

Enrollment Preferences Task Force

Final Report

December 2015

Submitted by

The Enrollment Preferences Task Force to

Delaware General Assembly *and* Governor Jack Markell

PREFACE

The University of Delaware’s Institute for Public Administration was requested by Representative Kimberly Williams and Senator Nicole Poore to assist in the facilitation of a series of task force meetings regarding the School District Choice Application Process, and to produce a report detailing the proceedings and findings. The task force became known as the Enrollment Preferences Task Force and was created through House Bill 90. It was charged with the role of considering the current landscape of all school enrollment preferences and practices including charter, magnet, and vocational-technical schools to develop recommendations, as necessary.

The Task Force reviewed extensive research regarding charter, magnet, and vocational-technical school policies both locally and nationally, and sought opinions from a diverse group of experts in the education field to provide members with information to guide decision-making.

This report summarizes the opinions of the Task Force on an extensive list of questions and topics that are currently considered in the enrollment processes for all school types. The Task Force did not conclude with recommendations, rather it concluded with a compilation of information to inform future conversations and considerations.

FROM THE CO-CHAIRS

We are honored to have worked with a dedicated group of individuals who committed time and energy to discussing concerns related to charter, magnet, and vocational-technical school’s enrollment preferences over an extended period of time. The Task Force, through voting and extensive discussion, reviewed enrollment applications and practices. It should be noted that any future recommendations will require “successful legislation... [to] become legally binding restrictions” (Fontello, 2013).

Representative Kimberly Williams
Task Force Co-Chair

Senator Nicole Poore
Task Force Co-Chair

ENROLLMENT PREFERENCES TASK FORCE MEMBERS

Representative Kimberly Williams, Task Force
Co-Chair

Senator Nicole Poore, Task Force Co-Chair

Senator David Sokola

Representative Earl Jaques, began service on
November 18, 2014

Representative Darryl Scott, served until
November 17, 2014

Mark Murphy, Secretary of Delaware
Department of Education

Randall Hughes, Delaware State Board of
Education

Frederika Jenner, President, Delaware State
Education Association

Susan Francis, Executive Director, Delaware
School Board Association

Yvonne Johnson, Delaware Parent Teacher
Association

Charles Taylor, President, Delaware Charter
Schools Network

Gary Stockbridge, President, Delmarva and
Representative of the Delaware Business
Roundtable

Terri Hancharick, Governor's Council for the
Exceptional Citizens

Lindsay O'Mara, Office of the Governor

Dr. Merv Daugherty, Superintendent, Red Clay
Consolidated School District, New Castle
County

Dr. Kevin Fitzgerald, Superintendent, Caesar
Rodney School District, Kent County

Dr. Shawn Joseph, Superintendent, Seaford
School District, Sussex County, served until
January, 2014

Dr. David Ring, Superintendent, Delmar School
District, Sussex County, began service on
January, 2015

Dr. Matthew Donovan, Principal,
Middletown High School

Dr. Victoria Gehrt, Superintendent, New Castle
County Vocational-Technical School District

Dr. Deborah Zych, Superintendent, Polytech
School District

Dr. AJ Lathbury, Superintendent, Sussex
Technical School District

Mark Pruitt, Principal, Conrad Schools of
Science

Julie Rumschlag, Principal, Cab Calloway School
of the Arts

Diane Ruth, Charter School Representative,
served until September 15, 2014

Henry Clampitt, Charter School Representative,
began service on September 16, 2014

Don Mell, President, Prestige Academy

Dr. Terri Hodges, Parent

Elizabeth Lockman, Parent

Catherine Hegedus, Parent

ENROLLMENT PREFERENCES TASK FORCE SUPPORT TEAM

Institute for Public Administration (IPA) Associate Policy Scientist Fran Fletcher served as the project manager and facilitator. IPA Associate Policy Scientist Kelly Sherretz assisted in research. Christopher Kelly (IPA Researcher), Ryan Bradley (IPA Public Administration Fellow), Katrina Cowart (IPA Public Administration Fellow), and Emma Odren (IPA Summer Public Policy Fellow) assisted in preparing this report, while IPA Policy Specialist Sarah Pragg edited and formatted the report.

Mark Brainard, Jr., Legislative Assistant, helped to plan and coordinate the work of the Task Force, disseminated agendas, minutes, and support materials for each meeting and provided liaison services between the Task Force membership and the co-chairs.

FORWARD BY CO-CHAIR REPRESENTATIVE KIMBERLY WILLIAMS

The Enrollment Preferences Task Force was established on June 3, 2013, when Governor Markell signed House Bill 90 into law. House Bill 90 has made it easier for families to navigate the choice process by standardizing the application and deadlines across traditional, charter, magnet and vocational-technical (vo-tech) schools, while also removing a provision that allowed school districts to reject an application of a student with special needs. House Bill 337, which was signed into law on June 25, 2014, required all local education agencies' enrollment deadlines to align, giving families uniformity and enabling them to make better decisions on which school to send their children. Both of these measures helped position our state to offer Delaware students and families an opportunity to make better choices about their education in ways that work best for them. The Enrollment Preferences Task Force worked for over a year to seek broader solutions around the issues stemming from school choice and this report details the conversations on those very issues.

School choice gives families options for their children. The school choice system should be easy for families to navigate—and the application process should be simple. Delaware's magnet, vo-tech and charter schools all use the Delaware Standard Choice Application, but most of these schools require families to fill out a supplemental application as well. The supplemental application consists of a variety of questions, while asking families to submit various documents. Some application processes require families to take tours and meet with school staff. There are Delaware public schools that require families to schedule a time for an interview or an assessment. Many of these questions and requested items should be requirements established after a student is invited to attend a school, not during their application process.

Magnet, vo-tech, and charter schools are public schools and their doors should be open to all children. We, as a state, should make sure all children have access to all public schools in Delaware. We need to ensure there are no barriers in place when our families apply to any of our public schools or programs. The choice application process must be as simple as possible, while removing all unnecessary requirements and welcoming all families to apply. There should be no measures in place that may limit certain families from attending any of Delaware's public schools.

In 2014, the governor established the Wilmington Education Advisory Committee, which issued a report titled "Strengthening Wilmington Education: An Action Agenda." In the report, the Committee commented about the work of the Enrollment Preferences Task Force and called for the elimination of enrollment preferences, stating:

We encourage the task force to recommend policies and practices that are aligned with national best practices and eliminate enrollment practices for all schools that limit the educational opportunities of students. (Wilmington Education Advisory Committee, 2015, p. 36)

I, too, encourage the Delaware General Assembly to work to eliminate enrollment practices that place limitations on the educational opportunities of Delaware children. I believe the traditional, magnet, vo-

tech, and charter schools can come together to achieve this. Within in this report, you will see that a majority of the task force members agreed to remove many current practices used today during the choice process by our magnet, vo-tech, and charter schools. You will also see how the majority of the task force members agreed to remove some of the current preferences used by Delaware charter schools. Delaware legislators must come together and do what is best for all Delaware children. Our students do not care what party we are aligned with and they deserve schools that will, first and foremost, accept them and then nurture and educate them in a way that ensures that Delaware's future is bright.

I am confident that we can all come together to ensure that all students have access to all of our wonderful schools and programs here in the First State.

Sincerely,

Representative Kimberly Williams

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I. EXECUTIVE SUMMARY

ENROLLMENT APPLICATION CONCERNS

Parents seeking to enroll their children into a school other than their school-of-residence (as determined by feeder pattern) are required to complete the Delaware Standard Application for Educational Options created by the Delaware Department of Education. Such schools include charter, magnet, and vocational-technical schools. It has also been common practice for receiving schools to require the parent/guardian of potential students to complete a supplemental application form prior to enrollment. This practice has raised concerns in the state. Some parents and stakeholders view the practice as potentially discriminatory due to the types of questions asked and information sought by the schools on these supplemental applications. Individuals noted that some information and/or questions on these applications may inadvertently create barriers to enrollment for students with parents that are either unable or unwilling to answer them. Further concerns were raised regarding how school officials utilized the information acquired on these forms.

The information sought and questions asked on these forms varied greatly between schools and districts across the Delaware. Concerns were raised that the information included on the supplemental application could be used to reject applicants with special-needs, or those who did not meet an arbitrary and inappropriate standard created by the receiving school, creating a situation where there is no longer a level playing field for all children to have equal access to attend all public schools in Delaware.

TASK FORCE FORMATION

The Enrollment Preferences Task Force was formed through House Bill 90 with House Amendment 1 to consider the current landscape of all school enrollment preferences and practices. Specific types of public schools examined included charter, magnet, and vocational-technical schools. The Task Force was also tasked with developing recommendations as necessary.

TASK FORCE PROCEDURE

The Task Force met eleven times between September 2013 and April 2015. It examined the current enrollment practices in Delaware, while also reviewing an extensive array of legal documents governing these three school types in Delaware. The Task Force examined enrollment preferences and practices from other states, as well as federal education policies and procedures, for guidance, with particular attention paid to memos produced by the U.S. Department of Education's Office of Civil Rights. As co-chairs of the Task Force, Representative Kimberly Williams and Senator Nicole Poore sought input from national organizations such as the National Conference of State Legislatures, National Alliance for Public Charter Schools, and the National Institute for Magnet School Leadership. Guest speakers from Delaware included Lindsay O'Mara, Education Policy Advisor, State of Delaware Office of the Governor; Brian Rutter, Director of District Technology Services, Data Service Center; Debra Stover, Education Associate and Unit Count Coordinator, Delaware Department of Education; and Alex Medler, Vice

President of Policy, National Association of Charter School Authorizers. They provided information and statistics in their areas of expertise to assist the Task Force in its discussions and decision-making.

A compilation of all questions asked on the supplemental and enrollment applications by charter, magnet, and vocational-technical schools were compiled into 15 categories; this information included 98 questions in total. Each question and request for information was examined and voted upon individually by the Task Force, and suggestions were made on whether each question should be included or excluded from the Delaware Standard Application for Educational Options and Supplemental Application, or if they should be asked only after enrollment.

Meeting formats included small work group conversations and large group dialogue, voting on broad categories and in-depth discussions, and final roll call votes on several questions. All meetings also included time for public comment.

REPORT OVERVIEW

While this report does not include specific recommendations; it does summarize the opinions of the Task Force on an extensive list of questions and topics that are currently considered in the enrollment processes for all school types. The report is organized in the following manner:

- An overview of charter, magnet, and vocational-technical schools in Delaware and an examination of legally-sanctioned enrollment preferences in practice.
- A description of the majority votes related to questions that can be included or should be excluded on the Delaware Standard Application for Educational Options, Supplemental Application, or that should only be asked after the student is enrolled in the school (herein referred to as After Enrollment Only).
- The majority votes for questions that can be included or should be excluded based on the type of school, and also by the grade bands of elementary, middle, and high school for selected questions.
- A review of the four specific preferences allowed under the Delaware Code for Charter Schools and the related roll call votes for each preference.

This report also includes a list of appendices utilized by the Task Force members to aid in decision-making, along with meeting minutes and agendas.

TYPES OF APPLICATIONS AND PREFERENCES REVIEWED

Delaware Standard Application for Educational Options

The Delaware Standard Application for Educational Options (herein referred to as the Standard Application) is utilized as the standard application for students that are choosing to apply for enrollment into a charter, magnet, or vocational-technical school in Delaware.

The Task Force votes imply that the Standard Application should continue to be used as the choice application for students who apply to a charter, magnet, or vocational-technical school.

Supplemental Application

Most charter, magnet, and vocational-technical schools currently utilize a supplemental application to gather additional student and parent information to ensure the school's mission and interests are appropriate matches to meet the needs of the applying student.

Task Force voting suggested that many questions could be eliminated from this application and moved to the "After Enrollment Only" category, meaning, that students would only be asked these questions after they were enrolled in the school. The concern was that individuals making decisions regarding enrollment could use information acquired by these questions to inadvertently give preferential treatment to certain students at the expense of others. Example of a question that the majority of the Task Force members agreed should be included in the Supplemental Application was regarding marketing information to understand how students/parents learned about the school.

After Enrollment Only

Certain questions and requests for information can only be asked once a student is invited to enroll in a school and the parent accepts the invitation.

Many of the questions asked and information sought by charter, magnet, and vocational-technical schools could be moved to the "After Enrollment Only" category, meaning that they would only be asked after the student has been accepted and enrolled into the school. This modification was suggested to prevent the possibility of inadvertently making admissions decisions based on any criteria that could be viewed as discriminatory.

Charter Preferences in Student Admission

Four preferences are legally permissible for charter school admission as outlined in Delaware State Code Title 14, Chapter 5, §506 b. Preference numbers 1, 2, and 4 apply to all charter schools and number 3 only applies to new charter schools:

1. Siblings of students currently enrolled at the school;
2. Students attending an existing public school converted to charter status;
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 person employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.
4. Children of the school founders, so long as they constitute no more than 5% of the school's total student population. For the purposed 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 the Department of Education regulations.

The opinions of the Task Force members varied on each these preferences. See Tables 23 and 24 on pages 30 and 31 for Task Force votes on preferences.

Enrollment Preferences for Magnet and Vocational-technical Schools

There is limited guidance available in the Delaware State Code related to defining enrollment practices for magnet or vocational-technical schools. Magnet school code is found in Title 14, Chapter 10, subchapter 3, Section 1049 (4) (see Appendix B). Delaware State Code governing vocational-technical schools is found in Title 14, Chapter 2, section 205 and Chapter 10, section 1029 (see Appendix B).

The opinions of the Task Force members varied on whether questions should be included on magnet and vocational-technical supplemental applications or after enrollment only.

II. OVERVIEW OF CHARTER, MAGNET, AND VOCATIONAL-TECHNICAL SCHOOLS AND RELATED ENROLLEMENT PREFERENCES

The State of Delaware's public education system is comprised of traditional, charter, magnet, and vocational-technical schools to provide students with a variety of choices regarding educational focus and service delivery. For the 2013–2014 school year, there were 134,932 students enrolled in Delaware's public schools, with the vast majority being located in traditional schools (85%), followed by charter (8%), vocational-technical (5%), and magnet (2%). Of the 217 public schools, the vast majority were traditional (187), followed by charter (21), vocational-technical (6), and magnet (3). While educational focus and service delivery may differ between each of these types of schools, one thing remains consistent; they are all public schools, therefore, all students must have an equal right to access the services provided by them, although, in cases of limited capacity, the three non-traditional types of schools are able to receive enrollment applications.

Table 1. Charter, Magnet, Vocational-technical, and Traditional Schools and Enrollment: 2013–2014 School Year

Type	Schools	Students Enrolled	Percent of Total Enrollment
Charter	21	11,078	8%
Magnet	3	2,524	2%
Vo-tech	6	7,245	5%
Traditional	187	114,085	85%
Total	217	134,932	

Source: Delaware Department of Education, Delaware School Profiles, 2013–2014 School Year

CHARTER SCHOOLS IN DELAWARE

Charter schools were established by Senate Bill (SB) 200, which was signed into law in 1995. This legislation led to the creation of Title 14, Chapter 5 in the Delaware Code, which is dedicated to laws related to charter schools.

In Title 14, Chapter 5 §503 a charter school is defined as a:

Public school including 2 or more of grade kindergarten through 12 managed by a board of directors, which operates independently of any school board, under a charter granted for an initial period of 4 school years of operation and renewable every 5 school years thereafter by a public school district or the State Department of Education with the approval of the State Board of Education (14 *Del. C.* §503).

Title 14, Chapter 5 §501 also establishes that charter schools were developed to:

Improve student learning; encourage the use of different and innovative or proven school environments and teaching and learning methods; provide parents and students with measures of improved school and student performance and greater opportunities in choosing public

schools within and outside their school districts; and to provide for a well-educated community (14 *Del. C.* §501).

The following excerpt is from the transcriptions of the debate that occurred on the senate floor regarding the passage of SB 200. Bill Manning, President of the Board of the Red Clay Consolidated School District at the time, responded to Senator Robert Marshall’s question about how charter schools would “guarantee fairness and equal access to every student from every unit”:

MR. MANNING: But let me get more specific about this particular school that has been proposed for Wilmington High. I can tell you that the proponents and the participants in that charter consortium every one of them have come to the table saying, Governor one thing I want to make sure is that this is a school that provides an opportunity to every child in this district, every child in this area and I want to make sure that this school is not marked as an elitist school. Not a school that you can only get into if you do well in science and math in grades one through eight...This will be a school which not only caters to those children who have already displayed excellence in math and science and takes them one step farther; it will also be a school that reaches out to those kids who think they want to succeed in that area and it says for you we have a special summer remediation program that you probably can’t get elsewhere. That’s going to be part of this program...So for all those reasons it is not fair and it is certainly not accurate to say about this school that it will be an elites’ school in the sense that you meant. However, I think it will be an elites’ school in another sense...

SENATOR MARSHALL: Madam President just one final comment. I think what you have conveyed is that the schools will not be exclusively a college prep institution but a welcome to all students who may just plan to complete twelfth grade and move on to the workplace...

MR. MANNING: That’s one of the fundamental precepts of this experiment. (SB 200 Transcripts, Delaware General Assembly, 1995)

Charter schools are publicly funded and were developed to provide alternative learning opportunities accessible to all Delaware students. The majority of charter school students (82%) attend schools located in New Castle County. Eight percent of Delaware public school students are enrolled in charter schools.

Table 2. Charter Schools in Delaware: 2013–2014 School Year

County	Total Schools	Students Enrolled	Percent of Total Charter Enrollment
New Castle	16	9,130	82%
Kent	4	1,536	14%
Sussex	1	412	4%
State	21	11,078	

Source: Delaware Department of Education, Delaware School Profiles, 2013–2014 School Year

Charter Schools: Enrollment Preferences

According to Title 14 Chapter 5, §506 (a) (3) and (4) of the Delaware Code:

A charter school shall not...restrict student admissions except by age and grade; by lottery in the case of over-enrollment; by gender in the case of a same-gender school (limited to one same-gender school for each gender operating simultaneously); discriminate against any student in the admissions process because of race, creed, color, sex..., 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.

While these restrictions on charter school activities are in place to limit preferential selection related to enrollment, they also acknowledge that there is a high demand for the services provided by these schools, and that, in many cases, they lack the capacity to enroll all of the students that apply to their programs.

To assist charter schools with determining who to admit in cases where they are unable to accommodate all applicants, the Delaware Code contains a list of preferences that are permissible by law. Four preferences are legally permissible for charter school admission as outlined in Delaware State Code Title 14, Chapter 5, §506 b. Preference numbers 1, 2, and 4 apply to all charter schools and number 3 only applies to new charter schools:

1. Siblings of students currently enrolled at the school
2. Students attending an existing public school converted to charter status
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 person employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.
4. Children of the school founders, so long as they constitute no more than 5% of the school's total student population. For the purposed 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 the Department of Education regulations.

While the Delaware Code does allow charter schools to use these preferences during the application process, concerns have been raised that schools are including questions that are either not included under one of these categories, or that are disregarding the ultimate intent of the law, which is to ensure that all students have equal access to public education providers (R. Morse, ACLU, 2014). See Appendix E.

In response to these concerns regarding enrollment preferences, Paula Fontello of the Attorney General's Office drafted a memo to advise the discussions being held by the Task Force. Fontello believed that some of the questions asked on enrollment applications by charter schools were being used to acquire information for federal and state programs for which schools were required to collect. She stated, "while it may be advisable as the best practice for a RLEA (Receiving Local Education Agency) to have a two-step process separating admission and enrollment information, it is not legally mandated... [and that] they should review their application process and practices carefully to make sure they are consistent with the law and do not have a chilling effect on enrollment" (Fontello, 2013). See Appendix D.

Another explanation provided for the questions asked focused on two categories of permissible preferences; "students who have a specific interest in the school's teaching methods, philosophy, or educational focus; [and] students who are at risk of academic failure." Fontello noted that questions could be asked relating to both of these categories, "as long as the information is uniform to all applicants and is not used for an impermissible purpose." Ultimately, the act of asking these questions is not illegal, but the ways in which a charter school uses the information acquired from them—if they serve to discriminate or provide undue preferential selection to certain individuals—can be. Difficulty arises in determining how charter schools are using this information.

Charter schools are also subjected to the same Federal civil rights laws that traditional public schools are. A letter drafted by the U.S. Department of Education's Office of Civil Rights on May 14, 2014 explains that charter schools must comply to "Title VI of the Civil Rights Act of 1964 (prohibiting discrimination based on race, color or national origin), Title IX of the Education Amendments of 1972 (prohibiting discrimination based on sex), and Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (prohibiting discrimination based on disability)" (U.S. Department of Education Office of Civil Rights, 2014). These laws require charter schools to ensure that they do not engage in any discriminatory activities during the admissions process or when administering disciplinary actions, provide "free appropriate" education to students with disabilities, and take "affirmative steps for English-language learners." Failure to comply with these mandates is a violation of Federal law.

On April 10, 2006, John B. Hindman, Deputy Attorney General, produced an opinion requested by Representative Nancy Wagner. Representative Wagner "asked whether the student recruitment and selection process ("process") at the Charter School of Wilmington ("School") complies with the Charter School Law" (Hindman, 2006). Hindman stated that "at the core of this matter is the School's application of the "specific interest" preference in 14 *Del. C.* §506(b)(3)c., and its use of a test and grades as a part of the method of determining eligibility for the preference. If that preference and the other preferences permitted by law are being properly applied and all eligible seats are filled as a result thereof, then there is no need to conduct any lottery other than the one described above (Hindman, 2006). Later in the opinion, Hindman went on to note that "the potential problem with the School's process is that it assumes that a student's special interest may be determined by grades and test

scores. In effect, the School assumes that success or doing well is the same as having a “specific interest” in the School’s teaching methods, philosophy, or educational focus” (Hindman, 2006).

Hindman was unable to determine if the test being utilized by the school at the time could determine whether a student had “specific interest” stating that:

While we (Attorney General’s Office) have solicited supporting materials from counsel for the School, we are without a factual record that would enable us to determine whether the test currently being used by the School is simply an aptitude test or a test that may also be used to reliably measure student interest. This is a question of psychometrics that is more properly left to the review and determination of those responsible for oversight under the statutory scheme; namely, Red Clay, the State Board of Education and the Department of Education. Likewise, we have no evidence that either proves or disproves that the use of grades is an appropriate measure of interest rather than simply a measure of aptitude. Again, at issue is the assumption that success in testing or the ability to achieve good grades is the functional equivalent of a demonstration of “specific interest.” These are issues that merit serious examination and the input of educators with expertise in these areas. It would be inappropriate for us to assume facts that have not been established in the proper forum, and to substitute our determination for the informed judgments of appropriate experts in these highly specialized areas. (Hindman, 2006)

Due to this Hindman concluded, “we (Attorney General’s Office) are unable to determine whether the student recruitment and selection process employed by the Charter School of Wilmington is compliant with the provisions of the Delaware Charter School Law. This is a determination that must be made pursuant to the processes provided by the Charter School Law” (Hindman, 2006). See Appendix N.

MAGNET SCHOOLS IN DELAWARE

Magnet schools are defined as “a public school offering special instruction and programs not available elsewhere, designed to attract a more diverse student body from throughout the school district [or community]” (Rep. Williams Presentation, September 26, 2013). See Appendix B. In Delaware, magnet schools focus on providing students access to curriculums centered on the arts, or science and technology. Currently, there are only three magnet schools operating in the State of Delaware, with two located in New Castle County (both in the Red Clay School District) and one located in Sussex County (Indian River School District). The majority of magnet school students (82%) attend schools located in New Castle County. Two percent of Delaware public school students are enrolled in magnet schools.

Table 3. Magnet Schools in Delaware: 2013–2014 School Year

County	Total Schools	Students Enrolled	Percent of Total Magnet Enrollment
New Castle	2	2,072	82%
Kent	0	0	0
Sussex	1	452	18%
State	3	2,524	

Source: Delaware Department of Education, Delaware School Profiles, 2013–2014 School Year

Magnet Schools: Enrollment Preferences

Very little is written about magnet schools in the Delaware Code or in Department of Education regulations. Due to their nature as schools that are designed to attract students from within the district, they can be considered a part of a “receiving district” (Fontello, 2013). Title 14, Chapter 4, § 405 D. of the Delaware Code establishes criteria for accepting and denying applicants. According to this criteria, a receiving-local-education-agency is able to disapprove an application if it has insufficient capacity to accommodate all students, which is defined as projected enrollment at least 85 percent of its capacity.

According to Title 14, Chapter 4, §405 (A)-(E) receiving-local-education-agencies are required to “adopt and make available a policy regarding the order in which applications for enrollment...shall be considered and the criteria by which such applications shall be evaluated.”

Receiving districts are allowed to establish “priorities for acceptances,” but must be “reasonably related to the nature of the program or school...and may not differ from the criteria used for acceptance or rejection of applications submitted by parents of children residing in the attendance zone of the school.” Other permissible priority admissions, in rank of consideration, include:

First, to returning students who continue to meet the requirements for the program or school, including students graduating from 1 school to another within a single program; second, to students who meet the requirements for the program or school and who seek to attend based upon the residence of the student’s parent within the designated feeder pattern; third, to the siblings of students already enrolled in the school who will be returning to the school for the following academic year, provided that any siblings... meet the requirements for the program or school...In addition...a receiving district may next give priority to students who have designated the program or school as a first, second, or third choice; to students who live within the district; and to children of school employees; as long as they otherwise meet the criteria of the program or school. After a receiving district has admitted all qualifying students consistent with [these criteria]... [it] shall use a lottery process to admit additional students and generate a ranked waiting list (14 Del. C. §405).

It should also be noted that magnet schools that are located in receiving districts “may require auditions or tests to **all applicants** as long as the requirement is ‘reasonably related to the nature of the program or school’” (Fontello, 2013). These auditions or tests can be provided to determine if the

student's interests and talents align with the curriculum of the school, as long as all applicants are required to complete the same audition or test.

VOCATIONAL-TECHNICAL SCHOOLS IN DELAWARE

A vocational-technical school is defined as “a public school designed to bring vocational and technical training to its students” (Rep. Williams presentation, September 26, 2013). These schools are located in vocational-technical school districts, of which there is one located in each county of the state: New Castle County Vocational-technical School District, POLYTECH School District (Kent County), and Sussex Technical School District. Statewide, there are six vocational-technical schools, with the majority located in New Castle County. Approximately 63 percent of vocational-technical students attend schools located in New Castle County, while 21 percent attend the POLYTECH High School in Sussex County, and 17 percent attend Sussex Technical High School in Kent County. Five percent of Delaware public school students are enrolled in vocational-technical high schools.

Table 4. Vocational-technical Schools in Delaware: 2013–2014 School Year

County	Schools	Students Enrolled	Percent of Total Vo-Tech Enrollment
New Castle	4	4,548	63%
Kent	1	1,206	17%
Sussex	1	1,491	21%
State	6	7,245	

Source: Delaware Department of Education, Delaware School Profiles, 2013–2014 School Year

Vocational-technical Schools: Enrollment Preferences

Vocational-technical schools, which are governed by their county-wide district school boards, are “required to accept the general application (Delaware Standard Application for Educational Options), [but] are [also] currently permitted to require supplemental information” (Fontello, 2013). While details regarding preferences, generally speaking, are limited in the Delaware Code related to vocational-technical schools, they are expected to maintain compliance with both state and federal policies that prohibit discrimination. The only enrollment preferences explicitly listed in the Delaware Code are related to the Sussex Technical School District.

According to Title 14, Chapter 26, §2605, “for any school year in which the number of applications for admission exceeds the number of students to be enrolled, ... [the district] shall conduct a random lottery admitting student “1” and progressing consecutively thereafter until the total number of students to be admitted has been reached.” Preferences are only to be given to “siblings of students currently enrolled at the school; [and] children of persons employed on a permanent basis for at least 30.0 hours per week during the school year [by the district].” The school district has also been explicitly forbidden from denying applicants from entering its admission lottery unless they are deemed academically ineligible for promotion according to the Delaware Department of Education’s standards, as well as expelling a student for disciplinary concerns without parent/guardian consent along with the “student’s school district of residence.”

III. OVERVIEW OF TASK FORCE PROCESS

The Task Force was purposefully comprised of a diverse group of members whose viewpoints and opinions represented charter, magnet, and vocational-technical schools. Membership included individuals representing state and local boards of education, the Delaware Parent-Teacher Association, the business community, parents, elected officials, school leadership, the superintendent of each of the vocational-technical school districts, and a superintendent from a school located in each county. Though discussions were challenging at times, a mutual understanding in certain topic areas was achieved, even if minds were not changed.

Extensive research and background information was reviewed and experts with relevant field experience were invited to the meetings to share information and answer questions.

In preparation for the January 29, 2014 meeting, the Institute for Public Administration (IPA) compiled questions found on the Standard Application and supplemental applications (see samples in Appendix C) used for enrollment for all school types throughout Delaware. This *Information Requested on School Applications* document became the foundation for discussion and decision-making. It contained 98 questions distributed through 15 categories. See Appendix A. The Task Force made a motion to remove Category H – Pre-k/Child Find from discussion because it was outside the scope of the Task Force’s mission. Members voted 14-0 in favor of removing Category H.

Task Force members worked in small groups and had large group discussions to evaluate the questions and information requested based on permissibility. The Task Force voted on the majority of categories as to whether it would be appropriate to place each question or request for information on the Standard Application, supplemental application, or if it could only be requested after the student was accepted for enrollment. Four categories contained questions the Task Force set aside for more in-depth discussion and more refined voting criteria. Several votes were tabulated by grade levels for each school type and others included a roll call vote.

The last step in the process focused on a review of the four charter school admission preferences criteria. Refer to pages 30 through 31 to see how the Task Force voted regarding these preferences.

Before the conclusion of each meeting, time was devoted to public comment. Three minutes were allotted for each speaker to express his/her views and opinions (see page 32).

IV. OVERVIEW OF TASK FORCE MEETINGS

The following is a summary of the activity of each task force meeting. For complete meeting minutes and agendas, refer to Appendices B through L.

SEPTEMBER 26, 2013 – MEETING 1

Information Reviewed

- House Bill 90 (Appendix A)
- Delaware and national landscape (Appendix B)
- Enrollment preferences for charter schools in all 50 states (Appendix A)

Presenter

- Lindsay O'Mara, Education Policy Advisor, State of Delaware Office of the Governor;
re: Federal and Delaware laws

Public Comment

OCTOBER 24, 2013 – MEETING 2

Information Reviewed

- Delaware school district demographic data (Appendix C)
- Demographic review of Delaware charter, magnet, and vocational-technical schools (Appendix C)
- Review of district application processes and deadlines for submission
- Review of the Delaware Standard Application for Educational Options (Appendix C)
- Review of the Red Clay Consolidated School District Application and Required Registration Documentation (Appendix C)
- Application questions for charter, magnet, and vocational-technical schools, created by Representative Kimberly Williams (Appendix C)

Presenters

- Brian Rutter, Director of District Technology Services, Data Service Center;
re: electronic application submission process
- Debra Stover, Education Associate and Unit Count Coordinator, Delaware Department of Education; re: school choice law changes
- Bill Bush, Esq., Attorney for the Delaware House of Representatives; re: addressed questions regarding application questions

Public Comment

JANUARY 29, 2014 – MEETING 3

Information Reviewed

- Blue Collar Task Force Recommendations, pages 24–25 (Appendix D)
- Repairing Delaware's Fractured Public Education System, by Dan Rich (Appendix D)

- Letter from Paula Fontello, Deputy Attorney General dated 12/16/13 (Appendix D)

Activity

- Task Force divided into small groups and began reviewing application questions organized in the *Information Requested on School Applications* (Appendix A). Groups were tasked with determining if the question or information requested was appropriate to ask before, during, or after the enrollment process for charter, magnet, or vocational-technical schools.

Public Comment

MARCH 24, 2014 – MEETING 4

Information Reviewed

- Letter from Richard A. Morse of the American Civil Liberties Union Foundation of Delaware, (Appendix E)

Activity

- Small group work continues

Public Comment

MAY 22, 2014 – MEETING 5

Information Reviewed

- US Department of Education's Office of Civil Rights, letter dated May 8, 2014, (Appendix F)

Activity

- Task Force members conclude small group review of application questions and begin discussion and voting on each question as a large group.

Public Comment

- US Department of Education's Office of Civil Rights, letter dated May 14, 2014 was submitted for the committee's review (Appendix F)

JUNE 23, 2014 – MEETING 6

Activity

- Task Force committee continued discussion and voting on application questions.

Public Comment

SEPTEMBER 16, 2014 – MEETING 7

Activity

- Task Force committee continued discussion and voting on application questions.

Public Comment

OCTOBER 28, 2014 – MEETING 8

Information Reviewed

- Transcript of Senate debate discussing Senate Bill 200 (Appendix I)
- National Conference of State Legislatures (Appendix I)
- Magnet Schools for America (Appendix I)
- National Alliance for Public Charter Schools (Appendix I)

Activity

- Discussion continued on application questions
- Several questions were set aside for more in depth discussion
- Voting continued

Public Comment

DECEMBER 8, 2014 – MEETING 9

Information Reviewed

- *ACLU vs. State of Delaware and Red Clay Consolidated School District* (Appendix J)
- National Alliance for Public Charter Schools (Appendix I)
- The Meaning of Merit (Appendix J)

Activity

- Additional discussion and voting on set aside questions

Public Comment

MARCH 10, 2015 – MEETING 10

Information Reviewed

- Background information on National Association of Charter School Authorizers (NACSA)
- NACSA's Principal and Standards for Quality Charter School Authorizing (Appendix K)
- One Million Lives Campaign (see Appendix K)
- NACSA's analysis of policy goals for Delaware based on our national analysis of states' charter school policies

Presenter

- Alex Medler, Vice President of Policy, National Association of Charter School Authorizers

Public Comment

APRIL 14, 2015 – MEETING 11

Activity

- Completed voting
- Voted on Charter Preferences in Delaware Code Title 14, Chapter 5 (See Appendix L).

Public Comment

V. TASK FORCE VOTES

DELAWARE STANDARD APPLICATION FOR EDUCATIONAL OPTIONS

Students entering or transferring into the education system in Delaware must first register in their school of residence. If the parent/guardian wishes to enroll his/her student in a charter, magnet, or vocational-technical school, a Standard Application form must be completed (Appendix C). All districts are required to accept this application. The application requires the applicant to provide information in nine standard categories:

1. Are you applying to Kindergarten?
2. Schools you are applying to in priority order (3 options available)
3. Program desired
4. Student name, sex, ethnicity, and race
5. Parent/guardian information
6. Resident district and school
7. Present school information
8. Is your request for an educational option related to child care needs
9. List any brothers or sisters currently attending or expected to continue to attend the requested educational option

The *Information Requested on the School Applications* document includes the results of every vote that took place during the Task Force process. The majority of the Task Force members voted on specific questions/information that could be included on the Delaware Standard Application for Educational Options. During the small group activity portion of the Task Force proceedings, the majority of task force members agreed that several categories of questions should not be voted on for inclusion in the Standard Application, as they *should not* be asked on the Standard Application at all (see Appendix A Information Requested on the School Applications). Table 5 displays a question that *could be* asked on the Standard Application.

Table 5. Question that ***could be*** asked on the Standard Application

Category	Question	Appendix Reference ¹
A. Behavior/Discipline	1. Currently expelled from a Delaware school?	A1

The Task Force vote on A1 reflects that if a charter, magnet, or vocational-technical school wishes to include this question on the Standard Application or supplemental documents, they could only ask if a student is ***currently*** expelled from a Delaware school, as opposed to if they have ***ever*** been expelled from a Delaware school.

¹This table column refers to the category and question number of the questions as displayed in the *Information Requested on School Applications* document. See Appendix A.

SUPPLEMENTAL APPLICATION

Charter, magnet, and vocational-technical schools accept the Standard Application form to start the admission request process, but may also require that a supplemental application be completed by a parent/guardian. There are no guidelines governing the type of questions or information requested on the supplemental form. Table 6 and 7 reflects the majority votes of the Task Force from the categories and questions compiled in the *Information Requested on School Applications* document.

Table 6. Question A ***can only*** be asked on the supplemental application if it aligns with the charter's mission or specific interest

Category	Questions	Appendix Reference
A. Behavior/Discipline	2. Copy of discipline record with incident list.	A2
	3. Has the student been referred or disciplined for violent or aggressive behavior, fighting, threatening, disrespect, insubordination or offensive touching in school or the community in the past 5 school years? If yes explain.	A3

Table 7. Question E is required under Delaware's charter law and ***can only*** be asked on the supplemental application

Category	Questions	Appendix Reference
E. Marketing	1. How did you hear about the school?	E1
	2. What components of the school encouraged you to apply to our school?	E2

AFTER ENROLLMENT ONLY

During the small group activity portion of the Task Force proceedings, the majority of task force members agreed that the remaining questions should not be voted on, as they should not be asked on the Supplemental Application at all (see Appendix A Information Requested on the School Applications).

These questions can be asked only after a student has accepted an offer to attend a charter, magnet, or vocational-technical school. Table 8 outlines the majority votes of the Task Force members.

Table 8. Questions that *can be* asked on this form after a student has accepted an offer to attend a charter, magnet, or vocational-technical school

Category	Questions	Appendix Reference
B. Parent/Guardian Input	3. Parent essay-Why is this the best option for your child?	B3
	4. Is your child self-motivated?	B4
	5. Description of the Student: What are the student's greatest strengths, both personal & academic?	B5
	6. What are the student's greatest needs?	B6
	7. What are the student's hobbies & interests?	B7
	8. What would you hope the school can provide for the student?	B8
	9. Is there any history of behavior difficulty, either in relationship to family, peers, or academic setting? If so, has any evaluation or treatment been completed in relationship to these problems?	B9
	10. [Signature required] I, as the parent/guardian, agree to take part in developing and participating in the educational program of my son/daughter throughout his/her school career.	B10
	12. Is your child a self-motivated learner?	B12
	13. Does your child work well in an independent environment?	B12
	14. Does your child work well in small groups?	B14
	15. Does your child respond positively to instructional challenges?	B15

Category	Questions	Appendix Reference
	16. What grades has the student repeated?	B16
D. Special Education/ Related Services	1. Currently or ever received special services?	D1
	2. Does student require an educational accommodation plan (IEP/504)?	D2
D. Special Education/ Related Services	3. Please check services your child has had and/or still receives.	D3
	4. Does your child receive special transportation?	D4
	5. Are you concerned that your child may have a special need that has not been evaluated yet? If yes, explain.	D5
F. Extra-Curricular Activities	1. What sports/clubs are you interested in?	F1
	3. Check the activities in which you currently participate in your school [35 choices]. Check activities. (Activity leaders will contact you with more information.)	F3
G. Student Input	1. What sports/clubs are you interested in?	G1
	2. Does student require an education accommodation plan (IEP/504)?	G2
	6. [Signature required] I, as the student, agree to take responsibility in developing and fully participating in the educational program provided to me by the school throughout my school career.	G6
	7. [Signature required] If my child is accepted for admission, I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least one school year.	G7
	10. Extracurricular activities	G10
I. Family Information	1. Student resides with: Both parents, Mother only, Father only, Grandparent, Legal Guardian.	I1
J. Language	1. What language did you child first learn to speak?	J1
	2. What is the primary language spoken at home?	J2
	3. What other language(s) is/are spoken in the home?	J3

Category	Questions	Appendix Reference
	4. Has your child participated in an English as a Second Language (ESL) program?	J4
K. Attendance	1. Over the past 3 years, what is the average number of days of school the student has missed each year?	K1
K. Attendance	2. Has the student repeated any grades as a result of attendance issues?	K2
L. Accessibility	1. Does your child require handicap accessibility?	L1
M. Attachments With Application	7. I.E.P. or 504 Plan	M7
	9. Legal guardianship documentation: If you are not the parent for the child you are registering, please provide legal documentation from Family Court or Division of Social Services that indicate you are the caregiver.	M9
	14. Complete psycho-education evaluation & report (if applicable).	M14
	15. Complete speech/language evaluation (if applicable).	M15
	16. Complete occupational therapy evaluation (if applicable).	M16
	18. Submit school release forms for all providers listed in "service history" section of this application.	M18
	19. Delaware Student Health Form – Children Pre-K– Grade 6 (To be completed by licensed healthcare provider: Physician (MD or DO), Clinical Nurse Specialists, (APN), Advanced Practice Nurse (APN) or Physician Assistant (PA) [5 pages].	M19
	20. Childcare Transportation Information Form	M20
	22. Social Service placement letter (original).	M22
	23. Relative Caregiver Authorization.	M23
	24. Original Family Court documents only.	M24
	25. Migrant Agricultural Work Survey (for English Language Learners).	M25

The Task Force voted that the questions included in Table 9 were not to be asked at any time on any form.

Table 9. Question that ***should not*** be asked on any form

Category	Questions	Appendix References
B. Parent/Guardian Input	1. In what ways do you feel the school will serve your child?	B1
	2. In what ways are you willing to be actively involved in your child's education?	B2
M. Attachments with Application	1. Legal birth certificate with official seal	M1
	3. Proof of DE residency	M3
	4. Immunization record/health assessment	M4
	6. Proof of identity-for parent & guardian registering the child: Driver's License or Valid ID, SS card or passport	M6
	21. Parent/guardian driver's license or state issued picture ID.	M21

VI. DISCUSSION QUESTIONS WITH VOTES

Over the course of the 11 meetings, several categories of questions were set aside for further discussion. The Task Force requested different voting strategies for these areas as noted in each of the categories below.

CATEGORY C. OTHER PRE-ADMISSION REQUIREMENTS

Questions C3 through C9 are listed in Table 10. Votes for these questions were separated into elementary, middle, and high schools for charter and magnet schools as noted in Table 10.

Table 10. Question that ***can only*** be asked after a student has accepted an offer to attend a charter, magnet, or vocational-technical school

Category	Questions	Appendix References
C. Other Pre-Admission Requirements	3. Each student who has completed the applications will be scheduled for assessments by the school.	C3
	4. Each student will be scored by his/her assessments by the instructor. The score is based on a 100-point scale with 70 points or higher passing	C4
	5. If the student passes the assessment, he/she is put into the first round of the lottery. The lottery is run by an offsite computer and forwarded to the school who will then start inviting students according to the order on the lottery. The lottery is run for each department area by middle or high school. The school will not discuss the specifics of any assessment with a student or parent/guardian. The school will share which scoring category the student fell into only after notification have been sent to the parents and upon request of the parent/guardian. Student scored a 70 or above out of a possible 100 points (invitation or wait list option based on available space and the lottery. Student scored 60–69 range out of possible 100 (wait list option). Student scored below a 59 (no invitation option). All students who pass the assessment whether they are in-district or out of district will be invited before any student who scored 60–69 points.	C5
	6. Interview / Assessment appointments: A student interview (10 minutes) and writing assessment (30 minutes) is a required component of the application process for all applicants to high school, in district applications to middle school.	C6
C. Other Pre-Admission Requirements	7. Bring to appointment: Spring standardized test scores (DSTP, DCAS, Terranova, CAT, MAP, etc.) and student work from science class (project, poster, test, homework, etc.)	C7

Category	Questions	Appendix References
	8. A 12-point rubric is used to determine an applicant's minimum interest and aptitude in the school's magnet. Points are accumulated as follows: 2.5 GPA in Math/Science 2012/13SY=2 points; 2.5 GPA in Math/Science 2013/14 1st MP=2 points; Last Year's Attendance = 1 point; Standardized Test-Math Proficiency=2 points; Creative/Persuasive Writing Sample=2 points; Inquiring/Interesting Interview=3 points.	C8
	9. Current math course	C9

Table 11. Votes by School Type for Questions C3-C9

School Type	Majority Vote	Should Be Asked	Should Not Be Asked	Abstained
Vo-tech	Should not be asked	5	14	2
Magnet – Elementary	Should not be asked	0	20	1
Magnet – Middle	Should not be asked	7	14	1
Magnet – High	Tie	10*	10*	2
Charter – Elementary	Should not be asked	0	21	1
Charter – Middle	Should not be asked	7	14	1
Charter – High	Should not be asked	9	11	1

Note: No consensus was reached under Magnet High Schools

The Task Force voted on all questions (C3-C9) as outlined in Table 11. Votes reflect that questions should not be asked during the choice process.

CATEGORY G. STUDENT INPUT

Questions G3, G4, G5, G8, and G9 are listed in Table 12. As in Category C above, these questions were separated into elementary, middle, and high schools for magnet and charter schools and votes as noted in Table 13.

The Task Force also desired to vote by roll call and results are noted in Table 14.

