



ADMISSIONS AND PRE- AND POST-LOTTERY GUIDANCE FOR CHARTER SCHOOLS

It is LAUSD's expectation that charter schools' enrollment and admissions practices provide equitable access to all students who wish to attend. By law, charter schools must admit all pupils who wish to attend the school and are prohibited from discriminating against any student on the basis of specified characteristics (See Education Code § 47605 (e)(1) and Education Code § 220). Additionally, charter schools are prohibited from discouraging enrollment or encouraging disenrollment of any student for any reason (See Education Code § 47605 (e)(4)(A)). The District remains committed to working to ensure that every charter school provides a quality choice to families and is fully accessible to the community.

To that end, the District is providing this reference regarding charter schools' pre- and post-lottery enrollment forms to address issues that may directly or indirectly discourage some parents from enrolling their children at the charter school or otherwise encourage disenrollment. Please note that the attached does not contain an exhaustive list of all potential issues that may relate to requested information in pre-and post-lottery enrollment forms. If necessary, please discuss any further questions or concerns with counsel of your choosing.

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STUDENT INFORMATION

1. Student's Special Education or Disability Status/Background/Needs/Section 504 Plan¹

Charter schools must ensure that no student otherwise eligible to enroll shall be denied admission, directly or indirectly, due to a disability or to the charter school's inability to provide necessary services.

While charter schools may include questions about a student's special education status on admission forms, it is not recommended. If special education-related questions are asked on charter school admission forms (especially on pre-admission forms), the District strongly recommends that charter schools include clear language that assures parents that the charter school is requesting the information for planning of services for the student only and not as admission criteria.

The Charter Schools Act² requires charter schools to admit all pupils who wish to attend the school³ and prohibits charter schools from discriminating against any student on the basis of identified characteristics, which include disability.⁴ A student's special education status should have no bearing on whether a student is admitted to the charter school, although it will be relevant to the school's evaluation of the educational needs and placement of the student once the student is admitted.

Additionally, federal law prohibits any charter schools from denying admission to any student on the basis of a disability or the nature of, or extent of, a disability. A student with disabilities must be afforded the opportunity to participate in a charter school. Having an Individualized Education Program (IEP), Section 504 Plan, or disability should not be considered during the process.

It is important that charter schools limit the scope of all questions on their pre-admission forms to help avoid inferences that the charter school may be using the information about a student's disability-based needs to screen out students with disabilities in violation of federal and state anti-discrimination laws.

2. Submission of Student's IEP or Section 504 Plan at Application Stage

Charter schools must admit all pupils who wish to attend the school. The information contained in a student's IEP or Section 504 Plan should have no bearing on whether or not a student is admitted to the charter school.

¹ Charter schools shall adhere to all provisions of federal and state law related to students with disabilities including, but not limited to, section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Individuals with Disabilities Education Improvement Act of 2004.

² (Ed. Code, § 47600, et. seq.)

³ (Ed. Code, § 47605(e)(2)(A).)

⁴ (Ed. Code, § 47605(e)(1).)

Furthermore, charter school staff should not advise parents against enrolling their child with a disability in the school or otherwise inform parent/legal guardian that their child's educational needs cannot be met within the charter school's program. Requesting a copy of a student's IEP, or Section 504 Plan, or information contained in a student's IEP or Section 504 Plan during the pre-admission stage risks an inference (and may potentially result in an allegation of discrimination) that the charter school may be using this information for improper purposes or to otherwise discourage students with disabilities from seeking admission to the school.

However, requesting a copy of a student's IEP or Section 504 Plan after the student is admitted is necessary since it should be used in the charter school's review of the educational needs and placement of the student. In fact, it may be common practice for schools to request a copy of a student's IEP upon admission because the 30-day interim administrative placement required by Education Code section 56325 is based upon services comparable to those described in the student's previously approved IEP.

3. Student's Race and/or Ethnicity

Charter schools should not require students to submit information regarding their race or ethnicity as a condition for admission. Charter schools must admit all pupils who wish to attend the school, and the law prohibits charter schools from discriminating against any student on the basis of the identified characteristics, which include race or ethnicity.⁵ A student's racial or ethnic status should have no bearing on whether or not a student is admitted, although there may be legitimate grounds for seeking this information once the student is admitted. Requesting information pertaining to a student's racial or ethnic status prior to admission risks an inference of either discriminatory intent or impact (by discouraging students from submitting an application for enrollment in the charter school).

