

Charter School Admissions and Enrollment Guidance

This guidance document seeks to advise charter schools of the statutory limitations related to student enrollment and admission policies.

The Minnesota Department of Education (MDE), Division of Compliance and Assistance, has developed this document to provide technical assistance to charter schools, their authorizers, parents, and other charter school community members that have raised questions about admissions and enrollment practices. The purpose of this document is to advise the charter school community of the statutory limitations related to student enrollment and admission. This document does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. Likewise, it is not a comprehensive or definitive response to a specific legal situation.

INTRODUCTION

This document will address what charter schools can and cannot ask potential students and their parents or guardians on an enrollment or application form, and when charter schools can request additional information from students to assist with placement. It will also address legitimate enrollment limits of charter schools, and early enrollment.

State law prohibits charter schools from using certain categories to deny admission. Specifically, a charter school cannot “limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability...” Minn. Stat. § 124E.11 (e). In addition, charter schools are required to comply with the Minnesota Human Rights Act, found at Minnesota Statute, section 363A.13, which prohibits discrimination of students based on a protected class by an educational institution. These state law provisions set forth the guiding principles concerning charter school enrollment admissions.

I. What Information May Charter Schools Seek in Enrollment Applications?

Charter schools may seek basic information about students or their guardians, such as their name, contact information, and name of parent or guardian, and the grade or program for which the student is applying. This basic information provides charter schools with all necessary information to admit the student and determine if the student is eligible for the programs offered by the charter 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 or enrollment form. The Minnesota Human Rights Act, Minnesota Statutes, section 363A.13, states:

Subdivision 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.

Subdivision 3. **Admission form or inquiry.** 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, sexual orientation, or disability of a person seeking admission, except as permitted by rules of the department.

Subdivision 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.*

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 enrollment process, including on an enrollment or admission form. This act also forbids a charter school from discriminating against a student during the admissions process on the basis of “race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability.” *Id.*

Charter Schools should also be aware of Minnesota Rules 5000.2250, Subpart 4, and how enrollment policies or record retention practices may be impacted:

An educational institution shall not make inquiries; or create, maintain, or use records that are prohibited in Minnesota statutes, section 363A.13, Subdivision 3, except for meeting the requirements of an affirmative action plan; or meeting the reporting requirements of federal or state agencies. When these exceptions do occur, all material or information that identifies the race, color, creed, religion, national origin, sex, age, marital status, or disability of a student or person seeking to be admitted as a student to the institution, when received, must be kept secure and private. The material or information must be available only to authorized personnel for meeting affirmative action requirements or reporting requirements of federal or state agencies.

Can Our School Gather an Applicant’s Age Information?

MDE recommends that schools’ application forms generally should not seek age information. Schools may be permitted to inquire what grade level the applicant is seeking to be admitted, since grade levels are not based solely on one’s age. If a school does seek an applicant’s age information, it should be done so separately from the application (and similarly kept separately from the application), and then only for one of the purposes set forth in Minnesota Statutes, section 363A.13, Subdivision 4. In no circumstance may a school discriminate against an applicant on the basis of age.

A school may gather an applicant's age only for evaluating the effectiveness of recruitment, admissions, and other educational policies. If so, it must be "maintained" separately from the application and not be used in making any admission decision.

II. Once a Student is Enrolled at a Charter School, What Can Schools Ask to Assist with Placement?

Additional information such as race, age, ethnicity, and disability status can be collected once a student has been admitted to the school, and is used for state and federal reporting purposes. See Minn. Stat. §363A.13 and Minn. R. 5000.2250, Subpart 4. In addition disability data assists school staff with further placement of a student. For example, after being admitted, a charter school can inquire about a student's disability status, and use this information to better place the student in an appropriate program or class, and identify resources or supports the student will need to succeed.

III. Circumstances in which Charter Schools May Limit Enrollment or Provide Enrollment Preference

Minnesota state law sets forth three instances where charter schools can limit admission. Minnesota Statutes, section 124E.11, a permits charter schools to limit admission to the following:

- (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.