Table 12. Questions that ***can only*** be asked after a student has accepted an offer to attend a charter, magnet, or vocational-technical school

Category	Questions	Appendix References
G. Student Input	3. Essay: Why you wish to attend, what you hope to gain, what skills you think you will need to be successful.	G3
	4. Essay to be handwritten	G4
	5. Who are you? Tell us about yourself. The thing I like best about myself is: I am good at: My friends would describe me as: My teachers think I am: What I wish my teachers knew about me is: Tell us about a difficult time in your life from which you learned a valuable lesson: Imagine that it is the future and you have graduated from school; what plans do you have for the future.	G5
	8. Student essay: All student applicants should respond to the essay prompt. To ensure equal opportunity & access for all applicants, any student needing accommodations under IDEA or ADA will be given those accommodations. Parents of applicants should contact the school with any questions about accommodations. Further, parents with questions or in need of help with the application should contact the school. The school will work with the parent and student to ensure equal and full access to complete the application process. Write an essay explaining why you would like to attend school. Include specific information about what the school can offer you in terms of the methods, philosophy, or educational focus and explain how our school would be best fit for your learning preferences. Students applying for grades 6–8 may respond in a paragraph. Students applying for grades 9 or 10 should respond in a multi-paragraph essay.	G8
	9. Explain in your own handwriting why you would like to attend school. (Students with mechanical disabilities or limited English skills may call the Admission Counselor for additional options other than a handwritten statement.)	G9

Table 13. Votes by School Type for Questions G3, G4, G5, G8, and G9

School Type	Majority Vote	Should Be Asked	Should Not Be Asked	Abstained
Vo-tech	Should not be asked	7	8	1
Magnet – Elementary	Should not be asked	0	15	1
Magnet – Middle	Should not be asked	5	10	1
Magnet – High	Should not be asked	7	9	0
Charter – Elementary	Should not be asked	0	15	1
Charter – Middle	Should not be asked	5	11	0
Charter – High	Should not be asked	7	8	1

The Task Force voted on all questions (G3, G4, G5, G8 and G9) as outlined in Table 13. Votes reflect that questions should not be asked during the choice process.

Table 14. Roll Call Votes for Questions G3, G4, G5, G8 and G9

Name	Vo-tech	Magnet Elementary School	Magnet Middle School	Magnet High School	Charter Elementary School	Charter Middle School	Charter High School
Clampitt, H.	Y	N	Y	Y	N	Y	Y
Daugherty, M.	N	N	N	N	N	N	N
Francis, S.	Y	N	N	N	N	N	A
Gehrt, V.	A	A	Y	Y	N	Y	Y
Hegedus, C.	N	N	N	N	N	N	N
Hughes, R.	N	N	N	N	N	N	N
Jacques, E.	N	N	N	N	N	N	N
Jenner, F.	N	N	N	N	N	N	N
Johnson, Y.	Y	N	N	Y	N	N	Y
Lathbury, A.	Y	N	A	Y	A	N	Y
Lockman, E.	N	N	N	N	N	N	N
Poore, N.	N	N	N	N	N	N	N
Pruitt, M.	Y	N	Y	Y	N	Y	Y
Rumschlag, J.	Y	N	Y	Y	N	Y	Y
Taylor, C.	Y	N	Y	Y	N	Y	Y
Williams, K.	N	N	N	N	N	N	N

Task force members absent from the vote: Donovan, M.; Fitzgerald, K.; Hancharick, T.; Hodges, T.; Mell, D.; Murphy, M.; O'Mara, L.; Ring, D.; Scott, D.; Stockbridge, G.; and Zych, D.

CATEGORY M. ATTACHMENTS WITH APPLICATIONS

In this category, three questions were voted on by roll call. As in Categories C and G above, these questions were separated into elementary, middle, and high schools for charter, magnet, and vocational-technical schools as noted in Tables 15 through 22.

Table 15. Question that ***may be*** asked on the supplemental application form during the choice process only for vocational-technical, magnet and charter high schools

Category	Question	Appendix References
M. Attachments with Application	5. Most recent report card	M5

Table 16. Questions that ***can only*** be asked after a student has accepted an offer to attend a charter, magnet, or vocational-technical school

Category	Question	Appendix References
M. Attachments with Application	8. DCAS Scores (or recognized standardized test scores)	M8
	10. A letter from your child's current teacher	M10

Question M5. Most recent report card

Table 17. Votes by School Type for Question M5, regarding whether question ***should be*** asked during the choice process on the supplemental application to attend a charter, magnet, or vocational-technical school

School Type	Majority Vote	Should Be Asked	Should Not Be Asked	Abstained
Vo-tech	Should be asked	9	6	1
Magnet – Elementary	Should not be asked	0	16	0
Magnet – Middle	Should not be asked	6	10	0
Magnet – High	Should be asked	10	6	0
Charter – Elementary	Should not be asked	0	16	0
Charter – Middle	Should not be asked	6	10	0
Charter – High	Should be asked	9	7	0

The task force voted on question M5 as outlined in Table 17. Votes reflect that the question can be asked during the choice process only for vo-tech, magnet and charter high schools; not for elementary and middle magnet and charter schools.

Table 18. Roll Call Votes for Question M5

Name	Vo-tech	Magnet Elementary School	Magnet Middle School	Magnet High School	Charter Elementary School	Charter Middle School	Charter High School
Clampitt, H.	Y	N	Y	Y	N	Y	Y
Daugherty, M.	A	N	N	Y	N	N	Y
Francis, S.	Y	N	N	Y	N	N	N
Gehrt, V.	Y	N	Y	Y	N	Y	Y
Hegedus, C.	N	N	N	N	N	N	N
Hughes, R.	N	N	N	N	N	N	N
Jacques, E.	N	N	N	N	N	N	N
Jenner, F.	N	N	N	N	N	N	N
Johnson, Y.	Y	N	N	Y	N	N	Y
Lathbury, A.	Y	N	Y	Y	N	Y	Y
Lockman, E.	N	N	N	N	N	N	N
Poore, N.	Y	N	N	Y	N	N	Y
Pruitt, M.	Y	N	Y	Y	N	Y	Y
Rumschlag, J.	Y	N	Y	Y	N	Y	Y
Taylor, C.	Y	N	Y	Y	N	Y	Y
Williams, K.	N	N	N	N	N	N	N

Task force members absent from the vote: Donovan, M.; Fitzgerald, K.; Hancharick, T.; Hodges, T.; Mell, D.; Murphy, M.; O'Mara, L.; Ring, D.; Scott, D.; Stockbridge, G.; and Zych, D.

Question M8. DCAS Scores (or recognized standardized test scores)

Table 19. Votes by School Type for Question M8, regarding whether question ***should be*** asked during the choice process on the supplemental application to attend a charter, magnet, or vocational-technical school

School Type	Majority Vote	Should Be Asked	Should Not Be Asked	Abstained
Vo-tech	Should not be asked	3	12	1
Magnet – Elementary	Should not be asked	0	16	0
Magnet – Middle	Should not be asked	4	12	0
Magnet – High	Should not be asked	7	9	0
Charter – Elementary	Should not be asked	0	16	0
Charter – Middle	Should not be asked	3	13	0
Charter – High	Should not be asked	7	9	0

The Task Force voted on question (M8) as outlined in Table 19. Votes reflect that question should not be asked during the choice process.

Table 20. Roll Call Votes for Question M8

Name	Vo-Tech	Magnet Elementary School	Magnet Middle School	Magnet High School	Charter Elementary School	Charter Middle School	Charter High School
Clampitt, H.	Y	N	N	Y	N	N	Y
Daugherty, M.	N	N	N	Y	N	N	Y
Francis, S.	N	N	N	N	N	N	N
Gehrtv, V.	A	N	Y	Y	N	N	Y
Hegedus, C.	N	N	N	N	N	N	N
Jacques, E.	N	N	N	N	N	N	N
Jenner, F.	N	N	N	N	N	N	N
Johnson, Y.	N	N	N	N	N	N	N
Lathbury, A.	N	N	N	Y	N	N	Y
Lockman, E.	N	N	N	N	N	N	N
Poore, N.	N	N	N	N	N	N	N
Pruitt, M.	Y	N	Y	Y	N	Y	Y
Rumschlag, J.	N	N	Y	Y	N	Y	Y
Taylor, C.	Y	N	Y	Y	N	Y	Y
Williams, K.	N	N	N	N	N	N	N

Task force members absent from the vote: Donovan, M.; Fitzgerald, K.; Hancharick, T.; Hodges, T.; Mell, D.; Murphy, M.; O'Mara, L.; Ring, D.; Scott, D.; Stockbridge, G.; and Zych, D.

Question M10. A letter from your child's current teacher

Table 21. Votes by School Type for Question M10, regarding whether question ***should be*** asked during the choice process on the supplemental application to attend a charter, magnet, or vocational-technical school

School Type	Majority Vote	Should Be Asked	Should Not Be Asked	Abstained
Vo-tech	Should not be asked	5	10	1
Magnet – Elementary	Should not be asked	0	16	0
Magnet – Middle	Should not be asked	6	10	0
Magnet – High	Should not be asked	6	10	0
Charter – Elementary	Should not be asked	0	16	0
Charter – Middle	Should not be asked	6	10	0
Charter – High	Should not be asked	6	10	0

The Task Force voted on question (M10) as outlined in Table 21. Votes reflect that question should not be asked during the choice process.

Table 22. Roll Call Votes for Question M10

Name	Vo-tech	Magnet Elementary School	Magnet Middle School	Magnet High School	Charter Elementary School	Charter Middle School	Charter High School
Clampitt, H.	Y	N	Y	Y	N	Y	Y
Daugherty, M.	N	N	N	N	N	N	N
Francis, S.	N	N	N	N	N	N	N
Gehrt, V.	A	N	Y	Y	N	Y	Y
Hegedus, C.	N	N	N	N	N	N	N
Hughes, R.	N	N	N	N	N	N	N
Jacques, E.	N	N	N	N	N	N	N
Jenner, F.	N	N	N	N	N	N	N
Johnson, Y.	Y	N	Y	Y	N	Y	Y
Lathbury, A.	N	N	N	N	N	N	N
Lockman, E.	N	N	N	N	N	N	N
Poore, N.	N	N	N	N	N	N	N
Pruitt, M.	Y	N	Y	Y	N	Y	Y
Rumschlag, J.	Y	N	Y	Y	N	Y	Y
Taylor, C.	Y	N	Y	Y	N	Y	Y
Williams, K.	N	N	N	N	N	N	N

Task force members absent from the vote: Donovan, M.; Fitzgerald, K.; Hancharick, T.; Hodges, T.; Mell, D.; Murphy, M.; O'Mara, L.; Ring, D.; Scott, D.; Stockbridge, G.; and Zych, D.

VII. VOTES ON CHARTER PREFERENCES

The task force elected to expand the voting for preference number 3c by separating the vote into three school types: charter elementary school, charter middle school, and charter high school. As seen in the chart below, the task force members voted against this as a preference in these categories.

Table 23. Task Force Votes on Preferences

#	Preferences	Majority Vote	Yes	No	Abstain
1	Siblings of students currently enrolled at the school	For	11	3	1
2	Students attending an existing public school converted to charter status	For	14	1	
3a	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: Students residing within a 5-mile radius of the school	Against	3	10	2
3b	Students residing within the regular school district in which the school is located	For	11	2	2
3c-CE*	Students who have a specific interest in the school's teaching methods, philosophy, or educational focus	Against	0	13	2
3c-CMS*	Students who have a specific interest in the school's teaching methods, philosophy, or educational focus	Against	5	9	1
3c-CHS*	Students who have a specific interest in the school's teaching methods, philosophy, or educational focus	Against	6	8	1
3d	Students who are at risk of academic failure	For	13	0	2
3e	Children of person employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.	For	15	0	0
4	Children of the school founders, so long as they constitute no more than 5% of the school's total student population. For the purposed 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 the Department of Education regulations.	For	12	1	2

*CE = Charter Elementary School

*CMS = Charter Middle School

*CHS = Charter High School

Table 24. Roll Call Votes for Preferences 1–4

Name	1	2	3a	3b	3c-EC	3c-MSD	3c-HSC	3d	3e	4
Clampitt, H.	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Daugherty, M.	Y	Y	N	Y	N	N	Y	Y	Y	Y
Francis, S.	N	Y	N	N	N	N	N	Y	Y	Y
Gehrt, V.	Y	Y	A	A	A	A	A	A	Y	Y
Hegedus, C.	N	Y	N	Y	N	N	N	Y	Y	A
Hughes, R.	A	Y	N	N	N	N	N	Y	Y	Y
Jacques, E.	Y	N	N	Y	N	N	N	Y	Y	N
Jenner, F.	Y	Y	N	Y	N	N	N	Y	Y	Y
Lathbury, A.	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Lockman, E.	N	Y	N	Y	N	N	N	Y	Y	Y
Poore, N.	Y	Y	N	Y	N	N	N	Y	Y	Y
Pruitt, M.	Y	Y	A	A	A	Y	Y	A	Y	A
Rumschlag, J.	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Taylor, C.	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Williams, K.	Y	Y	N	Y	N	N	N	Y	Y	Y

Task force members absent from the vote: Donovan, M.; Fitzgerald, K.; Hancharick, T.; Hodges, T.; Johnson, Y.; Mell, D.; Murphy, M.; O'Mara, L.; Ring, D.; Scott, D.; Stockbridge, G.; and Zych, D.

VIII. OVERVIEW OF PUBLIC COMMENT

The comments listed below are not verbatim and have been grouped into topic areas. Please refer to the Public Comment section of each meeting minutes for further details.

TOPIC I: ADMISSION CRITERIA

- There is exclusion of some students to particular choice schools.
- The State of Delaware should ensure equal access to public education for all children.
- Minority and low-income students do not have the same access.
- Who is responsible for reviewing supplemental applications prior to their use? Is there any mechanism in place to oversee that process?
- Some of the questions asked on supplemental information could raise FERPA concerns.
- Measuring ability to attend a particular school allows for discrimination.
- Delaware charter schools with the highest number of low income students have few or no white students and the charter schools with the highest number of non-low income students have few black students.
- If a district school cannot exclude a child based on academic performance, discipline, etc., then a charter should not be able to either.
- If the state allows charter schools to play by different rules, Delaware is setting a dangerous legal precedent and a frustrating landscape for parents and teachers.
- Special education students are being denied access to Delaware's vocational schools. Students with learning disabilities should have access to these public schools.
- Admission into vocational schools in all three counties is lower than the special education population in each of the counties.
- According to the U.S. Department of Education's Office of Civil Rights, using any of the following for admission criteria is discriminatory for a student with a disability: academic achievement such as admission tests and grades, or ability measures of any kind, or behaviors, or discipline, or any other item that might be impacted by their disability.
- Charter, magnet, and vocational-technical schools need to provide inclusive opportunities for every student.
- Measuring student ability is a gray area and the burden of enrollment should be on the school not the student.
- How is admission criteria being tracked by DOE or the schools as well as what data is currently available to show whether these student have been accepted or denied into the school that asked questions related to special needs, IEPs, counseling, therapies, reading support, etc.

- Make integration a top priority, make the admissions process transparent, and conduct research on what the proper number of charter spots per student should be.

TOPIC II: OTHER

Teacher Standards

- Address why teacher standards are the same across all schools settings. Teachers in the lowest performing schools are held to the same standards as those teaching in the highest performing schools.

Special Programming

- Sterk School is a successful example of special programming geared toward exceptional children in some of Delaware's public schools as outlined in the Delaware Code.

Lottery

- In reference to the lottery, should a child's future be determined by the luck of the draw? Does a minority student in poverty want to attend a predominantly white, higher income school? Does a higher income white student want to attend a predominantly low-income, minority school? Is segregation by choice still segregation? How do we fit it?
- While a lottery tends to be the fairest way to allow access, the schools that have an oversubscription should be expanded to eliminate the need for a lottery.

Charter School Demand

- The demand of charter schools in Delaware is proof that these schools do a good job. The solution to the problem of access is to reduce demand.

Preferences

- Sibling and distance preferences should be left intact.

Priority Schools

- Effort to label students enrolled in the "priority schools" should be stopped.

IX. TASK FORCE MEMBER FINAL COMMENTS

Representative Williams offered members of the Task Force an opportunity to submit final comments to be included in this report. The comments were submitted via electronic mail and were to meet a 200 word limit. The following comments were received and are verbatim.

HENRY CLAMPITT

My comments are as follows:

- EPTF mostly covered practices, with very little discussion of preferences
- DE-DOJ confirmed that application questions and rubrics are broadly allowable
- “Votes” on the difficult issues were delayed to the end of the process and were undertaken without sufficient discussion to satisfy many EPTF members
- Little evidence of consensus arose—most members entered and left EPTF with view and opinions unchanged— the “Votes” reflect attendance more so than consensus.

I encourage the Legislature to look beyond the (eventual) EPTF report and to reach out to the individual members to gauge their opinions. Choice schools are broadly popular for good reason, and enrollment preferences only come into play when there are more applicants than seats. Provided that they reasonably relate to the school’s program, such preferences are allowable as DOJ has confirmed.

DR. VICTORIA GEHRT

The community expects New Castle Vo-Tech’s Career and Technical Education programs to be of high quality that directly engage students through a sequence of study that links rigorous academic content with industry requirements and workforce experience. Students earn credits in both core academic courses and technical skill-based career programs that are taught in labs that replicate the workplace setting. Additionally, students have the opportunity to participate in industry-based, real-work experiences through a capstone cooperative education program during their senior year. Students must meet specific criteria that include daily attendance and grade point average in order to be eligible for co-op placement.

The selection process for Admissions is student-driven. Students indicate on their application the school(s) and the career program area(s) to which they are seeking admission, by order of preference. When the number of applicants selecting CTE programs exceeds the capacity of those programs at any school, a school district selection process shall be utilized.

Applicants will be ranked based on their attendance and grades in the four courses academic content areas, which is consistent with criteria used to determine eligibility to participate in the cooperative education program. Students will be offered assignments based on this ranking.

CATHERINE HEGEDUS

I believe there should be no enrollment preferences for charter, magnet or vocational technical public schools. Every child should have an equal opportunity to attend these public schools. If they submit their name, DOB and state student ID, they should be entered in a random lottery.

One driving reason these schools exist is to offer students/families choices. Preferences based on past academic records, test scores, auditions or “references” give school personnel the choice. This information causes exclusion of groups of students from some of the state’s top performing schools. Families should have the power of choice not the schools.

A charter national expert recommended a weighted lottery for under-represented groups, especially the most vulnerable students. This change should be implemented.

During public comment, a representative (superintendent/principal) from Smyrna presented acceptance data comparing 8th grade state test scores to whether his students were accepted into a vocational high school. Only students who passed the test were accepted. No exceptions. Students who don’t pass 8th grade state tests are often the students who need an alternative curriculum, very possibly hands-on, and job-training focused. His example illustrates how current enrollment preferences eliminate choices.

FREDERIKA JENNER

No public school should have a mission, practice, or feel of exclusivity. All Delaware public schools must embrace open enrollment. Any interested student may apply and have the expectation of equal access to a program or school. Those responsible for educational planning and instruction must be committed and prepared to meet the needs of any student. Acceptance into magnet schools, charter schools, vocational-technical schools, or specialized programs must not be limited to only those students who fit a particular mold or who meet certain criteria and are thereby deemed more desirable. The current policies and practices of some schools that place limitations on acceptance by pre-screening by grades, attendance, and behavior; by the use of interviews and writing samples; or by unique attendance zone configurations are inherently discriminatory and therefore wrong. This task force fully explored the enrollment landscape. It is my hope that this report will resonate with education leaders, families, legislators, and the public, and that we can work together to end exclusive enrollment practices.

ELIZABETH LOCKMAN

For me, the most important takeaway from the Enrollment Preference Task Force was the crucial need for Delaware to reform its management of selective school enrollment, or school choice. The current system lacks the constraints and transparency necessary to prevent discrimination against higher risk student populations, whether or not it is intentional, in the process. Application requirements and the opacity of inputs/outputs through the assessment/lottery process have systematically worked against the interest of these disadvantaged students in favor of their more advantaged peers and, further,

deny their advocates the information necessary to make the otherwise obvious case for reform, or hold the arbiters of this flawed process accountable. We must make the process of choice a favorable one for all of the students in the public system, and ensure the odds are tilted in their favor—not solely towards the interests of school administrators and the advantaged populations they often disproportionately seek to serve. I believe this can be supported through process transparency and the addition of mechanisms to mitigate discrimination against African American, Latino, ELL, Special Education and low-income students, so that all of our schools may more equitably share the burden of their public status.

MARK T. PRUITT

Any changes made to current non-discriminatory and legal enrollment preferences and practices should take into consideration the opinions of the thousands of families that use and will use Delaware public schools annually.

X. APPENDICES

Enrollment Preferences Task Force | Appendices to Final Report

- **Appendix A: Initiating and Working Documents**
 - House Bill 90
 - Information Requested on School Applications
- **Appendix B: Materials for Task Force Meeting 1 – September 26, 2013**
 - Agenda Meeting 1
 - Minutes Meeting 1
 - 50 State Enrollment Cover Letter
 - 50 State Enrollment
 - Charter Enrollment Preferences
 - Charter School Preferences
 - Admission Practices of Vocational Technical Schools
 - Admission Practices of Magnet Schools
 - Application Components
 - Legislative Intent House Bill 90 Presentation
- **Appendix C: Materials for Task Force Meeting 2 – October 24, 2013**
 - Agenda Meeting 2
 - Minutes Meeting 2
 - Delaware Standard Application for Educational Options
 - Sample Application Form for Red Clay Consolidated School District
 - Required Registration Document
 - “How Charter Schools Choose Desirable Students” – The Washington Post
 - State of Delaware Statistics on Demographics
 - Application Requirements for Delaware Vocational Technical, Magnet, and Charter Schools
 - House Bill 90 Frequently Asked Questions
 - House Bill 90 Timeline
 - Delaware School Choice Program
 - First Draft of Resolution for School Choice Enrollment Reform
- **Appendix D: Materials for Task Force Meeting 3 – January 29, 2014**
 - Agenda Meeting 3
 - Minutes Meeting 3
 - Blue Collar Task Force Report, pages 24–25
 - Department of Justice Report on House Bill 90 December 16, 2013
 - Enrollment Preference Task Force Presentation
 - “Repairing Delaware’s Fractured Public School System” by Dan Rich
- **Appendix E: Materials for Task Force Meeting 4 – March 24, 2014**
 - Agenda Meeting 4
 - Minutes Meeting 4
 - American Civil Liberties Union Letter

- **Appendix F: Materials for Task Force Meeting 5 – May 22, 2014**
 - Agenda Meeting 5
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 - Dear Colleague Letter, dated May 8, 2014
 - Dear Colleague Letter, dated May 14, 2014
- **Appendix G: Materials for Task Force Meeting 6 – June 23, 2014**
 - Agenda Meeting 6
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- **Appendix H: Materials for Task Force Meeting 7 – September 16, 2014**
 - Agenda Meeting 7
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- **Appendix I: Materials for Task Force Meeting 8 – October 28, 2014**
 - Agenda Meeting 8
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 - Senate Bill 200 Transcript, pages 74–86
 - National Conference of State Legislatures Letter, dated May 13, 2014
 - Definition of Magnet School
 - National Alliance for Public Charter Schools Enrollment Questions
- **Appendix J: Materials for Task Force Meeting 9 – December 8, 2014**
 - Agenda Meeting 9
 - Minutes Meeting 9
 - 2013 NAACP The Meaning of Merit
 - *American Civil Liberties Union v. State of Delaware and Red Clay Consolidated School District*
- **Appendix K: Materials for Task Force Meeting 10 – March 10, 2015**
 - Agenda Meeting 10
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 - National Association of Charter School Authorizers—Principles and Standards 2012
 - One Million Live’s Campaign Information
- **Appendix L: Materials for Task Force Meeting 11 – April 14, 2015**
 - Agenda Meeting 11
 - Minutes Meeting 11
 - Title 14 Chapter 5 Section 506
- **Appendix M: Public Comment**

- **Appendix N: Additional Reference Material**

- o Freedom of Information Act Determination complaint concerning charter school reform working group from the Deputy Attorney General of the State of Delaware
- o Attorney General Opinion on Charter School of Wilmington Preferences, 2006
- o 2013–2014 K–8 Student Application for Thomas Edison Charter School
- o Application Process for Cab Calloway School of the Arts
- o 2013–2014 Sussex Technical High School Application for Admission

Appendix A

Initiating and Working Documents



SPONSOR: Rep. K. Williams & Sen. Poore
Reps. Barbieri, Baumbach, Bennett, Bolden, Jaques, Q.
Johnson, Keeley, Kowalko, Longhurst, Miro, Mitchell,
Osienski, Schwartzkopf, Scott, Viola; Sens. Blevins,
Henry, Peterson, Sokola, Townsend

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 90

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION AND THE SCHOOL DISTRICT ENROLLMENT CHOICE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14, § 401 of the Delaware Code by making insertions as shown by underlining as follows:

§ 401. Establishment; statement of purpose.

(a) There is hereby established an enrollment choice program within the public school system of this State.

(b) In establishing this program, it is the goal of the General Assembly to increase access to educational opportunity for all children throughout the State regardless of where they may live. It is therefore the intent of the General Assembly that this chapter be construed broadly to maximize parental choice in obtaining access to educational opportunities for their children.

(c) For the school year commencing July 1, 1996, and each succeeding school year, a parent residing within this State may enroll that parent's child in a public school in any school district in the manner provided in this chapter.

(d) The forms prescribed and policies adopted pursuant to this chapter shall be available on the websites of the school districts and the Department of Education.

Section 2. Amend Title 14, § 403 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 402. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(1) "District of residence" shall mean any reorganized school district in which the parent of a student resides.

(2) "Good cause" shall mean a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, or participation by a child in a substance abuse or mental health treatment program, or a set of circumstances consistent with this definition of "good cause."

(3) "Parent" shall mean parent, relative caregiver pursuant to § 202(f) of this title or legal guardian of the person of the child.

(4) "Receiving district" shall mean any reorganized school district other than the district of residence in which a student seeks to enroll. Where the district of residence includes more than one school or more than one program within any school providing instruction at a given grade level, and a parent of a child entering such grade level applies to enroll that parent's child in a public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence, the district of residence shall also be considered to be the receiving district for all purposes of this chapter, except for the purposes of § 408 of this title.

(5) "Receiving local education agency" shall mean any public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions, other than the school district of residence, which administers any school or program in which a student seeks to enroll. Where the local education agency is the school district of residence that includes more than one school or more than one program within any school providing instruction at a given grade level, and a parent of a child entering such grade level applies to enroll that parent's child in a public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence, the district of residence shall also be considered to be the receiving local education agency for all purposes of this chapter, except for the purposes of § 408 of this title. Notwithstanding § 505 of this title, the term "receiving local education agency" shall include charter schools.

~~(5)~~(6) "Working days" shall mean working days as determined by a school district's administrative calendar.

Section 3: Amend Title 14, § 403 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 403. Pupil application; withdrawal.

(a) Any parent of a school age child may apply to enroll that parent's own child in a school or program in a receiving ~~district~~ local education agency by submitting a written application, on a standard form provided by the Department of Education, to the Department of Education or to the receiving district and to the district of residence on or before the second Wednesday in January for enrollment during the following school year ~~in a program in grades 1 through 12, except~~ that a parent may apply to a receiving district or on or before until the first day of the school year for enrollment in a kindergarten program during that school year. The Department of Education shall distribute applications to the appropriate receiving local education agency no later than 10 working days after the application deadlines set forth in this subsection. Receiving districts may require the submission of information beyond that contained in the standard form provided that it requires the submission of the same information by the parents of children residing in the attendance zone for the school. Notwithstanding the requirements of this subsection, charter schools may accept applications submitted after the second Wednesday in January.

(b) If a parent of a school age child fails to file an application by the deadline established in subsection (a) of this section, and good cause exists for the failure to meet the deadline, the receiving district and the district of residence shall accept and consider the application in the same manner as if the deadline had been met.

(c) The parent of a school age child may withdraw the application at any time prior to action on the application by the board of the receiving district by giving written notice to the boards of the receiving district and the district of residence.

(d) The parent shall indicate on the standard form the schools and programs to which the parent is applying on behalf of his or her child, as well as the parent's order of preference of the schools or programs.

Section 4. Amend Title 14, § 404 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 404. Receiving district procedures.

(a) Within 10 working days of receiving an application, the receiving district shall transmit a notice to the district of residence that it has received the application.

(b) The board of the receiving district shall take action no later than the last day of February of the school year preceding enrollment to approve or disapprove an application for admission to a program in grades 1 through 12, and no later than June 15 of the school year preceding enrollment to approve or disapprove an application for admission to a kindergarten program.

(c) With respect to any application filed in accordance with the provisions of § 403(b) of this title, the board of the receiving district shall take action to approve or disapprove the application no later than 45 days after receipt thereof.

(d) The board of the receiving district shall transmit a notice of the board's action to the parent of the child, and to the board of the district of residence within 5 working days after board action.

(e) No later than November 30 of each year, the board of each receiving district shall transmit to the Department of Education notice of the capacity of each school in the receiving district for the following academic year and the projected enrollment for the following academic year. The capacity and projected enrollment figures may be revised until January 30. For the purposes of this subsection, "capacity" shall have the same meaning as set forth in § 405(c) of this title, and "projected enrollment" shall mean the total number of returning students and new attendance zone students the receiving district anticipates will enroll for the following academic year.

(f) No later than October 31 of each year, each receiving district shall hold at least one public information session about choice opportunities available in schools and programs in that district for the coming academic year.

Section 5. Amend Title 14, § 405 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 405. Criteria for approval or disapproval.

(a) Each receiving district shall adopt and make available ~~upon request~~ a policy regarding the order in which applications for enrollment pursuant to this chapter shall be considered and the criteria by which such applications shall be evaluated.

(b) Prior to the applicable application deadline established in § 403(a), each receiving district shall adopt and make available ~~upon request~~ a policy establishing criteria for acceptance or rejection of applications and setting priorities for acceptances consistent with this section. Such criteria shall be reasonably related to the nature of the program or school for which the application is submitted and may not differ from the criteria used for acceptance or rejection of applications submitted by parents of children residing in the attendance zone of the school, if applicable, except that a district shall ~~Such~~ ~~criteria shall include the authority of the receiving district to reject an application based upon the requirements of any applicable existing individualized education plan relating to an applicant who has special needs. The policies adopted by each district shall, at a minimum,~~ give priority to the following categories of students in the order listed:

(1) First, to returning students who continue to meet the requirements for the program or school, including students graduating from 1 school to another within a single program;

(2) Second, to students who meet the requirements for the program or school and who seek to attend based upon the residence of the student's parent within the designated feeder pattern, if any, for the school; and

(3) Third, to the siblings of students already enrolled in the school who will be returning to the school for the following academic year, provided that any siblings seeking priority under this paragraph meet the requirements for the program or school. Priority may be given to siblings of students who live in the district over siblings of students who do not live in the district.

In addition to the above, a receiving district may next give priority to students who have designated the program or school as a first, second, or third choice; to students who live within the district; and to children of school employees; as long as they otherwise meet the criteria of the program or school. After a receiving district has admitted all qualifying students consistent with the criteria in this subsection, the receiving district shall use a lottery process to admit additional students and generate a ranked waiting list. The Department may verify the randomness of the lottery process.

Each receiving district shall accept applications, in a manner consistent with the policy adopted pursuant to this subsection, until there is a lack of capacity in each school and program within that receiving district. Students who meet the receiving district's criteria for acceptance in the policy but who are not selected due to a lack of capacity in the school or program shall be placed on a ranked waiting list maintained by the receiving district until June 30.

(c) Consistent with subsection (b) of this section, a receiving district may disapprove an application because of lack of capacity in the district. ~~It may also disapprove an application for a particular program or school because of lack of capacity in the program or school.~~ For purposes of this section, "capacity" means the maximum number of students that a program or school can contain as determined solely by considerations of physical space, physical resources, and class size for each

grade level. For the purposes of this subsection, "lack of capacity" ~~shall include but not be limited to such considerations as space, class size and enrollment restrictions reasonably related to the nature of the program or school for which the application is submitted~~ means that the school or program calculates projected enrollment for the following academic year to be at least 85% of its capacity.

(d) A district which is subject to a court-ordered desegregation plan may approve and disapprove applications in accordance with § 406(a) of this title.

Section 6. Amend Title 14, § 411 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 411. Pupils suspended, ~~or expelled,~~ or truant in district of residence.

If a child for whom an application has been submitted pursuant to this chapter has been suspended or expelled, or has been absent from school without a valid excuse for more than 15 school days during a school year, in the district of residence, the board of the receiving district may, in its sole discretion, refuse to consider the application or refuse to approve the application, or refuse to enroll the child in the receiving district until the child has been reinstated in the district of residence, provided, however that nothing in this section shall be construed to enlarge upon the authority of any district to accept for re-enrollment any student who has been expelled from a school district in this State, as such authority is limited by the provisions of § 4130 of this title. "Valid excuse" shall have the same meaning as in § 2721 of this title.

Section 7. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 8. An "Enrollment Preferences Task Force" is hereby established to consider the current landscape of enrollment preferences and practices used by magnet, vocational technical, and charter schools and develop recommendations, if necessary. The Enrollment Preferences Task Force shall be composed of the following members:

(a) Two members of the Delaware State Senate appointed by the President Pro Tempore or designee, one of whom shall act as a co-chairperson of the Task Force;

(b) Two members of the Delaware State House of Representatives appointed by the Speaker of the House of Representatives or designee, one of whom shall act as a co-chairperson of the Task Force;

(c) The Secretary of the Delaware Department of Education or designee;

(d) The president of the Delaware State Board of Education or designee;

(e) The president of the Delaware State Education Association or designee;

(f) The president of the Delaware School Boards Association or designee;

(g) The president of the Delaware Parent Teacher Association or designee;

(h) The president of the Charter Schools Network or designee;

- 149 (i) A representative from the Delaware Business Roundtable appointed by the chair of the Delaware Business Roundtable
150 Education Committee;
- 151 (j) A representative from the Governor's Advisory Council for Exceptional Citizens ("GACEC") appointed by the
152 Council Chair;
- 153 (k) A representative from the Office of the Governor appointed by the Governor;
- 154 (l) One superintendent from each county, or designee, appointed by the president of the Chief School Officers
155 Association;
- 156 (m) One school administrator appointed by the president of the Delaware Association of School Administrators or
157 designee;
- 158 (n) The superintendent of each of the Vocational Technical Districts or designee(s);
- 159 (o) Two representatives from Magnet Schools or Programs appointed by the Secretary of the Delaware Department of
160 Education in consultation with the President of the Chief School Officers Association;
- 161 (p) Two representatives from Charter Schools with selective enrollment criteria appointed by the Secretary of the
162 Delaware Department of Education in consultation with the Charter Schools Network; and
- 163 (q) A parent appointed by the Secretary of the Department of Education or designee.

164 The Task Force shall present a final report of its findings and recommendations to the Governor, the Speaker of the House
165 of Representatives, and the President Pro Tempore of the Senate by January 31, 2014.

166 Section 9. This Act shall become effective on July 1, 2013.

SYNOPSIS

This bill updates the school choice program, which has not received substantive attention since 1998. This bill aims to make it easier for parents to navigate the choice process by standardizing application forms and deadlines across traditional and charter schools. More specifically, the bill requires all local education agencies to accept a standard application form provided by the Department of Education, which must be available on the Department's website. Further, the bill seeks to eliminate discrimination by districts against choice students by: (1) allowing districts to request supplemental application information from choice students only to the extent it requires the same information from attendance zone students; (2) limiting the supplemental criteria a receiving district may use to evaluate choice applications—after that, districts must use a lottery system; and (3) removing the provision that allows districts to reject applications of students with special needs. Districts would also be required to accept choice students until each school and/or program has reached 85% of its capacity. Districts would be required to hold a public information session about choice and enrollment opportunities by October 31 and report estimated capacity and projected enrollment information to the Department of Education by November 30; those estimates may be revised until January 30. Finally, the bill will create a task force to consider the current landscape of all school enrollment preferences to include magnet, vocational technical, and charter schools, and to develop recommendations as necessary.

Enrollment Preferences Task Force

Information Requested on School Applications

Facilitated & Compiled by: Institute for Public Administration, University of Delaware

Final 2015

Votes - Enrollment Preferences Task Force

A

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
BEHAVIOR/DISCIPLINE				
1. Ever expelled from a DE school	13/1	0/0	0/0	-Change “ever” to “currently”
2. Copy of Disc record w/incident list	0/15	14/0*	0/0	*Should be mission/interest driven - Only can ask for this information if it is aligned with the charter school’s mission-otherwise cannot ask this information -Refer to Chapter 5 of Code
3. Has the student been referred or disciplined for violent or aggressive behavior, fighting, threatening, disrespect, insubordination or offensive touching, in school or the community in the past 5 school years? If yes, explain.	0/0	14/0	0/0	-Should be mission/interest driven - Only can ask for this information if it is aligned with the charter school’s mission-otherwise cannot ask this information

Votes - Enrollment Preferences Task Force

B

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
PARENT/GUARDIAN INPUT				
1. In what ways do you feel the school will serve your child	0/13	0/12	4 / 5	Votes reflect this question should not be asked on any form
2. In what ways are you willing to be actively involved in your child's education	0/13	0/14	0 / 0	Votes reflect this question should not be asked on any form
3. Parent essay-Why is this the best option for your child	0/13	0/0	13/0	
4. Is your child self-motivated	0/13	0 / 0	13/0	
5. Description of the Student:	0/13	0/0	13/0	
6. What are the student's greatest strengths, both personal & academic	0/13	0/0	13/0	
7. What are the student's greatest needs	0/13	0/0	13/0	
8. What are the student's hobbies & Interests	0/13	0/0	13/0	
9. What would you hope the school can provide for the student	0/0	0/0	13/0	
10. Is there any history of behavior difficulty, either in relationship to family, peers or academic setting? If so has any evaluation or treatment been completed in relationship to these problems	0/0	0/0	13/0	
11. [signature required] I as the parent/guardian I agree to take part in developing & participating in the educational program of my son/daughter throughout his/her school career	0/0	0/0	13/0	

Votes - Enrollment Preferences Task Force

B

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
PARENT/GUARDIAN INPUT				
12. [signature required] If my child is accepted for admission, I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least one school year. (NOTE-redundant to Pg. 16, Category G, #7)	0/0	0/0	15/0	Same as G7
13. Is your child a self-motivated learner	0/0	0/0	13/0	
14. Does your child work well in an independent environment	0/0	0/0	13/0	
15. Does your child work well in small groups	0/0	0/0	13/0	
16. Does your child respond positively to instructional challenges	0/0	0/0	13/0	
17. What grades has the student repeated	0/0	0/0	13/0	

General Comment:

Global thought – Helpful to have “authorizer” review supplemental application to ensure aligned with mission if charter school or magnet

Votes - Enrollment Preferences Task Force

C

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
OTHER PRE-ADMISSION REQUIREMENTS				
1. Tour with principal	0 / 14*	0 / 14*	See Table 1, page 6	*Votes meant this is NOT permitted on either Common or Supp.
2. Attend an information session	0 / 14*	0 / 14*	See Table 1, page 6	*Votes meant this is NOT permitted on either Common or Supp.
3. Each student who has completed the applications will be scheduled for assessments by the school.	0 / 0	See Table 1, page 6	See Table 1, page 6	
4. Each student will be scored by his/her assessments by the instructor. The score is based on a 100 point scale with 70 points or higher passing.	0/0	See Table 1, page 6	See Table 1, page 6	
5. If the student passes the assessment, he/she is put into the first round of the lottery. The lottery is run by an offsite computer and forwarded to the school who will then start inviting students according to the order on the lottery. The lottery is run for each department area by middle or high school. The school will not discuss the specifics of any assessment with a student or parent/guardian. The school will share which scoring category the student fell into only after notification have been sent to the parents and upon request of the parent/guardian. Student scored a 70 or above out of a possible 100 points (invitation or wait list option based on available space and the lottery. Student scored 60-69 range out of possible 100 (wait list option).	0/0	See Table 1, page 6	See Table 1, page 6	

Votes - Enrollment Preferences Task Force

C

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
OTHER PRE-ADMISSION REQUIREMENTS				
Student scored below a 59 (no invitation option). All students who pass the assessment whether they are in-district or out of district will be invited before any student who scored 60-69 points.				
6. Interview / Assessment appointments: A student interview (@ 10 minutes) and writing assessment (@ 30 minutes) is a required component of the application process for all applicants to HS, in district applications to middle school.	0/0	See Table 1, page 6	See Table 1, page 6	
7. Bring to appointment: Spring standardized test scores (DSTP, DCAS, Terranova, CAT, MAP, etc.) and student work from science class (project, poster, test, homework, etc)	0/0	See Table 1, page 6	See Table 1, page 6	
8. A 12-point rubric is used to determine an applicant's minimum interest and aptitude in the school's magnet.includes creative/persuasive writing sample, inquiring/interesting interview.	0/0	See Table 1, page 6	See Table 1, page 6	
9. Current math course:	0/0	See Table 1, page 6	See Table 1, page 6	

General Comment:

How do magnets elsewhere (other states) admit students???

Votes - Enrollment Preferences Task Force

Table 1. Other Pre-Admission Requirements

The voting language agreed upon by the task force for voting on Section C, items C3-C9

“Do you agree with the use of assessments as part of the decision-making process for admission to vo-tech/magnet/charter schools?” (See minutes for meeting December 8, 2014)

Magnets	Yes	No	Abstain
Elementary Schools	0	20	1
Middle Schools	7	14	1
High Schools	10	10	2
Charters			
Elementary School	0	21	1
Middle Schools	7	14	1
High Schools	9	11	1
Vo-techs	5	14	1

Votes - Enrollment Preferences Task Force

D

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
SPECIAL ED/RELATED SERVICES				
1. Currently or ever received special services	0/0	0/0	13/0	
2. Does student require an educational accommodation plan (IEP/504)	0/0	0/0	13/0	
3. Please check services your child has had and/or still receive: a. Speech and Language b. Occupational Therapy c. Counseling d. Behavior Plan e. Reading Support f. Physical Therapy g. Inclusion services h. Self-contained classroom i. Orientation & mobility j. Deaf & hard of hearing k. Resource room l. Visually impaired m. Medical services n. n. Adapted physical education	0/0	0/0	13/0	
4. Does your child receive special transportation	0/0	0/0	13/0	
5. Are you concerned that your child may have a special need that has not been evaluated yet? If yes, explain.	0/0	0/0	13/0	

General Comment:

Positive Outcomes & Gateway Lab may need this for very specific school mission?

Votes - Enrollment Preferences Task Force

E

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
MARKETING				
1. How did you hear about the school	0/0	12/2	0/0	Required as process [charter requirement]
2. What components of the school encouraged you to apply to our school	0/0	10/4	5/9	

Votes - Enrollment Preferences Task Force

F

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
EXTRA-CURRICULAR ACTIVITIES				
1. What sports/clubs are you interested in	0/0	0/0	15/0	
2. Check the activities in which you currently participate in your school (band, baseball, bowling club, boys' basketball, boys' cross country, boys' lacrosse, boys' soccer, boys' track, cheerleading, chorus, drama club, field hockey, football, girls' volleyball, girls' basketball, girls' cross country, girls' lacrosse, girls' soccer, girls' track, golf, pomp om squad, intramurals, JROTC, key club, math league, odyssey of the mind, science Olympiad, yearbook, softball, student gov't, swim team, weight room, wrestling, yell club)	0/0	0/0	15/0	
3. Check activities [20 choices] Activity leaders will contact you with more information. (football, wrestling, softball, chorus, lacrosse, soccer, track, tennis, drama, volleyball, basketball, baseball, yearbook, golf, band, field hockey cross country ROTC, cheerleading, student government)	0/0	0/0	15/0	

Votes - Enrollment Preferences Task Force



Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
STUDENT INPUT				
1. What sports/clubs are you interested in	0/0	0/0	15/0	
2. Does student require an educational accommodation plan (IEP/504)	0/0	0/0	13/0	Same as D2 – voted “enrollment only”
3. Essay: Why you wish to attend, what you hope to gain, what skills you think you will need to be successful	0/0	See Table 2, page 13	See Table 2, page 13	
4. Essay to be handwritten	0/0	See Table 2* page 13	See Table 2, page 13	
5. Who are you? Tell us about yourself. The thing that I like best about myself is: I am good at: <ul style="list-style-type: none"> a. My friends would describe me as: b. My teachers think I am: c. What I wish my teachers knew about me is: d. Tell us about a difficult time in your life from which you learned a valuable lesson: a. f. Imagine that it is the future and you have graduated from school; what plans do you have for the future 	0/0	See Table 2, page 13	See Table 2, page 13	
6. [signature required] I as the student agree to take responsibility in developing & fully participating in the educational program provided to me by the school throughout my school career	0/0	0/0	15/0	

Votes - Enrollment Preferences Task Force



Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
STUDENT INPUT				
7. [signature required] If my child is accepted for admission, I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least one school year.	0/0	0/0	15/0	This is code
8. Student essay: All student applicants should respond to the essay prompt. To ensure equal opportunity & access for all applicants, any student needing accommodations under IDEA or ADA will be given those accommodations. Parents of applicants should contact the school with any questions about accommodations. Further, parents with questions or in need of help with the application should contact the school. The school will work with the parent and student to ensure equal and full access to complete the application process. Write an essay explaining why you would like to attend school. Include specific information about what the school can offer you in terms of the methods, philosophy or educational focus and explain how our school would be best fit for your learning preferences. Students applying for grades 6-8 may respond in a paragraph. Students applying for grades 9 or 10 should respond in a multi-paragraph essay.	0/0	0/0	1/11	See Table 2, page 13

Votes - Enrollment Preferences Task Force

G

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
STUDENT INPUT				
9. Explain in your own handwriting why you would like to attend school. (Students with mechanical disabilities or limited English skills may call the Admission Counselor for additional options other than a handwritten statement.)	0/0	See Table 2 below	See Table 2 below	
10. Extracurricular activities	0/0	0/0	15/0	

Table 2. Student Input

The voting language agreed upon by the task force for voting on Section G, items G3-G5, G8 and G9

“Do you agree with the use of requiring a student essay as part of the decision-making process for admission to vo-tech, magnet and charter schools”? (See meeting minutes April 14, 2015.)