4. Home/Primary Language Survey

Information pertaining to a student's home/primary language should only be requested after a student is admitted to assist in the charter school's obligation to identify and serve English Learner students. Charter schools must admit all pupils who wish to attend the school and the law prohibits charter schools from discriminating against any student on the basis of the identified characteristics, which include immigration status, nationality, or race/ethnicity.⁶

5. Student's English Learner Status

Charter schools should not require students to submit information pertaining to their English Learner (EL) status as a condition for admission to the charter school. A student's English language status should have no bearing on whether or not a student is admitted, although it may be relevant and necessary to the school's review of the educational needs and placement of the student once the student is admitted. Requesting this information prior to admission risks an inference that the

⁵ (Ed. Code, § 47605(e)(1).)

⁶ (Ed. Code, § 47605(e)(1).)

practice could have a discriminatory intent or impact (by discouraging their enrollment) on certain groups of students (EL students and their parents/legal guardian).

6. Student's Migrant Status

Charter schools should not require students to submit information pertaining to their migrant status as a condition for admission to the charter school. Charter schools must admit all pupils who wish to attend the school, and the law prohibits charter schools from discriminating against any student on the basis of the identified characteristics which includes nationality.⁷ A student's migrant status should have no bearing on whether or not a student is admitted. Requesting information pertaining to a student's migrant status prior to admission risks an inference that the practice may have a discriminatory intent or impact (by discouraging them from enrolling).

7. Student's Birthplace

Charter schools should not require students to submit information pertaining to their birthplace as a condition for admission to the charter school. Charter schools must admit all pupils who wish to attend the school, and the law prohibits charter schools from discriminating against any student on the basis of those characteristics identified, including nationality and immigration status.⁸

As with other categories, requesting information regarding a student's birthplace prior to admission raises concern that the practice may have a discriminatory impact on certain groups of students (those born outside of the U.S.) by discouraging them from enrolling. Also, undocumented students who reside in California may not be denied a free public education based on their status. In addition, Education Code section 234.7(a) prohibits school officials and employees of local educational agencies, including charter schools, from collecting information or documents regarding citizenship or immigration status of pupils or their family members.

Since charter schools shall comply with all laws establishing minimum age of public school attendance⁹ after a student is admitted, the charter school should obtain a copy of the student's birth certificate or other valid proof of age.¹⁰ Such documentation may include information regarding the student's birthplace.

8. Date of Student's Enrollment in U.S. School

Charter schools should not require students to submit information pertaining to the date of a student's enrollment in a U.S. school as a condition for admission to the charter school. Charter schools must admit all pupils who wish to attend the school, and the law prohibits charter schools

⁷ (Ed. Code, § 47605(e)(1).)

⁸ (Ed. Code, § 47605(e)(1).)

⁹ (Ed. Code, §§ 47610(c), 47612(b), 48000 et seq., 48210.)

¹⁰ (See, e.g., Ed. Code, § 48002.)

from discriminating against any student on the basis of those characteristics identified, including nationality and immigration status.¹¹

Therefore, the District may require charter schools to explain why information pertaining to the date of a student's enrollment in a U.S. school is requested on pre-admission forms so that the District can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information at that time.

9. Free/Reduced Price Meal Qualification

Education Code section 49558 provides that applications and records concerning any student made or kept by any public officer or agency in connection with the administration of the free or reduced price meal program shall be confidential. Notice of the availability of the free or reduced price meal program should be distributed to all students annually and to every new student who enrolls in a school.

California law provides that for a charter school with a school site physically located in the attendance area of an elementary school with at least 50% free and reduced priced meal eligibility, preference may be given to students who attend the elementary school or reside within its attendance area.¹² To the extent authorized, if a charter school's operative charter indicates that the charter school will give preference in the lottery to students who qualify for free or reduced price meals, the charter school may need to ask this question on a pre-admission application form so that the charter school can implement this preference in its lottery.

However, charter schools should not require students to answer a question pertaining to free or reduced price meal qualification as a condition for admission (or continued enrollment) to the charter school, especially since participation in the Meal Program is voluntary.

10. Student's Criminal Juvenile Record Information

Charter schools should not ask any questions related to a student's criminal juvenile record information on pre- or post-admission forms. Generally, a court order is required to compel disclosure of a minor's juvenile court records. (Welfare & Institutions Code § 827)

11. Student's History of Drug or Alcohol Abuse

The District recommends that charter schools not ask questions relating to a student's history of drug or alcohol abuse as it may conflict with one or more student privacy interests (e.g., it may be part of a student's juvenile court record or part of a student's health record). Information regarding possession or sales of a controlled substance may be available as part of the student's discipline record that the charter school can obtain from the student's prior school upon admission. Also, such questions relating to a student's history of drug or alcohol abuse may violate the student's constitutional right to privacy, which minors, as well as adults, possess.