Under this statute, all students who submit timely applications to a charter school must be enrolled unless the number of application exceeds the capacity of a program, class, grade level, or building capacity. Minn. Stat. § 124E.11 (b). 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. *Id.*

Certain preferential situations also exist in which specific students must be given priority in admission over students in the lottery pool, including siblings of an enrolled student and foster children of an enrolled student's parents. Additionally, a charter school that is located in Duluth Township and admits students in kindergarten through grade 6 must give enrollment preference to students residing within a five-mile radius of the school and to siblings of enrolled children. A charter school may give enrollment preference to children of the school's staff and students who are enrolled in a charter school's free preschool or pre-kindergarten program before accepting other students in the lottery pool. Minn. Stat. §124E.11(c). Charter schools must publish their admissions policies relating to lottery selection on their websites. *Id.*

Charter schools must comply with statewide kindergarten and first grade eligibility requirements and may limit admission to students who meet these requirements. Under state law, to attend kindergarten, a student must be "at least five years old on September 1 of the calendar year in

which the school year for which the pupil seeks admission commences.” Minn. Stat. §124E.11 (d). 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 [the student] has completed kindergarten...” *Id.* A charter school may establish and publish on their website a policy for admission of certain students at an earlier age consistent with other enrollment limitations discussed above. *Id.*

Mandatory enrollment preferences – these are legally required – include:

- Sibling of an enrolled pupil.
- Foster child of that pupil’s parents.
- For K-6 charter schools located in Duluth Township in St. Louis County, enrollment preference to students residing within a five -mile radius of the school and to siblings of enrolled children.

Optional enrollment preferences – these are preferences the law allows but are not required – include:

- Enrolling children of the school’s staff before accepting other pupils by lot.
- Children currently enrolled in the school’s free preschool or pre-kindergarten program who are eligible to enroll in kindergarten in the next school year.

Minn. Stat. § 124E.11 (c).

IV. Early Enrollment Admissions Policy

Generally, early enrollment of students younger than age five as of September 1 is prohibited. Min. Statutes, section 120A.20, Subdivision 1(b). However, as discussed above, charter schools can establish a policy of admitting students of a younger age if requirements set forth in Minnesota Statutes, section 124E.11, d are met. Additionally, public schools, including charter schools, may permit early admission if it adopts an early admission policy that complies with the “comprehensive evaluation,” accessibility and review requirements set forth in Minnesota Statutes, section 124D.02:

If established, a board-adopted early admissions policy must describe the process and procedures for comprehensive evaluation in cognitive, social, and emotional developmental domains to help determine the child's ability to meet kindergarten grade expectations and progress to first grade in the subsequent year. The comprehensive evaluation must use valid and reliable instrumentation, be aligned with state kindergarten expectations, and include a parent report and teacher observations of the child's knowledge, skills, and abilities. The early admissions policy must be made available to parents in an accessible format and is subject to review by the commissioner of education.

Minnesota Statutes, section 124D.02, Subdivision 1.VI. Enrollment upon Nonrenewal or Termination of a Charter School Contract.

State law dictates how charter schools should handle enrollment upon nonrenewal or termination of a contract:

If a contract is not renewed or is terminated according to subdivision 4 or 5, a pupil who attended the school, siblings of the pupil, or another pupil who resides with the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 124D.03 governing open enrollment at any time. Applications and notices required by section 124D.03 must be processed and provided in a prompt manner. The application and notice deadlines in section 124D.03 do not apply under these circumstances.

Minnesota Statutes, section 124E.10, Subdivision 6(a).

CONCLUSION

Charter schools must comply with requirements set forth in state law when enrolling students and placing them in appropriate programs, including relevant charter school statutes and the Minnesota Human Rights Act. Charter schools may seek basic information about students or their guardians for the purposes of enrollment, but may not use information sought about students or their parents for discriminatory purposes. The basic information sought on an enrollment form provides charter schools with all necessary information to admit the student and determine if the student is eligible for its programs. 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.

Please contact the Charter Center (mde.chartercenter@state.mn.us) if you have questions about charter school application and/or enrollment policies.