Votes for Essay G3-G5, G8 and G9						(A=Abstention)
Vo-tech	ES-Magnet	MS-Magnet	HS-Magnet	ES-Charter	MS-Charter	HS-Carter
8N/7Y/1A	15N/1A	10N/5Y/1A	9N/7Y	15N/1A	11N/5Y	8N/7Y/1A

Votes - Enrollment Preferences Task Force

H

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
PRE K/CHILD FIND				Motion made to category - outside scope of task force's mission Vote: 14 Yes, 0 No
1. W/application Proof of residency Birth certificate Current immunization record..... Current Phys. Exam record (within 1 yr)..... Health care provider proof of lead screening.. Copy of SS card..... Most recent report card..... Copy of Discip. Record (inc. behavior incident list)..... Child find screening Complete student services form				
2. Child been involved in early intervention services (birth to 3)				
3. Did your child attend pre-school				

Votes - Enrollment Preferences Task Force

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
FAMILY INFORMATION				
1. Student resides with:	0/0	0/0	15/0	
a. Both parents				
b. Mother only	0/0	0/0	15/0	
c. Father only	0/0	0/0	15/0	
d. Grandparent	0/0	0/0	15/0	
e. Legal Guardian	0/0	0/0	15/0	

General Comment:

Schools should have option to collect @ enrollment

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
LANGUAGE				
1. What language did your child first learn to speak	0/0	0/0	15/0	-Asked under ELL guidelines, Title 3
2. What is the primary language spoken at home	0/0	0/0	15/0	
3. What other language(s) is/are spoken in the home	0/0	0/0	15/0	
4. Has your child participated in an English as a Second Language (ESL) program	0/0	0/0	15/0	

General Comment: With the exception of Spanish-Immersion Program. See special charter, Lewis Elem. for specific enrollment ratios.

Votes - Enrollment Preferences Task Force

K

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
ATTENDANCE				
1. Over the past 3 years, what is the average number of days of school the student has missed each year	0/0	0/0	14/0	
2. Has the student repeated any grades as a result of attendance issues	0/0	0/0	15/0	

L

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
ACCESSIBILITY				
1. Does your child require handicap accessibility	0/0	0/0	15/0	

Votes - Enrollment Preferences Task Force

M

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
ATTACHMENTS WITH APPLICATION				
1. Legal birth certificate with official seal				Vote to remove this since question. Is asked at the time of registration and is required by law. (See minutes April 14, 2015)
2. Social security card				Previously discussed-legal (See Dear Colleague Letter dated May 8, 2014 in Appendix F)
3. Proof of DE residency				Vote to remove this since question. Is asked at the time of registration and is required by law. (See minutes April 14, 2015)
4. Immunization record/health assessment				Vote to remove this since question. Is asked at the time of registration and is required by law. (See minutes April 14, 2015)
5. Most recent report card				See Table 3, page 19
6. Proof of identify-for parent & guardian registering the child: Driver's License or Valid ID, SS card or passport				Vote to remove this since question. Is asked at the time of registration and is required by law. (See minutes April 14, 2015)
7. I.E.P. or 504 Plan	0/0	0/0	13/0	Same as D2 vote
8. DCAS Scores				See Table 4, page 19
9. Legal guardianship documentation: If you are not the parent for the child you are registering, please provide legal documentation from Family Court or Division of Social Services that indicate	0/0	0/0	15/0	

Votes - Enrollment Preferences Task Force

M

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
ATTACHMENTS WITH APPLICATION				
you are the caregiver				
10. A letter from your child's current teacher				See Table 5, page 19
11. Completed signed supplemental application packet			15/0	Motion to strike and passed unanimously.(See minutes April 14, 2015.)
12. Teacher evaluation form from mathematics teacher			15/0	Motion to strike and passed unanimously. (See minutes April 14, 2015.)
13. (Optional) Additional teacher evaluation form			15/0	Motion to strike and passed unanimously. (See minutes April 14, 2015.)
14. Complete psycho-educational evaluation & report (if applicable)			15/0	
15. Complete speech/language evaluation (if applicable)			15/0	
16. Complete occupational therapy evaluation (if applicable)			15/0	
17. Transcripts			15/0	Motion to strike and passed unanimously. (See minutes April 14, 2015.)
18. Submit school release forms for all providers listed in "service history" section of this application			15/0	
19. Delaware Student Health Form – Children PreK-Grade 6 (To be completed by licensed healthcare provider: Physician (MD or DO),			15/0	

Votes - Enrollment Preferences Task Force

M

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
ATTACHMENTS WITH APPLICATION				
Clinical Nurse Specialists (APN), Advanced Practice Nurse (APN) or Physician Assistant (PA) [5 pages]				
20. Childcare Transportation Information Form			Agreement	After enrollment only - Agreement in small group activity (See minutes September 16, 2014)
21. Parent/Guardian driver's license or state issued picture ID	0/0	0/0	0/15	15 voted that this question should not be asked.
22. Social Service placement Letter (original)	0/0	0/0	14/0	
23. Relative Caregiver Authorization	0/0	0/0	14/0	
24. Original Family Court documents only	0/0	0/0	14/0	
25. Migrant Agricultural Work Survey (for English Language Learners)	0/0	0/0	15/0	

Votes - Enrollment Preferences Task Force

Table 3. M5. Most Recent Report Card

The voting language agreed upon by the task force for voting on Section M5

“Do you agree with the use of a student’s most recent report card as part of the decision-making process for admission to vo-tech, magnet and charter schools”? (See meeting minutes April 14, 2015.)

Votes M5-Most Recent Report Card						
Vo-tech	ES-Magnet	MS-Magnet	HS-Magnet	ES-Charter	MS-Charter	HS-Charter
6N/9Y/1A	16N	10N/6Y	6N/10Y	16N	10N/6Y	7N/9Y

Table 4. M8. DCAS Scores

The voting language agreed upon by the task force for voting on Section M8

“Do you agree with the use of the state-recognized standardized test scores as part of the decision-making process for admission to vo-tech, magnet and charter schools”? (See meeting minutes April 14, 2015.)

Votes M8-DCAS (Recognized Standardized Test Scores)						
Vo-tech	ES-Magnet	MS-Magnet	HS-Magnet	ES-Charter	MS-Charter	HS-Charter
12N/3Y/1A	16N	12N/4Y	9N/7Y	16N	13N/3Y	9N/7Y

Table 5. M10. A letter from your child’s current teacher

The voting language agreed upon by the task force for voting on Section M10

“Do you agree with the use of requiring a letter from the applicant’s teacher as part of the decision-making process for admission to vo-tech, magnet and charter schools”? (See meeting minutes April 14, 2015.)

Votes for M10-A letter from your child’s current teacher						
Vo-tech	ES-Magnet	MS-Magnet	HS-Magnet	ES-Charter	MS-Charter	HS-Charter
10N/5Y/1A	16N	10N/6Y	10N/6Y	16N	10N/6Y	10N/6Y

Votes - Enrollment Preferences Task Force

N

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
TEACHER INPUT				
1. Do you believe the student listed above Can be successful in a small classroom setting – why	0/0	2 / 14	2/14	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
2. We serve students with.....or are not performing well in a traditional class-room setting....Would you characterize this student as in need of our assistance – why?	0/0	3 / 13	3/13	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
3. Can the needs of this student be met in the regular classroom environment – why	0/0	2 / 14	2/14	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
4. Describe this student’s specific strengths	0/0	2 / 14	2/14	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
5. Describe this student’s specific weaknesses	0/0	2 / 14	2/14	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
6. List/describe any teaching techniques or strategies that have proven helpful with this student	0/0	3 / 13	3/13	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
7. Please list/describe any instances of disciplinary action involving the student that you are aware of	0/0	3 / 13	3/13	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
8. Please describe the student-teacher relationships & interactions	0/0	2 / 14	2/14	Note: motion failed and this became “enrollment only”. (See minutes September 16, 2014.)
9. On a scale of 1-5 please rate the listed student in each category:	0/0	3 / 13	3/13	Note: motion failed and this became “enrollment only”. (See minutes

Votes - Enrollment Preferences Task Force

N

Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
TEACHER INPUT				
Respect for authority, Academic Potential, Academic Achievement, Attendance, Class Participation, Seeks Help when needed, Effort, Organization, Conduct & Behavior, Respect for others, Relationship with Peers, Relationships with Adults, Integrity/Honesty				September 16, 2014.)
10. The student has a behavior intervention plan	0/0	2 / 14	2/14	Note: motion failed and this became "enrollment only". (See minutes September 16, 2014.)
11. Please circle all words you feel describe the student [65 options]	0/0	0 / 16	0/16	Note: motion failed and this became "enrollment only". (See minutes September 16, 2014.)
12. If you wish to provide additional information, please use the reverse side of the sheet or provide a phone # where you can be reached during the day	0/0	2 / 14	2/14	Note: motion failed and this became "enrollment only". (See minutes September 16, 2014.)

Votes - Enrollment Preferences Task Force



Categories & Questions	COMMON APPLICATION AGREE/DISAGREE	SUPPLEMENTAL APPLICATION AGREE/DISAGREE	ENROLLMENT ONLY AGREE/DISAGREE	COMMENTS
ACADEMICS				
1. Has child repeated a grade	0/0	0/0	13/0	Voted on B17-same question
2. What grade has the student repeated	0/0	0/0	13/0	Voted on B17-same question
3. Has the student been recommended for or placed in any alternative setting in the past two years – If yes, explain	13/1	0/0	0/0	Voted on A1-same question
4. If yes, what school was the student recommended or required to attend	13/1	0/0	0/0	Voted on A1-same question
5. If yes, did the student attend and complete the alternative placement and has been permitted to return to the regular environment	13/1	0/0	0/0	Voted on A1-same question

General Comment:

Similar thoughts overall apply to specific programs such as IB programs for example.

Appendix B

Materials for Task Force Meeting 1

September 26, 2013

Enrollment Preference Task Force

Meeting #1 September 26, 2013

- I. Introductions
 - a. Task Force Members
- II. PowerPoint Presentation
- III. Questions/Comments from Task Force members
- IV. Public Comment
- V. Adjourn

*Meeting Schedule: Thursday, October 24th
Wednesday, November 20th
Thursday, December 12th
Wednesday, January 22nd*

*All meetings will be held in the Bucks Library at the Buena Vista Estate
(661 S. DuPont Hwy. New Castle, DE) from 6:30pm-8:30pm.*

Enrollment Preferences Task Force
Minutes: Meeting #1
Thursday, September 26, 2013
6:30 pm
Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives
- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Randall Hughes, Delaware State Board of Education
- Frederika Jenner, Delaware State Education Association
- Susan Francis, Delaware School Boards Association
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Gary Stockbridge, Delaware Business Roundtable
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Lindsay O'Mara, Governor's Office
- Dr. Mervin Daugherty, Superintendent from New Castle County
- Dr. Kevin Fitzgerald, Superintendent from Kent County
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Mark Pruitt, Magnet School Representative
- Diane Ruth, Charter School Representative
- Dr. Terri Hodges, Parent Representative
- Elizabeth Lockman, Parent Representative

Staff present:

- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Senator Nicole Poore, Delaware State Senate
- Representative Darryl Scott, Delaware House of Representatives (Damian DeStefano attended)
- Dr. Shawn Joseph, Superintendent from Sussex County
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Victoria Gehrt, Superintendent from NCC Vo-Tech (Kathy Demarest attended)
- Dr. Deborah Zych, Superintendent from Polytech
- Julie Rumschlag, Magnet School Representative
- Donald Mell, Charter School Representative (Kendall Massett attended)

Public attendees:

- Michael Oboryshko, Community Member
- Mandy Gonye, Delaware PTA
- Nancy Willing, Community Member
- Brian Rutter, DSC
- Matt Albright, The News Journal
- Donna Johnson, State Board of Education
- Rep. John Kowalko, Delaware House of Representatives
- Mike Matthews, President of RCEA
- Mary Kate McLaughlin, Delaware Department of Education

- Joanne Christian, Community Member
 - Kathleen MacRue, Community Member
 - Eve Buckley, Community Member
 - Catherien Nessa, Community Member
-

Meeting was called to order at 6:40 p.m.

1. Introductions

Rep. Kim Williams, co-chair, introduced herself and spoke about the effect House Bill 90 will have on Delaware's school choice system and the intent of the task force created by the legislation. She then asked each person in attendance to introduce themselves.

2. Presentation

Rep. Kim Williams gave a PowerPoint presentation. The presentation touched on many aspects of magnet, vo-tech, and charter schools, both in Delaware and nationwide. First, it looked at the legislative intent of House Bill 90, the purpose of this task force. The task force was created to consider the current landscape of enrollment preferences and practices used by magnet, vocational technical, and charter schools and develop recommendations, if necessary. Next, the presentation provided national figures of student enrollment in charter schools as well as the number of Delaware students enrolled in magnet, vo-tech, or charter schools. Rep. Williams reported on a few of the changes accomplished by House Bill 90: school choice had not been updated since 1998, parents will be able to navigate the choice process easier, standardizing application forms, the same deadlines for all public schools, parents can submit their choice applications on DOE's website, districts must hold public information sessions about choice opportunities, districts are required to use the same standards for choice students as they do for their attendance zone students, districts must report capacity, and the creation of the task force are some of the changes because of HB 90.

The PowerPoint touched on the current Delaware Code pertaining to magnet, vocational technical, and charter schools. Rep. Williams asked Lindsay O'Mara to briefly speak about the Federal and Delaware laws and to answer any of the members' questions. Yvonne Johnson asked if the order of the preferences mattered as they are listed in the Delaware Code. O'Mara confirmed the order of the preferences do not matter when given a student preference. Senator Sokola inquired about the Charter School Program Fund using a potential boundary such as county lines to restrict preference. Representative Williams wanted to clarify that there was no specific list of preferences that schools must use. O'Mara states these schools could not have preferences; strictly a lottery system with no weighted preferences.

Accompanying the PowerPoint were two documents: A spreadsheet containing the enrollment practices and preferences for all magnet, vo-tech, and charter schools in the state of Delaware as well as enrollment preferences for charters in all 50 states. Note: not all states have existing charter laws.

****Note: Due to technical difficulties, digital copies of these documents can now be found on <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>***

3. Open discussion

Dr. Mervin Daugherty of Red Clay discussed the successes of Red Clay's magnet and charter schools, specifically mentioning the Delaware Military Academy, Wilmington Charter School, and Cab Calloway.

When asked about the concerns surrounding the admissions process for Cab Calloway Middle School, particularly prospective students of low socio-economic backgrounds who may not be able to afford private lessons like their peers, Dr. Daugherty discussed the school's increased outreach to the surrounding communities.

Dr. Kevin Fitzgerald stated that the impact of charter schools have not been felt in Kent County, and hoped the task force would address the concern of this inequality.

Sue Francis asked for an email address that she could send questions she will be receiving from the membership of the Delaware School Board Association. Rep. Williams replied that Ms. Francis could send all questions and comments to her email address (Kimberly.Williams@state.de.us). Ms. Francis also posed the question of what is the impact of the choice process on traditional enrollment public schools.

Parent Representative Elizabeth Lockman stated she would like to see real data on the number of children applying to these magnet, vo-tech, and charter schools versus the number of children actually being admitted.

Parent Representative Dr. Terri Hodges advocated for equal access for all students regardless of distance. She would also like to see a common application or common indicators that can be used when admitting students to these types of schools statewide.

Yvonne Johnson said she would like to see every child to be able to take advantage of every possible choice and opportunity.

Senator Sokola discussed the evolution of charter schools in Delaware and called it a continuous work in progress. He also suggested using the Education Commission of Delaware to research national data on magnet and vo-tech schools.

Secretary Mark Murphy said he was looking forward to having honest discussions on the underlying issues not usually talked about in policy settings.

Lindsay O'Mara echoed the sentiment and hopes the task force will be able to create a more robust choice system.

Damian DeStefano, representative for Rep. Darryl Scott, asked if most schools were able to identify at-risk students and inform them of these different choices. Kendall Massett, representative for Donald Mell, gave the example of Spanish teachers aiding Spanish-speaking parents in the application process.

Mark Pruitt asked that the task force consider the differences between enrollment practices (ex. Rubric, preference, standards, and lottery).

Fredericka Jenner hoped that task force would look at the diversity of Delaware's students and remember that some students and families choose neighborhood schools and not magnet, vo-tech, or charter.

Terri Hancharick described her primary role as ensuring students with disabilities receive equal opportunities. Chuck Taylor echoed the sentiment of making the choice system fair for every Delaware student.

Kendall Massett, representative for Donald Mell, advocated excellent education no matter the type of school a student attends.

Diane Ruth hopes the task force can look at what schools can do to provide support for the family's involvement in the child's education.

Randall Hughes hopes the task force can dispel many of the misconceptions that surround the application and enrollment process. He noted that Sussex County was underrepresented at the meeting and that moving forward the task force should draw participation from Sussex so their issues are brought to the table.

AJ Lathbury discussed the need to replicate the choices in New Castle County throughout the rest of the state. Sussex County suffers from not having these same choices.

4. Next Steps

Rep. Williams provided a recap on what the task force would like to discuss over the course of the remaining four meetings. These issues include the application processes and enrollment preferences, compliance to federal and state law, information on magnet and vo-tech schools nationwide, more choices throughout Delaware's three counties, schools offering support to families, equal access to all students, information to students regarding all choices, impact on schools and districts where choice students would have been attending, school diversity, and students with disabilities.

5. Public Comment

Nancy Willing inquired about where to find minutes and copies of the information provided to members of the task force. Rep. Williams explained that minutes and more information would be found on the state's public calendar (<http://egov.delaware.gov/pmc/>).

****Note: Due to technical difficulties, digital copies of these documents can now be found on <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>***

Rep. Kowalko spoke on the exclusion of some students to particular choice schools. He said these exclusions occur and should be rectified immediately. He also stated these choice schools have dismissed students from their enrollment, which is an option traditional schools do not have.

Mike Matthews stated he serves on the district/charter collaboration task force created by Senate Bill 174, and hopes the Enrollment Preferences Task Force has a better opportunity to address why teacher standards are the same across all school settings. Those teachers in the lowest performing schools are held to the same standards as those teaching in the highest performing schools.

Joanne Christian hoped the task force would recommend changing some of more unequal criteria requirements.

Eve Buckley believed that minority and low-income students do not have the same access as other students in the Delaware school system and hoped that would be a topic of discussion for the task force moving forward.

The meeting adjourned at 8:28 pm.

Next meeting: October 24, 2013 at the Buena Vista Conference Center from 6:30pm-8:30pm.

1. States that have an interest or academic preference
 - Delaware
 - Florida
 - Louisiana
 - New Hampshire (must be related to the academic goals of the school)
 - New York (admission of students shall not be limited on the basis of intellectual ability, measures of achievement, or aptitude)
 - North Carolina (the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude)
 - Pennsylvania (may establish reasonable criteria to evaluate prospective students – math science or the arts)
 - Texas (performing art schools)
 - Wyoming (admission to a charter school shall not be determined solely on academic abilities or achievements, including minimum test scores or intelligence quotient scores)
2. States that have no enrollment preferences, only random drawing lotteries in the cases of over enrollment
 - Alaska
 - California (preference for conversions and students residing in the district, however other preferences may be permitted on an individual basis by chartering authority)
 - Georgia (the law allows but does not require enrollment preferences)
 - Hawaii (preference for students previously enrolled in a conversion)
 - Idaho (the law allows but does not require enrollment preferences)
 - Kansas
 - Maryland (only preference is given to children of military personnel)
 - Mississippi (not a preference, just law: only open to in district students)
 - Rhode Island (the law allows but does not require enrollment preferences)
 - Virginia
3. States that give preference to a smaller geographic area than a school district
 - Delaware
 - Louisiana
 - Nevada (at risk students - who are within 2 miles of the charter)
 - Oklahoma (only used in “academic enterprise zones” which are at risk populations, 60% of the children qualify for free or reduced lunch)
 - Utah (articulating from one charter to another – a two mile radius)
4. States which have lotteries and only preferences based on siblings, matriculation, children of employees and founder and in district children
 - Arizona
 - Arkansas
 - Connecticut
 - Washington DC
 - Illinois
 - Indiana

- Iowa
- Maine
- Massachusetts
- Michigan
- Minnesota
- Missouri
- New Jersey
- New York
- North Carolina
- Ohio
- Oregon
- Pennsylvania
- South Carolina
- Tennessee
- Washington
- Wisconsin

5. States that have language allowing charter schools to deny admission if pupil has been expelled or in the process of being expelled or criminal offense

- Arizona
- Illinois
- New Hampshire
- New York
- Texas

Alabama

No Charter School Law

Alaska

Sec. 14.03.265. Admission. (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.

(c) In addition to other requirements of law, a charter school shall be nonsectarian.

Arizona

15-184. Charter schools; admission requirements

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.

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.

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.

A charter school may give enrollment preference to and reserve capacity for pupils who are children of employees of the school, employees of the charter holder, members of the governing body of the school or directors, officers, partners or board members of the charter holder or a pupil who attended another charter school or 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, provided that any school that elects to give such enrollment preferences shall be treated as a single charter school for the purpose of establishing support level weights for purposes of section 15-943.

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.

B. Except as provided in subsection C or 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.

C. A charter school may limit admission to pupils within a given age group or grade level.

D. 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.

E. 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.

F. 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.

Arkansas

6-23-106. Impact on school desegregation efforts.

(a) The applicants for a public charter school, local school board in which a proposed public charter school would be located, and the State Board of Education shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

(b) The state board shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

(c) The state board shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

(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;

California

(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.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and in no event shall take any action to impede the charter school from expanding enrollment to meet pupil demand

Colorado

Interesting note on state's charter school FAQ

May charter school students be required to take an entrance exam or be subject to other admission criteria?

No. The Charter Schools Act [C.R.S. 22-30.5-104 (3)] prohibits discrimination based on academic ability. Diagnostic or placement exams may be given to students after they have been officially enrolled. As with all public schools, a charter school may create eligibility thresholds for enrollment that are consistent with their area of focus or grade levels, but the school's methods for determining eligibility cannot be designed, intended, or used to discriminate on the basis of a child's knowledge, skills, or disability. For instance, a charter high school may deny admission to a student not completing the 8th grade, but it cannot deny admission to a student who has an "unsatisfactory" score on a CSAP test.

C.R.S. 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.

Connecticut

10-66b- (d) Applications pursuant to this section shall include a description of:

(7) the organization of the school in terms of the ages or grades to be taught and the total estimated enrollment of the school;

(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 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.

Delaware

§ 506. Restrictions.

(a) A charter school shall not:

(1) Charge tuition, except in accordance with Chapter 6 of this title, or collect fees not permitted to be assessed by other school districts;

(2) Be home-based nor engage in any sectarian or religious practices in its educational program, admissions policies, employment policies or operations;

(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. Notwithstanding any provisions to the contrary, the Department of Education, with approval of the State Board of Education, shall be considered the approving authorizer of Prestige Academy, a same-gender school, and shall provide oversight to such school. The Department of Education, with the approval of the State Board, may waive any provisions in this Chapter that would limit the school from opening for the 2008-2009 school year. Any subsequent same-gender charter school shall make its application to the Department of Education and the State Board of Education.

d. Within a reasonable amount of time as determined by the Department of Education, but no longer than 2 years after commencement of operations of any same-gender charter school in the State, there shall be approved and operating a same-gender charter school of the opposite gender, substantially equal to the prior-approved, same-gender charter school, matching in grade level and marketed towards similar demographics of the prior-approved, same-gender charter school. The Department of Education shall work with the education community on a plan for recruitment and technical assistance

for applicants of a same-gender charter school of the opposite gender. The Department of Education shall provide such report regarding the recruitment plan to the General Assembly on an annual basis.

e. The same-gender charter school provisions shall sunset, for any new charter applications, on June 30, 2013, unless the General Assembly has otherwise acted to extend such date prior to its expiration.

f. The Department of Education shall provide a written report to the Governor and the respective Education Committees of the state House of Representatives and Senate with a proposal for an experienced research and evaluation entity to conduct an evaluation of single-gender charter schools in the State. The study proposal shall cause to be examined factors including, but not limited to, academic results, social factors, and psychological factors. The cost of the evaluation shall be included in the Department of Education's proposal and provided to the Governor for consideration for inclusion in the FY 2010 state budget. The Department of Education is encouraged also to seek grant funding for the evaluation.

g. A single-gender charter school shall report on an annual basis, with the first report to be provided to the Department of Education and the respective Education Committee of the state House of Representatives and the Senate within 1 calendar year after commencement of operations by the charter school, and such report shall include, among other things, the efforts made by the charter school to further advancement of its students' education, as well as quantitative analysis of its efforts and results in recruiting and retaining economically-disadvantaged students, regardless of race.

(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.

(c)(1) On or before April 1 of each school year, a charter school shall have enrolled, at a minimum, 80% of its total authorized number of students, and the administrator of each charter school shall, pursuant to the requirements below, provide a written certification of that enrollment to the Department of Education and to the superintendent of each public school district in which 1 or more of the charter school's students reside.

(2) The certification from the charter school's administrator shall contain an updated roster of students who are enrolled at the charter school, together with their home address and district of residence.

(3) A charter school shall obtain a written confirmation, signed by a parent or guardian of each student in that student's initial year of attendance at the charter school, that the student will remain in the charter school for at least 1 school year. That confirmation shall include a statement reading:

"I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least 1 school year"

and shall be kept on file at the school and made available for inspection to Department of Education officials or representatives from the public school district in which the student resides. After a student's initial year of enrollment, it shall be presumed for school district planning purposes only that the student will continue to attend the charter school until completion of the school's highest grade level and no further written confirmation need be obtained by the charter school.

(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in the marital status of the child's parents, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health treatment program, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of "good cause."

(e) If at any time during any fiscal year of its existence, a charter school knows or reasonably should know that it has or will become unable to pay in full its projected expenses as they fall due, the school

shall immediately so advise the Department of Education, and shall provide the Department with all financial information relating to revenues and expenses of the school necessary for the Department to determine the extent and cause of any potential operating deficit. If a charter school should fail to provide the notice to the Department of Education required by this subsection or shall fail to cooperate with the Department in the production of financial information pursuant to this subsection, the Department shall subject the school's charter to formal review pursuant to the provisions of § 515 of this title in order to determine whether grounds exist to take remedial measures.

(f) If a child would qualify for a no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program, beginning in the 2014-2015 school year, the charter school shall provide breakfast and lunch to the child at no or low cost to the child's family. Charter schools shall not consider whether a child would qualify for no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program when making enrollment decisions.

Florida

Charter schools are open to all students residing within a school district.¹¹ Prospective students must apply for enrollment in the charter school and, if the number of applications exceeds the school's capacity, a random lottery must be used to determine which students are enrolled.¹²

Enrollment preference may be given to:

- Siblings of current charter school students;
- Children of a member of the charter school governing board;
- Children of charter school employees;
- Children who complete a Voluntary Prekindergarten Education program provided by the charter school; and
- Children of active-duty United States Armed Forces personnel.¹³

Additionally, a charter school-in-the-workplace may give an enrollment preference to children whose parents are employees of the school's business partner and children whose parents are residents of the municipality in which the school is located. A charter school-in-a-municipality may give an enrollment preference to children whose parents are residents of the municipality in which the school is located .¹⁴

A charter school may limit the enrollment process in order to target the following student populations:

- Students within specific age groups or grade levels;
- Students considered at risk of dropping out of school;
- Exceptional students;

- Children of the business partner who seek to enroll in a charter school-in-the-workplace or children of municipal residents who seek to enroll in a charter school-in-a-municipality;
- Students residing within a reasonable distance of the charter school;
- Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school;
- Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor; and
- 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.¹⁵

Generally, the student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.¹⁶ The governing board of a high-performing charter school may unilaterally increase its enrollment by up to 15 percent annually or expand grade levels served.¹⁷

Georgia

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 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.

Hawaii

Haw. Rev. Stat. § 302B-5 : Hawaii Statutes - Section 302B-5: Start-up charter schools; establishment.

(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;

Idaho

Title 33 Chapter 52 33-5205

(i) A plan for the requirements of section [33-205](#), Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section [33-206](#), Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) The primary attendance area of the charter school, which shall be composed of a compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(k) Admission procedures, including provision for over enrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for over enrollment, 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.

Illinois

(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.

(e) Nothing in this Article shall prevent 2 or more local school boards from jointly issuing a charter to a single shared charter school, provided that all of the provisions of this Article are met as to those local school boards.

(f) No local school board shall require any employee of the school district to be employed in a charter school.

(g) No local school board shall require any pupil residing within the geographic boundary of its district to enroll in a 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), 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.

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. As added by P.L.1-2005, SEC.8. Amended by P.L.91-2011, SEC.14; P.L.280-2013, SEC.40.

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). As added by P.L.1-2005, SEC.8. Amended by P.L.91-2011, SEC.15

Iowa

256F.4 GENERAL OPERATING REQUIREMENTS.

2. Although a charter school may elect to comply with one or more provisions of statute or administrative rule, a charter school is exempt from all statutes and rules applicable to a school, a school board, or a school district, except that the charter school shall do all of the following:

a. Meet all applicable federal, state, and local health and safety requirements and laws prohibiting discrimination on the basis of race, creed, color, sex, national origin, religion, ancestry, or disability. A

charter school shall be subject to any court-ordered desegregation plan in effect for the school district at the time the school's charter application is approved.

- b. Operate as a nonsectarian, nonreligious public school.
 - c. Be free of tuition and application fees to Iowa resident students between the ages of five and twenty-one years.
 - d. Be subject to and comply with chapters 216 and 216A relating to civil and human rights.
 - e. Provide special education services in accordance with chapter 256B.
3. A charter school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school may limit admission to students who are within a particular range of ages or grade levels or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school.
4. A charter school shall enroll an eligible resident 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 must be accepted by lot. A charter school may enroll an eligible nonresident student who submits a timely application in accordance with the student admission policy established pursuant to section 256F.5, subsection 1. If the charter school enrolls an eligible nonresident student, the charter school shall notify the school district and the sending district not later than March 1 of the preceding school year. Transportation for the student shall be in accordance with section 282.18, subsection 10. The sending district shall make payments to the charter school in the manner required under section 282.18, subsection 7.
5. A charter school shall provide instruction for at least the number of days required by section 279.10, subsection 1, or shall provide at least the equivalent number of total hours.
6. Notwithstanding subsection 2, a charter school shall meet the requirements of section 256.7, subsection 21.

Kansas

Article 19 72-1906.

(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;

Kentucky

No Charter School Law

Louisiana

Louisiana breaks charter schools into 5 different types and has enrollment provisions surround each type and can be found on pages 2, 3, and 4 of the following link-

<http://www.louisianaschools.net/lde/uploads/17768.pdf>

The overall provision is as follows;

(3) Admission requirements, if any, that are consistent with the school's role, scope, and mission may be established. 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 child with an exceptionality as defined in R.S. 17:1943(4). 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 achievement of a certain academic record for schools with a college preparatory mission.

No local board shall assign any pupil to attend a charter school.

(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.

Maine

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. [2011, c. 414, §5 (NEW).]

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. [2011, c. 414, §5 (NEW).]

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. [2011, c. 414, §5 (NEW).]

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. [2011, c. 414, §5 (NEW).]

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. [2011, c. 414, §5 (NEW).]

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.[2011, c. 414, §5 (NEW).]

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.[2011, c. 414, §5 (NEW).]

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. [2011, c. 414, §5 (NEW).]

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.[2011, c. 414, §5 (NEW).]

J. A public charter school may enroll students from outside the State if space is available. [2011, c. 414, §5 (NEW).]

[2011, c. 414, §5 (NEW) .]

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.

Maryland

§9–102.

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

- (1) Is nonsectarian in all its programs, policies, and operations;
- (2) Is a school to which parents choose to send their children;
- (3) Except as provided in § 9–102.1 of this title, 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;
- (4) Is a new public school or a conversion of an existing public school;

- (5) Provides a program of elementary or secondary education or both;
- (6) Operates in pursuit of a specific set of educational objectives;
- (7) Is tuition-free;
- (8) Is subject to federal and State laws prohibiting discrimination;
- (9) Is in compliance with all applicable health and safety laws;
- (10) Is in compliance with § 9–107 of this title;
- (11) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in § 9–106 of this title, the provisions of law and regulation governing other public schools;
- (12) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and
- (13) Is created in accordance with this title and the appropriate county board policy.

§9–102.1.

(a) The State Board may grant a waiver from § 9–102(3) of this title to a public charter school if the public charter school:

- (1) Is located on property within a federal military base in the State; and
 - (2) Will admit students with parents who are not assigned to the base to at least 35% of its total available space.
- (b) If a public charter school is granted a waiver under subsection (a) of this section, subject to the requirement set forth in subsection (a)(2) of this section, the public charter school shall admit all students on a lottery basis.

Massachusetts

1.06: Charter School Enrollment and Student Recruitment

(1) Eligibility for enrollment shall be consistent with the school's grade levels. 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. Charter schools shall receive approval from the Department of a recruitment and retention plan that meets the requirements of M.G.L. c. 71, § 89. For purposes of 603 CMR 1.06, 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.

(2) Charter schools may not administer tests to potential applicants or predicate enrollment on results from any test of ability or achievement. 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.

(3) Schools shall give reasonable public notice, of at least one month, of all application deadlines.

(4) 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 who reside in the city or town in which a Commonwealth charter school is located, or who are siblings of students already attending said charter school, the charter school shall hold an enrollment lottery for all such applicants;

(b) If there are more spaces available than eligible applicants from the city or town in which said Commonwealth charter school is located and who are siblings of current students, and there are more eligible applicants from outside of that city or town than spaces available, the charter school shall hold an enrollment lottery.

(c) The Department shall notify each Commonwealth charter school no later than February 15th of any limitation on the number of students from a district that may be enrolled in charter schools for the upcoming school year.

(d) Charter schools shall place names of students not selected in an enrollment lottery on a waiting list in the order the names were drawn. In conformance with M.G.L. c. 71, § 89, 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 ten, 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 ten, 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.

(e) In cases where the enrollment of a student, who is not a sibling of another previously enrolled student, from the waiting list would exceed the district charter tuition cap, the student should be skipped over but kept on the waiting list. 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 said sibling, subject to appropriation.

(f) In conformance with M.G.L. c. 71, § 89(n), charter schools shall 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. The same information must be submitted within 30 days of any student being admitted from the waitlist to the school to fill a vacancy in the school.

(g) A charter school may initiate a request once a year for a mailing to the students enrolled in each district for which the school is chartered to serve, 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 this section. The district or school must provide parents/guardians with the opportunity to request that such information be withheld. The cost of copying and mailing shall be borne by the school or district requesting the mailing. There shall be no 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 one percent or more of the district's total enrollment are limited English proficient students for whom that is the primary language.

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

1. priority shall be given first to any students actually enrolled in said school on the date that the final application is filed with the Board and to their siblings. In such cases where there are fewer spaces in a Horace Mann charter school than eligible applicants who were enrolled in said school, the charter school shall hold an enrollment lottery;
 2. if there are more spaces available than eligible applicants from the school, and there are more applicants than spaces available who reside in the district in which the charter school is located and who are currently enrolled in the public schools of the district in which the Horace Mann charter school is located, the charter school shall hold an enrollment lottery for all such applicants; and
 3. if there are more spaces available than eligible applicants from the school or district, and there are more applicants than spaces available who reside in the district in which the Horace Mann charter school is located, the charter school shall hold an enrollment lottery for all such applicants.
- (5) If the principal enrollment process fails to produce an adequate number of enrolled students, a school may repeat the process more than once, if necessary, providing such process is fair and open, with reasonable public notice given at least one week 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 waiting list during a prior enrollment process, except in cases described in to 603 CMR 1.06(4)(e). 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 1.09(4).

(6) All lotteries shall be conducted in public, with a disinterested party drawing names, and with reasonable public notice given at least one week prior to the lottery.

(7) A school may integrate its enrollment process with that of the school district, provided that the enrollment application is submitted in conjunction with the local school district and such district maintains an intra-district school choice enrollment program.

(8) A school shall specify age thresholds and ceilings for kindergarten and/or high school programs, respectively.

(9) The use of financial incentives to recruit students is prohibited.

Michigan

380.504 Location; operation at other than single site; documentation that proposed educational model results in measurable progress; discrimination prohibited; admission limits; enrollment; priority; grades and programs offered.

Sec. 504.

(1) A public school academy may be located in all or part of an existing public school building. A public school academy shall not operate at a site other than the site or sites requested for the configuration of age or grade levels that will use the site or sites, as specified in the contract. Under a contract, an authorizing body may permit a public school academy to operate the same configuration of age or grade levels at more than 1 site, and a public school academy may operate the same configuration of age or grade levels at more than 1 site, as long as the public school academy is operating in compliance with its contract and is making measurable progress toward meeting its educational goals. For a contract for a new public school academy, an authorizing body may permit a public school academy to operate the same configuration of age or grade levels at more than 1 site, and a public school academy may operate the same configuration of age or grade levels at more than 1 site, if the applicant for the proposed public school academy presents documentation to the authorizing body demonstrating that the applicant's proposed educational model has resulted in schools making measurable progress toward meeting their education goals.

(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 admissions 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 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.

(5) A public school academy 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 public school academy 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.

Minnesota

Subd. 9. Admission requirements.

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.

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 a lottery policy and process that it must use when accepting pupils by lot.

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.

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.

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.

Mississippi

SEC. 37-28-9. Terms of charter.

- (f) A provision that no person shall be denied admission to the charter school on the basis of race, color, creed or national origin;

Missouri

- (12) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements and procedures that ensure admission of students with disabilities in a nondiscriminatory manner;

4. A charter school shall, as provided in its charter:

- (1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

Montana

No Charter School Law

Nebraska

No Charter School Law

Nevada

Participation in class or extracurricular activity by pupil enrolled in another school or homeschooled child.

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 that is dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who:

- (a) Is a sibling of a pupil who is currently enrolled in the charter school;
- (b) Was enrolled, 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 employed in a full-time position by 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.

Ê 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,

Ê 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 home school 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](#).

Ê 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.

Ê 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.

New Hampshire

CHAPTER 194-B

CHARTERED PUBLIC SCHOOLS

Section 194-B:9

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.

(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.

II. A pupil may withdraw from a chartered public school at any time and enroll in a public school where the pupil resides, except that no pupil shall change schools more than once each school year. That pupil's local school board may waive this limitation after a hearing.

III. A pupil may be suspended or expelled from a chartered public school based on criteria determined by the board of trustees consistent with the advice of the principal and teachers and in conformance with RSA 193:13. No public school shall be obligated to enroll an expelled pupil.

IV. For the purpose of this chapter, any resident pupil enrolled in a chartered public school is to be considered reassigned to the chartered public school for purposes of school attendance.

New Jersey

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

7. 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.

L.1995,c.426,s.7.

18A:36A-8. Enrollment preference

8. 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.

New Mexico

[New Mexico Statutes](#) > [Chapter 22](#) > [Article 8B](#) > § 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.

New York

S 2854. General requirements

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 and limited, English proficient 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 district of the city of New York, the community district in which the charter school is located.

(c) A charter school shall serve one or more of the grades one through twelve, and shall limit admission to pupils within the grade levels served. Nothing herein shall prohibit a charter school from establishing a kindergarten program.

(d) A student may withdraw from a charter school at any time and enroll in a public school. A charter school may refuse admission to any student who has been expelled or suspended from a public school until the period of suspension or expulsion from the public school has expired, consistent with the requirements of due process.

North Carolina

§ 115C-238.29F. General requirements.

115C-375.3.

(b) School Nonsectarian. - A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees, except that a charter school may charge any fees that are charged by the local school administrative unit in which the charter school is located. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution

(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. The charter school may give enrollment priority to siblings of currently enrolled students who were admitted to the charter school in a previous year and to children of the school's principal, teachers, and teacher assistants. In addition, and only for its first year of operation, the charter school may give enrollment priority to children of the initial members of the charter school's board of directors, so long as (i) these children are limited to no more than ten percent (10%) of the school's total enrollment or to 20 students, whichever is less, and (ii) the charter school is not a former public or private school. 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. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted. Within one year after the charter school begins operation, the population of the school shall 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.

(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.

North Dakota

No Charter School Law

Ohio

REQUIREMENTS

A. Public charter schools must be:

1. Open to any individual age 5 to 22 who is entitled to attend a public school in Ohio; and
2. Free of tuition.

RESTRICTIONS

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

A. Race

B. Gender

C. Creed

D. Color

E. Disabling condition

1. If admitted, must comport with all state and federal laws dealing with education of children with disabilities.
2. A charter school can contract for special education services.

Charter schools may restrict by:

A. Certain grade levels

B. Age groups

C. "At risk" students

D. Geographical residence

1. Sub-section of "home" district.

2. "Home" district.

3. "Home" district and adjacent districts.

4. All of Ohio.

E. Gender

1. A school can be single-gender so long as there are comparable offerings for both boys and girls.

F. Capacity

LOTTERY

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

A. The lottery must be based on the students who submitted applications.

B. The lottery must give preference to:

1. Students residing in "home" district.

2. Students who attended the previous year.

C. The lottery may give preference to siblings of students who attended the previous year.

Oklahoma

Section 42.22. Admission and Enrollment of Students.

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 of this title, unless the number of applications exceeds the capacity of a program, class, grade level, or building. 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 listed on the school improvement list as determined 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 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 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. (70-3-140)

Oregon

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.

(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

(A) Intent to enroll the student in a virtual public charter school; and

(B) Enrollment of the student in a virtual public charter school.

(b) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district.

(c) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the board must issue a decision within 30 days of the submission of the appeal.

(5) Within 10 days of a student's enrollment in a public charter school, the public charter school shall provide written notice of the student's enrollment to the school district in which the public charter school is located if the student does not reside in the school district where the public charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school district in which the public charter school is located shall provide to the student's parent, legal guardian or person in parental relationship written information about:

(a) The school district's responsibility to identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter school for a reason other than graduation from high school, the school district in which the public charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student has withdrawn.

(b) Provide to the student's parent, legal guardian or person in parental relationship written information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

(10) A public charter school may conduct fund-raising activities but may not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

Pennsylvania

§ 17-1723-A. Enrollment

(a) All resident children in this Commonwealth 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.

(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.

(d)(1) Enrollment of students in a charter school or cyber charter school shall not be subject to a cap or otherwise limited by any past or future action of a board of school directors, a board of control established under Article XVII-B, [FN1] a special board of control established under section 692 [FN2] or any other governing authority, unless agreed to by the charter school or cyber charter school as part of a written charter pursuant to section 1720-A. [FN3]

(2) The provisions of this subsection shall apply to a charter school or cyber charter school regardless of whether the charter was approved prior to or is approved subsequent to the effective date of this subsection.

Rhode Island

§ 16-77.2-1 Entities eligible to apply to become district charter schools (d) No child shall be required to attend a district charter school nor shall any teacher be required to teach in a district charter school. The school committee shall make accommodations to facilitate the transfer of students who do not wish to participate in the district charter school into other public schools. It shall also make accommodations for those students who wish to participate to transfer into the district charter school as space permits. If the total number of students who are eligible to attend and apply to a district charter school is greater

than the number of spaces available, the charter school shall conduct a lottery to determine which students shall be admitted.

C-5-1. Outreach. -- The charter school shall proactively engage and inform the community about the school for the purpose of generating interest in enrollment in the school. Such activities should include public notices, meeting, open houses, and other activities that attempt to reach and provide a forum to a broad audience. In order to diversify the pool of applicants so as to include underrepresented populations and otherwise achieve ends designed to serve at-risk youth, supplemental specially directed outreach and recruitment to these groups is permissible.

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.

C-5-3. Notification. -- (a) Families shall be notified in writing whether or not the student was selected from the lottery for enrollment into the school. Upon notification, the family shall confirm their intent to accept the enrollment by submitting a standard confirmation form to the school. Schools are permitted to establish a reasonable deadline of not less than fifteen (15) days for the family to confirm their child's enrollment. Schools shall also make a reasonable effort within this period to make contact with the family. If the family fails to confirm enrollment by the established deadline, schools are permitted to offer enrollment to another family in first position on the waiting list.

(b) Only after a family has confirmed enrollment shall the school ask the family to provide specific information and documentation about the student, including prior school academic records and special education records (IEP/504 plans).

(c) Once all families have confirmed their student enrollment, schools shall notify the district of residence regarding the total number of students from each district that will be attending the charter school for the upcoming school year.

C-5-4. Waiting Lists. – (a) Any student who has applied to the school but was not selected through the lottery shall be placed on a waiting list in the order that they were drawn within the design of the lottery. This shall constitute the school's official waiting list.

(b) Families that have expressed an interest in the school, either by contacting the school directly, attended an open house, or other contact but has not submitted an enrollment form and selected through the lottery shall not be considered for the waiting list.

(c) Enrollment forms received after the lottery shall not be considered on the official waiting list. Such applications shall only be considered for enrollment once the waiting list established through the lottery has been exhausted.

(d) When filling vacancies that occur during the school year, schools shall offer enrollment to the student ranked in the first position on the waiting list as determined by the lottery. Should the family decline the enrollment offer, the school shall offer enrollment to the next ranked student until the enrollment seat is accepted.