¹¹ (Ed. Code, § 47605(e)(1).)

¹² (Ed. Code, § 47605.3.)

12. Request for Student’s CAASPP Scores

Charter schools should not require students to submit information pertaining to their state standardized test scores as a condition for admission. Charter schools must admit all pupils who wish to attend the school, and a student’s state standardized test score should have no bearing on whether or not a student is admitted, although it may be relevant once the student is admitted.

Requesting information pertaining to state standardized scores prior to admission may have a discriminatory impact on certain groups of students (e.g., lower achieving students) by discouraging them from submitting an application to enroll at the charter school. It also potentially creates an inference that the charter school may be improperly granting admission based on student state standardized scores.

13. Whether student is identified as GATE

Charter schools cannot require students to submit information pertaining to their Gifted and Talented Education (GATE) status as a condition of enrollment. Charter schools must admit all pupils who wish to attend the school. A student’s GATE status should have no bearing on whether or not a student is admitted, although it may be relevant once the student is admitted.

Requesting information pertaining to a student’s GATE status prior to admission could impact certain groups of students (e.g., lower achieving students) by potentially discouraging them from submitting an application to enroll at the charter school. It also potentially creates an inference that the charter school may be improperly screening out lower achieving students to increase student performance statistics.

14. Request for Student’s Report Card/Transcripts

Charter schools should not require students to submit their report cards/transcripts as a condition for admission. Charter schools must admit all pupils who wish to attend the school, and a student’s grades should have no bearing on whether or not a student is admitted, although it may be relevant to the school’s review of the educational needs and placement of the student once the student is admitted. Requesting a student’s report cards/transcripts prior to admission could impact certain groups of students (e.g., lower achieving students) by potentially discouraging them from enrolling in the charter school. It also potentially creates an inference that the charter school may be improperly screening out lower achieving students to increase student performance statistics.

15. Student’s Residency Information

While charter schools must admit all students who wish to attend the school, charter schools should verify whether the applicant is a resident of California¹³. However, please note that admission to a

¹³ (Ed. Code, § 47612(b) [“The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident”].)

charter school shall not be determined according to the place of residence of the student, or of that student's parent or legal guardian, within California.¹⁴

Education Code section 47605(e)(2)(B), provides that when the number of students who wish to attend the charter school exceeds the charter school's capacity, attendance (except for existing students of the charter school) shall be determined by a public random drawing, and "preference shall be extended to pupils currently attending the charter school and pupils who reside in the school district..." Per the *LAUSD Policy and Procedures for Charter Schools*, pupils who reside in the LAUSD shall be given first priority admissions preference for new pupils seeking to enroll in the charter school. As such, charter schools should verify which applicant are in-district residents. Post-admission residency inquiries may be permitted for other legitimate purposes, for instance, confirming a parent's mailing address for school-related correspondence.

16. Student's Type of Residence (shelter, hotel, etc.) for McKinney-Vento Homeless Assistance Act

Charter schools must adhere to the provisions of the McKinney-Vento Homeless Assistance Act ("McKinney-Vento")¹⁵ and corresponding state law and ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education as provided to other children and youths.

If the purpose for requesting this residence information is to determine whether a child qualifies for services under the McKinney-Vento, such questions may be asked only after admission. Charter schools must admit all students who wish to attend the school and requesting information pertaining to a student's status with experiencing homelessness in the pre-admission stage could create an inference that the charter school may be using this information to deter those students from seeking admission to the charter school. Also, requesting this information prior to admission could have an impact on certain groups of students (e.g., students experiencing homelessness) by potentially discouraging them from applying to the charter school.

Therefore, the District may require charter schools to explain why such information is requested in pre-admission forms so that the District can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information at that time.

17. Student's Residence (Licensed clinical institution or foster home)

Charter schools must admit all pupils who wish to attend the school, and a student's residence status at school should have no bearing on whether or not a student is admitted to the charter school, although it may be relevant to the school's review of the educational needs and placement of the student once the student is admitted.

¹⁴ (Ed. Code, § 47612(e)(1).)

