have no enrollment preference over any other student and it is illegal to give them preference.

Q. In the first year of a Horace Mann “conversion”, what is the preference for previously enrolled students?

A. The statute states that “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” of Elementary and Secondary Education. (M.G.L. c. 71, § 89(n))

Q. When should schools obtain proof of residency as part of the enrollment process?

A. A school should ask for proof of residency before the lottery.

Q. What constitutes proof of residency?

A. Proof of residency must be reasonable and flexible to enable students to enroll. Examples of reasonable proof include utility bills, signed leases, etc.

Q. If a student is admitted to or enrolled in a Commonwealth charter school and has provided accurate proof of residence at the time of application, can the student continue to

attend the school even if the student subsequently moves to another city or town in Massachusetts?

A. Yes, assuming the parent and student have accurately and completely provided residency information as required. Once a student is offered admission or is enrolled in a Commonwealth charter school and has provided proof of residency, the offer of admission still holds. Students remain enrolled in the school even if the student moves to another city or town in Massachusetts. If the student's residency changes to outside of the Commonwealth of Massachusetts, the student is no longer eligible to attend a Massachusetts charter public school.

Q. If a student is admitted or enrolled to a Horace Mann charter school and has provided accurate proof of residency at the time of application, can the student continue to attend the school even if the student subsequently moves to another city or town in Massachusetts?

A. No. If a Horace Mann student moves to a different location, they can no longer attend the charter school. Some Horace Mann charter schools may enroll students from outside of their school district but those students must first be admitted to the district.

Q. How often should parents/guardians be asked to update permanent residence information?

A. Parents/guardians should be asked whether there has been a change in residency at least annually. Accurate residency information is required to determine which sending district is responsible for tuition payment.

Q. Can a sending district review residency documentation for any student for whom the district has been assessed tuition?

A. Sending districts are permitted to review residency for any student for whom the district has been assessed tuition. If the sending district has information that may indicate a factual error in the residency information, charter schools are expected to work with the district to verify or correct the information. If necessary, the student's parent or guardian may be asked to meet with school and district officials. Disputes regarding residency should be referred to the Office of School Finance only after the school and the district have made a good faith effort to resolve the matter. If a charter school fails to maintain proper documentation for a student's city or town of residence, or fails to make a good faith effort to respond to and resolve residency questions raised by sending districts, the Department may place a hold on tuition payments for that student.

Application

Q. Must applications for admission be signed under the pains and penalty of perjury?

A. No. While having a parent or guardian signature is a good practice for a variety of reasons, it is not legally required.

Q. Can a student be asked for a social security number on the application for admission?

A. No. Applications for enrollment at a charter school may not ask for student social security numbers. Applications for enrollment should not ask for any information that could potentially

be used to “discriminate on the basis of race, color, national origin, creed, sex, 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” (M.G.L. c. 71, § 89(m); 603 CMR 1.06(1)).

Q. Do schools have to accept new applications even if they have a waitlist?

A. Schools must accept new applications, at least annually, for any grade level that the school may wish to admit students or for all grade levels for which the school is required to backfill seats. This allows eligible students that may be able to exercise enrollment preference (sibling or residency) to join the waiting list in the appropriate position.

Q. Can a school dis-enroll a student who is currently admitted/enrolled at the school because of a failure to complete an intent to return form or call?

A. No. Once a student is enrolled and currently attending a charter school, they may not be “dis-enrolled” by the school if the student fails to complete an intent to return form or fails to complete any other activity to “secure” a seat for the next school year. As a school assesses the number of seats it might have in an upcoming school year, any currently enrolled student should be counted as returning unless the family has explicitly communicated that the child(ren) will not return.

Waitlist:

Q. Should a school keep separate waitlists for siblings and residents?

A. Schools must keep accurate and up-to-date records for the sake of enrollment preference and waitlist ranking. However, separate waitlists are not required and in fact can be challenging for the schools to accurately maintain. Similarly, rolling over waitlists from year to year can also be challenging for schools to accurately maintain.

Q. When does a waitlisted student preference change?

A. There are many scenarios in which a waitlisted student preference changes. Once a waitlisted student’s sibling begins attending a charter school, the waitlisted student will be entitled to a sibling preference, in the appropriate position on the waitlist. Any changes in residency or sibling status will precipitate a change in waitlist status.

Q. If a student submits an application and provides accurate proof of residency at the time of the lottery and is placed on the waitlist with a resident preference does the student need to provide updated proof of residency before an offer of admission?

A. Yes. Accurate residency information is required to receive a residency preference. If considerable time has passed since submitting proof of residency for the original lottery, in order to be entitled to a residence preference, students must resubmit proof of residency before any offer of admission can be made by the school.

Backfilling:

Q. What enrollment number/data point do schools use for the backfilling benchmark?

A. The backfilling benchmark is based on the number of attending students from the first day of the academic school year. For example, if on the first day of school, the third grade of a K-8 school had 25 attending students, the school would backfill any subsequent vacancies to maintain 25 students in that grade level.

Q. Can a school backfill a vacancy in a different grade level?

A. Generally no. If there is a vacancy in a grade where there is a backfilling requirement, the statute, M.G.L. c. 71, § 89(n), indicates that the vacancy “remain with the grade cohort and ... be filled in the following September if it has not previously been filled.” If the grade does not have a statutory backfilling requirement, filling the vacancy is governed by the school’s enrollment policy and applicable laws and regulations regarding charter school enrollment.

Q. What are the backfilling requirements after February 15th?

A. After February 15th, any vacancy occurring in a grade level for which the school must backfill remains with the cohort, to be filled the following September. For example, if a vacancy occurs in a Kindergarten class after February 15th and is not filled during the remaining school year, the vacancy will be filled by adding a student to the school’s first grade class the next September. For grades for which there is not a backfilling requirement, after February 15th any vacancy may be backfilled at a lower grade level, but is not required. For example, a vacancy occurring in the 7th grade after February 15th (of a K-8 school) could be filled with adding a Kindergarten student.

Q. Can a student who repeats a grade be counted to backfill seats?

A. No. Students who repeat a grade cannot be counted as backfilled students since they have not stopped attending the charter school and have not created a vacancy.

Q. What is the role of the school’s enrollment plan and/or school policy that outlines a maximum number of students allowed per grade level?

A. The new statutory and regulatory requirements supersede the school’s enrollment plan. For example, if a school’s enrollment plan indicates a ceiling of 25 students per grade and the school determines in June that the backfilling of vacancies and student retention has caused one grade level to be oversubscribed, the school must accommodate the new student number for that grade level.

Q. What is the penalty for not filling a backfilled seat before February 15th?

A. The school must comply with the statute, which is part of the material terms of the charter. If the school does not comply, it would become a factor in the school’s charter renewal process and could result in conditions upon renewal. In addition, if a school does not backfill a vacancy the school will not be paid for the vacant seat in the 4th quarter payments to the school.