(c) Waiting lists shall not be carried over from year to year. Each year the school shall conduct a new lottery of all applicants in the lottery pool, including any applicants from the previous waiting list in addition to any and all new applicants. Applicants on the waiting list at the end of the previous school year must reapply to the school to be considered eligible for the lottery for the following school year.

South Carolina

SECTION 59-40-50. Exemption; powers and duties; admission to charter school.

(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;

(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 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;

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

South Dakota

No Charter School Law

Tennessee

49-13-113. Enrollment.

(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 public schools within the LEA in which the public charter school is located, if those pupils would otherwise be included in the area in which the public charter school will focus;

(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) [Deleted by 2011 amendment.]

(2) 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.

(3) 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.

(4) [Deleted by 2011 amendment.]

(5) 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.

Texas

§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.

Utah

53A-1a-506. Eligible students.

(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) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(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.

Vermont

No Charter School Law

Virginia

§ 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 § [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.

Washington

RCW 28A.710.050

Admission and enrollment of students — Capacity — Specialized learning environments.

(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.

West Virginia

No Charter School Law

Wisconsin

1. Except as provided in subds. [3.](#) and [4.](#), only pupils who reside in the school district in which a charter school established under this subsection is located may attend the charter school.

3. A pupil may attend Woodlands School, a charter school established in the school district operating under ch. [119](#) under this subsection, regardless of the pupil's school district of residence, if any of the following applies:

a. The pupil attended Woodlands School in the 2003-04 school year and, beginning in the 2005-06 school year, in the previous school year.

b. A member of the pupil's family who resides in the same household as the pupil attended Woodlands School in the 2003-04 school year.

4. A pupil who resides in Milwaukee County or in an adjacent county may attend any charter school established under this subsection in Milwaukee County or in an adjacent county.

(cm) The chancellor of the University of Wisconsin-Parkside may establish or enter into a contract for the establishment of only one charter school under this subsection, which may not operate high school grades and which may not accommodate more than 480 pupils.

(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.

2. Be nonsectarian in its programs, admissions policies, employment practices and all other operations.

(b) Restrictions. A charter school may not do any of the following:

1. Charge tuition, except as otherwise provided in s. [121.83 \(4\)](#).

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

Wyoming

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

	Academia Antonia Alonso (Opens August 2014)	Academy of Dover	Campus Community	Delaware Academy of Public Safety	DCPA	Delaware Design- Lab High School (Opens August 2014)	The Delaware MET (Opens August 2014)	DMA
Charter School Enrollment Preferences								
Students residing within a 5-mile radius of the school				No, but a preference is stated in their charter application for students living in the 19801 zip code	X		X	X (listed in original charter)- Website states Red Clay students
Students residing within the school district in which the school is located					X			X
Siblings of students currently enrolled	X	X	X	X	X	X	X	X
Children of employees of the school who work at least 30 hours per week during the school year	X		X	X	X	X	X	X, listed in original charter but not website
Children of the school's founders (may make up no more than 5% of student body)	X			X	X	X	X	X, listed in original charter but not website
Students at risk of Academic Failure								
Students who have a specific interest in the school's teaching methods, philosophy, or educational focus								
Lotteries for over enrollment	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Admission Preferences Ranked with some receiving more preference than others	Yes	No	No	Yes	Yes	Yes	Yes	No

	Early College High School at DSU (Opens August 2014)	Eastside Charter	Family Foundations	First State Military Academy (Opens August 2015)	First State Montessori Academy (Opens August 2014)	Gateway Lab School	Kuumba	Las Americas ASPIRA Academy	MOT	New Moyer	Newark Charter
Charter School Enrollment Preferences											
Students residing within a 5-mile radius of the school		2010 charter renewal states a 5-mile radius, but website states "surrounding area"			X						X
Students residing within the school district in which the school is located			X					X	X		
Siblings of students currently enrolled	X		X	X	X	X	X	X	X	X	X
Children of employees of the school who work at least 30 hours per week during the school year	X	X		X	X	X		X	X	X	X
Children of the school's founders (may make up no more than 5% of student body)	X			X	X	X		X	X		X
Students at risk of Academic Failure											
Students who have a specific interest in the school's teaching methods, philosophy, or educational focus	X Completion of Student Interest Statement (essay on interest in early college setting and STEM)				Demonstrated a Specific interest in Montessori through informative event attendance, summer programs, or previous montessori enrollment			Students who have a specific interest in LAAA's teaching methods, philosophy, and educational focus	Preferences for up to 25% of each year's incoming class for grades 9-12 (9th begins 14- 15) for students with specific interest in methods, philosophy, or educational focus (Arts or Science & Technology)	Students with a specific interest in online learning	
Lotteries for over enrollment	Yes	Not stated	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Admission Preferences Ranked with some receiving more preference than others	No	No	Yes	Yes	No	No	No	Yes	Yes	No	Yes

	Odyssey	Positive Outcomes* (Specialized at Risk School)	Prestige	Providence Creek	Reach	Sussex Academy	Thomas Edison	Charter School of Wilmington
Charter School Enrollment Preferences								
Students residing within a 5-mile radius of the school								
Students residing within the school district in which the school is located								X
Siblings of students currently enrolled	X	X	X	X	X	X	X	X
Children of employees of the school who work at least 30 hours per week during the school year	X			X		X	X	X
Children of the school's founders (may make up no more than 5% of student body)	X		X			X		
Students at risk of Academic Failure		X ("due to diagnosable mental or emotional disabilities")						
Students who have a specific interest in the school's teaching methods, philosophy, or educational focus	For grades 3 - 5, students with a specific interest in the school's second language and mathematics focus, as evidenced by comparable Modern Greek instruction and evidence of scholastic achievements in language arts and math		Specific interest in school's focus on educating boys			Not to exceed 5% of school's total population, interest in Expeditionary Learning and the IB Programme are established through an essay and interview		Students demonstrate interest through academic history, an interview, teacher recommendations and an essay
Lotteries for over enrollment	Yes	Unclear	Yes	Yes	Yes	Yes	Yes	Yes
Admission Preferences Ranked with some receiving more preference than others	Yes	No	Yes	Yes	No	Yes	Yes	

	Cab Calloway School of the Arts	Conrad School of Science	Southern Delaware School of the Arts
Admission practices			
Lottery	applicants who receive a score of 70 or higher on their assessment are placed into a computerized lottery for each art area by middle or high school	Out of District applicants for grades 6-8 will <u>only</u> be interviewed if seats become available after the pool of qualified in District students is given 1st preference, then a lottery is held.	Yes- Policy indicates "if there are more applications than openings and applications have been submitted by the state's deadline, a lottery system will be implement to determine who will be accepted. Auditions will help determine who will be accepted for applicants in 6th, 7th, or 8th grade.
Assessment/ Audition	Applicants are assessed on their first and second choice art area, including Dance, Drama, Stage Tech, Visual Arts, Communication Arts, Vocal Music, Strings, Piano and Instrumental Music. There are different assessment requirements for each art area (performance, writing sample)	Applicant interview and writing assessment is required for middle school and high school applicants, as well as examples from school science projects	Applicants are assessed on their first and second choice art area, including Dance, Drama, Vocal Music, Visual Arts and Instrumental Music. There are different assessment requirements for each art area (performance, writing sample)
Geography	Red Clay Residents will be given preference over out of district residents	District applicants who already attend a district school will be given priority over applicant attending non district schools	District applicants who already attend a district school will be given priority over applicant attending non district schools
Grades	Not allowed to look at grades to determine if a applicant will be invited	Conrad requires - Current year's report card, Previous year's report card, Spring Standardized test scores (DSTP, DCAS, Terranova, CAT, MAP, etc.)	Not Listed
Attendance	Not allowed to look at attendance to determine if a applicant will be invited	Not Listed	Not Listed
Behavior	Not allowed to look at discipline record to determine if a applicant will be accepted	Not Listed	Not Listed
Siblings	Red Clay residents with siblings attending CCSA, and out of district residents with siblings at CCSA	In-district siblings of in-district students who are already enrolled in the program and who will remain enrolled in the program for the next school year, provided that the siblings meet the requirements for the program or school. Exiting students are not considered siblings for this enrollment preference.	Yes- providing they meet the requirements of the program or school
Legacy	Not Listed	Not Listed	Not Listed
Children of employees	Not listed	Yes	Yes
Children of District Board Members	Not Listed	Not Listed	Not Listed
Additional admission comments			SDSA gives preference to non-district applicants whose daycare providers are located in the district and to non-district applicants whose parent work in a business within the school district
Admissions Committee	Yes	Not Listed	Yes
Written and Published Policy	Yes	Written not published online	Yes

	New Castle County Vo-Tech District	POLYTECH	Sussex Tech
Admission practices			
Lottery	No	Yes-random lottery	Yes- computerized lottery process
Geography	New Castle County	Kent County, lottery reserves percentage of seats for each KC District	Sussex County
Academic Performance	Requires copies of final 7th grade report card or most recent 8th grade report card, with attendance records and comments	In order to be eligible to enter the lottery, student must have a passing grade in all recorded core academic subjects (ELA, Math, Science, Social Studies) from 1st marking period report card of 8th grade and maintain those passing grades in all core subjects to maintain acceptance	In order to be eligible to enter the lottery, a student must submit their first marking period report card and parents sign authorization for STHS to obtain access to student's DCAS scores. Additional information obtained found that a student must have passing grades (70 or higher) in all classes. Students who are not passing all classes may submit a report card from the following marking period to be added to the eligible waiting pool.
Attendance	Requires attendance reports	In order to be eligible to enter the lottery, a student cannot have been absent for more than 15 days without a valid excuse	Yes- but not specified
Behavior	Not listed	In order to be eligible to enter the lottery, a student cannot have been suspended or expelled	Not listed
Siblings	Not listed	Yes	Yes- must be a sibling of a current Sussex Tech student living in the same house hold
Legacy	Not listed	No-must be concurrently enrolled	Yes- must be a sibling of a past graduate of the last two years living in the same household
Children of employees	Not listed	Yes - must be full time District employees	Yes - must be full time District employees
Children of District Board Members	Not listed	Yes- must be a current District Board Member	Not listed
Additional admission comments	According to the admissions office- Applications are reviewed and evaluated based on the schools selected and the career programs selected, as well as grades, attendance and comments on the report cards.		According to the written policy, Sussex Tech will select students based on a set criteria to include, but not limited to technical area selections, grades, attendance and activities
Admissions Committee	Not Listed	Not Listed	Yes
Written and Published Policy	No	Yes	Yes

	Academia Antonia Alonso (Opens August 2014)	ASPIRA Academy	Academy of Dover	Campus Community	Delaware Academy of Public Safety	DCPA	Delaware Design-Lab High School (<i>Opens August 2014</i>)	The Delaware MET (Opens August 2014)	DMA
Requires submission of prior grades, transcript, and/or state test scores	NA		NA	Asked for at registration	Report card and DCAS scores, MAP/PSAT , or other applicable exam results	NA	NA	NA	Parent authorization for current school to send grades, test scores
Interview (may or may not have a weight in acceptance)	NA		NA			NA	NA	NA	Yes- no indication if weighted
Content Knowledge and ability Exam, Essay, Audition, or portfolio submission required	NA		NA			NA	NA	NA	Essay for student interest
Written Referral*	NA		NA			NA	NA	NA	
Asks if student receives specialized services, requests copy of IEP, and/or special education/ELL background	NA		NA	X	X	NA	NA	NA	Parent authorization includes permission for current school to send IEP and 504 information
Requests Discipline data or previous infraction information	NA		NA	at registration		NA	NA	NA	
Social Security Card or number	NA		NA		X	NA	NA	NA	X

NA - Application was not available on school website

		Positive Outcomes* (Specialized at Risk School)	Prestige	Providence Creek	Reach	Sussex Academy	Thomas Edison	Charter School of Wilmington
	Odyssey							
Requires submission of prior grades, transcript, and/or state test scores	Signed Application gives Charter access to your records to evaluate application	transcripts, report cards, DCAS and other assessment data			most recent report card		recent progress report/report card at time of application	7th and 8th grade report cards
Interview (may or may not have a weight in acceptance)		X			X - listed as a registration interview			X
Content Knowledge and ability Exam, Essay, Audition, or portfolio submission required		X - Essay for both parent and student				X, Essay only weighted if also seeking an admission preference		X
Written Referral*		X						X
Asks if student receives specialized services, requests copy of IEP, and/or special education/ELL background	X	X	X	X	X	X	X	NA
Requests Discipline data or previous infraction information		X			X		X	NA
Social Security Card	X	X					X	NA

	New Castle County Vo-Tech District	POLYTECH	Sussex Tech		Cab Calloway School of the Arts	Conrad School of Science	Southern Delaware School of the Arts
Requires submission of prior grades, transcript, and/or state test scores	Requires 7th and 8th grade report cards	Requires 8th grade report cards	Requires 8th grade and/or 7th grade report card, parent authorization to forward DCAS scores			current report card, DCAS scores, current science project	NA
Interview (may or may not have a weight in acceptance)						X	
Content Knowledge and ability Exam, Essay, Audition, or portfolio submission required	Essay from Student	NA	Essay from Student		Assessment and Audition	X	Audition
Written Referral*	Current School Counselor may send in application with "supplementary information"				X		NA
Asks if student receives specialized services, requests copy of IEP, and/or special education/ELL background	NA	NA	X		X	X	NA
Requests Discipline data or previous infraction information	NA	NA	parent authorization to forward school records				NA
Social Security Card	NA	NA	X				NA

Enrollment Preferences Task Force:

Current Landscape in Delaware and Nationwide

September 26, 2013

Task Force Charge (HB 90)

Purpose:

- Established to consider the current landscape of enrollment preferences and practices used by magnet, vocational technical, and charter schools and develop recommendations, if necessary.

Student Enrollment

- According to the National Alliance for Public Charter Schools there are estimated to be over 6,000 charter schools serving about 2.3 million students in the 2012-2013 school year.
- According to credo.stanford.edu there are only eight states who do not have charter school laws on the books.

Student Enrollment

- In Delaware, during the 2013-2013 school year, 131,514 students attended public school.
- Out of the 131,514 students:
 - 10,438 students attended one of the 22 charter schools.
 - 7,079 students attended one of the 6 vo-tech schools.
 - 2,386 students attended one of the 3 magnet schools.
 - Totaling 19,903 students enrolled in a charter, vo-tech or a magnet school.

Context: Legislative Intent (HB 90)

“The application process for choice and charter schools has become too burdensome and complicated. I talk to parents with children in multiple schools and they look forward to school choice and charter applications with the same enthusiasm that they have for tax season. Multiple applications. Numerous deadlines. Different requirements. “

-Governor Jack Markell, 2013 State of the State

“Not only does this bill make the process easier, it makes it fair. **All students deserve a level playing field in the choice system.** I am thrilled to have helped get this measure passed and I look forward to continuing to work with schools and educators to help our children succeed.”

-Rep. Kim Williams on House Bill 90 (official press release)

-“We’re making the school choice application process easier for families to use by requiring uniform application forms and deadlines,” Poore said. “We’re also making sure that the choice program offers our children with disabilities who have IEP plans a chance to participate, and that makes this **law a great opportunity for every child in Delaware.**

-Sen. Nicole Poore, on House Bill 90 (official press release)

Context: Legislative Intent (HB 90)

1. Updated the school choice program, which had not received substantive attention since 1998.
2. Made it easier for parents to navigate the choice process by standardizing application forms and deadlines across traditional, vocational technical, and charter schools; allowing parents to submit choice applications through the Department of Education website; and requiring districts to hold public information sessions about choice opportunities.
3. Eliminated discrimination against choice students by requiring districts to use the same standards for choice students as they do for students in their attendance zone, and limiting the criteria a district may use to evaluate choice applications.

Context: Legislative Intent (HB 90)

4. Streamlined the role of school capacity in the choice process by specifying the criteria that may be used in reporting capacity and requiring districts to accept choice students until they are at 85% of capacity.
5. Helped state leaders understand and recommend changes to all public school enrollment preferences by creating a task force to explore enrollment preferences and practices used by magnet, vocational technical, and charter schools, and to develop recommendations, if necessary.

Current Landscape: Magnet Schools

Definition:

A public school offering special instruction and programs not available elsewhere, designed to attract a more diverse student body from throughout a school district.

Delaware Code:

Title 14, Chapter 10 § 1049- Policy Making

(4) Grade and standardize all the public schools under its jurisdiction and may establish kindergartens and playgrounds and such other types of schools, as in its judgment will promote the educational interest of the reorganized school district;

Number of Delaware Magnet Schools- 3

- Cab Callaway School of the Arts: Red Clay Consolidated School District
- Conrad School of Science: Red Clay Consolidated School District
- Southern School of Arts and Sciences: Indian River School District

Enrollment Practices, Not defined in State Code: See attached chart

Current Landscape: Vocational Technical Schools

Definition:

A public school designed to bring vocational and technical training to its students

Delaware Code:

State Code, Title 14, Chapter 2, Section 205 and Chapter 10 section 1029

§ 205. Vocational-technical centers, or schools.

- *The Department of Education with the approval of the State Board of Education may establish such vocational-technical centers, or schools as in its judgment will promote the educational interests of the State. 14 Del. C. 1953, § 205;*

§ 1029. Vocational-technical school districts; school boards.

- *(a) Vocational-technical school districts superimposed on other reorganized school districts shall be operated and maintained as other reorganized school districts under the control of the State through its Department of Education as provided in this Code.*
- *(b) In each reorganized vocational-technical school district there shall be a vocational-technical school board which shall have the authority to administer and to supervise all the vocational-technical centers or schools of the vocational-technical school district and which shall have the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vocational-technical centers or schools of the reorganized vocational-technical school district. Such administration, supervision and policy shall be conducted and formulated in accordance with Delaware law and the policies, rules and regulations of the State through its Department of Education as provided in this Code. All vocational-technical centers or schools shall come within the authority of the vocational-technical school board in the county in which they are located.*

Current Landscape: Vocational Technical Schools

Number of Delaware Vocational Technical Districts -3, Schools- 6

- **New Castle County Vo-Tech District**
 - Delcastle Technical High School
 - Paul M. Hodgson Vocational Technical High School
 - Howard High School of Technology
 - St. Georges Technical High School
- **POLYTECH School District**
 - PolyTech High School
- **Sussex Technical School District**
 - Sussex Technical High School

Enrollment Practices, Not defined in State Code: See attached chart

Current Landscape: Charter Schools

Definition: Delaware Code Title 14, Chapter 5 § 503- Legal Status

A charter school is a public school including 2 or more of grade kindergarten through 12 and having at least 200 students (provided, however, that a charter school may enroll fewer than 200 but no less than 100 students in its first 2 years of operation or for a charter school serving at-risk or special education students), managed by a board of directors, which operates independently of any school board.

Delaware Code: full section see handout (excerpts regarding preferences below)

Title 14, Chapter 5 § 506- Restrictions

(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;

Current Landscape: Charter Schools

Delaware Code: Continued

Title 14, Chapter 5 § 506- Restrictions

- 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.*

Current Landscape: Charter Schools

Number of Delaware Charter Schools: Including approved applications: 27 **New Castle County**

- | | |
|---|--------------------------------------|
| 1. ASPIRA Academy | 10. Moyer |
| 2. Delaware Academy of Public Safety | 11. Newark Charter School |
| 3. Delaware College Preparatory Academy | 12. Odyssey Charter School |
| 4. Delaware Military Academy | 13. Prestige Academy |
| 5. EastSide Charter School | 14. Reach Academy for Girls |
| 6. Family Foundations Academy | 15. The Charter School of Wilmington |
| 7. Gateway Lab School | 16. Thomas A. Edison Charter School |
| 8. Kuumba Academy Charter School | |
| 9. MOT Charter School | |

Current Landscape: Charter Schools

Number of Delaware Charter Schools: Continued **Kent County**

- 17. Academy of Dover
- 18. Campus Community Charter School
- 19. Positive Outcomes Charter School
- 20. Providence Creek Academy Charter School

Sussex County

- 21. Sussex Academy of Arts and Sciences

Delaware State Board of Education Approved Charter Schools

- 22. Academia Antonia Alonso
- 23. Delaware Design Lab High School
- 24. The Delaware Met
- 25. Early College High School at DSU
- 26. First State Military Academy
- 27. First State Montessori Academy

Current Landscape: Charter Schools

- ***Enrollment Preferences and Practices:*** See attached chart

Current Landscape: Nationally

- *See attached chart on 50 state enrollment preferences*

Appendix C

Materials for Task Force Meeting 2

October 24, 2013

Enrollment Preference Task Force

Meeting #2- October 24, 2013

6:30pm-8:30pm

Buck Library- Buena Vista Conference Center

- I. Introduction
 - a. Adoption of previous meeting minutes
- II. Presentation by Brian Rutter
 - a. Data Service Center
- III. Presentation by Delaware Department of Education
- IV. Questions/Comments from members of Task Force
- V. Public Comment
- VI. Adjourn

Meeting Schedule: Wednesday, November 20th

Thursday, December 12th

Wednesday, January 22nd

All meetings will be held in the Bucks Library at the Buena Vista Estate (661 S. DuPont Hwy. New Castle, DE) from 6:30pm-8:30pm.

Enrollment Preferences Task Force Minutes: Meeting #2
Thursday, October 24, 2013
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Representative Darryl Scott, Delaware House of Representatives
- Senator David Sokola, Delaware State Senate
- Randall Hughes, Delaware State Board of Education
- Frederika Jenner, Delaware State Education Association
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Lindsay O'Mara, Governor's Office
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Mark Pruitt, Magnet School Representative
- Julie Rumschlag, Magnet School Representative
- Donald Mell, Charter School Representative
- Dr. Terri Hodges, Parent Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Mark Brainard Jr., Delaware House of Representatives
- Debbie Stover, Delaware Department of Education
- Bill Bush, Attorney for the Delaware House of Representatives

Members Absent:

- Dr. Shawn Joseph, Superintendent from Sussex County (Albert DuPont attended)
- Secretary Mark Murphy, Delaware Department of Education (Mary Kate McLaughlin attended)
- Diane Ruth, Charter School Representative (Henry Clampitt attended)
- Susan Francis, Delaware School Board Association
- Gary Stockbridge, Delaware Business Roundtable
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Mervin Daugherty, New Castle County Superintendent
- Dr. Kevin Fitzgerald, Kent County Superintendent

Public attendees:

- Michael Oboryshko, Community Member
- Kevin Carson, Community Member
- Ron Russo, Community Member
- Brian Rutter, DSC
- Kristin Dwyer, DSEA
- Bill Doolittle, Community Member
- David Stockman, Community Member
- Kathy Demarest, New Castle County Vo-Tech

- Mike Matthews, President of RCEA
 - Joanne Christian, Community Member
 - Matthew Albright, The News Journal
 - Kendall Massett, Charter School Network
 - Senator Bryan Townsend, Delaware State Senate
-

Meeting was called to order at 6:40 p.m.

1. Introduction

Rep. Kim Williams, co-chair, makes a motion to approve the minutes from the first meeting. The motion is seconded and unanimously adopted by the task force. She then explained the documents in the packet handed out to each member of the task force. The first document was a copy of the previous meeting's minutes. The second document was a breakdown of demographic data from each school district featuring percentages of students who are low income, special education, ELL, Hispanic, African American, and Caucasian. . Along with these statistics, a demographic breakdown was provided of every magnet, charter, and vo-tech school within the district they reside in. The third document was a spreadsheet of each vo-tech, magnet, and charter school in the state with information regarding an online application, use of the Delaware Standard Application, as well as the deadline for submitting an application. The fourth document was a copy of the Delaware Standard Application for Educational Options. Lastly, a letter from Frank Parks of the Seaford School District was submitted as part of the public comment and was given to each member of the task force. A digital copy of all the documents can be found here: <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

To date, Representative Williams has received 5 emails from community members in regards to the task force.

1. Paul Parets – Email attached
2. Dr. Stephanie Smith, Director of Human Resources, with the Seaford School District – Email attached
3. Jessica Jenkot – Email attached
4. Jack Wells – Email attached
5. Frank Parks – Email attached

Representative Williams introduced Brian Rutter from Data Service Center (dataservice.org) to give a presentation on using online choice form.

2. Presentations

Brian Rutter walked the task force through how to submit the standardized choice form electronically at DSC's website (schoolchoicede.org). The website provides a list of the districts and charter schools that use an online application, the open and close dates for each school's application, as well as a capacity indicator, showing how many seats are vacant. Mr. Rutter created a user account and proceeded to fill out the application to completion. A confirmation number was given to check the status of the application in the future.

Yvonne Johnson inquired about a paper copy of the application. Mr. Rutter explained that English and Spanish copies are available and the school can either manually enter the information into the database or aide the parent or guardian in filling out an online application in real time. Senator Sokola asked if VoTech students have the ability to select specific programs. Mr. Rutter explained that VoTech schools

are not yet participating in DSC's online choice website, but Cab Calloway has a similar option available in their application process.

Representative Williams introduced Debbie Stover from the Department of Education to explain the changes made to the school choice law by the passage of House Bill 90. Ms. Stover handed out documents explaining the effects of House Bill 90. She explained that House Bill 90 standardized the application form and deadlines across public schools by requiring all public school districts, charter schools, and technical education schools to accept a standard application provided by the Department of Education. The law also sought to eliminate discrimination against choice students by allowing districts to request supplemental information only if it requires the same information from attendance zone students; limiting the supplemental criteria a district may use to evaluate choice applications—after that has taken place, districts must use a lottery system; and removing the provision that allows districts to reject applications of students with special needs. Districts would also be required to accept choice students until each school and/or program has reached 85% of its capacity. Districts would be required to hold a public information session about choice and enrollment opportunities by October 31 and report estimated capacity and projected enrollment information to the Department of Education by November 30.

****Note: Digital copies of these documents provided by Ms. Stover can be found on <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>***

3. Open discussion

Representative Williams began the open discussion regarding admissions practices of charter, magnet, and vo-tech schools. She felt it was important to explore if the practices that are being used are legal and if so, why is the information necessary before a child is enrolled? She had reached out to the General Assembly administrative staff and asked for an attorney to provide some legal guidance through these issues and Bill Bush, counsel for the House of Representatives, was recommended. Paula Fontello, Deputy Attorney General with the Department of Justice contacted Representative Williams earlier in the week and will serve as a point of contact as well for any legal questions or FOIA compliance concerns. Ms. Fontello will not be present at any of our meetings.

Representative Williams explained that she went through charter, magnet, and vo-tech applications that were online and wrote down questions and various documents that were asked of parents and students. Often, these questions and documents must be turned in before the student is considered for enrollment or entered into the school's lottery. Most applications state that you must return all items requested or your application will not be processed.

Some of the questions that were asked of applicants:

- race of a student, specifically if the student was Hispanic/Latino.
- Student's social security number
- Photo identification
- IEP or 504 Plan
- Citizenship
- Languages that are spoken in the home
- Place of birth
- Place of parent's employment
- Any health problems
- Parents' marital status
- Has the child repeated a grade?
- Child's living arrangement: (ex. with parents, mother, father, grandmother, etc.)
- Does the child receive services? (ex. inclusion, occupational therapy, hearing support, speech therapy, counseling, etc.)

- Child's need for medication, glasses, or hearing aid
- Has a parent or guardian worked on a farm, in the fields or in a factory with fruits, vegetables or animals?
- Has the parent or guardian ever worked with watermelons, potatoes, mushrooms, corn, apples, chicken, or shellfish?
- Has the family changed homes in the last three years?
- Does the child need transportation to and from school?
- Gauging student's interest in sports.
- What ways do you feel the school will serve the child?

Some of the documents requested of applicants:

- Birth certificate
- Copy of the parent or student's social security card
- Medical records
- Proof of residence
- Most recent report card

Other statements found on most of the applications:

- School does not discriminate on the basis of race, creed, national origin, ethnicity, religion, sexual orientation, mental, or physical disability, special needs, English language proficiency, athletic ability, or academic achievement.
- On another application it states: Information below is given on a voluntary basis and is used for administrative purposes only. Providing or not providing this information has no impact on the selection process.

Representative Williams then asked Bill Bush to address the task force regarding the following questions:

- Is asking these types of questions or requiring certain documentation legal?
- Is it necessary given that the student has yet to be enrolled at the school?
 - If they are necessary, we need to understand why they are necessary?
- If a school is holding a blind lottery, why does the school need to know this information before the student is accepted?
- On their choice applications, school districts can only ask choice students questions that they ask their feeder students, could charters, magnets, and votechs to adopt this regulation?
- Interest is a preference and can cause certain practices to be performed or completed by means of testing, essays, interviews or auditions.
 - Del Cod 14 Chapter 5 allows an admissions preference for students who have a specific interest in the charter school's teaching methods, philosophy, or educational focus; which could have a very broad interpretation.
 - Is it necessary for schools to interview students? What is the reasoning behind it
 - One application states, all applicants will meet with the principal of the school and the manager of operations to ensure the school is a good fit for the prospective student and that the student is a good fit the school. Once this meeting takes place, the principal will make a decision on whether to accept the student. However, in this school's charter application it states a lottery will be conducted, the lottery is blind to disabilities, testing, grades, etc.
 - Another application states the proposed charter school will admit students on an open enrollment basis, without regard to past academic performance or handicapping condition. No evaluation or examination will be required as a condition of admission. Parents will complete a brief application form which consists of a Delaware Student Health Form that must be filled out by a licensed healthcare provider. This application consists of seven pages of additional information, why is it necessary before the student has been invited to attend the school?

- Is it legal to test students or to hold auditions? Why does testing occur to determine interest or aptitude? Are students auditioning to show an interest or how well they excel in this area of interest?

Mr. Bush explained that asking these questions are not prohibited by law. However, if an applicant brings a lawsuit against a school or district, it could be problematic should the school or district be forced to defend the purpose or reasoning behind these questions. Mr. Bush elaborated further that establishing a necessary purpose and use for the information needs to be taken into account when discussing legality.

Note: Public comment was allowed throughout the open discussion, with community members actively participating in the conversation.

The open discussion continued with the role of supplemental information on the application process. Various points were made by members of the task force as well as the public.

- Some of the questions asked on supplemental information could raise FERPA concerns.
- If a school is going to have a "blind lottery," why do preferences come into play?
- What should determine a child's eligibility to attend a school? Grades? Behavior? Attendance? Where does the line need to be drawn?
- Some schools may request information unique to their programming. A "common" supplemental application would not be a good fit.
- The use of preferences, in the example of Charter School of Wilmington, is a fair way to prioritize an excess of applications while also utilizing a random lottery system so all applicants have equal standing.
- There was an expressed concern that students in Kent and Sussex counties could suffer if the recommendations of this task force are tailored to those in New Castle County.
- Who is responsible for reviewing supplemental applications prior to their use? Is there any mechanism in place to oversee that process?

4. Next Steps

Senator Poore asked each member of the task force to submit 3-5 questions they believe should be on a theoretical, common supplemental application for charter, magnet, and vo-tech schools.

The meeting adjourned at 8:45 pm.

Next meeting: November 20, 2013 at the Buena Vista Conference Center from 6:30pm-8:30pm.

*****NOTE: The meetings for November 20th, December 12th have been cancelled. The next meeting originally scheduled for January 22nd, 2014 will now take place on January 29th, 2014 in the Cabinet Room of the John G. Townsend Building in Dover from 6:30pm-8:30pm.*****

For a mp3 recording of this meeting please visit

<https://docs.google.com/file/d/0B37tIK9MyBxaV1NDZFFhUWo3Suk/edit>

Delaware Standard Application for Educational Options

"Receiving Local Education Agency" (RLEA) includes: DE Public School Districts (Choice),
Charter Schools and Career & Technical Education Schools
Enrollment for the 2014 – 2015 School Year
Deadline for Application is Wednesday, January 8, 2014

A student entering kindergarten must be registered in their School of Residence before submitting a
Delaware Standard Application for Educational Options

State Student ID#: _____
RLEA Use Only

Please Print

1. Are you applying for Kindergarten? ☐ No ☐ Yes
2. School(s) you are applying to in priority order:

1 st Choice	
2 nd Choice	
3 rd Choice	

3. Program Desired (if applicable):

4. Student's Name – From Birth Certificate:

Last name	First	Middle	Birth Date:
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Sex:

Female ☐ Male ☐

Ethnicity:

Hispanic or Latino Yes ☐ No ☐

Race:

1 American Indian/Alaska Native ☐ 2 Black/African American ☐ 3 White/Caucasian ☐ 4 Asian American ☐
5 Native Hawaiian/Other Pacific Islander ☐ Multi-racial ☐

5. Parent/Guardian/Relative Caregiver Name: (Please Check Which Telephone Number is Your Preferred Method of Contact)

Last name		First	MI
Street address			
City	State	Zip	
<input type="checkbox"/> Home:	<input type="checkbox"/> Work:	<input type="checkbox"/> Cell:	
Email address			

☐ Check if above address is different from that on file at school.

6. Resident District and Resident School: (Please Enter the Name of the Public School District and School Attendance Area You Live In)

Resident District:	Resident School:
--------------------	------------------

7. Present School Information: ☐ Public ☐ Non-Public

Current School (2013 – 2014 SY):	Current Grade (2013 – 2014 SY):
----------------------------------	---------------------------------

8. Is Your Request for an Educational Option Related to Child Care Needs? ☐ No ☐ Yes (see below)

If YES, you MUST complete the following for your Child Care Provider:

Last name		First	MI
Street address			
City	State	ZIP	Telephone

9. Please list any brothers or sisters CURRENTLY ATTENDING and EXPECTED TO CONTINUE TO ATTEND the REQUESTED EDUCATIONAL OPTION in Question #2 for the 2013 – 2014 and 2014 – 2015 School Years:

Last name		First	MI
Birth Date:	School:	Grade:	

Last name		First	MI
Birth Date:	School:	Grade:	

This application provided by the Delaware Department of Education (DDOE) MUST be submitted by the parent of a school age child on or before January 8, 2014, to the receiving district or the DDOE and to the child's district of residence for enrollment during the 2014 – 2015 school year. A charter school may accept this application from a parent of a school age child after the January 8, 2014 deadline.

This application provided by the Delaware Department of Education (DDOE) may be submitted by a parent enrolling their child in kindergarten to the receiving district up until the first day of the school year for enrollment in kindergarten during the 2014 – 2015 school year.

This application provided by the Delaware Department of Education (DDOE) may be submitted by the parent of a school age child after the January 8, 2014, deadline if "good cause" as defined in 14 Del.C., §402(2) exists. The receiving district and district of residence shall accept and consider the application in the same manner as those applications submitted by the deadline.

This application provided by the Delaware Department of Education (DDOE) may be withdrawn by the parent of a school age child any time prior to action taken by the receiving district board. The parent shall give written notice to the board(s) of the RLEA and the child's district of residence.

NOTE: Once this application is received additional information may be requested.

Parent/Guardian/Relative Caregiver Signature:	Date:
---	-------

RD Use Only

Date App. Rec'd: _____ Date App. Withdrawn: _____ Date Student Notified: _____ Date Invitation Accepted/Refused: _____
School: _____ Grade: _____ Good Cause App.: _____

2014-15	District:	School:	
For Office Use Only			
Student:	ID:	Gender:	Grade:
HMRM:			



Red Clay Consolidated School District

Student Data Card

For Office Use Only

--	--	--	--	--	--

Student Information	
2014-2015 Grade:	
First Name:	
Middle Name:	
Last Name:	
Generation:	<input type="checkbox"/> Jr. <input type="checkbox"/> Sr. <input type="checkbox"/> II <input type="checkbox"/> III <input type="checkbox"/> IV <input type="checkbox"/> V
Nickname:	
Gender:	<input type="checkbox"/> Male <input type="checkbox"/> Female
Birth Date:	
Student's SS#:	
Home Phone:	<input type="checkbox"/> Unlisted?

Race and Ethnicity Designation	
Is this student Hispanic or Latino? (Select one answer.) Persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race, are considered Hispanic or Latino.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Indicate this student's race below. You must select at least one race, regardless of ethnicity designation. More than one response may be selected.	
<input type="checkbox"/> American Indian or Alaskan Native	<input type="checkbox"/> White
<input type="checkbox"/> Black or African American	<input type="checkbox"/> Asian
<input type="checkbox"/> Native Hawaiian or Pacific Islander	<input type="checkbox"/> Select all that apply

Please indicate Physical (Home) and Mailing address if they are different.	
Physical Address	
Apt #:	
Development:	
City:	
State/Zip:	
Mailing Address	<input type="checkbox"/> Same as Physical?
Apt #:	
Development:	
City:	
State/Zip:	

Automated Emergency Notification
The number you provide will be used for automated school-wide emergency messages during the normal school day. This number must be a direct line with no extension number.

Phone:											
--------	--	--	--	--	--	--	--	--	--	--	--

Name/Address of Previous School, Pre-School or Day Care	
Name:	Street/Apt:
Phone:	City:
Fax:	Zip:

Special Custody Information: If child lives with other than natural mother or father, please indicate:	
Name:	
Relationship:	
Custodial Papers on file with school?:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Home Language Survey	
First language spoken by the student:	
Language(s) spoken and understood by the student:	
Primary language spoken at home:	
Student's country of birth:	
Date first enrolled in U.S. schools:	
Most recent date enrolled in US schools (If the child was out of the US for 90 days or more):	
I would like school communications in Spanish	<input type="checkbox"/> Yes <input type="checkbox"/> No

English Language Proficiency Assessment	
Federal Law requires that all children with a language spoken at home other than English are to be assessed for English language proficiency and monitored for language development. Based on the results of the proficiency test, your child may be eligible for additional educational services to facilitate the English language acquisition process. If your child qualifies for this service transportation will be provided . If you are not interested in your child receiving the language development services or have additional questions, please contact the English Language Learners' Education Office at 302-552-3743 and we will help you learn the options available for your child.	

Parent /Guardian Signature:	Date:
Registration Staff: Please make sure that: 1) The HL Survey is completed and signed 2) The SDC is faxed to the ELL Office if a language other than English is spoken at home.	

Additional Information	
Has the student been expelled?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does your child have (documentation required):	
An IEP (Individualized Education Plan)	<input type="checkbox"/> Yes <input type="checkbox"/> No
504 Accommodation Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No
Learning Difficulties	<input type="checkbox"/> Yes <input type="checkbox"/> No
Physical Difficulties	<input type="checkbox"/> Yes <input type="checkbox"/> No

For Office Use Only**Student:****ID:****Student Health History Update**

This information will be shared with staff and administration on a need to know basis, and with emergency medical staff in the case of an emergency unless you notify us otherwise.

1. Please check if child has had difficulty with any of the following. Please provide dates and additional information in the comments section.

- | | | | | |
|---------------------------------------|---|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> ADD/ADHD | <input type="checkbox"/> Bleeding | <input type="checkbox"/> Chicken Pox | <input type="checkbox"/> Heart | <input type="checkbox"/> Seizures |
| <input type="checkbox"/> Allergies | <input type="checkbox"/> Body Piercing/Tattoo | <input type="checkbox"/> Diabetes | <input type="checkbox"/> Infections | <input type="checkbox"/> Speech |
| <input type="checkbox"/> Asthma | <input type="checkbox"/> Bone Problem | <input type="checkbox"/> Emotional | <input type="checkbox"/> Kidney | <input type="checkbox"/> Surgery |
| <input type="checkbox"/> Behavior | <input type="checkbox"/> Bowel/Bladder | <input type="checkbox"/> Hearing | <input type="checkbox"/> Physical Disability | <input type="checkbox"/> Vision |
| <input type="checkbox"/> Other: _____ | | | | |

Comments: _____

2. Does your child have allergies to medicine, latex or insect bites?☐ Yes ☐ No

To What?: _____

What Happens?: _____

Treatment: _____

3. Does your child have a food allergy?☐ Yes ☐ No

To What?: _____

What Happens?: _____

Treatment: _____

A Food Allergy Action Plan completed by a licensed healthcare provider is required for all students with a food allergy

4. Will your child require an individualized, allergen-free menu designed by a Red Clay Registered Dietitian?

Note: Meals provided from home provide the safest food options at school for food-allergic students.

☐ No. I will take full responsibility of providing my child with allergen-free school meals.☐ Yes. I will provide the school nurse with a Food Allergy Action Plan completed by a licensed healthcare provider.**5. Has your child seen a healthcare provider since school ended in June?**☐ Yes ☐ No

What for? _____

6. Is your child being treated or evaluated for any health conditions?☐ Yes ☐ No

List condition(s): _____

7. Is your child on any medication or treatment?☐ Yes ☐ No

Name of medication or treatment: _____

Does your child need medication during school hours? **If yes, please contact the school nurse to make arrangements.**☐ Yes ☐ No**8. Has your child been prescribed glasses or contact lenses?**☐ Yes ☐ No

Date of last exam: _____

If your child wears glasses or contact lenses, when was the prescription last changed? _____

9. Has your child had any emotional upsets (recent move, death, separation, divorce) since school ended in June?☐ Yes ☐ No

Please list: _____

School Emergency Procedures

Your schools have adopted the following procedures that will normally be followed in caring for your child when he/she becomes sick or injured at school. In extreme emergencies the school will seek immediate medical care.

In case of emergency and/or need of medical or hospital care:

1. The school will call the home. If there is no answer,
2. The school will call the parent/guardian 1's, or parent/guardian 2's place of employment. If there is no answer,
3. The school will call the other telephone number(s) listed and the physician.
4. If none of the above answer, the school will call an ambulance, if necessary, to transport the student to a local medical facility.
5. Based upon the medical judgment of the attending physician, the student may be admitted to a local medical facility.
6. The school will continue to call the parents, guardians or physician until one is reached.
7. The information on this form may be shared with emergency medical staff.

If I cannot be reached and the school authorities have followed the procedures described, I agree to assume all expenses for moving and medically treating this student. I also hereby consent to any treatment, surgery, diagnostic procedures or the administration of anesthesia, which may be carried out based on the medical judgment of the attending physician.

Parent/Guardian Signature: _____**Date:** _____

For Office Use Only	
Student:	ID:

Medical Information			
Family Physician:			Phone: _____
Family Dentist:			Phone: _____
Medical Insurance:	Medicaid No: _____	Other: _____	
	Certificate No	Group No	Type
I give permission for my child to have acetaminophen (Tylenol®) as determined by the nurse. <input type="checkbox"/> Yes <input type="checkbox"/> No I give permission for my child to have ibuprofen (Advil®) as determined by the nurse. <input type="checkbox"/> Yes <input type="checkbox"/> No			
Parent/Guardian Signature: _____		Date: _____	

Parent/Guardian Contact Information															
Please provide and/or modify contact and emergency information. If necessary, cross out and neatly print and/or select appropriate information needing correcting.															
Relationship:	<input type="checkbox"/>	Mother	<input type="checkbox"/>	Step Mother	<input type="checkbox"/>	Mother	<input type="checkbox"/>	Step Mother	<input type="checkbox"/>	Mother	<input type="checkbox"/>	Step Mother			
	<input type="checkbox"/>	Father	<input type="checkbox"/>	Step Father	<input type="checkbox"/>	Father	<input type="checkbox"/>	Step Father	<input type="checkbox"/>	Father	<input type="checkbox"/>	Step Father			
	<input type="checkbox"/>	Court Appointed Guardian				<input type="checkbox"/>	Court Appointed Guardian				<input type="checkbox"/>	Court Appointed Guardian			
	<input type="checkbox"/>	Other (please list): _____				<input type="checkbox"/>	Other (please list): _____				<input type="checkbox"/>	Other (please list): _____			
Living With:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No			
First Name:															
Middle Name:															
Last Name:															
Generation:	<input type="checkbox"/>	Jr.	<input type="checkbox"/>	Sr.	<input type="checkbox"/>	II	<input type="checkbox"/>	III	<input type="checkbox"/>	IV	<input type="checkbox"/>	V			
Street Address:															
Apt #:															
Development:															
City:															
State/Zip:															
Home Phone:					Unlisted? <input type="checkbox"/>										
Work Phone:															
Cell Phone:															
SS# (optional):															
Birth Date:															
Employer:															
e-Mail:															
Education Level:	High school diploma/GED or above:				High school diploma/GED or above:				High school diploma/GED or above:						
	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No			

Emergency Contact Information		
Important In the event of an emergency, individuals listed here will be contacted if parent/guardian cannot be reached.	Last Name:	
	First Name:	
	Relationship:	
	Home Phone:	
	Work Phone:	
	Cell Phone:	

2014-15	District:	School:			
For Office Use Only					
Student:	ID:	Gender:	Grade:	HMRM:	

School Age Sibling Information						
Names of Siblings	Birth Date	Gender			School	Grade
1.			Male		Female	
2.			Male		Female	
3.			Male		Female	
4.			Male		Female	

Red Clay eNews																			
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<p align="center">Information Regarding How the Red Clay Consolidated School District Shares Student Information</p> <p>The Red Clay Consolidated School District recognizes the need to protect student information and privacy while promoting educational and extra-curricular activities in district and outside media. Federal law (FERPA) permits the district to release directory information under limited circumstances. Directory information is information about a student that is generally not considered an invasion of privacy, such as name, address, photograph, activities, and sports. If you wish to opt-out of the district releasing this information or including your child in articles and photos, please visit http://www.redclay.k12.de.us/psformsandpub/formsandpubs.shtml or obtain an opt-out form from your child's school office.</p>
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REQUIRED REGISTRATION DOCUMENTATION

The following documentation must be presented at the attendance zone school at the time of registration

1. **Birth Certificate** (with raised seal)

A copy of the birth certificate faxed directly to the school by the previous school may be accepted; however, an original must be provided within 30 days of the registration or the child may be withdrawn.