¹⁵ (42 United States Code § 11431-11435)

Requesting information pertaining to a student’s residence status at school in the pre-admission stage could create an inference that the charter school may be using this information to deter those students from seeking admission.

Therefore, the District may require charter schools to explain why information pertaining to a student’s residence status at school is requested on pre-admission forms so that the District can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information at that time.

18. Social Security Number of Student

Education Code section 49076.7 (b) states: “A school district, county office of education, or charter school shall not collect or solicit social security numbers or the last four digits of social security numbers from pupils or their parents or guardians unless otherwise required to do so by state or federal law.” Therefore, social security numbers must not be requested as part of the application process.

19. Request for Student Essays

Charter schools must admit all pupils who wish to attend the school and should not require students to submit essays as a condition of admission to the charter school.

Requiring student essays prior to admission may impact certain groups of students (e.g., lower achieving students or EL students) by discouraging them from submitting an application to enroll at the charter school because of the student essay requirement. However, there may be legitimate educational purposes for requesting student essays once a student is admitted.

20. Mandatory Summer School Attendance (student automatically withdrawn if violated)

Summer school sessions are optional in California. Requiring a student to attend summer school sessions as a criterion for admission or continued enrollment at the charter school may run afoul of their student due process rights.

21. Attendance/tardy policy contract (student may be automatically withdrawn if violated)

A charter school’s process of disenrolling a student from the charter school for violating the school’s attendance/tardy policy should be consistent with federal and state constitutional procedural, and substantive due process, requirements.

PARENT INFORMATION

22. Parents’ Employment Status

A charter school may be required to explain why a question pertaining to a parent’s employment status is included on its forms so that the District can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information.

There is a recognized privacy interest in a person's work history (e.g., names of employers, dates of employment, etc.). Therefore, a charter school should not request this information from parents as it potentially triggers applicable privacy right protections.

23. Parents' Marital Status

A charter school may be required to explain why a question pertaining to a parent's marital status is included on its forms so that the District can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information.

There is a recognized privacy right in marriage. Therefore, a charter school should not request this information from parents as it potentially triggers applicable privacy right protections.

24. Parents' Custody Status

There is no foreseeable legitimate need for information related to a parent's custody status prior to admission. A charter school cannot deny admission if such information is not provided.

Once a student is admitted, a charter school may have a legitimate education-related purpose for requesting this information. For example, a parent's custody status (e.g., legal or physical custody) could impact the rights a parent has regarding their child's student records (see, e.g., Education Code § 49061) or access to the student.

25. Parents' Level of Education

A charter school may be required to explain why a question pertaining to a parent's level of education is included in its forms so that LAUSD can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information.

Charter schools must admit all students who wish to attend the school and a charter school should not deny admission to a student if this information is not provided by a parent.

Furthermore, requesting information pertaining to a parent's level of education prior to admission could have an impact on certain groups of parents (e.g. parents with a certain level of education) by discouraging them from enrolling their children at the charter school. However, a charter school should not seek this information to discriminate against any student.

26. Family Income

A charter school may be required to explain why a question pertaining to a family's income is included in its forms so that the District can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information.

Charter schools must admit all students who wish to attend the school and a charter school should not deny admission if this information is not provided. A right of privacy extends to one's confidential financial affairs.

27. Government Assistance status (Cal-Works, Healthy Families)

Generally, social service agency records relating to individuals in connection with programs funded by federal grants-in-aid are, by statute, not “open to examination for any purpose not directly connected with the administration of the program...”¹⁶

28. Health Insurance status

A charter school may be required to explain why a student's health insurance status question is included in its forms so that LAUSD can determine whether the charter school has a legitimate non-discriminatory purpose for requesting this information.

A person has a constitutional privacy right as well as statutory confidentiality rights in medical records.

29. Social Security Number of Parent

Education Code section 49076.7 (b) states: A school district, county office of education, or charter school shall not collect or solicit social security numbers or the last four digits of social security numbers from pupils or their parents or guardians unless otherwise required to do so by state or federal law. Therefore, social security numbers must not be requested as part of the application process.

30. Whether Parent or Close Relative is Incarcerated

A charter school should not seek information from parents/students involving the incarcerated status of family members. Release of arrest records or information about arrests implicates the arrestee's right of privacy as well as statutory confidentiality laws (see, e.g., Penal Code section 11125).

31. Miscellaneous: Does family have Internet? Does family have computer? How many books in home?

Charter schools may be required to explain why questions involving whether families have computers/internet/books at home are asked, and the charter school cannot deny admission if this information is not provided.