- If the birth certificate does not contain the name of the parent who is registering the child, additional guardianship verification is required.
- A legal document (from the court system) may be accepted with the birth certificate if it states the parent's name, relationship to the child and the child's date of birth.

2. **Record of physical examination** (completed within the last 24 months)

3. **Current immunization record**

4. **Most recent student report card (grades K – 8), most recent transcript (grades 9 – 12)**

5. **IEP (Individualized Education Plan) documentation** (if applicable)

6. **Two Proofs of Residence** – Parent, legal guardian or relative caregiver of child being registered is required to provide at least two documents from the lists below. The documents must contain the name and address of the parent, legal guardian or relative caregiver. Addresses must be the same on both documents.

AT LEAST ONE ITEM FROM GROUP A AND ONE ITEM FROM GROUP B MUST BE PROVIDED

Group A

- Copy of the most recent month's mortgage statement
(Copy of home settlement statement may be accepted in lieu of mortgage statement if the home was recently purchased and a mortgage statement has not been received)
- Rental agreement (showing legal parent, legal guardian, or relative caregiver as an occupant)
- Sewer bill (current year)
- Real estate tax receipt (current year)
- A recent original gas or electric bill

Group B

- Current automobile registration card or automobile insurance policy statement
- Rental insurance policy statement
- Most current year's tax documents
- Pay check or pay stub (dated within the past 30 days)
- Two consecutive bank statements (dated within the past 90 days)
- Official US Postal Service change of address notification on returned mail (yellow label with new address should be attached to envelope next to the old address)
- Correspondence from a DE state agency such as DHSS, DSCYF, Department of Labor, and DSS

If living in a residence of another person (not a rental property):

Both parties must complete an Affidavit of Multiple Occupancy. The owner of the property must provide at least one item from Group A and one item from Group B (listed above). The parent of the student being registered must provide at least two items from Group B (listed above)

If living in a rental residence of another person:

Both parties must complete an Affidavit of Multiple Occupancy. The lessee must provide a copy of the current lease agreement and one item from Group B (listed above). If the parent/legal guardian/relative caregiver and child are on the leaseholder's lease agreement, they must provide one item from Group B (listed above). If the parent/legal guardian/relative caregiver and child are not on the leaseholder's lease agreement they must provide two items from Group B (listed above)

The Washington Post [Print](#)

How charter schools choose desirable students

By Valerie Strauss, Updated: February 16, 2013

The National Alliance for Public Charter Schools [says this](#) about charter schools on its [Web site](#):

Charter schools are always public schools. They never charge tuition, and they accept any student who wants to attend. Charter laws require that students are admitted by a random lottery drawing in cases too many students want to enroll in a single charter school. Charter schools must also meet the state and federal academic requirements that apply to all public schools.

A [new story about charter schools](#) admissions by Stephanie Simon at Reuters details how the reality of admissions at many charter schools is far different from the above rhetoric. She writes:

Students may be asked to submit a 15-page typed research paper, an original short story, or a handwritten essay on the historical figure they would most like to meet. There are interviews. Exams. And pages of questions for parents to answer, including: How do you intend to help this school if we admit your son or daughter?

These aren't college applications. They're applications for seats at charter schools.

These are some of the barriers to charter school admissions that Simon writes about in her story:

- * Applications that are made available just a few hours a year.*
- * Lengthy application forms, often printed only in English, that require student and parent essays, report cards, test scores, disciplinary records, teacher recommendations and medical records.*
- * Demands that students present Social Security cards and birth certificates for their applications to be considered, even though such documents cannot be required under federal law.*
- * Mandatory family interviews.*
- * Assessment exams.*
- * Academic prerequisites.*

** Requirements that applicants document any disabilities or special needs. The U.S. Department of Education considers this practice illegal on the college level but has not addressed the issue for K-12 schools.*

Selective admissions in charters — which aren't supposed to have them — is one big part of a growing narrative about public schools that critics say show that they act more like private schools, albeit with public dollars.

Another part is the issue of expulsions from charter schools, highlighted by my colleague Emma Brown this recent Washington Post story, which said:

The District's public charter schools have expelled students at a far higher rate than the city's traditional public schools in recent years, according to school data, highlighting a key difference between two sectors that compete for the District's students and taxpayer dollars.

D.C. charter schools expelled 676 students in the past three years, while the city's traditional public schools expelled 24, according to a Washington Post review of school data.

It should be noted that many charter schools do not engage in selective practices.

But many do, Simon found, and operate with little regulation and oversight. For example, she found:

When Philadelphia officials examined 25 charter schools last spring, they found 18 imposed "significant barriers," including a requirement from one school that students produce a character reference from a religious or community leader.

Charter schools educate about 5 percent of K-12 students in the country, but the sector is growing and gets a great deal of financial and public attention from school reformers. The charter school-dominant Recovery School District of New Orleans is repeatedly praised as being a model for how charter schools can transform a city's public education system — though those who do the praising ignore the fact that the charters in that district are performing at a very low level. (You can read about that here.)

One thing this latest probe into selective admissions shows is that charter authorizers need to step up oversight.

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STATE OF DELAWARE

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
State of Delaware	51.9	12.7	6.1	13.8	31.5	48.5
Appoquinimink	23.1	9.4	1.3	5.7	24.8	62.5
Brandywine	43.8	11.6	4.7	5.1	36.6	50.3
Caesar Rodney	43.8	14.3	2.1	6.6	28.4	58.5
Cape Henlopen	47.2	16.4	3.6	12.2	15.3	66.9
Capital	66.7	17.3	5.3	8.6	52.5	34
Christina	61.7	15	8.1	18.3	40.3	34.3
Colonial	61.3	12.4	9.7	19.4	43.9	32
Delmar	45.3	9.3	0.5	4.4	14.6	72.9
Indian River	66.3	13.9	10.7	25.2	14.6	54.6
Lake Forest	56.8	13.7	1.6	6.8	21.4	66.1
Laurel	72.1	14.2	5.9	8.9	29.6	57.2
Milford	59.8	12.9	9.3	17.3	25.5	51.8
Red Clay	49.2	11.3	10.8	23.2	22.4	46.9
Seaford	74.1	14.2	10.4	14.1	36.3	43.2
Smyrna	46.2	13.1	1.2	6.1	27.5	63.4
Woodbridge	70.5	11.9	8.4	17.7	28.3	50.2

APPOQUINIMINK SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
-						
Appoquinimink	23.1	9.4	1.3	5.7	24.8	62.5

VoTech						
St. George's Votech	24.9	12.6	0.5	6.7	26.9	64.4

Charter						
MOT Charter	6.6	5.3	1.9	5.3	12.5	73.8

BRANDYWINE SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
Brandywine	43.8	11.6	4.7	5.1	36.6	50.3

Charter						
Moyer	97.8	31.9	0.5	8.2	89.6	1.6
Reach Academy	82.6	5.1	0.3	3.1	75.9	19.7
Thomas Edison	76.7	6.7	0.4	2.6	96.8	0.5

CAESAR RODNEY SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
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Caesar Rodney	43.8	14.3	2.1	6.6	28.4	58.5
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VoTech						
Polytech	25.4	8.8	0.1	4.4	18.3	70.2

Charter						
Positive Outcomes	52	61.8	0.8	4.9	23.6	69.1

CAPITAL SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
-						
Capital	66.7	17.3	5.3	8.6	52.5	34

Charter						
Academy of Dover	87.9	10.3	0	3.2	84	11.7
Campus Community School	46.6	10.3	2.8	9.6	34.5	47.8

CHRISTINA SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
--	-------------------	-------------------	------------	-----------------	-------------------------	------------------

Christina	61.7	15	8.1	18.3	40.3	34.3
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VoTech						
Howard	70	9.3	2.5	10.6	75	13.3
Hodgson	36.4	11.7	1.4	8.7	37.1	52

Charter						
Aspira Academy	49.1	2.4	35.5	55.9	11.8	29
Kuumba	87.8	5.3	0.4	4.2	94.7	0
Newark Charter	13.5	6.8	3	4.2	11.2	66
Prestige Academy	95	19.1	0	2	95.3	2

COLONIAL SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
Colonial	61.3	12.4	9.7	19.4	43.9	32

Charter						
DE Academy of Public Safety	0	12	2.1	13.5	28.1	55.2
East Side Charter	50.5	18.6	0.3	1.5	98.5	0
Family Foundations	71	5.8	0.9	19.8	72.5	4.6

INDIAN RIVER SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
-						
Indian River	66.3	13.9	10.7	25.2	14.6	54.6

VoTech						
Sussex Tech	32.5	8.3	0.1	10.4	17.2	68.4

Charter						
Sussex Academy	17.6	4.1	0	4.7	1.8	86.8

Magnet						
Southern DE School of Arts	26.3	7.9	0.2	5.2	4.9	86.2

RED CLAY CONSOLIDATED SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
-						
Red Clay	49.2	11.3	10.8	23.2	22.4	46.9

VoTech						
Delcastle	55.6	9.9	3.8	23.9	37.2	37.1

Charter						
Charter School of Wilm.*	1.6	0.2	0	3.1	6.2	63.6
Delaware College Prep*	81	3.4	0	2.6	96.1	0.4
Delaware Military Academy*	21.9	0.9	0.2	5	6.5	83.8
Gateway Charter	16.4	56	0	2.7	25.8	68.9
Odyssey	6.9	3.9	0.5	7.3	16.4	69.2

Magnet						
Cab Calloway	12.2	2.5	0.2	8.2	15.4	67.2
Conrad Schools of Science	32.5	3	7.9	20.3	10.4	66

**Red Clay Charter Schools*

SMYRNA SCHOOL DISTRICT

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
-						
Smyrna	46.2	13.1	1.2	6.1	27.5	63.4
Charter						
Providence Creek Academy	42.6	4.7	0.9	3.9	27.9	64

DISTRICTS WITHOUT CHARTER/MAGNET/VOTECH SCHOOLS

	<u>Low Income</u>	<u>Special Ed</u>	<u>ELL</u>	<u>Hispanic</u>	<u>African American</u>	<u>Caucasian</u>
State of Delaware	51.9	12.7	6.1	13.8	31.5	48.5
Cape Henlopen	47.2	16.4	3.6	12.2	15.3	66.9
Delmar	45.3	9.3	0.5	4.4	14.6	72.9
Lake Forest	56.8	13.7	1.6	6.8	21.4	66.1
Laurel	72.1	14.2	5.9	8.9	29.6	57.2
Milford	59.8	12.9	9.3	17.3	25.5	51.8
Seaford	74.1	14.2	10.4	14.1	36.3	43.2
Woodbridge	70.5	11.9	8.4	17.7	28.3	50.2

	<u>Application Online</u>	<u>DE Standard Application</u>	<u>Year of App.</u>	<u>Must Return Application Date</u>
<u>Delaware VoTech Schools</u>	-	-	-	-
New Castle Votech	No - applications mailed by 11/1	No	2014/15	January 8th
Polytech	Yes	Yes	2014/15	January 8th
Sussex Tech	Yes	No	2013/14	Could not find

<u>Delaware Magnet Schools</u>				
Cab Calloway	Yes, paper link does not work	Yes	2014/15	January 8th
Conrad Schools of Science	Yes	Yes	2014/15	January 8th
Southern DE School of the Arts	No	No	2013/14	January 9th

<u>Delaware Charter Schools</u>				
Academia Antonia Alonso*	Yes	No	2014/15	January 15th
Academy of Dover	Yes	No	2014/15	Could not find
Aspira Academy	Yes	No	2014/15	Oct 1st to Nov 30th
Campus Community School	Yes	Yes	2014/15	Feb. 14th
Charter School of Wilm	Yes, Application Available Oct	Not Sure	2014/15	January 8th
DE Academy of Public Safety	Yes	Not Sure	2013/14	Could not find
Delaware College Prep	Link Does Not Work	Not Sure	?	Could not find
Delaware Design Lab HS *	?	?	?	?
The Delaware Met *	Yes	Not Sure	2014/15	January 8th
Delaware Military Acaemy	Yes	Yes	2014/15	January 8th
Early College High School *	?	?	?	?
Eastside Charter	Yes	Not Sure	2013/14	December 14th
Family Foundations	Yes, but currently closed	Not Sure	?	Could not find
First State Military * (2015)	No			
First State Montessori *	Yes	No	2014/15	Oct 10th to Nov 30th
Gateway Charter	Yes	Yes	2014/15	Oct 22nd to Jan. 8th
Kuumba	Yes	Not Sure	2013/14	Nov 1st to Dec 31st
MOT Charter	Yes	Yes	2014/15	January 8th
Moyer	Yes	No	?	Could not find
Newark Charter	Yes, will be available Nov 13th	Not Sure	2014/15	January 8th
Odyssey	Yes	Not Sure	2013/14	January 9th
Positive Outcomes	Yes	Not Sure	2013/14	February 28th
Prestige Academy	Yes	Not Sure	2013/14	April 24th
Providence Creek Academy	Website stated check back	Not Sure	?	Could not find
Reach Academy	Yes	No	2014/15	Could not find
Sussex Academy	Yes	Yes	2014/15	January 10th
Thomas Edison	Yes	Not Sure	2013/14	Could not find

*New School Opening

Choice Bill HB 90 w/HA 1
Frequently Asked Questions (FAQ)

Q1. What is the purpose of HB 90 w/HA 1?

Synopsis: This bill updates the school choice program, which has not received substantive attention since 1998. This bill aims to make it easier for parents to navigate the choice process by standardizing the application form and deadlines across traditional and charter schools. More specifically, the bill requires all local education agencies to accept a standard application form provided by the Department of Education, which must be available on the Department's website. Further, the bill seeks to eliminate discrimination by districts against choice students by: (1) allowing districts to request supplemental application information from choice students only to the extent it requires the same information from attendance zone students; (2) limiting the supplemental criteria a receiving district may use to evaluate choice applications—after that, districts must use a lottery system; and (3) removing the provision that allows districts to reject applications of students with special needs. Districts would also be required to accept choice students until each school and/or program has reached 85% of its capacity. Districts would be required to hold a public information session about choice and enrollment opportunities by October 31 and report estimated capacity and projected enrollment information to the Department of Education by November 30; those estimates may be revised until January 30. Finally, the bill will create a task force to consider the current landscape of all school enrollment preferences to include magnet, vocational technical, and charter schools, and to develop recommendations as necessary.

Q2. When was HB 90 w/HA 1 signed into law by Governor Jack Markell?

Governor Jack Markell signed HB 90 w/HA 1 on June 3, 2013.

Q3. Who is a "Receiving Local Education Agency?"

"Receiving Local Education Agency" (RLEA) is defined in 14 **Del.C.**, §402(5) and includes all Delaware public school districts, charter schools, and career and technical education schools.

Q4. Who is a "Receiving District?"

"Receiving District" (RD) is defined in 14 **Del.C.**, §402(4) and includes only the 16 reorganized Delaware public school districts (charter schools and career and technical education schools are not included). All defined RDs shall adhere to all requirements outlined in HB90 with HA1.

Q5. How does a RD inform parents of anticipated choice opportunities available in schools and programs in their RD for the coming school year?

The RD shall hold at least one public information meeting outlining choice opportunities available for the coming school year within their RD's schools and programs no later than October 31 of each year.

Q6. When are RD boards required to submit to the DDOE notice of capacity and projected enrollment figures? What is capacity? What is projected enrollment? What is lack of capacity?

The RD board is required to notify the DDOE no later than November 30 of each year the capacity of each school in the RD for the following academic year along with the projected enrollment for the following academic year. RDs have until January 30 each year to revise the notice of capacity and projected enrollment originally reported to the DDOE.

Capacity as defined in 14 Del.C., §405(c) means the maximum number of students that a program or school can contain as determined solely by considerations of physical space, physical resources, and class size for each grade level.

Project enrollment as defined in 14 Del.C., §404(e) means the total number of returning students and new attendance zone (resident school) students the receiving district anticipates will enroll for the following academic year.

Lack of capacity as defined in 14 Del.C., §405(c) means that the school or program calculates projected enrollment for the following academic year to be at least 85% of its capacity. The RD may disapprove an application due to lack of capacity.

Q7. Are all RLEAs required to use and accept only the standard written application form provided by the Delaware Department of Education (DDOE)?

Yes, all RLEAs are required to use and accept the standard application form provided by the DDOE. The standard application form shall be made available on the DDOE's website and all RLEA websites.

Q8. What is the due date for choice applications?

The standard written application is due the second Wednesday in January. Charter schools may continue to accept applications after the second Wednesday in January but for the charter schools that have a lottery, the lottery will be based on the applications received by the second Wednesday in January.

Q9. Does this deadline apply to kindergarten enrollment?

No, a parent enrolling their child in kindergarten may submit the standard application form to the RD up until the first day of the school year for enrollment in kindergarten during that school year.

Q10. Can a parent submit a standard written application to a RLEA after the second Wednesday in January deadline?

Yes, the parent of a school age child may submit the standard application form after the deadline if "good cause" as defined in 14 Del.C., §402(2) exists. The RD and district of residence shall accept and consider the application in the same manner as those application submitted by the deadline. A charter school may accept a standard application form from a parent of a school age child after the second Wednesday in January.

Q11. Can a parent withdraw a standard written application?

Yes, a parent of a school age child may withdraw their application at any time prior to action taken by the RD board. The parent shall give written notice to the board(s) of the RD and the child's district of residence.

Q12. Can a parent of a school age child indicate more than one choice on a standard written application form?

Yes, the parent can apply to more than one RLEA school or program and indicate their order of preference on one standard written application form.

Q13. When will standard written application forms received by the DDOE be disseminated to RLEAs for processing?

The DDOE shall disseminate all standard written application forms to RLEAs no later than 10 working days after the application deadline of the second Wednesday in January.

Q14. When will standard written application forms received by a RD be processed?

The RD has 10 working days after receipt of a standard written application to inform the applicant's district of residence that an application has been received.

The RD board will approve or disapprove applications for admission to a program in grades 1 through 12 no later than the last day of February of the school year preceding enrollment and no later than June 15 of the school year preceding enrollment for admission to kindergarten.

For standard written applications received by a RD after the deadline of the second Wednesday in January with "good cause", the RD board shall approve or disapprove the application no later than 45 days after receipt of the application.

Within 5 working days the RD board shall notify the parent and the child's district of residence the board's final decision.

Q15. Will charter schools continue to submit an April 1st and May 1st preliminary enrollment?

Yes, charter schools will continue to submit the April 1st and May 1st preliminary enrollment each year as indicated in 14 Del.C., §506(c)(1) and (2) and §509(b)(1) and (2).

Q16. When should a parent sign a first year charter school agreement if accepted to a charter school?

It is recommended that a parent should not sign a first year charter school agreement until the parent has made a final decision on where they want their child to attend school for the next school year.

Q17. Is a RD required to develop a policy establishing criteria for evaluation and acceptance or rejection of applicants to the RD? May priority be given to certain students?

Yes, RDs shall adopt and make available their choice policy prior to the applicable application deadline. The RD's policy shall seek to eliminate discrimination against choice students by: (1) allowing the RD to request supplemental application information from choice students only to the extent it requires the same information from attendance zone (resident school) students; (2) limiting the supplemental criteria a RD may use to evaluate choice applications—after that, districts must use a lottery system; and (3) removing the provision that allows an RD to reject applications of students with special needs.

Yes, a RD can in their evaluation give priority to an applicant in order of the list below as outlined in 14 Del.C., §405(b)(1)(2)(3)

1. Returning students who continue to meet the school or program requirements, including students graduating from one school to another within a single program.
2. Students who meet the requirements for the program or school and who seek to attend based upon the residence of the student's parent within the designated feeder pattern, if any, for the school; and

3. Siblings of students already enrolled in the school who will be returning to the school for the following academic year, providing the sibling seeking priority meet the requirements for the school or program. Siblings of students living in the district may be given priority over siblings not living in the district.

The RD may next give priority to the following students:

- Students with the school or program designated as a first, second, or third choice on the standard written application form.
- Students living within the RD.
- Children of school employees; as long as they otherwise meet the criteria of the program or school.

Q18. What happens when all qualifying applicants from Q17 above are admitted? Can an applicant be put on the RD's waiting list?

Yes, once the RD has admitted all students meeting the qualifying criteria in Q17 above, the RD shall conduct a lottery process to admit additional students and generate a ranked waiting list. The RD shall continue to accept applicants until there is a lack of capacity in each school and program within the RD. Qualifying students placed on the RDs ranked waiting list will be maintained by the RD until June 30 of each year.

Choice Bill HB 90 w/HA 1

Timeline

“Receiving Local Education Agency” (RLEA) is defined in 14 **Del.C.**, §402(5) and includes all Delaware public school districts, charter schools, and career and technical education schools.

“Receiving District” (RD) is defined in 14 **Del.C.**, §402(4) and includes only the 16 reorganized Delaware public school districts (charter schools and career and technical education schools are not included). All defined RDs shall adhere to all requirements outlined in HB90 with HA1.

PUBLIC INFORMATION MEETING

By October 31st - The RD, no later than October 31st each year, shall hold at least one public information meeting outlining choice opportunities available for the coming school year within their RD's schools and programs.

CAPACITY NOTIFICATION

By November 30th - The RD board is required to notify the DDOE no later than November 30 of each year the capacity of each school and applicable program in the RD for the following academic year along with the projected enrollment for the following academic year. RDs have until January 30 each year to revise the notice of capacity and projected enrollment originally report to the DDOE.

STANDARD APPLICATION DEADLINE

Before second Wednesday in January – The RD shall adopt and make available their choice policy prior to the applicable application deadline. The RD's policy shall seek to eliminate discrimination against choice students by: (1) allowing the RD to request supplemental application information from choice students only to the extent it requires the same information from attendance zone (resident school) students; (2) limiting the supplemental criteria a RD may use to evaluate choice applications—after that, districts must use a lottery system; and (3) removing the provision that allows an RD to reject applications of students with special needs.

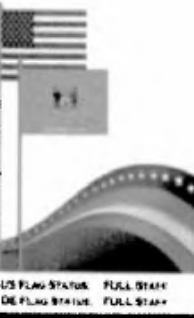
On or before second Wednesday in January - The parent of a school age child must submit the standard application form provided by the DDOE to the DDOE or RD for enrollment during the following school year. If a parent submits a standard application to a RD, the parent must also send a copy to the child's district of residence. A charter school may accept a standard application form from a parent of a school age child after the second Wednesday in January.

Home

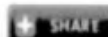
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DE School Choice Program



About the Choice Program

The Delaware School Choice Program began in the 1996-1997 School Year. The law addressing School Choice is found in 14 Del. C Chapter 4 (See Delaware Code online at <http://delcode.delaware.gov/title14/c004/index.shtml>). There are no statewide regulations addressing the School Choice Program.

Each receiving district shall adopt and make available a policy regarding the order in which applications for enrollment shall be considered and the criteria by which such applications shall be evaluated for approval or disapproval pursuant to Title 14 § 405. The receiving district's policy shall seek to eliminate discrimination against choice students by: (1) allowing the receiving district to request supplemental application information from choice students only to the extent it requires the same information from attendance zone (resident school) students; (2) limiting the supplemental criteria a receiving district may use to evaluate choice applications—after that, districts must use a lottery system; and (3) removing the provision that allows a receiving district to reject applications of students with special needs.

All Receiving Local Education Agencies are required to use and accept the standard application form provided by the Delaware Department of Education (DDOE). The standard application form shall be made available on the DDOE's website and all Receiving Local Education Agency websites. The standard written application is due the second Wednesday in January. Charter schools may continue to accept applications after the second Wednesday in January but for the charter schools that have a lottery, the lottery will be based on the applications received by the second Wednesday in January. A parent enrolling their child in kindergarten may submit the standard application form to the receiving district up until the first day of the school year for enrollment in kindergarten during that school year.

Parents interested in applying to a district, charter school or career and technical education school should visit their website for information about the school and/or program and submission of a standard application form and any other supplemental application if required.

District Choice Pages and Charter School Websites

- [DE Standard Application for Educational Options](#)
- [DE Standard Application for Educational Options - SPANISH VERSION](#)
- [School Choice Termination Form](#)
- [School Choice Termination Form - SPANISH VERSION](#)
- [Choice Bill HB90 FAQ](#)
- [Choice Bill HB90 Timeline](#)

Appendix D

Materials for Task Force Meeting 3

January 29, 2014

Enrollment Preference Task Force

Townsend Hall – Dover, Delaware

January 29, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and Introductions
- II Approve minutes from meeting held on 10/24/2013
- III Reviewing HB90 purpose, accomplishments and current meeting goals
Brief overview of forwarded documents:
 - Blue Collar Task Force Recommendations
 - Repairing Delaware's Fractured Public Education System by Dan Rich, UD
 - Deputy Attorney General's Letter dated 12/16/2013
- IV Examining application – categories and questions
- V Public comment
- VI Next steps
- VII Adjourn

Enrollment Preferences Task Force Minutes: Meeting #3
Wednesday, January 29, 2014
6:30 pm- Cabinet Room at the at the John G. Townsend Building

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Frederika Jenner, Delaware State Education Association
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Diane Ruth, Charter School Representative
- Susan Francis, Delaware School Board Association
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Mark Pruitt, Magnet School Representative
- Dr. Terri Hodges, Parent Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware (facilitator)
- Mark Brainard Jr., Delaware House of Representatives
- Katrina Cowart, University of Delaware

Members Absent:

- Representative Darryl Scott, Delaware House of Representatives
- Dr. Shawn Joseph, Superintendent from Sussex County
- Randall Hughes, Delaware State Board of Education (Donna Johnson attended)
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Lindsay O'Mara, Governor's Office
- Gary Stockbridge, Delaware Business Roundtable
- Julie Rumschlag, Magnet School Representative
- Donald Mell, Charter School Representative (Kendall Massett attended)
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Mervin Daugherty, New Castle County Superintendent

Public attendees:

- Kristin Dwyer, DSEA
 - Kathleen MacRae, ACLU-DE
 - Suzi Harris, Parent Info Center of Delaware
 - Calyce Magee, Community Member
 - Henry Clappitt, Community Member
 - Bill Doolittle, Community Member
 - Nelia Dolan, Community Member
 - Eve Buckley, Community Member
 - Mike Matthews, President of RCEA
-

Meeting was called to order at 6:33 p.m.

1. Introduction

Representative Kim Williams, co-chair, welcomed everyone and stated that public comment will be at the end of the meeting. Each person will have three minutes to speak. She asked for the public who were going to speak, to state their name when addressing the task force. Representative Williams stated that minutes from the Second Task Force Meeting will be posted on the website along with all information presented at tonight's meeting. Representative Williams stated that the task force recommendations were due by January 31, 2014. By the direction of the House attorney and leadership, the task force was going to move forward with the task force without an extension. The reason we are not requesting an extension is the code would have to be amended. The new bill would have to be brought before the House and the Senate Education Committees and then to a full vote in both the House and Senate. She noted that the legislators will not be in session for next 6 weeks because of JFC meeting; it would be at least 2 additional weeks before this would happen. A decision was made to keep the task force moving without an extension.

A request was made from an earlier task force meeting for the number of denied and accepted students at each school/district from the last school year. The numbers were to be broken down into the following cells: low income, special education, ELL, Hispanic, African American, and Caucasian. We were informed that the data request for denied applicants is not available since schools/districts can legally only collect data on a voluntary basis. If they are not their students or at least pre-registered, they may not retain the data.

Representative Williams introduced Fran Fletcher with the University of Delaware Institute for Public Administration. Ms. Fletcher will be facilitating tonight's meeting.

Representative Williams makes a motion to approve the minutes from the second meeting. Diane Ruth asked that Henry Clappitt be allowed to speak to offer suggestions to the draft minutes since he attended the previous meeting in her place. Mr. Clappitt suggested that Senator Bryan Townsend and Kendall Massett be added to list of attendees, photo copies of the emails sent to Representative Williams be attached to the final copy of the minutes, and Bill Bush's comments be clarified. [NOTE: Bill Bush's comments in the final copy of the minutes were edited and approved by Mr. Bush]. All recommendations were noted and the motion to accept the edited minutes was made by Dr. Vicki Gehrt, seconded by Frederika Jenner, and unanimously adopted by the task force.

2. Presentations

Representative Williams turned the meeting over to Fran Fletcher from the University of Delaware, who served as the facilitator of the meeting. Ms. Fletcher began with a PowerPoint presentation. The PowerPoint presented the following information:

- House Bill 90: Create a task force to consider the current landscape of all school enrollment preferences and practices to include magnet, vocational technical and charter schools and to develop recommendations as necessary.
- DAG: "[Task force] mission is primarily a collection of policy considerations."
- House Bill 90 accomplished the following: Easier for parents to navigate the choice process, Standardizing application form & deadlines across traditional and charter schools, All LEAs accept DOE standard application, Parent can submit choice applications on DDOE's website, Districts must hold public information session about choice opportunities, Required to use the same standards for choice students as they do their attendance zone students, Districts must report capacity, Creation of this task force.

- House Bill 90: Further seeks to eliminate discrimination by districts against choice students by:
 - Allowing districts to request supplemental application information from choice students only to the extent it requires the same information from attendance zone students
 - Limiting the supplemental criteria a receiving district may use to evaluate choice applications – after that, district must use a lottery system
 - Removing the provision that allows districts to reject applications of students with special needs
- House Bill 90: Districts would also be required to accept choice students until each school and/or program has reached 85% of its capacity. District would be required to hold a public information session about choice and enrollment opportunity by October 31 and report estimated capacity and projected enrollment information to the DOE by November 30; those estimates may be revised until January 30.
- Overview of the Department of Justice Report (Fontello, Paula A., December 16, 2013, "HB-90 – Enrollment Preferences Task Force – Questions Presented"):
 - Receiving Districts (RE) may require supplemental information in the application data as long as the same information is requested from all students (choice & in-district residents). (page 1)
 - In reviewing the list of questions submitted, I did not find any current legal requirements that would prohibit the list of questions, tests or auditions presented. (page 2)
 - Many of the questions appear to be gathering information used for reporting of eligibility for federal or state programs such as homeless status under the Federal McKinney-Vento Homeless Assistance Act or migrant status, or identification for English Language Learners. (page 3)
 - While it may be advisable as the best practice for a RLEA to have a two-step process separating admission and enrollment information, it is not legally mandated. (page 4)
 - Each RLEA has the legal responsibility to ensure that they are complying with state and federal law and in doing so they should review their application process and practices carefully to make sure they are consistent with the law and do not have a chilling effect on the enrollment. (page 4)
 - While a RLEA may request information, there are certain circumstances where the RLEA must advise whether the disclosure of the information is mandatory or voluntary. (page 4)
 - There is no specific prohibition on asking questions on sports programs prior to enrollment. (page 5)
 - Each of the categories of schools may have specific acceptance and enrollment criteria to determine admission based on the school programs as long as the criteria used reasonably relates to the school or program. (page 6)
 - Magnets:
 - Designed to attract students from all parts of a community. (page 6)
 - The law requires that each RD, which does not include charter schools or career and technical education schools, to adopt and make available an acceptance or rejection (admission) policy and list out the criteria for acceptance or rejection and setting priorities as required for acceptance. (page 6)
 - The law contemplates and permits admission policies that are individually tailored to the specific purpose and programs of the school as long as the policy is "reasonably related to the nature of the program or school for which the application is submitted". (page 7)
 - Thus, if a magnet school is part of a RD, they may require auditions or tests to all applicants as long as the requirement is "reasonably related to the nature of the program or school". (page 7)
 - Charters:

- A charter school may have some admission or enrollment criteria to determine whether a student meets the stated preferences as incorporated in the school's charter. (page 8)
- For example, questions regarding the student's interests or what ways the school will serve the student, auditions, or testing may be the school's process used to determine student's specific interests in the school's methods, philosophy or educational focus, or whether a student is a risk for academic failure, as long as the information is uniform to all applicants and is not used for an impermissible purpose. (page 8)
- Career and Technical:
 - Career and technical schools are governed by the vocational-technical school board in each vocational-technical district... with the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vo-tech schools within their district. (page 9)
 - Although a vo-tech school is required to accept the general application, they are currently permitted to require supplemental information. (page 9)
- Conclusion: At the heart of the Task Force's mission is to consider all aspects of the application & enrollment process and purpose from both the applicants' and the schools' perspectives and needs, and weigh the policy considerations and formulate recommendations based on the outcome. If pursued through successful legislation, those recommendations would then become legally binding restrictions.

Following the PowerPoint, Ms. Fletcher pointed out the various types of forms that appear in the report and across Delaware's education system; standard application, supplemental application/information, enrollment form, etc. The task force began to discuss the differences between the forms. Yvonne Johnson commented that the use of differing terms such as supplemental application or supplemental information can be confusing to parents. Representative Williams agreed adding that with the addition of enrollment forms, the confusion could be magnified. Kendall Massett offered clarification that some charter schools do not differentiate between the enrollment and application form. For some schools that never need a lottery, the enrollment form and application form are one in the same, which is why some of the questions appear on the application. The schools assume that if the student is applying they are, in fact, enrolling. Representative Williams added that it should be determined if there should be two separate forms, an application before acceptance followed by an enrollment form following acceptance. Representative Williams followed up that she believes that the confusion surrounding of these applications are preventing people from applying. Kendall Massett agreed and said the conversation should happen with the school because it had not been made clear that the two forms are different and should be treated as such. Diane Ruth followed up that some schools have different processes with regards to supplemental information, and care should be taken when using broader terms to describe each step of the process. Yvonne Johnson asked that if a student must register in their home school, why are enrollment forms needed. Kendall Massett said this occurs for student ID purposes and added that it can be difficult for a parent to go to the home school to register and face the administrators who realize the student will choose out of their school. Donna Johnson pointed out that it was important for the group to note that there is no enrollment form outlined in Chapter 4; it only speaks to the application. There are other state and federal regulations surrounding the collection of information, but once a child is enrolled that is where the enrollment form comes in. It is not a factor of school choice, so those two forms should be separated. This group has the opportunity to identify the distinction between what should be in the application versus what should be in the enrollment form following acceptance. Mark Pruitt pointed out that Conrad does not use a supplemental application but Cab Calloway does. This information is used to gauge programming interest at the time of applying with the understanding that there are only a select number of openings in each program. Representative Williams said that there is the common application that everyone must fill out, and asked if the group agreed that there should be separate supplemental applications and enrollment forms. Kendall pointed out that some at-risk schools are allowed to ask certain questions on the supplemental application that would technically be on an enrollment form but

they speak to the population of that school. She added that the principal would agree to separate the two forms without the need for a mandate because they did not know there was a difference. Diane Ruth asked for clarification about what information is typically on an enrollment form. Kendall answered that some of the information includes immunization records, physical, etc. Chuck Taylor added that there are two distinctions. The enrollment form is the administrative processes the school would have to go through to ensure everything is up to date: immunization, social security number, free and reduced lunch, etc. which occurs after acceptance. Prior to acceptance, issues like expulsion from another school, living out of state, etc. should be part of the supplemental application and based on the mission of the school, in his opinion. Frederika Jenner added, for clarification, that there are three separate forms; the application, the supplement to the application and the enrollment form.

3. Small Groups

Fran Fletcher divided the task force into four groups, and provided a 16-page document of information requested on various charter, magnet, and vo-tech applications and forms. The requested information was divided into various categories including behavior/discipline, parent/guardian questions, pre-admission requirements, special education/related services, marketing, extra-curricular activities, student questions, pre-K/child find, family information, languages, attendance, accessibility, attachments with application, teacher questions, and academics. The groups looked at each question and were asked to determine, individually, at which point, if at all, during the application process it was appropriate to ask that information. Each groups' findings will be presented at the next meeting. The groups were broken down:

Group 1: Dr. Deborah Zych, Catherine Hegedus, Dr. Vicki Gehrt, Chuck Taylor, Senator Nicole Poore

Group 2: Dr. Kevin Fitzgerald, Elizabeth Lockman, Secretary Mark Murphy, Kendall Massett

Group 3: Representative Kim Williams, Diane Ruth, Dr. Terri Hodges, Mark Pruitt, Senator Dave Sokola*

Group 4: Frederika Jenner, Yvonne Johnson, Sue Francis, Donna Johnson

*Please note that Senator Sokola had to leave early during the small group discussion.

The groups were not able to finish looking through all pages of the document and will finish at the next task force meeting.

Note: Digital copies of all documents discussed at this meeting can be found on:

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

4. Public Comment

The small groups stopped working on their packet at 8:15pm to allow for public comment.

Bill Doolittle: Mr. Doolittle commented that the work the task force is doing was really important, making moral and legal decisions regarding how much discrimination is going to be allowed to happen. There is clear guidance at the federal level for higher education; what they cannot ask. They can't ask about disability and medical history. There is no similar guidance for secondary and elementary schools so far. Personally, he feels it is a moral decision. There is discrimination that is beneficial to the population. He used the example of a charter school serving special needs children. That is beneficial for serving that specific, at-risk population. A large problem surrounding Delaware's charter school system is the interest preference, and its use to measure a student's ability. As soon as ability is being measure, discrimination sets in.

Nelia Dolan: Ms. Dolan is a parent from the Cape Henlopen district. She commented that in her own independent research into the subject, she noticed the trend where Delaware charter schools with the highest number of low income students have few or no white students and the charter schools with the

highest number of non-low income students have few black students. These schools are eligible for the same recognition and monetary awards that schools that have the least resources cannot possibly compete with the schools that manage to exclude low-income minorities. She went on to say her local charter school's lottery seemed to pull a disproportionately number of students from very small pools of eligible candidates. She asked DOE to look into it, and felt the Department was reluctant to hold schools accountable for breaking rules. The lottery that took place is only exacerbating the segregation that already exists in this particular charter school. In addition, the district lost out on a disproportionate number of high performing, non-low income students to this charter school. She urges that task force to make recommendations that would do three things: make integration a top priority, make the admissions process transparent, and conduct research on what the proper number of charter spots per student should be. She also hopes the task force will give consideration to the districts and non-chartered districts schools who educate the vast majority of Delaware students and do not turn any student away. Having a community school, which may not be right for every student, is a good thing for everyone. She submitted an article, "A New Round of Segregation Plays Out in Charter Schools" where Delaware is used as an example. She also submitted the demographics of the charter school in Sussex County compared to the demographics of the entire county.

Eve Buckley: Ms. Buckley resides in Newark and the Christina School District. She is a member of a parents group, Friends of Christina School District, who are concerned with the expansion of charter schools across Delaware and the effect it will have on the surrounding communities and the schools which admit all students, no questions asked. If Delaware is going to use a competition model, the state should make the competition fair and should play by the same rules. If a district school cannot exclude a child based on academic performance, discipline, etc., then a charter should not be able to either. The Delaware law does not seem to be very helpful in that regard based on the memo from the Department of Justice. If the state allows charter schools to play by different rules, Delaware is setting a dangerous legal precedent and a frustrating landscape for parents and teachers.

Mike Matthews: Mr. Matthews is a teacher in Red Clay. He thanked the task force for putting together the document of all the information and questions on various applications. As a special education teacher, Mr. Matthews works solely with children with special needs and was disturbed that information regarding IEPs, counseling, therapies, reading support, etc. would be asked by a public school prior to admission. Mr. Matthews also wanted to know how this data is being tracked by DOE or the schools as well as what data is currently available to show whether these students have been accepted or denied into the schools that asked these questions. He is of the belief that if a family is disclosing this kind of information to certain magnet and charter schools in the state, that school is excluding that child based on his or her special needs. He hopes that if this data is not currently tracked, then a mechanism through the Department be established to do so.

The meeting adjourned at 8:31 pm.

Next meeting: March 4th, 2014 at the Buena Vista Conference Center from 6:30pm-8:30pm.

**For an mp3 recording of this meeting please visit
insert new link**

IMPROVING AND DEVELOPING LABOR FORCE

9. Create Sector-Based, Workforce Development Strategy

Recommendation: Throughout Task Force and public hearing meeting discussions, aligning education curriculum with job training remained a top issue and theme. Private sector Task Force members suggested that job vacancies remain unfilled due to the lack of job-specific skilled applicants, particularly among those positions not requiring a college degree.

This recommendation calls for a partnership between the State's Department of Education (DOE) and Department of Labor (DOL) to create a sector-based workforce-development planning model. Under such a model representatives from industry, manufacturing, and technical fields meet frequently with vocational-technical school officials and post-secondary occupational trainers (such as technical colleges) to articulate current and anticipated worker competencies. Further, these regular meetings re-enforce the importance of collaborative vocational-technical strategic planning through course work, internships, practical training, and short-term occupational placements.

This recommendation supports the Task Force's discussion on preparing workforce-ready graduates, encouraging workforce development around large clusters of business and industry (versus single partnerships between business, schools, colleges, etc.), and strengthening collaborative efforts among school districts and businesses. Members will work together to identify the needs of the industries and work with local education agencies to ensure the educational pipeline for those industries is targeted at filling their needs for workers.

The seeds for sector-based workforce development partnerships have already been planted between business interests and school districts in New Castle and Kent counties; efforts in Sussex County are forthcoming. With more partners in the process across the state, students will have multiple chances for jobs and agencies, schools, technical institutes, and community colleges can plan and utilize teaching and training resources more efficiently and with more confidence.

10. Expand Collaborative Programs to Reduce School Dropout Rate and Support Workforce Readiness

Recommendation: Considering Delaware's current graduation rates, DOL (as the lead agency) would work collaboratively with DOE to expand programs aimed at reducing the number of school dropouts and support

workforce readiness among youth in Delaware. A collaborative system needs to be created that identifies the skills and interests of potential dropouts at entry into middle school and directs opportunities to advance their skills within a specific area of the state's job market geared to college and career-readiness standards in a career context. This system must also provide new ways of practical student learning through courses that blend academic and technical studies.

Additionally, these programs should ensure that students who plan to attend community college or technical schools; participate in apprenticeship programs; or, go directly to work have a pathway to follow that provides information needed during and transitioning from high school. Students need to understand how the skills and knowledge they accumulate translates into job readiness. Development of practical skills necessary to perform in Delaware's market place should be a fundamental focus of any programs or collaborative efforts aimed at preparing youth for today's work environment. In turn, this could mitigate the need for primary training and remediation at the expense of employers.

To: Representative Williams
From: Paula A. Fontello **PAF**
Date: December 16, 2013
RE: HB90 – Enrollment Preferences Task Force – Questions Presented

As previously communicated, this memo is provided in response to your request for assistance and this memo not provided as an official opinion of the Attorney General. The Enrollment Preferences Task Force was established by HB 90 to “consider the current landscape of enrollment preferences and practices used by magnet, vocational technical, and charter schools.” HB 90 amended the School Choice law and among other things, allows any student to apply to a Receiving Local Education Agency (hereinafter “RLEA”) by submitting an application on the standard form provided by the Delaware Department of Education (hereinafter “DDOE”). RLEAs include all Delaware public school districts, charter schools, and career and technical education schools. Additional restrictions were placed on “Receiving Districts” (hereinafter “RE”) which only includes the 16 reorganized Delaware public school districts and does not include charter schools and career and technical education schools. REs may require supplemental information in the application data as long as the same information is requested from all students (choice and in-district residents).

Based on HB 90, the Task Force was created to examine the practices and enrollment preferences of magnet, charter schools, and career and technical education schools and report any recommended changes. In essence, since the task force's responsibility is to view the current enrollment preferences and practices used by the three types of schools and make recommendations, its mission is primarily a collection of policy considerations. The role of the Delaware Department of Justice in providing guidance to a state agency or instrumentality is not to provide policy guidance but to limit their input to legal advice and allow the state agency to make policy determinations. In reviewing the list of questions submitted, I did not find any current legal requirements that would prohibit the list of questions, tests, or auditions presented. Looking at HB90, it appears that the main purpose of the bill was to address concerns about discrimination in the application and acceptance process, thus my research was focused in that direction.

Both state and federal law provide protections against discrimination including discrimination based on race, color, national origin, sex, citizenship, or immigration status. The DDOE has adopted a regulation which prohibits discrimination where a program or activity receives approval or financial assistance from the DDOE. The regulation would apply to all RLEAs and extends to all programs and activities. The specific regulation is *225 Prohibition of Discrimination*, 14 DE Admin. Code 225, and states the following:

No person in the State of Delaware shall on the basis of race, color, religion, national origin, sex, sexual orientation, genetic information, marital status, disability, age or Vietnam Era veteran's status be unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving approval or financial assistance from or through the Delaware Department of Education.

In reviewing the questions presented, while there is no *per se* prohibition on asking the questions, it is clear that the information cannot be used for an improper purpose. Typical enrollment information includes residency, age, grade, and contact information of parent or legal guardian. See DOE's school choice information page and the Delaware Standard Application for Educational Options <http://www.doe.k12.de.us/infosuites/schools/choice.shtml>. Looking at the type of information being requested, many of the questions appear to be gathering information used for reporting or eligibility for federal or state programs such as homeless status under the Federal McKinney-Vento Homeless Assistance Act, or migrant status, or identification for English Language Learners ("ELL").

In addition, the U.S.D.O.E. Office for Civil Rights (herein after "OCR") engages in Civil Rights Data Collection pursuant to the statutes and regulations implementing 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, and under the Department of Education Organization Act (20 U.S.C. § 3413). To fulfill this goal, the OCR collects a variety of information, including student enrollment and

educational programs and services data that are disaggregated by race/ethnicity, sex, limited English proficiency, and disability.

While it may be advisable as the best practice for a RLEA to have a two step process separating admission and enrollment information, it is not legally mandated. Each RLEA has the legal responsibility to ensure that they are complying with state and federal law and in doing so they should review their application process and practices carefully to make sure they are consistent with the law and do not have a chilling effect on the enrollment. The RLEA can not apply different rules to children based on race, color, national origin, immigration or citizenship status, disability, or other impermissible factors.

While a RLEA may request information, there are certain circumstances where the RLEA must advise whether the disclosure of the information is mandatory or voluntary. The federal government does not prohibit States or districts from collecting the social security numbers of prospective or current students. However, there needs to be a legally permissible need to collect this information. For example, a school may require a social security number for enrollment in the school lunch program. If it requests the social security number for other purposes, it needs to give notice that the disclosure is voluntary, a statement outlining why the number is requested and a description of how the information is to be used. Since refusal to disclose a social security number cannot

be grounds for exclusion from a program, the school district must be prepared to substitute an alternative number as an identifier. *See* the U.S.D.O.J. Office for Civil Rights Dear Colleague letter issued on May 6, 2011, found at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.html>. *See also* 5 U.S.C.A. § 552a (note).

The questions presented also raised whether it was appropriate to ask questions regarding a student's interests in sports programs prior to enrollment. There is no specific prohibition on asking questions on sports program prior to enrollment. However, the regulations governing interscholastic athletics specifically provide some limitations regarding school choice. The regulations related to middle schools and high schools provide the following limitation:

10.4 School Choice

10.4.1 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.

See 14 DE Admin. Code 1008.10.4 and 14 DE Admin. Code 1009.10.4. The restriction in the regulations only applies to school choice and does not apply to charter schools or career and technical education schools.

The following question was presented: "School districts on their choice applications can only ask choice students questions that they ask their feeder

students, why can this not be the same for charters, magnets and votech?” Charter schools, magnet schools, and career and technical education schools are somewhat different than the re-organized school districts, generally do not have the same type of feeder pattern limitations, and are often targeted to specific programs. Each of the categories of schools may have specific acceptance and enrollment criteria to determine admission based on the school programs as long as the criteria used reasonably relates to the school or program. The answer is a little different in regards to each type of school, whether it is a magnet, charter, or career and technical education school.

Turning first to magnet schools, the term magnet school is not used within Title 14 or the DOE regulations; however, when a term is undefined, the common and ordinary meaning will be utilized. The Merriam-Webster dictionary defines “magnet school” as “a school that has courses in special subjects (such as the arts or technology) and is designed to attract students from all parts of a community.” Thus, under Delaware’s school framework, magnet schools are generally part of a receiving district. The law requires that each “receiving district,” which does not include charter schools or career and technical education schools, to adopt and make available an acceptance or rejection (admission) policy and list out the criteria for acceptance or rejection and setting priorities as required for acceptance. See 14 *Del. C.* § 405.

The law contemplates and permits admission policies that are individually tailored to the specific purpose and programs of the school as long as the policy is “reasonably related to the nature of the program or school for which the application is submitted.” 14 *Del. C.* § 405(b). However, the admission policy must be the same as the policy used for students residing within the attendance zone with the exception of the mandated admission priorities listed in 14 *Del. C.* 405 (b). (returning students that still meet the requirements, students seeking enrollment based on residing in the designated feeder pattern, siblings of currently enrolled and returning students, after the initial top three criteria to students based on designating the program as the first, second, or third choice and children of school employees). After the mandated admission priorities spots are filled, then the receiving district must determine additional admissions based on a lottery process and a ranked waiting list. Thus, if a magnet school is part of a receiving district, they may require auditions or tests to **all applicants** as long as the requirement is “reasonably related to the nature of the program or school.” 14 *Del. C.* § 405(b).

Turning to charter schools, the law permits charter schools to give preference in certain cases as long as the preferences comply with the law and are designated within their charter when required. The Charter school law permits preferences under 14 *Del. C.* § 506 (b) as follows:

(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.

(emphasis added).

Therefore, a charter school may have some admission or enrollment criteria to determine whether a student meets the stated preferences as incorporated in the school's charter. For example questions regarding the student's interests or what ways the school will serve the student, auditions, or testing may be the school's process used to determine student's specific interests in the school's methods, philosophy or educational focus, or whether a student is at risk for academic failure, as long as the information is uniform to all applicants and is not used for an impermissible purpose.

Lastly, career and technical schools are governed by the vocational-technical school board in each vocational-technical district. 14 *Del. C.* § 1029. Each vocational-technical district is vested with the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vocational-technical schools within their district. 14 *Del. C.* § 1029. The rules and regulations adopted must be in accordance with Delaware law and the DOE's regulations. *Id.* See also 14 DE Admin. Code 525 *Requirements for Career and Technical Education Programs*. Although a vocational-technical school is required to accept the general application, they are currently permitted to require supplemental information. However, it is clear that a vocational-technical district process must be consistent with other DOE regulations, including the DOE's regulation prohibiting discrimination, and all policies must be in accordance with that regulation.

In conclusion, the questions posed regarding the application and enrollment process raise a complex and challenging subject matter; however, the questions raised present policy decisions that are not resolved by any clear cut legal guidance. At the heart of the Task Force's mission is to consider all aspects of the application and enrollment process and purpose from both the applicants' and the schools' perspectives and needs, and weigh the policy considerations and formulate recommendations based on the outcome. If pursued through successful

legislation, those recommendations would then become legally binding restrictions.

If you have any additional questions, please do not hesitate to contact me.

Enrollment Preference Task Force

Meeting #3

January 29, 2014





Choice Bill HB w/HA 1

Create a task force to consider the current landscape of all school enrollment preferences to include magnet, vocational technical and charter schools and to develop recommendations as necessary.

DAG: “[Task force] mission is primarily a collection of policy considerations.” (page 2)

Accomplished by HB90 w/HA 1

- ✓ Easier for parents to navigate the choice process
- ✓ Standardizing application form & deadlines across traditional and charter schools
- ✓ All LEAs accept DOE standard application
- ✓ Parent can submit choice applications on DDOE's website
- ✓ Districts must hold public information session about choice opportunities
- ✓ Required to use the same standards for choice students as they do their attendance zone students
- ✓ Districts must report capacity
- ✓ Creation of this task force



HB90 w/HA1 “ ”

- Further seeks to eliminate discrimination by districts against choice students by:
 - 1) Allowing districts to request supplemental application information from choice students only to the extent it requires the same information from attendance zone students
 - 2) Limiting the supplemental criteria a receiving district may use to evaluate choice applications – after that, district must use a lottery system
 - 3) Removing the provision that allows districts to reject applications of students with special needs

HB90 w/HA1 “ ”

- **Districts would also be required to accept choice students until each school and/or program has reached 85% of its capacity. District would be required to hold a public information session about choice and enrollment opportunity by October 31 and report estimated capacity and projected enrollment information to the DOE by November 30; those estimates may be revised until January 30.**

Blue Collar Task Force Recommendations

?

Overview of “DAG” Input

- **Receiving Districts (RE) may require supplemental information in the application data as long as the same information is requested from all students (choice & in-district residents).** (page 1)
- **In reviewing the list of questions submitted, I did not find any current legal requirements that would prohibit the list of questions, tests or auditions presented.** (page 2)

DAG continued

- Many of the questions appear to be gathering information used for reporting of eligibility for federal or state programs such as homeless status under the Federal McKinney-Vento Homeless Assistance Act or migrant status, or identification for English Language Learners.
(page 3)
- While it may be advisable as the best practice for a RLEA to have a two step process separating admission and enrollment information, it is not legally mandated. (page 4)

DAAG continued

- Each RLEA has the legal responsibility to ensure that they are complying with state and federal law and in doing so they should review their application process and practices carefully to make sure they are consistent with the law and do not have a chilling effect on the enrollment. (page 4)
- While a RLEA may request information, there are certain circumstances where the RLEA must advise whether the disclosure of the information is mandatory or voluntary. (page 4)

DAAG continued

- **There is no specific prohibition on asking questions on sports programs prior to enrollment.** (page 5)
- **Each of the categories of schools may have specific acceptance and enrollment criteria to determine admission based on the school programs as long as the criteria used reasonably relates to the school or program.**
(page 6)

DAAG continued

Magnets:

- ...and is designed to attract students from all parts of a community. (page 6)
- The law requires that each RD, which does not include charter schools or career and technical education schools, to adopt and make available an acceptance or rejection (admission) policy and list out the criteria for acceptance or rejection and setting priorities as required for acceptance. (page 6)

DAG continued

Magnets:

- The law contemplates and permits admission policies that are individually tailored to the specific purpose and programs of the school as long as the policy is “reasonably related to the nature of the program or school for which the application is submitted”. (page 7)
- Thus, if a magnet school is part of a RD, they may require auditions or tests to all applicants as long as the requirement is “reasonably related to the nature of the program or school”. (page 7)

DAG continued

Charter:

- A charter school may have some admission or enrollment criteria to determine whether a student meets the stated preferences as incorporated in the school's charter. (page 8)
- For example, questions regarding the student's interests or what ways the school will serve the student, auditions, or testing may be the school's process used to determine student's specific interests in the school's methods, philosophy or educational focus, or whether a student is a risk for academic failure, as long as the information is uniform to all applicants and is not used for an impermissible purpose. (page 8)

DAG continued

Career and technical schools:

- Career and technical schools are governed by the vocational-technical school board in each vocational-technical district.....with the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vo-tech schools within their district. (page 9)

DAG continued

Career and technical schools:

- Although a vo-tech school is required to accept the general application, they are currently permitted to require supplemental information. (page 9)

December 29, 2013

Repairing Delaware's Fractured Public Education System

Dan Rich

Delaware policies and practices, some inherited from decades ago, support competition and displacement among charter schools, district schools and Vo-tech schools rather than collaboration and mutual commitment to improvements that serve all students. As a result, Delaware is creating a public education system, in which charters, traditional school districts, and Vo-tech districts operate as largely disconnected subsystems funded at rising public expense but with no acceptance of shared responsibility for the performance of students. Educationally and financially, Delaware cannot afford this increasingly fractured system. Delaware's students will not be effectively served by a system in which cooperation and shared learning across all types of schools is the exception rather than the norm. Delaware tax-payers should not be expected to pay for maintaining such a system.

There are many facets to the growing challenge. Across the state, but particularly in Southern Delaware, the competition between traditional districts and Vo-tech districts has become acute, posing issues about whether the special advantages granted to Vo-tech districts under state policy are being pursued in a manner that is consistent with their primary responsibility for vocational and technical education. The challenge also is manifest in the structure of traditional school districts, including the fragmentation of district responsibilities in Wilmington and the small scale of downstate districts that limits both efficiency and equity. The most dramatic structural change and fragmentation, however, is the growth of charter schools. Charter schools already are an important part of Delaware public education, and they will become more important in the decade ahead. The development of charters, however, is taking place in ways that increase the challenge. This need not be the case. Changes in state policies and practices for charters are crucial to the repair of Delaware's fractured system.

Delaware ranks third among states in the percentage of public school students enrolled in charters. Delaware's 22 charter schools enroll over 10,000 students, over 7% of Delaware's total public school enrollment.¹ New charter schools are in development (five have received charters from the Department of Education and plan to open in 2014-2015), some existing charters are expanding or planning expansions, and a number of additional charter school applications are expected this spring. Recent

¹ Unless otherwise indicated, data cited in this memo are from **Delaware Charter School Data**, a report prepared by Kelly Sherretz and Jenna Bucsak of the Institute of Public Administration, University of Delaware, February, 2013, and currently being updated. The report is compiled from public data and data provided by the Delaware Department of Education. The report and a related PowerPoint presentation are available at:

http://www.ipa.udel.edu/publications/charter_school_data_delaware-2013.pdf

<http://www.ipa.udel.edu/publications/CharterPublicHearingPresentation.pdf>

changes in legislation and state administrative policies as well as new private investments (such as the Community Education Building) further encourage the growth of charter schools and student enrollments. Charter schools exist in all Delaware counties, but most (16) are concentrated in New Castle County, and the heaviest and most rapidly growing concentration is in Wilmington (10). Nearly two-thirds of total charter enrollment is generated by students living within three public school districts: Christina, Red Clay, and Colonial. Going forward, issues related to charters will be increasingly important to the state's overall education policy agenda; these issues already are the subject of proposed legislation and are being debated in public forums, government hearings, and legislative task forces.

Statewide, the current charter policy dialogue is typically incident-driven, strident, and confrontational—or simply no dialogue at all since charter advocates and opponents often stake out competing and virtually “frozen” positions to advance or protect particular interests and values. Even when the dialogue is civil, it is rarely accompanied by any effort to project a coherent or compelling vision of how the increasingly fragmented and complex topography of charters, traditional districts, and Vo-techs will ultimately merge into a stronger statewide public education system that better serves all Delaware students.

Conventional expectations about the impacts of charters should be subjected to dispassionate analysis. For example, charter schools are often advocated as providing students with an alternative to low-performing traditional public schools. While this is surely the case for some students, the most dramatic enrollment impact of the growth of charter schools appears to be on private and especially Catholic school enrollment. Between 1997 and 2011, the percentage of charter school enrollment increased from less than 1% to 6.9% of total Delaware public school enrollment. During that same period, Vo-Tech school enrollment increased slightly from 4.1% to 4.8%. While traditional public school enrollment decreased over the same period from 78.7% to 75.1%, non-public school enrollment also decreased from 16.7% and 13.2%. The decrease in private school enrollments represents a larger proportional impact (over 20%) than the impact on public school enrollments (4.6%). While the shift in enrollment from private to charter schools is partly a product of the economic downturn since 2008, trends indicate that the pattern is likely to continue. Is that desirable? What are the implications of the contraction of private school enrollment for school choice and for public funding? More broadly, is there an optimal mix of charter, traditional public schools, Vo-techs and private schools statewide, and especially within northern New Castle County and Wilmington where charter schools and enrollments are growing most rapidly?

We also should consider the populations being served by charter schools. The aggregate demographic profile of charter schools reflects a slightly larger percentage of minority students than for district schools (54% to 50%). The demographic profile is significantly different, however, when viewed at the school level. A few Wilmington charters operate as magnet schools and have less than 10% traditionally underserved minority students and also a small percentage of low-income students. The majority of Wilmington charters, however, reflect the enrollment of local district schools; these have minority and low-income student populations over 90%, and in some cases nearly 100%. Do these concentrations of

minority and low-income students (high or low) matter for the overall development of charter schools and for the overall improvement of public education?

While a subset of charters have among the highest enrollment of students with disabilities and other special needs, most charter schools enroll a much smaller percentage of English language learners and special education students than do traditional public schools. Looking forward, what should be the responsibilities of charter schools for students with special needs who otherwise would not fit within their enrollment structure?

We should evaluate charter performance and do so in comparison with district schools that might serve the same student population. The overall performance profile for charters is mixed, and to some extent split between a set of high-performing charters and a set of low-performing charters. A higher percentage of charter schools (18%) than traditional schools (5%) exceed the standards measured by the state's academic performance framework. At the same time, however, a higher percentage of charter schools (23%) than traditional schools (12%) fall far below those standards. Overall, 55% of charter schools do not meet the standard as compared with 42% of traditional schools. Has public investment in charter schools generated the expected improvement in educational outcomes?

Most of the higher-performing charters have a low enrollment of poor and minority students. Only two charter schools serving more low-income students than the state average (Kuumba and Academy of Dover) perform better than the state average in reading and math². Under the theory justifying charter schools these successes should be shared with other charters and traditional school districts. Unfortunately, in Delaware such collaborative scaling-up is difficult and rare. Conversely, the theory justifying charters also calls for the closing of low-performing schools. Delaware's experience is that this is also difficult and rare. What should be done to change these conditions?

A starting point for policy improvements is the recognition that Delaware charter schools have developed in ways that often do not mirror national best practices and do not fully align with the contributions that charters have typically been expected to make to the overall improvement of public education. Across America, charter schools are intended to encourage creative school environments and innovative teaching and learning methods. Central to the rationale for charters is their anticipated role as demonstration schools, with the expectation that successful innovations will be shared and adopted by other charters as well as traditional public schools. In Delaware, charter schools have rarely served as demonstration schools. Rather, Delaware charter schools have developed as a separate public education system, largely disconnected from the traditional school districts and, at times, operating as if their role was to compete with and displace the larger public education system rather than improve it. Delaware school districts have operated in a comparably detached, and at times, dismissive fashion with regard to charters. With only one exception, districts have treated charters as competitors rather than allies, and have not accepted and supported charter schools as partners in the public education system. To date, there have been few sustained substantive bridges between charter schools and traditional school districts, a condition that stands in sharp contrast to the operation and expectations of charters and

² Delaware Department of Education website

traditional schools in most of the nation. This difference is not an accident; it is a product of Delaware policy and practice.

Nationally, almost 90 percent of charter schools are authorized by local school districts. This structure in itself helps to foster communication, coordination, and collaboration between charters and traditional schools. In Delaware, however, about 90 percent of charters are authorized by the state. Only the Red Clay school district has authorized charter schools. This structural difference between Delaware and the nation is further reinforced by Delaware's practice of allowing state authorized charter schools to act as magnet schools. In most of the nation, charter schools draw from the students in the authorizing public school districts and are expected to demonstrate that they can better serve those students than traditional schools. In Delaware, charter magnet schools pull enrollment from a selective population, allow preference for students with a "special interest" in the school's claimed concentration of practice, and thereby reinforce a structural difference with traditional district schools.

In sum, state policies and practices promote the development of Delaware charter schools in ways that do not fully embody national best practices. They also encourage an increasingly fractured state education system that impacts all schools: charters, traditional public schools, Vo-tech schools and even private schools. The pattern of disconnected sub-systems now has become self-reinforcing and the educational and fiscal costs of maintaining that system are continuing to grow.

Delaware's fractured public education system will not yield to a quick fix, but we need to begin the process of repair. Changes in policies for charter schools are essential, but not sufficient; state policies must be more consistent across all types of schools. The fiscal advantages available to Vo-tech districts, for example, must be evaluated in reference to their impact on other districts and in the context of their effectiveness in fulfilling their distinctive mission. Similarly, the limitation of enrollment preferences for charter schools requires application of the same standards to all schools. Delaware can no longer afford separate and conflicting policies for its public education system.

The longer we delay the process of repair, the more difficult and costly it will become. We need policies that set us on a different path, ones that build sustainable bridges among charter schools, district schools and Vo-tech schools.

Appendix E

Materials for Task Force Meeting 4

March 24, 2014

Enrollment Preference Task Force
Buena Vista Conference Center – New Castle, Delaware

March 24, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and Introductions
- II Approve minutes from meeting held on January 29, 2014
- III Examine applications – categories and questions
- IV Recommendation discussion
- V Public comment
- VI Next steps
- VII Adjourn

Enrollment Preferences Task Force Minutes: Meeting #4
Monday, March 24, 2014
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Randall Hughes, Delaware State Board of Education
- Frederika Jenner, Delaware State Education Association
- Susan Francis, Delaware School Board Association
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Mervin Daugherty, New Castle County Superintendent
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Dr. Deborah Zych, Superintendent from Polytech
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Mark Pruitt, Magnet School Representative
- Diane Ruth, Charter School Representative
- Donald Mell, Charter School Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Mark Brainard Jr., Delaware House of Representatives
- Fran Fletcher, University of Delaware

Members Absent:

- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Representative Darryl Scott, Delaware House of Representatives
- Yvonne Johnson, Delaware Parent Teacher Association (Liz Toney attended)
- Chuck Taylor, Charter School Network (Kendall Massett attended)
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Lindsay O'Mara, Governor's Office
- Dr. David Ring Superintendent from Sussex County
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech (Kathy Demarest attended)
- Julie Rumschlag, Magnet School Representative
- Dr. Terri Hodges, Parent Representative (Bill Doolittle attended)
- Elizabeth Lockman, Parent Representative (Eve Buckley attended)
- Gary Stockbridge, Delaware Business Roundtable

Public attendees:

- Michael Oboryshko, Community Member
 - Henry Clampitt, Community Member
 - Ron Russo, Community Member
 - Nelia Dolan, Community Member
 - Debbie Dolde, New Castle County Vo-Tech
 - Mike Matthews, President of RCEA
 - Nancy Willing, Community Member
-

Meeting was called to order at 6:40p.m.

1. Introduction

Rep. Kim Williams, co-chair, began the meeting by handing out a copy of a letter from Richard A. Morse of the American Civil Liberties Union of Delaware. Representative Williams mentioned that as the task force is nearing the end of its work, there will be discussions about possible action items moving forward. Appointed members of the Enrollment Preference Task Force were encouraged to be in attendance at the next meeting as the task force hopes to move forward with recommendations. She then asked for a motion to approve the minutes from the third meeting. The motion is made by Dr. Kevin Fitzgerald, seconded by Frederika Jenner, and unanimously adopted by the task force. Finally, Representative Williams turned the meeting over to Fran Fletcher of the University of Delaware who would be facilitating the rest of the meeting.

2. Group Work

Fran Fletcher put the task force back into the small groups from the previous meeting to finish work on the packet. This packet is a 19-page document of information requested on various charter, magnet, and vo-tech applications and forms. The requested information was divided into various categories including behavior/discipline, parent/guardian questions, pre-admission requirements, special education/related services, marketing, extra-curricular activities, student questions, pre-K/child find, family information, languages, attendance, accessibility, attachments with application, teacher questions, and academics. The groups looked at each question and were asked to determine, individually, at which point, if at all, during the application process it was appropriate to ask that information. Each groups' findings will be presented at the next meeting. The groups were broken down:

Group 1: Dr. Deborah Zych, Catherine Hegedus, Kathy Demarest, Kendall Massett

Group 2: Dr. Kevin Fitzgerald, Eve Buckley, Secretary Mark Murphy, Donald Mell, Dr. Matthew Donovan

Group 3: Representative Kim Williams, Diane Ruth, Bill Doolittle, Mark Pruitt, Senator Dave Sokola

Group 4: Frederika Jenner, Sue Francis, Liz Toney, Dr. Merv Daugherty, Dr. Allen Lathbury

***Note: Digital copies of the ACLU letter and other documents from this meeting can be found on**

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

3. Open Discussion

At 8:07pm, Fran Fletcher asked each group to walk around and take a look at the various comments other groups had made. At 8:17pm, the meeting was officially called back to order by Ms. Fletcher. She asked if anyone had suggestions on how to, collectively, make recommendations. Diane Ruth suggested that a mechanism between consensus and majority rule be employed because simple majority rule is not fully representative of the entire group. Catherine Hegedus asked where the recommendations would go from here. Would it be a bill in the General Assembly? Representative Williams explained the recommendations would be the subject of an official report, and if changes to current law are recommended, it would be in a piece of legislation brought before the General Assembly. Fran Fletcher brought the conversation back to the process of making recommendations. How did this group want to move forward with action items? Donald Mell mentioned that he believed a majority of members were in agreement on a number of items. On other items, some of the differing opinions may be worked out and a consensus could be reached. There will be a minority of subjects that will not be able to be agreed upon or more context would be needed for further discussion. Donald Mell further elaborated that it may be appropriate to have a majority report and a minority report. Catherine Hegedus expressed agreement

with that concept. Fran Fletcher asked for any differing views on Mr. Mell's suggestion. Seeing none, she began to discuss the next meeting and moving forward with the areas in which the task force is in agreement while beginning to highlight what areas may need further discussion in order to reach a consensus. Secretary Mark Murphy asked if this would be based on an aggregation of the packet because some of the rows in the packet were similar or identical to other rows. Frederika Jenner mentioned some redundancies through the packet. There are different versions of the same issue across applications such as legal guardianship. Fran Fletcher agreed that two sets of data will be provided to the members before the next meeting, one of strictly raw data without any aggregated results and one with some of the redundancies removed. Eve Buckley asked what would constitute consensus with regards to making recommendations. Diane Ruth expressed that she believed consensus meant the group would come to a place of mutual understanding beyond majority rule and minority dissent. Kendall Massett points out that looking over the comments already made, there is consensus on a number of issues. Representative Williams suggested that after each member goes through the data on their own, a decision would be made at the next meeting on how to move forward with issues that are not universally agreed upon.

4. Public Comment

Nancy Willing was hoping for the data to be released to the public; the data was not being released because it was not completed. Nancy stated if she had known, she would have not attended this meeting and wasted her time.

5. Next Steps

Next meeting: April 7th, 2014 at the Buena Vista Conference Center from 6:30pm-8:30pm.
The meeting adjourned at 8:45 pm.

*****NOTE: The meetings for April 7th and May 5th were cancelled. The next meeting will take place on Thursday May 22nd, 2014 at the Buena Vista Conference Center from 6:30pm-8:30pm. *****



February 27, 2014

BY EMAIL

Representative Kimberly Williams
Delaware General Assembly
411 Legislative Avenue
Dover, DE 19901

Re: H.B. 90 Task Force

Dear Rep. Williams:

I am writing to provide our view on one of the issues I understand the H.B. 90 Task Force is addressing, whether various questions on different magnet, charter and votech school applications are legally permissible. I understand that the questions asked by different schools in the application process include the following:

Race of a student, whether a student is Hispanic/Latino, student's social security number, photo id, IEP or 504 Plan, citizenship, what languages are spoken in the home, place of birth, place of parent's employment, health problems, parents married, separated, has your child repeated a grade, where does the child live: with both parents, mother, father, grandmother; does your child receive services: including occupational therapy, hearing support, speech therapy, or counseling; does your child take medication, wear glasses or wear a hearing aid; has a parent or guardian worked on a farm, in the fields or in a factory with fruits, vegetables or animals; has the parent or guardian ever worked with watermelons, potatoes, mushrooms, corn, apples, chicken, or shellfish; has your family changed home in the last three years; whether the child needs transportation; whether the child has any area of interest in certain sports; in what ways do you feel that this school will serve your child?

Title 14, Section 506 of the Delaware Code limits the criteria that may be employed in the charter school admission process. Many of these questions seek information that may not be considered during the admissions process, *e.g.*, race, nationality, whether child has a disability, nature of parents' employment; etc. Some of the questions may seek information that a school needs after it has accepted a student, for example to determine the student's educational needs or to supply statistical information required for government reports. However, since decisions about what classes the student should take and related educational decisions should not be made until after the student is admitted, and the statistical reports must be based on enrolled students, rather than the larger group of students

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LEGAL DIRECTOR

who have applied, there is no need to collect that information before students enroll.

The questions probably lead to a disparate effect on groups who are protected by two federal statutes, Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Since there is no need to ask those questions during the admissions process, it is likely that asking them violates both statutes. Title VI prohibits recipients of federal financial assistance from discriminating based on race, color, or national origin, 42 U.S.C §§ 2000d-2000d-7, and Section 504 prohibits recipients of federal financial assistance from discriminating based on disability. 29 U.S.C. § 794. All publicly funded schools, indirectly if not directly, receive federal education funds that the state receives, and therefore are required to comply with Title VI and Section 504. *See* 34 C.F.R. § 100.13(i) and 28 C.F.R. § 41.3(d).

The United States Department of Education regulation implementing the anti-discrimination provision of Title VI prohibits "utilizing criteria or methods of administration which ... have the effect of defeating or substantially impairing accomplishment of the program as respects individuals of a particular race, color, or national origin." 34 C.F.R. § 100.3(b)(2). Thus, if inclusion of the questions on the school application lowers the number of individuals of a particular race, color, or national origin, such as minorities, who are admitted to high performing charter schools, votech schools and desired magnet schools, inclusion of the questions violates Title VI. Likewise, under 28 C.F.R. § 41.51(b)(3)(i), the anti-discrimination provision that implements Section 504, there is a violation if inclusion of the questions has the "effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons." I believe that many of the questions described above, such as the questions about race, languages spoken at home, place of birth, parent's employment history, whether the child receives services, therapy or counseling or has an IEP, whether the child needs transportation, etc., are prohibited under these regulations.

Review of demographic data on charter schools, particularly high performing charter schools shows that the enrollment of minority and special education students in those schools is much lower than the percentage of such students in the public school districts where those schools are located. Likewise, votech and magnet schools that ask inappropriate questions (such as whether a student is under medical care, receives special education services, and who the student lives with) have a much lower rate of minority and special education enrollment than the public school districts where those schools are located.

Since being faced with those questions could dissuade some disadvantaged students, who are more likely to be minorities or to have a disability, from applying, the questions are likely to be a cause of the reduced number of those students attending some charter schools. Of course, since answers to many of the questions would be suggestive of a disadvantaged status, the answers could also be

used by charter school administrators to favor other groups of students. We don't know if that was done, but given the low numbers of disadvantaged students in the high performing charter schools, that possibility cannot be dismissed.

There are a number of questions that appear to seek information about a child's citizenship status. For example, questions ask for the child's social security number and explicitly about citizenship. The United States Supreme Court decision in *Plyler v. Doe*, 457 U.S. 202 (1982), makes clear that a public school may not request proof that a child is a United States citizen before enrolling the child and providing him or her with an education. I don't know why magnet, charter and votech schools ask those questions, but if they have the effect of dissuading non-citizens from applying, or if they are used by administrators to exclude applicants, they violate settled federal law.

My conclusion that many of the questions probably violate Title VI, Section 504 and *Plyler* is not inconsistent with the December 16, 2013 memorandum from a deputy attorney general distributed at the January Task Force meeting. That memorandum appears to be based on a Delaware administrative provision, 14 Del Admin Code 225. I assume the deputy attorney general's statement that she did not find legal requirements that would prohibit the list of questions was based on her analysis of state law. The memorandum recognized the regulations under Title VI and Section 504 that require data collection, but did not consider the federal regulations at 34 C.F.R. § 100.3(b)(2) and 28 C.F.R. § 41.51(b)(3)(i), which prohibit questions that have a disparate effect on protected groups. Nor did the memorandum consider *Plyler v. Doe*. Nothing in the December 16, 2013 memorandum suggests disagreement with my conclusion that the disparate effect regulations and *Plyler* are legal reasons why the questions must be eliminated. Certainly you will want to ask the deputy if she agrees with my understanding of what she focused on, but I think it is clear.

For the foregoing reasons, we urge the Task Force to recommend that charter, votech and magnet schools be prohibited from asking the questions listed in this letter during the admissions process.

Sincerely yours,



Richard H. Morse

cc: Paula A. Fontello, Esq.
Kathleen MacRae

Appendix F

Materials for Task Force Meeting 5

May 22, 2014

Enrollment Preference Task Force
Buena Vista Conference Center – New Castle, Delaware

May 22, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and Introductions
- II Approve minutes from meeting held on March 24, 2014
- III Continue to review application response data
- IV Recommendation discussion
- V Public comment
- VI Next steps
- VII Adjourn

Enrollment Preferences Task Force Minutes: Meeting #5
Thursday, May 22, 2014
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Representative Darryl Scott, Delaware House of Representatives
- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Frederika Jenner, Delaware State Education Association
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Susan Francis, Delaware School Board Association
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Gary Stockbridge, Delaware Business Roundtable
- Mark Pruitt, Magnet School Representative
- Diane Ruth, Charter School Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware

Members Absent:

- Randall Hughes, Delaware State Board of Education
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Lindsay O'Mara, Governor's Office
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Mervin Daugherty, New Castle County Superintendent
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Dr. David Ring Superintendent from Sussex County
- Donald Mell, Charter School Representative
- Julie Rumschlag, Magnet School Representative
- Dr. Terri Hodges, Parent Representative
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Elizabeth Lockman, Parent Representative

Public attendees:

- Donna Johnson, Delaware State Board of Education
 - Kristin Dwyer, DSEA
 - Michael Oboryshko, Community Member
 - Henry Clampitt, Community Member
 - Ron Russo, Community Member
 - Don Bates, Community Member
 - Tony Soligo, Community Member
 - Bill Doolittle, Community Member
 - Donald Gepharett, Community Member
 - Katey Semmel, Community Member
 - Mike Matthews, President of RCEA
 - Kathy Demarest, NCC Vo Tech
-

Meeting was called to order at 6:51 p.m.

1. Introduction

Rep. Kim Williams, co-chair, asked for a motion to approve the minutes from the fourth meeting. The motion is made by Yvonne Johnson, seconded by Catherine Hegedus, and unanimously adopted by the task force. Representative Williams then turned the meeting over to Fran Fletcher of the University of Delaware who would be facilitating the rest of the meeting.

2. Action Items and Task Force Votes

Fran Fletcher instructed the task force to open the document to the section labeled "A: Behavior and Discipline." A vote was taken on item A1- "Ever expelled from a DE school." A motion was made to change "ever" to "currently" and include this question on the common application. 13 members voted yes with 1 no. Item A2 read "Copy of discipline record with incident list." Three votes were taken on this item. The first vote was to include item A2 on the common application. Zero members voted yes with 15 no. The second vote was to allow the option of permitting item A2 on a supplemental application. Zero members voted yes with 14 no. The third vote was to allow item A2 on a supplemental application if the school's mission is aligned with the records being requested. 14 members voted yes with zero no.

Fran Fletcher moved on to the next section labeled "B: Parent/Guardian Input." A vote was taken to include items B1, B2, B3, B4, B5, B6, B7, B8 on the common application. Zero members voted yes while 13 members voted no. Item B1 read "In what ways do you feel the school will serve your child." A vote was taken to include item B1 on a supplemental application. Zero members voted yes with 12 members voting no. A vote was taken to include item B1 on an enrollment form. 4 members voted yes while 5 members voted no. Item B2 read "In what ways are you willing to be actively involved in your child's education." A vote was taken to include item B2 on a supplemental application. Zero members voted yes with 14 members voting no. A vote was taken to include items B3 through B8 on enrollment forms only. 13 members voted yes with zero members voting no. Item B9 read "What would you hope the school can provide for the student?" A vote was taken to include item B9 on enrollment forms only. 13 members voted yes with zero members voting no. Item B10 read "Is there any history of behavior difficulty, either in relationship to family, peers or academic setting? If so, has any evaluation or treatment been completed in relationship to these problems?" A vote was taken to ensure item B10 is included on enrollment forms only. 13 members voted yes with zero members voting no. Item B11 read "[signature required] I, as the parent/guardian, agree to take part in developing & participating in the educational program of my son/daughter throughout his/her school career." A vote was taken to include item B11 on an enrollment form in pursuit to Chapter 5 of the Delaware Code. 13 members voted yes with zero members voting no. Item B12 was omitted due to the similarities with item G7. A vote was taken to include items B13, B14, B15, B16, B17 on an enrollment form only. 13 members voted yes with zero members voting no.

Fran Fletcher moved on to the section labeled "C: Other Pre-Admission Requirements." Item C1 read "Tour with principal." A vote was taken to ensure that Item C1 was not permitted on the common application or a supplemental application. 14 members voted yes with zero members voting no. Item C2 read "Attend an information session." A vote was taken to ensure that item C2 was not permitted on the common application or a supplemental application. 14 members voted yes with zero members voting no. Voting will continue at the June 23, 2014 meeting.

****Note: A digital copy of the document can be found on***

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

4. Public Comment

Don Bates, a retired teacher and administrator from the Smyrna School District, stated that special education students are being denied access to Delaware's vocational schools. These students with learning disabilities should have access to these public schools.

Tony Soligo, a former principal of Smyrna School District, provided the following data: 15% of the student body of New Castle County is considered special education students. New Castle County vo-tech's student body has 12.2% that are considered special education students. Kent County has 15% of students that are considered special education. Polytech's student body has 9.3% that are considered special education students. 12.2% of Sussex County's student population is considered special education students while Sussex Tech's student body has 7.7% that are considered special education students.

Bill Doolittle submitted a letter from the US Department of Education's Office of Civil Rights and asked that the members of the task force take time to read through its contents.

Kristin Dwyer of DSEA thanked the members for serving on the task force and offered a reminder that the legislature has been tasked with defining what constitutes "interest."

Ron Russo thanked the members for their service and wished everyone a nice evening.

5. Next Steps

Next meeting: Monday, June 23rd, 2014 at the Buena Vista Conference Center from 6:30pm-8:30pm.

The meeting adjourned at 9:00 pm.



U.S. Department of Justice
Civil Rights Division

U.S. Department of Education
Office for Civil Rights
Office of the General Counsel



May 8, 2014

Dear Colleague:

Under Federal law, State and local educational agencies (hereinafter “districts”) are required to provide all children with equal access to public education at the elementary and secondary level. Recently, we have become aware of student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students based on their or their parents’ or guardians’ actual or perceived citizenship or immigration status. These practices contravene Federal law. Both the United States Department of Justice and the United States Department of Education (Departments) write to remind you of the Federal obligation to provide equal educational opportunities to all children residing within your district and to offer our assistance in ensuring that you comply with the law. We are writing to update the previous Dear Colleague Letter on this subject that was issued on May 6, 2011, and to respond to inquiries the Departments received about the May 6 Letter. This letter replaces the May 6 Letter.

The Departments enforce numerous statutes that prohibit discrimination, including Titles IV and VI of the Civil Rights Act of 1964. Title IV prohibits discrimination on the basis of race, color, or national origin, among other factors, by public elementary and secondary schools. 42 U.S.C. § 2000c-6. Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Title VI regulations, moreover, prohibit districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. See 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2).

Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public education to any child residing in the State, whether present in the United States legally or otherwise. Denying “innocent children” access to a public education, the Court explained, “imposes a lifetime hardship on a discrete class of children not accountable for their disabling status. . . . By denying these children a basic education, we deny

them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.” *Plyler*, 457 U.S. at 223. As *Plyler* makes clear, the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student’s entitlement to an elementary and secondary public education.

To comply with these Federal civil rights laws, as well as the mandates of the Supreme Court, you must ensure that you do not discriminate on the basis of race, color, or national origin, and that students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents or guardians. Moreover, districts may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin. To assist you in meeting these obligations, we provide below some examples of permissible enrollment practices, as well as examples of the types of information that may not be used as a basis for denying a student entrance to school.

In order to ensure that its educational services are enjoyed only by residents of the district, a district may require students or their parents to provide proof of residency within the district. See, e.g., *Martinez v. Bynum*, 461 U.S. 321, 328 (1983).¹ For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students’ citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district. A district should review the list of documents that can be used to establish residency and ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school.

As with residency requirements, rules vary among States and districts as to what documents students may use to show they fall within State- or district-mandated minimum and maximum age requirements, and jurisdictions typically accept a variety of documents for this purpose. A school district may not bar a student from enrolling in its schools because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.

¹ Homeless children and youth often do not have the documents ordinarily required for school enrollment such as proof of residency or birth certificates. A school selected for a homeless child must immediately enroll the homeless child, even if the child or the child’s parent or guardian is unable to produce the records normally required for enrollment. See 42 U.S.C. § 11432(g)(3)(C)(1).

Moreover, we recognize that districts have Federal obligations, and in some instances State obligations, to report certain data such as the race and ethnicity of their student population. While the Department of Education requires districts to collect and report such information, districts cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of his or her child's enrollment.

Similarly, we are aware that many districts request a student's social security number at enrollment for use as a student identification number. A district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number. See 5 U.S.C. §552a (note).² If a district chooses to request a social security number, it shall inform the individual that the disclosure is voluntary, provide the statutory or other basis upon which it is seeking the number, and explain what uses will be made of it. *Id.* In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.

As the Supreme Court noted in the landmark case of *Brown v. Board of Education*, 347 U.S. 483 (1954), "it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education." *Id.* at 493. Both Departments are committed to vigorously enforcing the Federal civil rights laws outlined above and to providing any technical assistance that may be helpful to you so that all students are afforded equal educational opportunities. As immediate steps, you first may wish to review the documents your district requires for school enrollment to ensure that the requested documents do not have a chilling effect on a student's enrollment in school. Second, in the process of assessing your compliance with the law, you might review State and district level enrollment data. Precipitous drops in the enrollment of any group of students in a district or school may signal that there are barriers to their attendance that you should further investigate.

We are also attaching frequently asked questions and answers and a fact sheet that should be helpful to you. Please contact us if you have additional questions or if we can provide you with assistance in ensuring that your programs comply with Federal law. You may contact the Department of Justice, Civil Rights Division, Educational Opportunities Section, at (877) 292-3804 or education@usdoj.gov, the Department of Education Office for Civil Rights (OCR) at (800) 421-3481 or ocr@ed.gov or the Department of Education Office of the General Counsel at (202) 401-6000. You may also visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the OCR enforcement office that serves

² Federal law provides for certain limited exceptions to this requirement. See Pub. L. No. 93-579, § 7(a)(2).

your area. For general information about equal access to public education, please visit our websites at <http://www.justice.gov/crt/edo> and <http://www2.ed.gov/ocr/index.html>.

We look forward to working with you. Thank you for your attention to this matter and for taking the necessary steps to ensure that no child is denied a public education.

Sincerely,

/s/

Catherine E. Lhamon
Assistant Secretary
Office for Civil Rights
U.S. Department of Education

/s/

Philip H. Rosenfelt
Deputy General Counsel
Delegated the Authority to
Perform the Functions and
Duties of the General Counsel
U.S. Department of Education

/s/

Jocelyn Samuels
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Attachments

U.S. Department of Education

Office for Civil Rights



May 14, 2014

Dear Colleague:

One of the fastest-growing areas of school reform is the creation of public schools through a chartering process. Since first appearing in the early 1990s, many charter schools have provided students with additional meaningful opportunities to receive a high-quality education. In communities throughout the nation, numerous charter schools are developing unique learning environments, spurring innovation, engaging parents and other stakeholders, and improving educational opportunities for students. The U.S. Department of Education (Department) is committed to supporting the establishment of high-quality public charter schools from which all students can benefit.

Because many charter schools are newly created, it is understandable that charter school administrators are interested in information about the applicability of Federal civil rights laws.¹ Parents, teachers, community leaders, and charter school authorizers have also sought guidance as to charter schools' legal obligations under the Federal civil rights laws.

I am writing to remind you that the Federal civil rights laws, regulations, and guidance that apply to charter schools are the same as those that apply to other public schools. For this reason, it is essential that charter school officials and staff be knowledgeable about Federal civil rights laws. These laws extend to all operations of a charter school, including recruiting, admissions, academics, educational services and testing, school climate (including prevention of harassment), disciplinary measures (including suspensions and expulsions), athletics and other nonacademic and extracurricular services and activities, and accessible buildings and technology.

The Department's Office for Civil Rights (OCR) enforces a number of Federal civil rights laws that apply to charter schools, including:

¹ More than one quarter of charter schools have been open three years or less. See National Alliance for Public Charter Schools, *The Public Charter Schools Dashboard Report on Charter School Age*, available at <http://dashboard.publiccharters.org/dashboard/schools/page/age/year/2013>.

- Title VI of the Civil Rights Act of 1964 (Title VI) (prohibiting discrimination based on race, color, or national origin);²
- Title IX of the Education Amendments of 1972 (Title IX) (prohibiting discrimination based on sex);³ and
- Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) (prohibiting discrimination based on disability).⁴

These Federal civil rights laws and the specific legal obligations discussed in this letter apply to all public charter schools in the United States, regardless of whether they receive Federal funds under the Department's Charter Schools Program.⁵ In addition, charter schools that receive funds—either directly or through a State educational agency (SEA)—under a Department grant program, such as the Charter Schools Program, are subject to the additional requirements of each grant program.⁶

This letter does not attempt to summarize the entire body of Federal civil rights laws. Instead, it briefly addresses a few of the subjects that have arisen in the charter schools context: equal opportunity in admissions; provision of a free appropriate public education (FAPE) to students with disabilities; provision of services to English-language learners so that they can participate fully in their school's educational program; and the non-discriminatory administration of discipline. Throughout, this letter also identifies Departmental guidance and resources that are available to charter schools to assist them in complying with the Federal civil rights laws.

The obligations discussed below under the Federal civil rights laws are independent of charter schools' obligations under the Individuals with Disabilities Education Act (IDEA). Working with the Department's Office of Special Education and Rehabilitative Services (OSERS), which is responsible for administering the IDEA, OCR intends to issue joint guidance on the rights of students with disabilities who attend charter schools and their parents.

² 42 U.S.C. § 2000d *et seq.*; 34 C.F.R. Part 100.

³ 20 U.S.C. § 1681 *et seq.*; 34 C.F.R. Part 106.

⁴ 29 U.S.C. § 794; 34 C.F.R. Part 104; 42 U.S.C. § 12131 *et seq.*; 28 C.F.R. Part 35. Pursuant to a delegation by the Attorney General of the United States, OCR shares in the enforcement of Title II in all programs, services, and regulatory activities relating to the operation of, among other types of entities, public elementary and secondary educational programs. 28 C.F.R. § 35.190(b)(2). Title II cannot be construed to establish any lesser standard than the standards established under Section 504 and its implementing regulations. 42 U.S.C. § 12201(a); 28 C.F.R. § 35.103(a).

⁵ 20 U.S.C. § 7221-7225g. Title II applies to all public entities (including public schools) regardless of whether they receive Federal financial assistance. Title VI, Title IX, and Section 504 apply to all education programs or activities that receive Federal financial assistance either directly from the Department or through a local educational agency (LEA), State educational agency, or otherwise. OCR is unaware of any public school, including a charter school, that is not part of a program or activity that receives Federal financial assistance directly or indirectly from the Department.