Furthermore, requesting information involving whether families have computers/internet/books at home prior to admission could have an impact on certain groups of parents/students (e.g. lower-

¹⁶ (Welfare & Institutions Code § 10850).

income families) by discouraging them from applying if they are unable or do not wish to answer those questions.

After a student is admitted there may be potentially legitimate reasons for requesting this information (e.g., issues related to the charter school's education program and obligation to ensure connectivity to access digital instructional materials).

32. Parent Volunteering Commitment

A charter school shall not require a parent or legal guardian of a prospective or enrolled student to perform volunteer service hours, or make payment of fees or other monies, goods, or services in lieu of performing volunteer service, as a condition of his/her child's admission, continued enrollment, attendance, or participation in the school's educational activities, or otherwise discriminate against a student in any manner because his/her parent cannot, has not, or will not provide volunteer service to a charter school.¹⁷

33. Parent Engagement Requirement

A charter school may encourage parental involvement, but shall notify the parents and guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.¹⁸

34. Parent Workshop/Training Participation

Education Code section 47605 requires a charter school to describe in its petition, the governance structure of the school, including the process to be followed by the school to ensure parental involvement.

A charter school may encourage parental involvement such as workshop/training but must notify the parents and guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.¹⁹

35. Parent Contract

A charter school may encourage parental involvement, but must notify the parents and guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.²⁰

¹⁷ (Ed. Code, § 47605(e)(2)(B)(iv).)

¹⁸ (Ed. Code § 47605(n).)

¹⁹ (Ed. Code § 47605(n).)

²⁰ (Ed. Code § 47605(n).)

Parent “contracts” may not include a parent volunteering commitment as a condition/requirement of the contract (See “Parent Volunteering Commitment” above). If it does, the District may require the charter school to submit the contract for review of all proposed terms and conditions.

Also, should a parent contract be utilized by a charter school, the District will request supportive documentation of the prior due process afforded the student if it appears that a charter school disenrolls a student without providing due process to the student consistent with applicable legal requirements.

36. In-Person Interviews

Requiring in-person interviews prior to admission may be construed as an inappropriate screening tool and have a discriminatory impact on certain groups of parents/students by discouraging them from submitting an application to enroll at the charter school.

37. Submission of Application – Hand Delivery Required

Requiring hand delivery submission of an application may be unduly burdensome and have a discriminatory impact on certain groups of parents/students by discouraging (or preventing) them from submitting an application to enroll at the charter school.

The District may contact charter schools that impose this requirement to ascertain whether the charter school has any type of alternative in place for those individuals who are unable to hand deliver and would in effect be denied the ability to apply because of the requirement and may require this practice to be discontinued.

38. Mandatory Fees/Contributions

The free school guarantee of the California Constitution, Article IX, section 5, applies to charter schools. Education Code sections 49010(a) and 49011(d) as amended by Assembly Bill 1575 in 2012, clarifies that the prohibition on pupil fees applies to charter schools. Charter schools are prohibited from charging fees for activities that are an integral component of public education. Charter schools may only charge fees authorized by certain Education Code sections that have been made explicitly applicable to charter schools.

Even if a fee waiver is available, requiring a low-income student to apply for the waiver could be discriminatory in violation of the authorities above. Similarly, allowing a low-income student who cannot raise funds to “opt out” of an activity could still be discriminatory if the student is “opting out” due to their inability to raise funds. Therefore, students who do not raise funds should not be barred from activities, even if the student has the option to “opt out” of the activity. Your assigned CSD staff may be in touch with each charter school to discuss and determine what constitutes permissible and non-permissible fees, consistent with the applicable legal authorities and CDE’s Fiscal Management Advisory on the subject.

39. Donations

Educational opportunities must be provided to all students without regard for their families' ability or willingness to pay fees or request special waivers. Any donation must be:

- (1) Voluntary; and
- (2) In no way a prerequisite to participation in program or activity.

Any statement or explanation related to a donation that could lead a reasonable person to believe the donation is not truly voluntary should be avoided. Any statement or action that exerts explicit or implicit pressure on students or parents to make a donation should be avoided.

Examples of language that should be avoided includes, but is not limited to, the following:

- a. Specified minimum amount of donation;
- b. Date by which donation is due; and
- c. Lesser donation amount if funds are received early.

The District will monitor individual charter school donation solicitation practices to ensure compliance with applicable legal, District and charter requirements.