⁶ For further information on the Charter Schools Program, see <http://www.ed.gov/programs/charter/index.html>.

Nondiscrimination in admissions. Charter schools may not discriminate in admissions on the basis of race, color, national origin, or disability.⁷

Although public charter schools' civil rights obligations are no different from those of other public schools in this regard, the fact that students choose to attend a charter school and are not simply assigned to attend a charter school underscores the need to be mindful of the rights of children and parents in the community when publicizing the school to attract students and when evaluating their applications for admission.

Charter schools must ensure that language-minority parents who are not proficient in English receive meaningful access to the same admissions information and other school-related information provided to English-proficient parents in a manner and form they can understand, such as by providing free interpreter and/or translation services.⁸ Also, communications with parents with disabilities must be as effective as communications with other parents. Appropriate auxiliary aids and services (such as Braille materials or a sign language interpreter) must be made available whenever they are necessary to ensure equally effective communication with parents with hearing, vision, or speech disabilities.⁹

As a general rule, a school's eligibility criteria for admission must be nondiscriminatory on their face and must be applied in a nondiscriminatory manner. In addition, a charter school may not use admissions criteria that have the effect of excluding students on the basis of race, color, or national origin from the school without proper justification.¹⁰ Charter schools also may not categorically deny admission to students on the basis of disability.¹¹

Charter schools located in a school district subject to a desegregation plan (whether the plan is court-ordered, or required by a Federal or State administrative entity) must be operated in a

⁷ 34 C.F.R. §§ 100.3(b)(1) (Title VI), 104.4(b) (Section 504). Generally, Title IX, which prohibits sex discrimination in federally funded education programs and activities, does not apply to admissions. A vocational (or career and technical education) charter school, however, may not discriminate on the basis of sex in its admissions policies or practices. 34 C.F.R. §§ 106.21(a), 106.35. The United States Constitution imposes strict parameters on the creation and operation of single-sex public schools and other uses of sex-based criteria. See *United States v. Virginia*, 518 U.S. 515, 531-33 (1996); Brief for the United States as *Amicus Curiae* Supporting Appellants at 25-26, *Doe v. Vermillion Parish Sch. Bd.*, No. 10-30378 (5th Cir. June 4, 2010), available at http://www.justice.gov/crt/about/app/briefs/vermillion_brief.pdf. Charter schools considering the use of sex-based admissions criteria should consult with legal counsel.

⁸ OCR, *Identification of Discrimination and Denial of Services on the Basis of National Origin*, (May 25, 1970), reprinted in 35 Fed. Reg. 11,595 (July 18, 1970).

⁹ See 34 C.F.R. § 104.4(b) and 28 C.F.R. § 35.160 (effective communication); see also 34 C.F.R. §§ 104.21-104.23 and 28 C.F.R. §§ 35.149-35.152 (program and facility accessibility).

¹⁰ 34 C.F.R. §§ 100.3(b)(2), 100.3(b)(6). See also OCR and Department of Justice, *Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools*, at p. 12 (December 2, 2011) (*Voluntary Use of Race Guidance*), available at <http://www.ed.gov/ocr/docs/guidance-e-se-201111.pdf>.

¹¹ 34 C.F.R. § 104.4(b); and 34 C.F.R. §§ 104.33-104.36.

manner consistent with that desegregation plan.¹² Charter schools may also voluntarily elect to create learning environments that include students of diverse backgrounds. The benefits of such student body diversity are many. Diverse environments help students sharpen their critical thinking and analytical skills; prepare them to succeed in an increasingly diverse and interconnected world; break down stereotypes and reduce bias; and enable schools to fulfill their role in opening doors to students of all backgrounds.¹³

If a charter school wishes to promote racial diversity or avoid racial isolation, it has the flexibility (to the extent permitted by applicable State law) to pursue a variety of approaches in the context of admissions and recruiting, school location, attendance boundaries, transfers, and retention and support programs. As explained in greater depth in the *Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools*,¹⁴ charter schools should consider approaches that do not rely on the race of individual students before adopting approaches that do. Race-neutral approaches can take racial impact into account to promote diversity or avoid racial isolation;¹⁵ examples include targeting specific media outlets in which to advertise, reaching out to particular community groups, or using lotteries that give extra weight based on the socioeconomic status of a child's parents.¹⁶ If a charter school determines that race-neutral approaches would be unworkable or ineffective, it may employ generalized race-based approaches, which use race as an express criterion (such as locating a school based on the overall racial composition of neighborhoods or feeder schools) but do not rely on the race of individual

¹² In some instances, it may also be necessary for a charter school to seek a modification of the school district's desegregation plan or order from the court or administrative entity requiring the desegregation plan.

¹³ *Grutter v. Bollinger*, 539 U.S. 306, 330-31 (2003); see also *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 787-89, 797-98 (2007) (Kennedy, J., concurring).

¹⁴ Available at <http://www.ed.gov/ocr/docs/guidance-ese-201111.pdf>. See also OCR and Department of Justice, *Questions and Answers About Fisher v. University of Texas at Austin* (September 27, 2013), available at <http://www.ed.gov/ocr/docs/dcl-qa-201309.pdf> (affirming validity of *Voluntary Use of Race Guidance*); Department of Education and Department of Justice, *Dear Colleague Letter on Schuette v. Coalition to Defend Affirmative Action* (May 6, 2014), available at <http://www.ed.gov/ocr/letters/colleague-201405-schuette-guidance.pdf> (same).

¹⁵ Racial impact may not, however, be considered in furtherance of an invidious purpose. *Voluntary Use of Race Guidance* at p. 5.

¹⁶ Nonregulatory guidance from the Department identifies circumstances under which a charter school receiving Federal funds under the Charter Schools Program may use weighted lotteries: (1) when necessary to comply with certain Federal civil rights laws, the Equal Protection Clause of the United States Constitution, or applicable State law; (2) to give slightly better chances for admission to students seeking to transfer schools under the public school choice provisions of Title I, part A of the Elementary and Secondary Education Act of 1965 (ESEA); or (3) if permitted by State law, to give slightly better chances for admission to educationally disadvantaged students, including students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, and homeless students. Department of Education, *Charter Schools Program: Title V, Part B of the ESEA: Nonregulatory Guidance* (January 2014) at pp. 18-19 (E-3), available at <http://www2.ed.gov/programs/charter/fy14cspnonregguidance.doc>. That guidance also suggests that charter schools consider conducting additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs. See *id.* at p. 20 (E-4). Note that the nonregulatory guidance only applies to Charter Schools Program recipients and does not otherwise apply to a charter school.

students. If race-neutral and generalized race-based approaches would be unworkable, a charter school may consider an individual student’s race under appropriate factual circumstances.¹⁷

Free appropriate public education for students with disabilities.¹⁸ Under Section 504, every student with a disability enrolled in a public school, including a public charter school, must be provided a free appropriate public education—that is, regular or special education and related aids and services that are designed to meet his or her individual educational needs as adequately as the needs of students without disabilities are met.¹⁹ Evaluation and placement procedures are among the requirements that must be followed if a student needs, or is believed to need, special education or related services due to a disability.²⁰

Charter schools may not ask or require students or parents to waive their right to a free appropriate public education in order to attend the charter school. Additionally, charter schools must provide nonacademic and extracurricular services and activities in such a manner that students with disabilities are given an equal opportunity to participate in these services and activities.²¹ More information will be provided in joint guidance that OCR and OSERS plan to issue on the rights of students with disabilities who attend charter schools.

Affirmative steps for English-language learners. Like all public schools, charter schools must take “affirmative steps” to help English-language learners overcome language barriers so that they can participate meaningfully in their schools’ educational programs.²² A charter school must timely identify language-minority students who have limited proficiency in reading, writing, speaking, or understanding English, and must provide those students with an effective language instruction educational program that also affords meaningful access to the school’s academic content. Federal civil rights laws do not, however, require any school, including a charter school, to adopt or implement any particular educational model or program of instruction for English-language learners; schools have substantial flexibility to determine how they will satisfy their legal obligations to meet these students’ needs.²³

¹⁷ Schools thinking about considering individual student’s race in admissions should carefully review the *Voluntary Use of Race Guidance* for detailed analysis of when such consideration may be lawful and may also wish to consult with legal counsel.

¹⁸ IDEA also has a specific statutory definition of the term free appropriate public education. 20 U.S.C. § 1401(9) and 34 C.F.R. § 300.17. This letter does not address the IDEA definition of free appropriate public education or other related IDEA requirements.

¹⁹ 34 C.F.R. § 104.33(b)(1).

²⁰ 34 C.F.R. § 104.35.

²¹ 34 C.F.R. § 104.37; see also OCR, *Dear Colleague letter on Extracurricular Athletics* (January 25, 2013), available at <http://www.ed.gov/ocr/letters/colleague-201301-504.pdf>.

²² See *Lau v. Nichols*, 414 U.S. 563, 566 (1974).

²³ OCR’s policies governing the treatment of English-language learners are available at <http://www.ed.gov/ocr/ellresources.html>.

Nondiscrimination in discipline. Data collected by OCR have demonstrated significant disparities in the use of exclusionary discipline (such as suspensions or expulsions) against students of color and students with disabilities in many schools across the country, and that an increasing number of students are losing important instructional time due to exclusionary discipline.²⁴ All public schools, including charter schools, are obligated to avoid and redress discrimination in the administration of school discipline on the basis of race, color, or national origin; disability; and sex. This obligation applies over the entire course of the disciplinary process, from behavior management in the classroom, to referral to an authority outside the classroom because of misconduct, to resolution of the discipline incident. The *Guidance on the Nondiscriminatory Administration of School Discipline*²⁵ offers detailed assistance on how to identify, avoid, and remedy discriminatory discipline. The discipline guidance document focuses on racial discrimination, but much of its analytical framework also applies to discrimination on other prohibited grounds.²⁶ In addition, when addressing discipline for students with disabilities, it is important that charter schools comply with applicable legal requirements governing the discipline of a child for misconduct caused by, or related to, the child's disability.²⁷

This is by no means an exhaustive list of the legal requirements that apply to charter schools under these Federal civil rights laws. A full list of OCR's guidance publications is available at <http://www.ed.gov/ocr/publications.html>. OCR can provide technical assistance to help charter school authorizers and charter school operators, administrators, board members, and teachers understand and comply with these civil rights laws and other laws enforced by OCR.²⁸

OCR is also available to provide technical assistance to students, parents/guardians, community-based organizations, and other stakeholders who are interested in learning more about the Federal civil rights of students and parents and the responsibilities of charter schools. The Federal civil rights laws prohibit retaliation and intimidation against those who contact OCR to gather information about their rights or who file a complaint. It is also unlawful for a school to retaliate

²⁴ See OCR and Department of Justice, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline* (January 8, 2014) at pp. 3-4, available at <http://www.ed.gov/ocr/letters/colleague-201401-title-vi.pdf>.

²⁵ *Id.* See also Department of Education guidance package on Student Climate and Discipline, including a Guiding Principles of Reform non-regulatory guidance, a Directory of Federal Resources, and a Compendium of State Laws and Regulations on School Discipline, available at <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>.

²⁶ See *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline*, at pp. 2-3.

²⁷ 34 C.F.R. § 104.35(a). See generally 34 C.F.R. §§ 104.4, 104.32-36.

²⁸ In addition to the statutes discussed in the letter, OCR enforces the Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*; 34 C.F.R. Part 110; and the Boy Scouts of America Equal Access Act of 2001, 20 U.S.C. § 7905; 34 C.F.R. Part 108. The Department of Justice enforces Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c *et seq.*, and the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1703.

against an individual for bringing concerns about possible civil rights problems to a school's attention.²⁹

SEAs and charter school authorizers have an important role in assisting charter schools with civil rights compliance. Every SEA or charter authorizer that receives Federal financial assistance has, as a matter of Federal law, an obligation to ensure that any charter school to which it provides a charter, money (regardless of whether they are Federal or State funds), or other significant assistance, is not discriminating.³⁰ In addition to SEAs and charter school authorizers, States can designate other agencies to take, investigate, and resolve complaints of discrimination by charter schools. Together with OCR, these entities can all provide technical assistance and support for charter schools, parents, and students.

If you have any questions or would like technical assistance on these issues, I encourage you to contact the OCR office in your region. I particularly urge individuals designated to coordinate charter schools' compliance with the civil rights laws to seek OCR's assistance whenever needed.³¹

The list of OCR offices is available at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. You may also contact OCR's Customer Service Team at (800) 421-3481 or ocr@ed.gov.

Thank you for your commitment to improving public education and providing high-quality educational opportunities to our nation's students.

Sincerely,

/s/

Catherine E. Lhamon
Assistant Secretary for Civil Rights

²⁹ 34 C.F.R. § 100.7(e) (Title VI); 34 C.F.R. § 106.71 (Title IX) (incorporating 34 C.F.R. §100.7(e) by reference); 34 C.F.R. § 104.61 (Section 504) (incorporating 34 C.F.R. §100.7(e) by reference); 28 C.F.R. § 35.134 (Title II); *see also* OCR *Dear Colleague Letter on Retaliation*, available at <http://www.ed.gov/ocr/letters/colleague-201304.html>.

³⁰ *See, e.g.*, 34 C.F.R. §§ 100.3(b)(1), 100.3(b)(2), 100.4(b) (Title VI); 34 C.F.R. § 104.4(b)(1)(v) (Section 504); 34 C.F.R. § 106.31(b)(6) (Title IX).

³¹ 34 C.F.R. §§ 106.8(a) (Title IX) (requiring each recipient of Federal financial assistance to designate coordinator); 104.7(a) (Section 504) (each recipient with at least 15 employees); 28 C.F.R. § 35.107(a) (Title II) (each public entity with at least 50 employees, regardless of whether they are a recipient of Federal financial assistance).

Appendix G

Materials for Task Force Meeting 6

June 23, 2014

Enrollment Preference Task Force
Buena Vista Conference Center – New Castle, Delaware

June 23, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and Introductions
- II Approve minutes from meeting held on May 22, 2014
- III Continue to review application response data
- IV Recommendation discussion
- V Public comment
- VI Next steps
- VII Adjourn

Enrollment Preferences Task Force Minutes: Meeting #6
Monday, June 23, 2014
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Secretary Mark Murphy, Delaware Department of Education
- Frederika Jenner, Delaware State Education Association
- Dr. Mervin Daugherty, New Castle County Superintendent
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Mark Pruitt, Magnet School Representative
- Diane Ruth, Charter School Representative
- Dr. Terri Hodges, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware
- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Representative Darryl Scott, Delaware House of Representatives
- Senator David Sokola, Delaware State Senate
- Randall Hughes, Delaware State Board of Education (Donna Johnson attended)
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Susan Francis, Delaware School Board Association
- Lindsay O'Mara, Governor's Office
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. David Ring Superintendent from Sussex County
- Donald Mell, Charter School Representative
- Julie Rumschlag, Magnet School Representative
- Gary Stockbridge, Delaware Business Roundtable
- Elizabeth Lockman, Parent Representative

Public attendees:

- Donna Johnson, Delaware State Board of Education
 - Kristin Dwyer, DSEA
 - Michael Oboryshko, Community Member
 - Henry Clampitt, Community Member
 - Ron Russo, Community Member
 - Bill Doolittle, Community Member
 - Kathy Demarest, NCC Vo-Tech
 - Lynne Howard, Community Member
 - Rayl Avey, Community Member
 - Kendra Brown, Community Member
-

Meeting was called to order at 6:30 p.m.

1. Introduction

Rep. Kim Williams, co-chair, asked for a motion to approve the minutes from the fifth meeting. The motion is made by Yvonne Johnson, seconded by Dr. Gehrt, and unanimously adopted by the task force. Representative Williams then turned the meeting over to Fran Fletcher of the University of Delaware who facilitated the rest of the meeting.

2. Action Items and Task Force Votes

Fran Fletcher instructed the task force to open the document to the section labeled "C: Other Pre-Admission Requirements." Items C3, C4, and C5 concerning student assessment were put on hold for further discussion at the next meeting. Similarly, items C6, C7, C8, and C9 were also put on hold for additional discussion at the next meeting. A vote was taken to include items D1, D2, D3, D4, and D5 on enrollment forms only. The vote was approved with 13 Yes votes, 0 No votes, and 2 not voting. A vote was taken to include item E1 on a supplemental application. The vote was approved with 12 Yes and 2 No votes. A vote was taken to include item E2 on an enrollment form only. The vote failed with 5 Yes and 9 No votes. A second vote was taken to include item E2 on a supplemental application. The vote was approved with 10 Yes and 4 No votes. A vote was taken to include items F1, F2, F3 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. A vote was taken to include item G1 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. A vote was taken to include item G2 on an enrollment form only. The vote was approved with 13 Yes votes, 0 No votes, and 2 not voting. Items G3, G4, and G5 were put on hold for further discussion at the next meeting. A vote was taken to include item G6 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. Item G7 was put on hold for further discussion. A vote was taken to include item G8 on an enrollment form only. The vote failed with 1 Yes vote, 11 No votes, and 3 not voting. Item G8 was then put on hold for further discussion. Item G9 was put on hold for further discussion. A vote was taken to include item G10 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. The motion was made to remove section H from consideration due to it being outside the scope of the task force's mission. The motion was approved with 14 Yes and 0 No votes. A vote was taken to include item I1 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. A vote was taken to include items J1, J2, J3, and J4 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. A vote was taken to include item K1 on an enrollment form only. The vote was approved with 14 Yes and 0 No votes. A vote was taken to include item K2 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. A vote was taken to include item L1 on an enrollment form only. The vote was approved with 15 Yes and 0 No votes. A vote was taken to include items M1, M3, M4, and M6 at registration as required by law. The vote was approved with 15 Yes and 0 No votes. Items M2 and M5 were put on hold for further discussion.

Voting will continue at the next meeting.

****Note: A digital copy of the document can be found on***

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

4. Public Comment- The views and opinions expressed in this section are those of the individual speakers.

Bill Doolittle elaborated on the letter he submitted last meeting from the US Department of Education's Office of Civil Rights. He expressed that, under the definition of disability as defined in the letter, using academic achievement such as admission tests and grades or ability measures of any kind, or behaviors

or discipline or any other item might be impacted by their disability as admission criteria, is discriminatory. He hopes to see the state of Delaware get ahead of the issue and ensure equal access to public education for all children.

Ron Russo discussed the special programming geared to exceptional children in some of Delaware's public schools as outlined in the Delaware Code. He pointed to the Sterks School as a successful example of these programs.

5. Next Steps

Next meeting: To be determined

The meeting adjourned at 9:00 pm.

Appendix H

Materials for Task Force Meeting 7

September 16, 2014

Enrollment Preference Task Force
Buena Vista Conference Center – New Castle, Delaware

September 16th, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and Introductions
- II Approve minutes from meeting held on June 23rd, 2014
- III Continue to review application response data
- IV Recommendation discussion
- V Public comment
- VI Next steps
- VII Adjourn

Enrollment Preferences Task Force Minutes: Meeting #7
Tuesday, September 16, 2014
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Senator David Sokola, Delaware State Senate
- Frederika Jenner, Delaware State Education Association
- Randall Hughes, Delaware State Board of Education
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Dr. Mervin Daugherty, New Castle County Superintendent
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Mark Pruitt, Magnet School Representative
- Henry Clampitt, Charter School Representative
- Dr. Terri Hodges, Parent Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware
- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Representative Darryl Scott, Delaware House of Representatives
- Secretary Mark Murphy, Delaware Department of Education
- Susan Francis, Delaware School Board Association
- Lindsay O'Mara, Governor's Office
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Dr. David Ring Superintendent from Sussex County
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Donald Mell, Charter School Representative
- Julie Rumschlag, Magnet School Representative
- Gary Stockbridge, Delaware Business Roundtable

Public attendees:

- Mary Kate McLaughlin, Delaware Department of Education
 - Mike Matthews, Red Clay
 - Frank Parks, Seaford School Board
 - Bill Doolittle, Community Member
-

Meeting was called to order at 6:40 p.m.

1. Introduction

Rep. Kim Williams, co-chair, made an announcement that Diane Ruth stepped down as a member of the task force and has been replaced by Henry Clampitt. Representative Williams asked for a motion to approve the minutes from the sixth meeting. Following the addition of some clarifying language, the motion to approve the edited minutes is made unanimously adopted by the task force. Representative Williams then turned the meeting over to Fran Fletcher of the University of Delaware who facilitated the rest of the meeting.

2. Action Items and Task Force Votes

Fran Fletcher instructed the task force to open the document to the section labeled "M: Attachments with Application." Items M5 and M8 were put on hold for further discussion with a vote of 15 Yes and 0 No. A vote was taken to include item M9 on an enrollment form only. The motion was approved with 15 Yes and 0 No votes. A vote was taken to put item M10 on hold for further discussion. The motion was approved with 15 Yes and 0 No votes. A vote was taken to put item M11 on hold for further discussion. The motion was approved with 14 Yes and 1 No vote. A vote was taken to put item M12 on hold for further discussion. The motion was approved with 13 Yes and 2 No votes. A vote was taken to put item M13 on hold for further discussion. The motion was approved with 11 Yes and 3 No votes. A vote was taken to include items M14, M15, and M16 on an enrollment form only. The motion was approved with 15 Yes and 0 No votes. Item M17 was put on hold for further discussion with a vote of 15 Yes and 0 No. A vote was taken to include items M18 and M19 on an enrollment form only. The motion was approved with 15 Yes and 0 No votes. Item M20 was previously approved to be included on an enrollment form only by the small groups. A vote was taken to recommend that item M21 not be asked at any time during the application or enrollment process. The motion was approved with 15 Yes and 0 No votes. A vote was taken to include item M22 on an enrollment form only. The motion was approved with 14 Yes, 0 No, and 1 Not Voting. A vote was taken to include item M23 on an enrollment form only. The motion was approved with 14 Yes, 0 No, and 1 Not Voting. A vote was taken to include item M24 on an enrollment form only. The motion was approved with 14 Yes, 0 No, and 1 Not Voting. A vote was taken to include item M25 on an enrollment form only. The motion was approved with 15 Yes, 0 No, and 1 Not Voting.

A vote was taken to include item N1 on a supplemental application. The motion failed with 2 Yes and 14 No votes. Therefore, the task force recommended that item N1 be included on an enrollment form only. A vote was taken to include item N2 on a supplemental application. The motion failed with 3 Yes and 13 No votes. Therefore, the task force recommended that item N2 be included on an enrollment form only. A vote was taken to include item N3 on a supplemental application. The motion failed with 2 Yes and 14 No votes. Therefore, the task force recommended that item N3 be included on an enrollment form only. A vote was taken to include item N4 on a supplemental application. The motion failed with 2 Yes and 14 No votes. Therefore, the task force recommended that item N4 be included on an enrollment form only. A vote was taken to include item N5 on a supplemental application. The motion failed with 2 Yes and 14 No votes. Therefore, the task force recommended that item N5 be included on an enrollment form only. A vote was taken to include item N6 on a supplemental application. The motion failed with 3 Yes and 13 No votes. Therefore, the task force recommended that item N6 be included on an enrollment form only. A vote was taken to include item N7 on a supplemental application. The motion failed with 3 Yes and 13 No votes. Therefore, the task force recommended that item N7 be included on an enrollment form only. A vote was taken to include item N8 on a supplemental application. The motion failed with 2 Yes and 14 No votes. Therefore, the task force recommended that item N8 be included on an enrollment form only. A vote was taken to include item N9 on a supplemental application. The motion failed with 3 Yes and 13 No votes. Therefore, the task force recommended that item N9 be included on an enrollment form only. A vote was taken to include item N10 on a supplemental application. The motion failed with 2 Yes and 14

No votes. Therefore, the task force recommended that item N10 be included on an enrollment form only. A vote was taken to include item N11 on a supplemental application. The motion failed with 0 Yes and 16 No votes. Therefore, the task force recommended that item N11 be included on an enrollment form only. A vote was taken to include item N12 on a supplemental application. The motion failed with 2 Yes and 14 No votes. Therefore, the task force recommended that item N12 be included on an enrollment form only.

Section O ("Academics") deals with items similar to those discussed in Sections A and B; therefore, items O1 through O5 had already been voted on at previous meetings.

Discussion of all items placed on hold will occur at the next meeting.

****Note: A digital copy of the document can be found on***

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

4. Public Comment- The views and opinions expressed in this section are those of the individual speakers.

Frank Parks from the Seaford School Board distributed a handout and spoke of the demographics across the school districts in Sussex County, specifically the discrepancies of low income, minority, special education, and English Language Learner students across public schools and choice schools. Mr. Parks said school choice has been competition for high achieving students and an increase in segregation across the state. As a result, students are more segregated now than 30 years ago. Mr. Parks posed a few questions that he asked the task force to think about: Are choice schools doing a better job than the traditional district or are they doing an easier job? Is the application process the problem or is the application itself causing segregation? In reference to the lottery, should a child's future be determined by the luck of the draw? Does a minority student in poverty want to attend a predominantly white, higher income school? Does a higher income white student want to attend a predominantly low income, minority school? Is segregation by choice still segregation? How do we fix it?

Bill Doolittle expressed that any attempt to measure ability in an application process discriminates against students with disabilities. If application questions lead to a discovery of a disability, then there is a greater chance of discrimination taking place. Charter, Magnet, and Vo-Tech schools need to provide inclusive opportunities for every student. While a lottery tends to be the fairest way to allow access, the schools that have an oversubscription should be expanded to eliminate the need for a lottery.

5. Next Steps

Next meeting: To be determined

The meeting adjourned at 8:20 pm.

Appendix I

Materials for Task Force Meeting 8

October 28, 2014

Enrollment Preference Task Force
Baltz Elementary School – Wilmington, Delaware

October 28, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and introductions
- II Approve minutes from meeting held on September 16, 2014
- III Discussion on parking lot items
- IV Public comment
- V Next steps
- VI Adjourn

Enrollment Preferences Task Force Minutes: Meeting #8
Tuesday, October 28, 2014
6:30 pm- Baltz Elementary School

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Senator David Sokola, Delaware State Senate
- Frederika Jenner, Delaware State Education Association
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Dr. Mervin Daugherty, New Castle County Superintendent
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Mark Pruitt, Magnet School Representative
- Julie Rumschlag, Magnet School Representative
- Henry Clampitt, Charter School Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware
- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Representative Darryl Scott, Delaware House of Representatives
- Secretary Mark Murphy, Delaware Department of Education
- Randall Hughes, Delaware State Board of Education
- Susan Francis, Delaware School Board Association
- Lindsay O'Mara, Governor's Office
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Dr. David Ring Superintendent from Sussex County
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Donald Mell, Charter School Representative
- Dr. Terri Hodges, Parent Representative
- Gary Stockbridge, Delaware Business Roundtable

Public attendees:

- John Lynch, New Castle County Vo-Tech
- Kathy Demarest, New Castle County Vo-Tech
- Greg Meese, Newark Charter School
- Ron Russo, Community Member
- Kathleen McRae, ACLU Delaware
- Kendall Massett, Delaware Charter School Network
- Mike Matthews, Red Clay
- Bill Doolittle, Community Member
- Linda Jennings, MOT
- Brian Glary, MOT
- Sam Paoli, Charter School
- Maura Duke, Newark Charter School
- Stephanie Prendergast, Newark Charter School

- Charles McDowell, Red Clay
 - Elvira Berry, Reach Academy
 - Jen Nagourney, Delaware Department of Education
 - Amanda Gonye, Red Clay
 - Joane Schlosky, Christina
 - Joanne Johansen, Red Clay
-

Meeting was called to order at 6:40 p.m.

1. Introduction

Representative Williams asked for a motion to approve the previous meeting's minutes. The motion was made by Catherine Hegedus, seconded by Frederika Jenner, and unanimously adopted by the task force.

Representative Williams spoke about Delaware's charter school law, Senate Bill 200, which passed the General Assembly in 1995. Representative Williams read testimony regarding the concern expressed by some members of the Delaware Senate that charter schools may not provide an equal opportunity for every Delaware student.

Senator Sokola commented that, as a member of the Delaware Senate at the time, based on the testimony from charter school proponents, the intent of the legislation was to give all students an opportunity to attend. With regards to Charter School of Wilmington, Senator Sokola reflected that for the first three years, every student that applied was accepted because the school was not over-subscribed. Once the school began testing for possible admission on the same morning as some of the other area schools, Senator Sokola recalls having multiple meetings with school officials about the intent of the legislation versus the interpretation currently being practiced by the school, without coming to an agreement. Senator Sokola concluded by saying that his message to schools officials was to try and find ways to expand the opportunity so all interested students could partake, but some officials were not interested.

Henry Clampitt said that in the testimony, the school being referred to was called Academy of Math and Science, not the current Charter School of Wilmington.

Senator David Sokola responded that the concern expressed in the testimony was in regards to these schools becoming elitist schools that would not provide an equal opportunity for every Delaware student.

Representative Williams discussed the Delaware Code as it concerns vo-tech and magnet schools. Chapters 2 and 10 deal with vo-tech schools while magnet schools are only mentioned in passing in Chapter 10 without defining them. Representative Williams said she reached out to the National Conference of State Legislatures to provide information regarding vo-tech and magnet schools across other states. Information regarding magnet schools was submitted by Magnet Schools for America and National Alliance for Public Charter Schools. Magnet Schools of America defined magnet schools as free public schools of choice operated by a school district that have a focused theme. Most magnet schools do not have entrance criteria, but the belief that all students have interests and talents. Magnet schools often use a computer based lottery for admissions while some gifted and talented programs require a form of student assessment and/or teacher recommendation. Many magnet schools focus on admitting a student body reflective of the surrounding community.

Mark Pruitt discussed magnet schools across the country where 1/3 admit students based on random lottery, 1/3 admit students using criteria specific to that school, and 1/3 admit students using separate demographic groupings while conducting a lottery. Mr. Pruitt followed that by saying the magnet schools

in Red Clay have a responsibility to mirror the demographics of the district and have a plan to increase participation in the application process.

Representative Williams turned the meeting over to Fran Fletcher who would facilitate the rest of the meeting.

2. Discussion

Fran Fletcher began the discussion of assessment as it pertains to the items that had been placed on the “parking lot” at previous meetings. A list of these items was distributed to the members of the task force. Ms. Fletcher explained the process for the evening’s discussion. Each member will have 3 minutes to speak on assessment. Following that round of discussion, each member will have 1 minute to follow up on what had been said.

Senator David Sokola began the discussion by saying, in some instances, assessments do not successfully gauge a student’s interest or ability to succeed. However, with an issue as broad as assessments, it would be difficult to try and perfect the system without unintended consequences.

Dr. Vicki Gehrt said any assessment should be in line with the mission and purpose of the specific school, whether it is a vo-tech, magnet, charter, or other choice school. Dr. Gehrt elaborated by saying that a cookie cutter approach would do a disservice to students.

Julie Rumschlag said she believed there is a place for assessments in education policy. As the dean of Cab Calloway, Ms. Rumschlag said the school’s assessments are directly in line with its mission.

Dr. Deborah Zych, as the representative from Polytech, said the district believed assessment was appropriate in terms of placement testing after admission has been granted to a student. That type of placement testing aids the district in successfully placing students in the proper courses.

Chuck Taylor said that the parent’s choice to find the best fit for their child is vital to the success of Delaware’s schools and must not be hindered. It is up to the parent to match the mission of a school or program to their child’s needs and interests. Mr. Taylor concluded that no one should be taking that choice and opportunity away from the parent.

Elizabeth Lockman expressed concerns that some parents experience a barrier around assessments while trying to choose their child. Ms. Lockman followed up by saying that it is important to ensure an equitable system that is functioning in a way that can manage the diverse populations attempting to utilize it.

Mark Pruitt continued the discussion by saying the different missions and programming that exists across vo-tech, magnet, and charter schools make it difficult to come up with a solution surrounding assessments.

Terri Hancharick expressed concerns that, when looking at assessments, students with disabilities will be left behind. Ms. Hancharick said that often students are assessed on attendance, grades, and discipline, and many students with disabilities would not make it. These students need the same opportunities and putting up additional barriers would limit their inclusion.

Yvonne Johnson said she was concerned that a “one size fits all” approach would be detrimental to student growth. Although some aspects of assessments are flawed and limiting, assessments, outside of testing, that gauge a student’s interest are beneficial to the success of the student.

Henry Clampitt discussed his support for assessments. School leaders should be mindful about student’s life circumstances that could potentially create barriers, so an outreach program is vital to offset that. Mr.

Clampitt explained the Charter School of Wilmington's admissions process. The school received 900 applicants with only about 230 available slots. The school offers high level coursework in math and science that is not found elsewhere in the state. The application rubric looks at math and science foundation and interest at an 8th grade level; it includes a TerraNova test in reading, another TerraNova in math, middle school math and science grades and participation in extracurricular math and science activities. Some students, possibly due to a bad day or other life experiences, do not make it to the specific interest preference through the rubric, so CSW has a backstop—the interview. 400 applicants make the preference through the rubric and the remaining 500 students are offered the opportunity to interview, which is an additional opportunity to gauge the interest of the applicant. Typically, 200 interviews are requested and 100 of them earn the preference in addition to the 400 from the rubric. Still, only around 230 spots are available. Mr. Clampitt concluded by saying that assessment is a fair way to allocate a scarce resource, and, therefore, these resources should be expanded to accommodate the demand. He further suggested that access is limited by the enrollment cap and one way to expand access would be to raise the enrollment ceiling for the school.

Frederika Jenner questioned the intent and unintended consequences of assessments and whether or not it would necessarily be a bad thing if a student was enrolled in a school that did not directly match their skill set. Ms. Jenner added that it is a parent's obligation to match their child to the mission of the school. She concluded by questioning how an interest should be judged and doesn't a student show interest simply by applying to that particular school or program?

Catherine Hegedus believes assessments give power to the school rather than the parent or child trying to choose into the school. Interest should not be measure by a test, essay, or grades, but be measured by the simple fact that the student applied.

Representative Kim Williams discussed her belief that any assessment that occurs should take place after a student is admitted. She followed up by saying that when a student applies to a school, that shows an interest in the program.

Senator Nicole Poore said that the assessment practiced by the Charter School of Wilmington mirrors the practices of a private school. Every child, particularly those with special needs, deserves equal access to all of Delaware's public schools. However, there is not a one-size fits all.

Fran Fletcher began the 1 minute round of discussion.

Dr. Viki Gehrt reiterated that education policy needs to honor the uniqueness and mission of every school and program.

Julie Rumschlag agreed that all students deserve access and pointed out that Cab Calloway has a strong outreach program to schools and communities that may not be aware of what Cab Calloway has to offer. This program increases opportunity for all students.

Dr. Deborah Zych expressed the difficulty she would have casting an all-encompassing vote on assessments.

Chuck Taylor expressed the key to the success of a school and their students is the involvement of the parents and that parental choice must not be taken away.

Elizabeth Lockman said that there is work to be done in order to make a system of assessments that is equitable and accessible.

Mark Pruitt reiterated the need for vo-tech, magnet, and charter schools to consistently strive to improve the processes for which students are enrolled.

Terri Hancharick reiterated that all students deserve to be exposed to the programming offered in all public schools. Assessments prevent that from occurring.

Yvonne Johnson said that it would be unfair to punish those with access because others may not have access.

Henry Clampitt reiterated his belief in assessment, and that the Charter School of Wilmington does significant outreach to ensure accessibility. The state should expand the schools that are in high demand.

Frederika Jenner said that a parent would not deliberately mismatch their child's ability and skills and enroll them in a school that was not a good fit for them.

Catherine Hegedus reiterated her belief that public schools should not select their students as private schools do. It is the job of a public school to educate any student that is enrolled, and that once a parent expresses interest in a choice school by applying, their child should be on the same playing field as any other applicant.

Representative Kim Williams expressed concerns that assessments can hinder diversity in schools, and could pose a barrier for parents who may have a difficult time navigating the system due to income level, education level, or other life circumstances.

Senator Nicole Poore said that because some choice schools use assessments in specific ways, traditional public schools suffer due to the lack of accessibility for all students.

Discussion will continue at the next meeting.

****Note: Digital copies of all the document pertaining to the task force can be found on <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>***

4. Public Comment- The views and opinions expressed in this section are those of the individual speakers.

Greg Meese from the Newark Charter School said that the school has no assessment in place, but believes that the sibling and distance preferences be left intact.

Mike Matthews said that the task force should be mindful of the challenges of the students in traditional public schools and that the effort to label students enrolled in the "priority schools" should be stopped.

Bill Doolittle said that measuring student ability is a gray area and the burden of enrollment should be on the school not the student.

Ron Russo said that the demand of charter schools in Delaware is proof that these schools do a good job. The solution to the problem of access is to reduce demand.

5. Next Steps

Next meeting: To be determined

The meeting adjourned at 8:29 pm.

1 SENATE SUBSTITUTE No. 1 FOR SENATE BILL No. 200
2 SENATE DEBATE
3 TRANSCRIPTION (74-86)
4
5

6 SENATOR MARSHALL: Yes Madam President may I have Bill Manning take
7 the floor please?

8 MADAM PRESIDENT: Sir would you please take the podium and state your
9 name and the position you hold.

10 MR. MANNING: My name is Bill Manning and I am the President of the Board
11 of the Red Clay Consolidated School District.

12 SENATOR MARSHALL: Mr. Manning, it's been suggested and I know that I
13 attended about a week ago, two weeks ago, a press conference where the Governor
14 introduced the idea of charter schools, along with Senator Sokola and members of the
15 business community. And that press conference was held at Wilmington High School.

16 MR. MANNING: I was there.

17 SENATOR MARSHALL: Understanding that the harshest critics of charter
18 schools around the nation where they've been in place and operating, is the issue of the
19 schools skimming off the top and creating an elitist academy with public money.

20 My concern is looking at the focus of the charter schools by attracting the best at
21 times for a specific educational discipline offered by that charter school; and the concern
22 of recruitment.

23 I looked at children throughout New Castle County in moderate low income
24 neighborhoods, I looked at the City, the west side, the east side, hilltop, I need to
25 understand how your board and how you will guarantee fairness and equal access to
26 every student from every unit.

1 MR. MANNING: Thank you Senator. Let me approach that question two
2 different ways because I hear the creaming argument over and over again with respect to
3 schools of choice.

4 One thing that particularly bothers me about that argument is that whoever is
5 making the argument, whether you're a member of the State PTA or whether you're a
6 Superintendent from a school district 100 miles away from a district that wants to try a
7 charter, that person is basically saying I know better than the parents of that child where
8 that child ought to attend. But that's an argument that I've never really understood, and
9 it's always been a little offensive to me.

10 You also hear the suggestion that for some reason children whose parents are
11 college educated and have jobs that pay more will somehow get the better end of the deal.
12 Which suggests that children of parents who for some reason don't have a college
13 education somehow aren't able to cope in this system and aren't able to make good
14 choices for their children. I don't believe that. And in Red Clay the experience is just the
15 opposite.

16 In Red Clay we've had schools of choice for the last three or four years. And no
17 school of choice has ever been populated on any basis other than a percentage, which
18 mirrors the District in virtually every respect. Socioeconomically, racially, schools of
19 choice mirror their community.

20 But let me get more specific about this particular school that has been proposed
21 for Wilmington High. I can tell you that the proponents and the participants in that
22 charter consortium every one of them have come to the table saying, Governor one thing
23 I want to make sure is that this is a school that provides an opportunity to every child in
24 this district, every child in this area and I want to make sure that this school is not marked

1 as an elitist school. Not a school that you can only get into if you do well in science and
2 math in grades one through eight.

3 So what can we do to make sure that doesn't happen? Well the first thing you
4 want to do is to make sure that you promote the school in the entire community. I can tell
5 you that that has worked successfully in some of our choice programs already and that
6 the intention of this charter group is to do just that with a very elaborate solicitation and
7 marketing program.

8 You might also want to make sure that children who might not have done very
9 well in math and science up to the point of ninth grade, nevertheless, have an opportunity
10 to benefit by this school, which will be excellent in math and science.

11 Well that suggests that you need some catch up. That you need to take those
12 children who have an interest in attending that school, perhaps have an affinity for those
13 subjects but just haven't done well at them up until that point and give them the extra
14 boost that they need in order to be prepared for ninth grade at this school, which is going
15 to be a rigorous academic year.

16 And for that reason there is an organization called D.A.R.E. and it is an
17 organization that is dedicated to the promotion of engineering sciences through the study
18 of engineering and sciences among the minority population. It runs a very successful
19 program in Red Clay now and that organization has agreed to run a summer program for
20 children who need some remediation before that ninth year begins.

21 This will be a school which not only caters to those children who have already
22 displayed excellence in math and science and takes them one step farther; it will also be a
23 school that reaches out to those kids who think they want to succeed in that area and it
24 says for you we have a special summer remediation program that you probably can't get

1 elsewhere. That's going to be part of this program. I say it's going to be part of this
2 program, although I really ought to say as a member of the school board, that we're going
3 to wait and see the application.

4 There are some things that I probably can't tell you about the admissions process
5 and the application process. But I do know what's in the minds of the consortium that
6 has come together and agreed to sponsor this school. And I can tell you that that's upper
7 most in their thinking.

8 One other feature about this school, but I think it will apply to other charter
9 schools as well, is this school made sure that it had a place for everyone. I believe that
10 we will, as time goes by, read in the newspaper every June that graduates of this school
11 have also graduated from the best medical schools in the Country, the best engineering
12 schools in the Country and are headed for PhDs and professional pursuits.

13 We're also going to see for example the Medical Center benefit by an infusion of
14 workers who come right from high school, who choose not to go to college, and who
15 need a preparation in the business that the Medical Center attends to, which is healthcare.
16 That's going to be available at this school. The Medical Center is a very important
17 participant.

18 This is a school designed to take kids who want to go to higher education and
19 perhaps graduate school and is also designed to provide kids who want to go right to
20 work after school with better preparation, more job specific preparation than they'll
21 probably get in their regular high school.

22 So for all those reasons it is not fair and it is certainly not accurate to say about
23 this school that it will be an elites' school in the sense that you meant. However, I think
24 it will be an elites' school in another sense.

1 The children who will come from all over that District and will come indeed from
2 all over the County I hope, will achieve at a level perhaps not equaled at any other school
3 in that area. And in that sense, it will be elite.

4 There will be a rigorous academic program, well resourced and the children will
5 come to this school for that reason. I believe when kids come to a school for a particular
6 reason they are more likely to succeed. I hope I've answered your question.

7 MADAM PRESIDENT: Senator Marshall.

8 SENATOR MARSHALL: Madam President. Mr. Manning you did, but I'd
9 follow up with one other question. How do we guarantee the parents who have the high
10 level of concern that a charter school is really towards a private public school? And if
11 you look at the executives and the managers involved in the private sector, their
12 background is college and maybe more than one degree.

13 They encourage their employees and their family to seek out college and yet in
14 order to get that fair balance in the student population, you can't have that attitude prevail
15 at the management level of the school. And here we're handing it over to the private
16 sector and saying you're going to handle recruitment and set up standards. I mean how
17 do we overcome that the poor kid from the Eastside or the Westside of Wilmington will
18 not be given a fair opportunity?

19 MR. MANNING: You do a couple of things. First I should say that those
20 managers that you're talking about employ people; they hire people. They know what
21 skills people need in order to succeed in this marketplace particularly those kids who
22 haven't gone onto college.

23 I think we shouldn't ever assume that any rising ninth grader is not going to go to
24 college. That should be a level of achievement or a goal perhaps for every ninth grader in

1 this State. There will be some however who don't. And the charge of this school, and I
2 would say any high school has the same responsibility, is to make sure that those who
3 don't go on can nevertheless have a set of skills that they can market immediately.

4 I can't think of a school in New Castle County, say perhaps for the Vo-Tech
5 Schools that will do a better job than the school that is imagined for the Academy of
6 Math and Science.

7 I mentioned the Medical Center. The Medical Center wants to make sure that it
8 has a stock of future technicians out there. Those will be children who by large don't
9 have college degrees, but they need skills. And the skills that the Medical Center wants
10 to acquaint these children with won't be skills that you pick up in our high schools right
11 now.

12 The final answer to your question is, you make sure that each one of those kids
13 who lives in the areas that you described has a guidance counselor in eighth grade that is
14 looking out for them and says this is a school for this kid and has the opportunity to get
15 that child in that school.

16 Make sure that each parent of such a child has a video tape in their hands showing
17 them in their own living room the benefits of this school and you make sure you hear
18 from those parents. And there will be an effort to do that.

19 SENATOR MARSHALL: Madam President just one final comment. I think
20 what you have conveyed is that the schools will not be exclusively a college prep
21 institution but a welcome to all students who may just plan to complete twelfth grade and
22 move on to the workplace.

23 MR. MANNING: That's one of the fundamental precepts of this experiment.

24 MADAM PRESIDENT: Senator Sharp.

1 SENATOR SHARP: Thank you Madam President. Welcome Mr. Manning.

2 MR. MANNING: Thank you Senator.

3 SENATOR SHARP: Mr. Manning under the charter school concept that you
4 folks are planning for Wilmington High School, what happens to those kids who are now
5 attending Wilmington High School who live out in my area where you've extended the
6 feeder pattern and brought kids all the way out from Kirkwood Highway into Wilmington
7 High School? What happens to them? Where would they go to school?

8 MR. MANNING: Those who are currently attending Wilmington High will
9 continue to attend Wilmington High. You're talking about the upper classman who are
10 there now?

11 SENATOR SHARP: I'm talking about the kids that are in that feeder pattern
12 whether they're in the school today or scheduled to go there in September.

13 MR. MANNING: If they are in the feeder pattern but aren't in the school, they'll
14 have the same choice that everyone else has in the District; the choice to go to any one of
15 our four schools. That's the group that is ninth grade and below; the rising ninth graders
16 and below.

17 If you are in the school now...

18 SENATOR SHARP: Excuse me for a minute that only applies up to the certain
19 racial quotas?

20 MR. MANNING: No, no.

21 SENATOR SHARP: You can't have a racially identifiable school can you under
22 the court order?

1 MR. MANNING: We haven't had a racially identifiable school that is a choice
2 school yet. So there is no reason to limit what the computer does when it sorts out the
3 applications for a choice school.

4 SENATOR SHARP: Choice is a relatively new project that you've tried; I think
5 this is the first year for it, is it not?

6 MR. MANNING: We have schools of choice that are now going into their third
7 or fourth year; I can't remember which, at Wilmington High School for example...

8 SENATOR SHARP: Yeah but that's a little different concept than what you're
9 talking about.

10 MR. MANNING: Last year for the first year...this will be the second year
11 coming up where children can choose their schools from all over the district. Now last
12 year...

13 SENATOR SHARP: Aren't they still governed though by this court order?

14 MR. MANNING: Yes sir they are. Last year we had an experience with that.

15 SENATOR SHARP: Then my question again would be, for the kids who live in
16 my district, my neighborhood, who are now forced to go into Wilmington High School,
17 can't go across the street to Dickinson because of the court order and because of your
18 feeder pattern. When and if Wilmington High School becomes a charter school, where
19 will those kids go to school if there's not room in that charter school?

20 MR. MANNING: If the court order isn't lifted then those children will have
21 to...the choices will continue...they won't have choices, they'll have to go to
22 Wilmington High School if the Federal Judge says so. We're obviously working to
23 correct that and I think we will be successful.

1 SENATOR SHARP: Excuse me let me back up just a minute then. How can it
2 be a charter school if the kids have to go there, which they do now?

3 MR. MANNING: I'm sorry I should have said this in the beginning. The charter
4 school that we're talking about will only be a portion of what goes on in that building.
5 Just as is the case right now there are several schools within that school. The charter
6 school that the DuPont Company, Bell Atlantic, Zeneca, The Medical Center, and I'm
7 sure I'm leaving somebody else out, which I apologize; that applies only to the new
8 Academy of Math and Science; which is only a portion of what's going on at Wilmington
9 High.

10 SENATOR SHARP: How many students?

11 MR. MANNING: It hasn't opened yet.

12 SENATOR SHARP: Well I mean how many openings? You've only got "x"
13 number of seats in the school. How many students will be in the charter school?

14 MR. MANNING: It's designed to have entering classes of up to 200 children.

15 SENATOR SHARP: So you'll have a freshman class, 9th grade I guess of 200?

16 MR. MANNING: Yes. That's the max.

17 SENATOR SHARP: And how many freshmen do you normally have in the
18 school?

19 MR. MANNING: I'm going to say entering classes have been somewhere in the
20 neighborhood of 200 children in that school. But that's an average and I'd rather you
21 didn't hold me to that because I don't know the specific number.

22 SENATOR SHARP: Okay but you said that 200 of the freshman class would be
23 in the charter school but you're also telling me that that's a total of the freshman class.
24 So you have a student body of 800?

1 MR. MANNING: The charter school if it takes as many children as it hopes to
2 take, 200 children per grade, would have 800. The school itself, the building, has a
3 capacity, and please don't hold me to this but if I'm in the right neighborhood of roughly
4 1,600. And that makes room for the other educational programs that are going on in that
5 building, for example the Calloway School has 300 kids.

6 SENATOR SHARP: You've confused me a little bit.

7 MR. MANNING: I'm sorry.

8 SENATOR SHARP: You say you have a capacity in the building for 1,600
9 students?

10 MR. MANNING: Roughly yes.

11 SENATOR SHARP: Okay I won't hold you to that; 1,550, 1,650, somewhere in
12 that neighborhood. We'll use 1,600 for round figures.

13 MR. MANNING: Thank you.

14 SENATOR SHARP: And you only have 800 in the school?

15 MR. MANNING: In the Academy of Math and Science. There will be other
16 schools...

17 SENATOR SHARP: No at the present time there are 800 students attending that
18 school.

19 MR. MANNING: Oh roughly.

20 SENATOR SHARP: Okay. Where are you going to get all of these students?
21 I'm having a hard time and I'm looking at this purely from an appropriable point of view;
22 my District, my neighborhood, my kids, who are now forced to go to Wilmington High
23 School.

1 MR. MANNING: They are forced to go to Wilmington High School because of
2 an order that was entered in 1978 which hopefully will be lifted. I can't, as much as I'd
3 like to, I can't do anything about that.

4 SENATOR SHARP: I understand.

5 MR. MANNING: We will provide a school for those children, a full blown
6 traditional high school for those children, to the extent the court order continues to
7 require those children to go to Wilmington High. And there is room to do that.

8 SENATOR SHARP: So even with all this the kids in my neighborhood who
9 would like to go back to Dickinson, which is a half a mile up the road or closer for most
10 of them, would still not be able to go to Dickinson. Keeping in mind the court order, we
11 don't know what's going to happen with that. So they're still going to have to go to
12 Wilmington High School. Now we're going to throw the charter school in there. Those
13 kids may not be eligible to be charter school students.

14 MR. MANNING: Every child is eligible to be a charter school student. There are
15 no admission...

16 SENATOR SHARP: Well there's some criteria isn't there?

17 MR. MANNING: No. The decision has been made not to impose admissions
18 criteria on this school.

19 SENATOR SHARP: You just got done saying with math and science.

20 MR. MANNING: That's correct.

21 SENATOR SHARP: Not every child is suited or able to do well with a math and
22 science curriculum.

23 MR. MANNING: But there is no rule imposed by the District that says you can
24 come and you can't. That's a decision...

1 SENATOR SHARP: But they're going to be eliminated purely by their academic
2 ability.

3 MR. MANNING: No.

4 SENATOR SHARP: Well if you're not proficient in math and science, how are
5 you going to take that in a charter school?

6 MR. MANNING: If you're not proficient in math and science than presumably
7 you wouldn't seek admission to this school.

8 SENATOR SHARP: Well then you're running me around a circle Mr. Manning;
9 I'm starting to get a headache.

10 MR. MANNING: I'm sorry.

11 SENATOR SHARP: I'm talking about the kids in my neighborhood who have to
12 go in there. You said they could go into charter school. I'm saying maybe they are not
13 proficient. You said well they wouldn't have to go to that school. Then where in the hell
14 are these kids going to school?

15 MR. MANNING: To the extent that there are children who will remain forced
16 under a court order to go to Wilmington High School, they will have the option of
17 attending the Academy of Math and Science or the current traditional program that is
18 there right now. And those two programs will be run side by side for as long as the
19 Federal Court requires the attendance of certain kids at that school. Does that answer
20 your question?

21 SENATOR SHARP: No. But I'm not going to continue this conversation. But I
22 can tell you this I think what we're talking about here and what this Legislation does will
23 be extremely unfair to the kids that I represent.

1 MR. MANNING: The children that you represent have made choices this spring
2 for what school they want to attend. They have the option of attending any of the four
3 schools in the district and those choices will be honored unless the Federal Court says
4 you have to make them go to Wilmington High.

5 SENATOR SHARP: Mr. Manning do you remember last year when the kids
6 made those choices...

7 MR. MANNING: Yes sir.

8 SENATOR SHARP: ...and you guys pulled the plug on them a week before
9 school started?

10 MR. MANNING: Yes sir. And this year we have made sure that every child
11 sending in the application and telling us what their choices are, and that's every kid in the
12 District including yours; we have made sure that every one in the District knows that this
13 plan, which has nothing to do with a charter school, this plan may yet be foiled by the
14 continued presence of that court order. But we're trying as hard as we can to get that
15 lifted.

16 MADAM PRESIDENT: Senator Marshall.

17 SENATOR MARSHALL: Madam President I move to excuse the witness.

18 MADAM PRESIDENT: Senator Venables you have a question for the witness?

19 SENATOR VENABLES: Yes Madam President. Mr. Manning you've been in
20 the chamber I think most of the afternoon. You've probably heard most of the statements
21 concerning pilot programs. You've heard that probably we need to go a little slower in
22 this.

23

Correspondence from Josh Cunningham (Education Policy Specialist), National Conference of State Legislatures, May 13, 2014

Hi Rep. Williams,

Again, I apologize for the delayed response to your question about enrollment preferences. I've provided information below on charter schools. I am still working on gathering information on magnet and votech schools. I will try and get that to you later today. There is quite a bit of variation in how states approach admission preferences in charter schools. Below I've listed some common enrollment preferences used in other states, although no state uses all of these nor do all states use any one preference. I will note that in some cases charter schools are required to use these preferences and others it is optional but usually has to be written into the individual school's charter contract – in other words charter schools can't just change the preferences they use from year-to-year.

Common Preferences:

- Students attending the charter school the previous year
- In the case of a conversion charter school, students enrolled in the school prior to conversion
- Siblings of students already enrolled
- Children of faculty, administrators, charter school board member and/or school founders – sometimes this type of student can only represent a defined percentage of the total school population
- Students living within some sort of defined geographic boundary
- Students identified as “traditionally underserved” or “at-risk” – this is typically enforced by requiring that a charter school's student body reflect a certain percentage of the number of underserved students within the local school district – ex: Mississippi requires charter school enrollment of underserved students at all ages to reflect at least 80% of the local district's similar student demographic. This type of preference is largely the result of federal anti-segregation requirements imposed on certain states under the Civil Rights Act.
- At a workplace-type charter school, children of employees at the business associated with the workplace charter school – only select states allow this type of charter school
- Students who meet a charter school's admission requirements, so long as those admission requirements are written into the schools' charter contract. This is meant to apply to schools that specialize in certain skills or have a specific focus. Examples

include requiring auditions in schools that focus on performing arts or requiring foreign language proficiency in schools using language immersion

- For charter schools located on a military base, children of active duty military personnel stationed at the base or living in the military housing
- Students previously attending another charter school in the district that has an articulation agreement with the enrolling charter school – this mostly applies to students who are moving to a higher level school such as transitioning from elementary school to middle school

I've put together some basic questions that legislators may want to ask when developing a policy around preferences:

- Will charter schools have the flexibility to pick and choose enrollment preferences that best meet the needs of their school or will all charter schools statewide be required to use the same preferences?
- If enrollment preferences are standard for all charter schools, are there any schools serving unique student populations that will be affected?
- If a uniform application is used, will all charter schools have to use the application or will they have the option to opt out?
- Will enrollment in a charter school be open to any student across the state? If so, is there a preference for those living in close proximity to the school?
- Will siblings of students already enrolled in a charter school be given a preference?
- Will children of a charter school's staff and/or leadership be given a preference?
- Will traditionally underserved students be given a preference? If so, which students (ethnic minorities, students with disabilities, students with limited English proficiency, low income students, etc.)?
- Will there be an enrollment diversity requirement for every school – ex.: Charter school enrollment must match diversity of local district? How will the state measure compliance to this requirement?

Delaware's Special Interest Preference

I have not found any other states that include the same language as Delaware regarding the special interest preference. A handful of states allow charter schools to require performing arts auditions, consider academic credentials, or other specialized

admission preferences in schools that have related specialties as part of their charter application and contract. For example: performing arts schools can require auditions, schools for academically gifted students can give preference to students with a high achieving academic history, and/or schools that use foreign language immersion can require students to show a proficiency in the relevant foreign language.

Florida seems to be the closest I've found to the special interest preference language. Their statute says the following:

§ 1002.33 Charter schools

(10) ELIGIBLE STUDENTS.—

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

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.

Uniform charter school application

I know we discussed the idea of a standard application that students can fill out for all charter schools. You were considering what information should be requested from students and what shouldn't. I've included two examples of uniform charter school applications below. They were both created at the district level, though these are very large districts with many charter schools. I will add that charter schools are not required to use these applications but most do voluntarily. You can use these as a resource for what information others ask on similar forms:

Denver Public Schools - <http://schoolchoice.dpsk12.org/wp-content/uploads/2012/12/Round-2-2014-15-Grade-1-12-English.pdf>
New York City - <https://app.jumpro.pe/CharterApplication.html#>

I'm happy to discuss these issues with you further if you want to talk over the phone or email me additional questions.

Correspondence from Josh Cunningham (Education Policy Specialist), National Conference of State Legislatures, May 15, 2014

Hi Rep. Williams,

That's fine. I totally understand. We have a network of legislative staff from around the country who work on education policy in their states and we frequently reach out to them when looking for examples of state policies that are difficult to find elsewhere. I've reached out to them for information about magnet schools. I'm finding that many states don't have any state policy on magnet schools and leave it up to local districts to

regulate magnets including how they handle their enrollment process. The states I've found that do have magnet school statutes tend to be very vague in how they address magnet school enrollment. Here is some basic information on magnet schools that I've assembled:

History of Magnet Schools: Magnet schools were originally intended to help reduce segregation in schools as well as encourage innovation in public schools. They began popping up in the early 1970s with financial assistance from the federal government. Many were seen as a way to give at risk students the opportunity to learn specific career skills such as STEM, foreign language, performing arts, etc. Federal courts ruled in the 1980s that magnet schools could be used as a tool for districts that had been targeted under the Civil Rights Act as a means of reducing racial segregation. This led to a boom in the number of magnet schools nationwide. The number of magnet schools has declined since its peak in the 1980s and 90s. Today, 30 states have magnet schools. Federal funding has been available to districts to support magnet schools that include racial integration as part of their mission, however that funding took a big hit from the sequestration and hasn't yet been restored.

Federal Definition of Magnet Schools: "For the purpose of this part, the term 'magnet school' means a public elementary school, public secondary school, public elementary education center, or public secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds." - 20 U.S.C.A. § 7231a

For more information on the federal statutes governing the Magnet School Assistance Program, go here: <http://www.law.cornell.edu/uscode/text/20/chapter-70/subchapter-V/part-C>

You can also find federal regulations of the Magnet School Assistance Program from the US DOE here: <http://www2.ed.gov/programs/magnet/index.html> - The federal funding goes straight to local districts rather than passing through the state.

Here are some examples of how states define magnet schools:

Nebraska: "(c) Magnet school means a school having a home attendance area but which reserves a portion of its capacity specifically for students from outside the attendance area who will contribute to the socioeconomic diversity of the student body of such school and which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum"

Connecticut: " 'interdistrict magnet school program' means a program which (i) supports racial, ethnic and economic diversity, (ii) offers a special and high quality curriculum, and (iii) requires students who are enrolled to attend at least half-time. An interdistrict magnet school program does not include a regional agricultural science and technology school, a technical high school or a regional special education center."

Massachusetts: “Educational measures including, but not limited to, planning and special services, instruction or treatment of children, whether at the public school or other public or private facility or place; and that provide children with a racially balanced educational experience in which not more than 50% nor less than 30% of the students involved are minority, except in special circumstances.”

According to the Magnet Schools of America organization, 13% of magnet schools nationwide use academic selection criteria for enrollment. They say 65% have student diversity as part of their mission and purpose.

I hope this helps. I'll send along any new information I find about magnet schools.

mag-net school

noun

plural noun: **magnet schools**

a public school offering special instruction and programs not available elsewhere, designed to attract a more diverse student body from throughout a school district.

Tampa, Florida (Hillsborough County)

What is a Magnet School?

A public elementary, middle, or high school whose curricula are theme-based and technology-rich. Magnet school teachers are specially trained not only in theme integration but also in innovative and rigorous academic instructional methods. Magnet schools offer students opportunities to discover, explore, and refine their talents and interests while focusing on excellence in academics. Our magnet schools support the district's mission to provide all students the knowledge and skills necessary to reach their highest potential. Our magnet philosophy maintains that magnet schools "connect kids to the real world."

<http://www.publicschoolreview.com/articles/2>

<http://www2.ed.gov/parents/schools/choice/definitions.html>

<http://www.cde.ca.gov/sp/eo/mt/>

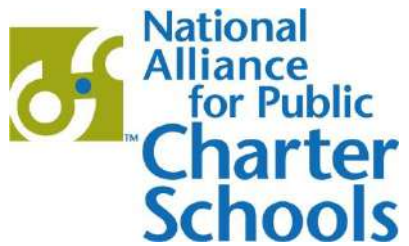
<http://www.123helpme.com/view.asp?id=38540>

http://cps.edu/Schools/Elementary_schools/Pages/Magnet.aspx

http://en.wikipedia.org/wiki/Wake_County_Public_School_System

http://en.wikipedia.org/wiki/Magnet_school

<http://www.ccsdschools.com/Schools/Constituent.php>



To: Representative Kimberly Williams
From: Todd Ziebarth, Senior Vice President, State Advocacy and Support
Date: December 2, 2014
Subject: State Policies Regarding Charter School Enrollment

This memo provides answers to the three questions you asked us to provide information about:

- How many states require charters to use lotteries?
- What types of preferences do states require or allow charters to use?
- How many state policies explicitly permit charters to use tests, auditions, essays, teacher recommendations, interviews, grades, transcripts, or attendance records in their enrollment processes?

For your reference, I have included the section on enrollment from the National Alliance's *A New Model Law For Supporting The Growth of High-Quality Public Charter Schools* in Appendix A.

If you have any questions about the information below, please let me know. Thank you.

How many states require charters to use lotteries?

- 37 states and D.C. require charters to use lotteries.
- Two states have partial lottery requirements. Hawaii law requires lotteries for start-up charters, but not for conversion charters. Texas law provides that on receipt of more acceptable applications for admission than available positions in open-enrollment charters, the school must fill the available positions by lottery or fill the available positions in the order in which applications received before the application deadline were received. The law is not applicable to district-authorized charters.
- Three states don't require lotteries (Colorado, Wisconsin, and Wyoming).

What types of preferences do states require or allow charters to use?

The most common types of preferences that states require or allow charters to use are for:

- Prior year students returning to the school.
- Siblings of students at the school.
- Students who reside within the boundaries of the district where the school is located.
- Students who reside in the charter attendance zone specified in the charter.
- Students who reside within the attendance area or former attendance area of a traditional public school that has converted to a public charter school/Students who were enrolled in a traditional public school when it converted to a public charter school.
- Students that reflect the district or the community.
- Students of founders, board members, and full-time staff.

Most states require or allow one or more of these preferences. For your reference, I have included a more detailed presentation of these preferences in Appendix B.

How many state policies explicitly permit charters to use tests, auditions, essays, teacher recommendations, interviews, grades, transcripts, and attendance records in their enrollment processes?

According to our research, the following four states explicitly permit charters to use tests, auditions, essays, teacher recommendations, interviews, grades, transcripts, or attendance records in their enrollment processes.

Florida: Florida law provides that a charter school may limit the enrollment process only to target students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application.

Louisiana: Louisiana law permits a charter school to create 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 that 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. 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. This provision does not apply to Types 3B and 5 charter schools.

New Hampshire: 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.

Texas: Texas law allows a district-authorized charter to give secondary consideration in its eligibility criteria for admission 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. It also allows state-authorized charter schools that specialize in one or more performing arts to require an applicant to audition for admission to the school.

Attachment A
Enrollment Section
A New Model Law for Supporting the Growth of High-Quality Public Charter Schools by the
National Alliance for Public Charter Schools

IV. Enrollment

(1) Open Enrollment and Lottery Requirements

- (a) A public charter school shall be open to any student residing in the state.
- (b) A school district shall not require any student enrolled in the school district to attend a public charter school.
- (c) A public charter school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.
- (d) A public charter school may limit admission 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 school's application.
- (e) A public charter school shall 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.
- (f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.

(2) Enrollment Preferences

- (a) Any non-charter public school converting partially or entirely to a public charter school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.
- (b) A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. An enrollment preference for returning students excludes those students from entering into a lottery.
- (c) A public charter school may give enrollment preference to children of a public charter school's founders, governing board members, and full-time employees, so long as they constitute no more than 10% of the school's total student population.
- (d) This section does not preclude the formation of a public 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 such school, the public charter school shall select students through a lottery.

(3) Credit Transferability

- (a) If a student who was previously enrolled in a public charter school enrolls in another public school in this state, the student's new school shall accept credits earned by the student

in courses or instructional programs at the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other public schools.

(4) Information to Parents and the General Public

(a) A school district shall provide or publicize to parents and the general public information about public charter schools authorized by the district as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about non-charter public schools in the district.

(5) Determination of Student Capacity of Public Charter Schools

(a) An authorizer may not restrict the number of students a public charter school may enroll. The capacity of the public charter school shall be determined annually by the governing board of the public charter school in conjunction with the authorizer and in consideration of the public charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

Appendix B

What types of preferences do states require or allow charter schools to use?

Mandatory

Prior year students returning to the school [15 states and D.C.]

Arizona, Arkansas (start-ups but not conversions), D.C., Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Ohio, South Carolina

Siblings of students at the school [11 states and D.C.]

Arizona, D.C., Illinois, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, New Mexico, New York, Rhode Island, Washington

Students who reside within the boundaries of the district where the school is located [13 states]

Arizona (district-authorized charters only), California, Colorado (a majority of a school's pupils, other than online pupils, must reside in the chartering district or in contiguous districts), Massachusetts (state-authorized charters), Nevada (if a charter school is sponsored by a local school board located in a county whose population is 100,000 or more), New Hampshire, New Jersey, New York, Ohio, Oklahoma (for schools created in 2010 or later, this required preference includes students who meet this criteria and attend a school on the state's school improvement list), Oregon, Pennsylvania, South Carolina (a charter school must give priority to in-district children versus out-of-district children, and the out-of-district enrollment must not exceed twenty percent of the total enrollment of the charter school without the approval of the authorizer and the sending local school board)

Students who reside in the charter attendance zone specified in the charter [2 states]

Idaho, Texas

Students who reside within the attendance area or former attendance area of a traditional public school that has converted to a public charter school [5 states]

Hawaii, Louisiana, North Carolina, South Carolina, Wisconsin

Students who were enrolled in a traditional public school when it converted to a public charter school [7 states and D.C.]

California, D.C., Florida, Maine, Minnesota, Mississippi, New Hampshire, Utah

Students that reflect the district or the community [10 states]

Kansas law requires pupils in attendance at a charter school to be reasonably reflective of the racial and socio-economic composition of the school district as a whole.

In Louisiana, for each type of charter school except Types 3B and 5, state law specifies the minimum and/or maximum percentage of at-risk pupils that shall attend each type of charter school.

Massachusetts law requires charter schools 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.

Mississippi law requires that 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 act as being at least 80% of that population. If the underserved student composition of an applicant's or charter school's enrollment is less than 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 law provides that the state 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. It provides that a finding by the state authorizer that a charter school is operating in a discriminatory manner justifies the revocation of a charter.

Nevada law states that if a local school district in which the charter school is located has established zones of attendance, the charter school must, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10% from the racial composition of pupils who attend public schools in the zone in which the charter school is located.

Under New Jersey law, admissions policies of New Jersey charter schools must, to the maximum extent practicable, seek enrollment of a cross section of the community's school age population, including racial and academic factors.

New York law requires charter schools to meet or exceed enrollment and retention targets for students with disabilities, English language learners, and students eligible for Free- or Reduced-Price Lunch as prescribed by the Board of Regents or the Board of Trustees or the State University of New York, as applicable.

North Carolina law specifies that within one year after a charter school begins operation, the charter school must make efforts for the population of the school to reasonably reflect the racial and ethnic composition of the general population residing in 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 in the local school

administrative unit in which the school is located.

Rhode Island law requires that the combined percentage of free or reduced lunch students, special education students and limited English proficiency students enrolled at a charter school must at least equal the combined percentage for the district as a whole.

South Carolina law requires 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, defined as differing by no more than twenty percent from that population.

Unique mandatory preference provisions [7 states]

Connecticut law provides that an enrollment lottery 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.

Florida law provides that any charter school must give first preference for admission to dependent children of active-duty military personnel.

Massachusetts law provides that priority for enrollment in a Horace Mann charter school must be given first to students actually enrolled in said school on the date that the application is filed with the state board of education and to their siblings and 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.

Minnesota law provides that enrollment performances must be given to any foster children of enrolled pupil's parents.

A charter school whose mission includes student drop-out prevention or recovery in Missouri shall enroll 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. A workplace charter school in Missouri shall enroll any student eligible 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.

Oregon law states that if more than 3% of students residing in a district are enrolled in virtual charter schools not sponsored by that district, any additional resident students must receive approval from the district before enrolling in a virtual charter school. The law provides for a state appeal if the district does not give approval in such cases.

According to Tennessee law, if applications exceed the planned capacity of the public charter school, the following preferences shall apply: pupils in attendance in the previous school year at any public school that converts to become a public charter school; pupils attending during the previous school year 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 a pre-K program operated by the charter school sponsor; 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 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.

Voluntary

Prior year students returning to the school [3 states]

Hawaii, Indiana, Oregon

Siblings of students at the school [18 states]

Arkansas, Connecticut, Delaware, Florida, Georgia, Hawaii, Indiana, Michigan, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah

Students who reside within the school district or the municipality in which the charter school is located [2 states]

Delaware, Utah

Students who reside in the charter attendance zone specified in the charter [8 states]

California (a charter school located in the attendance area of a district elementary school in which at least 50% of the enrollment qualifies for free and reduced price lunch may give preference to pupils currently enrolled in that school and to pupils who reside in the elementary school attendance area where the charter school is located), Georgia (district-authorized conversions)

Illinois (charter schools may give priority to pupils residing within the charter school's attendance boundary in Chicago, if the Chicago school board has designated a boundary; the law allows the Chicago school board to designate attendance boundaries for no more than one-third of the charter schools permitted in the city if it determines that attendance boundaries are needed to relieve overcrowding or to better serve low-income and at-risk students)

Louisiana (all types of charter schools except Type 2 charters may also include

enrollment preferences for students residing within geographic boundaries immediately surrounding each school, although Type 5 schools cannot have more than 50% of such students in each grade; Type 2 charters may establish residency requirements to include all students living within the state or as restricted to a particular parish or parishes)

Minnesota (a charter school may limit admission to 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)

Missouri (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)

Nevada (or a child who resides within the school district and within two miles of the charter school if the charter school is located in an area that the authorizer of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls such pupils, the law allows a charter school to enroll children who reside outside the school district but within two miles of the charter school if the charter school is located within an area that the authorizer determines includes a high percentage of children who are at risk)

Ohio (residents of a specific geographic area within the district as defined in their contract)

Oklahoma (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 is a geographic area in which 60% or more of the children who reside in the area qualify for the free or reduced school lunch program)

Students who reside within a certain distance of the school [3 states]

Delaware, Florida, Utah

Students who were enrolled in a traditional public school when it converted to a public charter school [4 states]

Delaware, Georgia, Indiana, Oregon

Students of staff [4 states]

Delaware (children of persons employed on a permanent basis for at least 30 hours per week during the school year by the charter school), Minnesota, Missouri, Utah

Students of a parent who has actively participated in the development of the charter school [5 states and D.C.]

Colorado, Delaware (so long as they constitute no more than 5% of the school's total student population), D.C. (limited to 10% of total enrollment or 20 students, whichever is less), New Hampshire, Pennsylvania, Utah

Students of founders, board members, and full-time staff [5 states]

Maine, Mississippi, Nevada, Tennessee, Texas

Students of employees and board members [4 states]

Florida, Georgia, Michigan, North Carolina (children of the school's full-time employees and, in its first year of operation, to children of the initial members of the charter school's board of directors – so long as these children are limited to no more than fifteen percent of the school's total enrollment unless a waiver is granted by the state board of education)

Students of teachers and school founders [2 states]

Rhode Island (as long as it is not more than 10% of enrollment), South Carolina (provided their enrollment does not constitute more than twenty percent of the enrollment of the charter school)

Students matriculating between charter schools [4 states]

Florida, Georgia (district-authorized start-ups), Louisiana, Utah

Students who are at risk of academic failure [5 states]

Delaware, Missouri, Nevada, New York, Ohio

Unique voluntary preference provisions [17 states]

In Arizona, charter schools may give enrollment preferences to children, grandchildren, or legal wards of employees of the school, employees of the charter holder, members of the governing body of the school, or directors, officers, partners, or board members of the charter holder. In Arizona, charter schools may also give enrollment preferences to a pupil who 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.

Arkansas law allows a weighted lottery to be used when necessary to comply with legally required desegregation efforts.

Connecticut law allows the governing council of a state or local charter school to apply to the state board of education for a waiver of the requirements of the enrollment lottery, provided such state or local charter school has as its primary purpose the establishment of education programs 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 law allows start-up charters to give the following type of preference in student admissions as long as the school has described its preferences in the school's charter: students who have a specific interest in the school's teaching methods, philosophy, or educational focus.

Florida law provides that a charter school may limit the enrollment process only to target the following student populations: students within specific age groups or grade levels; students considered at risk of dropping out of school or academic failure (such students include exceptional education students); students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality; and 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. Florida law provides that charter schools may give enrollment preference to students who are children of a business partner with the school, students who are children of a resident of a municipality that operates a charter school-in-a-municipality, students who have been in a pre-K program in that school, and students who are the children of active-duty members of any branch of the armed forces.

Georgia law provides that a district-authorized start-up charter school may (but is not required to) give enrollment preference a sibling of a student enrolled in another local school designated in the charter and a sibling of a nonresident student currently enrolled in the charter school. Georgia law provides that a district-authorized conversion charter school may give enrollment preference to a sibling of a student enrolled in a high school cluster and a sibling of a nonresident student currently enrolled in the charter school.

Idaho law provides that if initial capacity is insufficient to enroll all pupils who submit a timely application at a charter school, 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 that 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:

the children of full-time employees of the public charter school and the children who previously attended the public charter school within the previous three 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.

Illinois law allows any charter school with a mission exclusive to educating high school dropouts to 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. It also allows a 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. It also provides that 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.

Louisiana law permits a charter school to create 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 that 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. 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. This provision does not apply to Types 3B and 5 charter schools. Louisiana law also permits enrollment preferences of up to 50% of the

enrollment for dependent children of permanent employees of a corporate partner.

Maryland law allows the state board of education to grant a waiver to a public charter school from the requirement to be open to all students on a space-available basis if the school is located on a property within a federal military base in the state and will admit students with parents who are not assigned to the base to at least 35% of its total available space. If a public charter school is granted such a waiver, state law still requires it to admit all students on a lottery basis.

Nevada law provides that before a charter school enrolls pupils who are eligible for enrollment, a charter school may enroll a child who is a sibling of a pupil who 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 education program affiliated with the charter school.

New York law allows a charter school to have a preference for students of a single gender.

North Carolina law allows a charter school to give enrollment priority to 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, and a student who was enrolled in the charter school within the two previous school years but left the school to participate in an academic study abroad program or a competitive admission residential program or because of the vocational opportunities of the student's parent.

Ohio law allows a charter school to limit admissions to separate groups of autistic and non-disabled students.

South Carolina law allows a charter school to 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. South Carolina law also allows 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, to 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.

Texas law allows a district-authorized charter to give secondary consideration in its eligibility criteria for admission 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. It also allows state-authorized charter schools that specialize in one or more performing arts to require an applicant to audition for admission to the school. Texas law exempts children of municipal employees from the lottery of a municipal open-enrollment charter school so long as it's a small percentage of the total student population.

Utah law provides that 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. It also provides that a charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

Appendix J

Materials for Task Force Meeting 9

December 8, 2014

Enrollment Preference Task Force
Buena Vista Conference Center – New Castle, Delaware

December 8, 2014 – 6:30PM – 8:30PM

Agenda

- I Welcome and introductions
- II Approve minutes from meeting held on October 28, 2014
- III Continue Discussion and Voting of “Parking Lot” Items
- IV Public comment
- V Next steps
- VI Adjourn

Enrollment Preferences Task Force Minutes: Meeting #9
Monday, December 8, 2014
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Representative Earl Jaques, Delaware House of Representatives
- Senator David Sokola, Delaware State Senate
- Frederika Jenner, Delaware State Education Association
- Randall Hughes, Delaware State Board of Education
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Susan Francis, Delaware School Board Association
- Dr. Mervin Daugherty, New Castle County Superintendent
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Gary Stockbridge, Delaware Business Roundtable
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Mark Pruitt, Magnet School Representative
- Julie Rumschlag, Magnet School Representative
- Henry Clampitt, Charter School Representative
- Elizabeth Lockman, Parent Representative
- Dr. Terri Hodges, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware
- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Secretary Mark Murphy, Delaware Department of Education
- Lindsay O'Mara, Governor's Office
- Dr. David Ring Superintendent from Sussex County
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Donald Mell, Charter School Representative

Public attendees:

- John Lynch, New Castle County Vo-Tech
 - Kathy Demarest, New Castle County Vo-Tech
 - Greg Meese, Newark Charter School
 - Kendall Massett, Delaware Charter School Network
 - Mike Matthews, Red Clay
 - Bill Doolittle, Community Member
 - Jennifer Nagourney, Delaware Department of Education
 - Michael Oboryshko, Red Clay
 - Steve Dressel, Newark Charter School
 - Kevin Ohlandt, Capital
 - Donna Johnson, State Board of Education
 - Eve Buckley, Christina
-

Meeting was called to order at 6:31 p.m.

1. Introduction

Representative Williams welcomed State Representative Earl Jaques, who was appointed by the Speaker of the House, Pete Schwartzkopf, to replace former State Representative Darryl Scott. Representative Williams made a motion to accept the minutes as edited, which was unanimously adopted by the task force. Representative Williams turned the meeting over to Fran Fletcher who would facilitate the rest of the meeting.

2. Discussion

Fran Fletcher continued the discussion of assessment as it pertains to the items that had been placed on the "parking lot" at the previous meeting. Ms. Fletcher explained the process for the evening's discussion. Each member had an opportunity to add to the thoughts expressed at the previous meeting.

Frederika Jenner reiterated that assessment could be an important tool for a school to use, but not before a student is admitted.

Henry Clampitt stated that assessments are an important tool to gather necessary information on an applicant, using interest as an example.

Elizabeth Lockman said that while she does not support assessments for middle schools, should strong standards be in place, assessments at the high school level may be appropriate.

Terri Hodges stated that she does not support assessments because the current system is too subjective.

Yvonne Johnson reiterated that assessments are appropriate for high schools if it fits the mission of the school.

Julie Rumschlag said that assessments are appropriate, at the middle school and high school levels, if aligned with the mission of the school.

Chuck Taylor stated that if the mission of the school matches the assessment, then it is appropriate. These assessments provide vital information to ensure that a student is not attending a school where they may fail.

Terri Hancharick said that she does not support assessment prior to admission.

Following that round of discussion, voting began on the issue of assessment, starting with vo-tech.

Chuck Taylor stated that, in the vo-tech system, assessment happens after enrollment, where denial may still place surrounding placement in a concentration.

Representative Kim Williams said that this occurs after a student is asked to list multiple options when choosing a concentration with the understanding that the first choice may not be available. However, the student is still enrolled in the school.

Chuck Taylor followed up by stating the process does not offer equal opportunity.

Julie Rumschlag asked what was considered an "assessment?"

Representative Kim Williams read the following from the "parking lot" document: interview, standardized test scores, project/homework samples, writing samples, art portfolios, student essay written during assessment time, audition, test, current math and science course enrollment.

The voting language agreed upon by the task force membership is as follows: "Do you agree with the use of assessments as part of the decision-making process for admission to vo-tech/magnet/charter schools?"

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to vo-tech schools?" 5 members voted yes and 14 voted no with 1 member not voting.

A vote was taken to divide the recommendations for magnet and charter schools into grade levels: elementary, middle, and high school. 13 members voted yes, 7 voted no with 1 not voting.

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to magnet elementary schools?" 0 members voted yes, 20 voted no with 1 not voting.

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to magnet middle schools?" 7 members voted yes, 14 voted no with 1 not voting.

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to magnet high schools?" 10 members voted yes, 10 voted no with 2 not voting.

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to charter elementary schools?" 0 members voted yes, 21 voted no with 1 not voting.

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to charter middle schools?" 7 members voted yes, 14 voted no with 1 not voting.

A motion was made to vote on the following recommendation: "Do you agree with the use of assessments as part of the decision-making process for admission to charter high schools?" 9 members voted yes, 11 voted no with 1 not voting.

Discussion will continue at the next meeting.

****Note: Digital copies of all the document pertaining to the task force can be found on <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>***

4. Public Comment- The views and opinions expressed in this section are those of the individual speakers.

Mike Matthews discussed the ACLU complaint and the problem of segregation that is facing Delaware's public schools.

Kevin Ohlandt spoke about the segregation facing Wilmington's public schools, and the children suffer the consequences.

Bill Doolittle discussed the practice of assessment and how it can sometimes lead to discrimination.

Eve Buckley believes the state needs to focus on equal opportunity for all children.

Greg Meece spoke about Newark Charter School and how the geographical preference has aided in parental and community involvement in the school.

5. Next Steps

Next meeting: To be determined

The meeting adjourned at 8:22 pm.

THE MEANING OF MERIT

ALTERNATIVES FOR DETERMINING ADMISSION
TO NEW YORK CITY'S SPECIALIZED HIGH SCHOOLS

A Policy Blueprint
for the Next Mayor
and City Council
of New York City



Inside This Report

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The Community Service Society of New York (CSS) is an informed, independent, and unwavering voice for positive action on behalf of more than 3 million low-income New Yorkers. CSS draws on a 170-year history of excellence in addressing the root causes of economic disparity through research, advocacy, litigation, and innovative program models that strengthen and benefit all New Yorkers.

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The NAACP Legal Defense and Educational Fund, Inc. (LDF) is a non-profit legal organization established under New York law that has worked for over seven decades to dismantle racial segregation and ensure equal educational opportunities for all.

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Foreword

Inequality is rising in New York City, where the gap between the rich and poor has never been greater. Our best public schools represent unique opportunities to level the playing field. Yet, if we are not careful, these institutions can serve the opposite role, increasing the gaps between those with the best educational opportunities and those without.

Currently, the gateway into what are widely regarded as some of New York City's best public high schools is a single multiple choice admissions test—the Specialized High Schools Admissions Test (SHSAT). No other indicators of hard work or academic achievement are considered. While reliance on a single exam may at first appear to be an objective and fair measure, a deeper look reveals that the use of a single test, and this one in particular, does not provide a meaningful measure of academic achievement and potential.

Furthermore, the outcomes based on the current admissions procedure raise serious questions about the use and validity of this exam. There are nearly 50,000 black and Latino 8th graders in the city's public schools, in addition to black and Latino students in parochial and

private schools. In 2012, 11,585 of these students took the SHSAT. How is it possible that from this enormous pool, only nine black students and 24 Latino students were determined to be qualified for entrance to Stuyvesant High School? It cannot be.

This joint report uncovers the serious flaws in the current approach to admissions and examines the methods used by other top-rated, selective public high schools in New York and around the nation. Based on these findings, the report suggests a menu of alternatives that would provide both a rigorous standard of admission and opportunities for the most promising students of all backgrounds.

We urge the next administration and council to consider the recommendations in this report and develop a fairer, more sensible policy for admission into the Specialized High Schools. The new policy must consider grades along with other measures of student merit—including those used by other top selective high schools from across the nation. For five of New York City's Specialized High Schools, these changes can be made immediately. For the oldest three high schools, it will require legislation at the state level. But it will be worth the effort, to ensure that our best public high schools can fulfill their mission as great equalizers of opportunity, instead of perpetrators of inequality.

David R. Jones

President and CEO
The Community Service Society
of New York

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President and Director-Counsel
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Introduction

Every year, over 100,000 young people begin their high school careers as 9th graders at a New York City public high school. The next four years of their lives will have a considerable impact on their futures. A young person's high school career does not guarantee what kind of future they will have, but it is an important stepping stone on the pathway to leadership and opportunity. There are over 400 public high schools in New York City, and many of them are strong. But the city's elite Specialized High Schools offer students some of the best chances to realize their academic potential. These schools are among the most highly regarded in the nation; they ensure a first-class education and a head start on the road to success. As such, access to these institutions should be determined by a fair admissions policy that rewards academic achievement, potential and perseverance.

Yet the means of determining who gains admission to these schools is deeply flawed. Because of an outdated New York State law, admission to the original three Specialized High Schools—Stuyvesant, Bronx Science, and Brooklyn Tech—is based solely on a student's performance on a single multiple-choice exam. The Bloomberg mayoral administration unilaterally extended this test-only admissions policy to five additional schools, even though it is not required under the law. Not only is such an admissions policy broadly considered to be a poor way of measuring merit, but the specific exam used in this case, the Specialized High School Admissions Test (SHSAT), has not even been shown to validly predict student performance at these schools or to adequately assess mastery of material taught in the New York City public schools in grades K–8. In fact, the New York City Department of Education admits that it has no evidence that the test predicts student performance.

As a result of this decision to distort the definition of merit to focus solely on the results of a single test, each year thousands of qualified New York City students are needlessly locked out of the opportunity to attend one of these prestigious schools. Specifically, black and Latino students are offered admission to the Specialized High Schools in much lower numbers than their peers, even when they have demonstrated exceptional academic performance and overcome major obstacles in elementary and middle school. Of the 963 students offered admission to Stuyvesant High School for the 2013–14 school year, only nine were black and 24 Latino, even though nearly 12,000 black and Latino students took the exam.

Does this mean that only nine black students in New York, the most diverse city in the world, have the academic potential to succeed at Stuyvesant? Of course not. The problem does not rest with the students; the problem is the unfair policy of relying on a single test for admission to the Specialized High Schools.

There are fairer and more effective ways for New York City to measure the merit of its students. In New York City and across the country, elite public high schools use comprehensive and competitive admissions policies that consider multiple measures of academic success and potential. These common-sense approaches can result in classes that are both extremely qualified and broadly diverse. This report explores these alternatives and offers recommendations to future city leaders on parameters for reform.

In September 2012 the NAACP Legal Defense Fund, Latino Justice-PRLDEF, and the Center for Law and Social Justice at Medgar Evers College filed a federal civil rights complaint on behalf of the Community Service Society of New York and 10 other community organizations alleging that the NYC Specialized High School's admission policy violates federal law.¹ In response, the U.S. Department of Education Office for Civil Rights (OCR) opened an official investigation to probe the fairness of the policy. The investigation could result in a finding that the New York City Department of Education (NYCDOE) and the New York State Department of Education have violated the rights of countless thousands of students.

New York City cannot afford to wait for the federal government to make this determination before taking action. The next administration must explore, promote, and implement a fairer and more sensible admissions policy for all of the Specialized High Schools. This new policy must be developed in consultation with both experts and stakeholders. As this report lays out, admissions to the Specialized High Schools can no longer be based on a single, unvalidated test but must instead employ multiple measures of academic merit—including student grades and class rank, or a “percentage plan”—as well as some combination of other measures including (but not limited to) academic portfolios, attendance, essays, interviews, school staff recommendations, and performance on validated, statewide standardized tests. Moreover, any test that is used as part of the process must be validated and aligned with the New York City public school curriculum.



The Specialized High Schools

Under New York State law, admission to the three original Specialized High Schools, as well as those later designated by the NYCDOE, must be based “solely and exclusively” on students’ rank-order scores on an admissions exam.² The SHSAT,

the NYCDOE’s exam of choice, has two sections: verbal and mathematics. Each applicant is asked to list the Specialized High Schools he or she wants to attend in order of preference before taking the SHSAT. Once the composite scores on the SHSAT (combining scaled scores for both the math and verbal sections) are finalized, the scores of all of the thousands of test-takers are ranked in descending order, from highest to lowest. Beginning with the highest scorer, the NYCDOE offers each student admission to his or her first-choice Specialized High School if that school has

seats still available. Under this rank-order approach, there is no pre-established “cut-off score” required for admission to any particular school. So, as a practical matter, the cut-off score for any school in a given year is equivalent to the lowest score for a student admitted to that school. In this way, the virtual cut-off scores at different schools may vary from year to year.

Currently, there are eight Specialized High Schools in New York City that admit students based exclusively on a single standardized test administered annually.

School	2012-13 Enrollment	Location
Brooklyn Technical High School	5,451	Brooklyn
Stuyvesant High School	3,286	Manhattan
The Bronx High School of Science	3,060	Bronx
Staten Island Technical High School	1,185	Staten Island
Queens High School for the Sciences at York College	400	Queens
High School for Mathematics, Science, and Engineering at City College	439	Manhattan
High School for American Studies at Lehman College	395	Bronx
Brooklyn Latin School	509	Brooklyn

Single-Test Admissions: A Flawed Policy

The test-only admissions policy used by New York City’s Specialized High Schools enforces an artificially narrow view of merit. For example, under the policy, a student who attended an under-resourced public middle school and navigated difficult life circumstances to achieve excellent grades and a pristine attendance record along with other significant accomplishments would be passed over for admission in favor of a student with lower grades and spotty attendance who took an expensive private prep course in order to get a higher score on the test. While this approach may be aligned with the Bloomberg administration’s propagation of standardized testing, it is woefully out of step with best practices of both education experts and even the testing industry that profits from use of such exams.

“As the stakes of testing increase for individual students, the importance of considering additional evidence to document the validity of score interpretations and the fairness in testing increases accordingly.”⁵

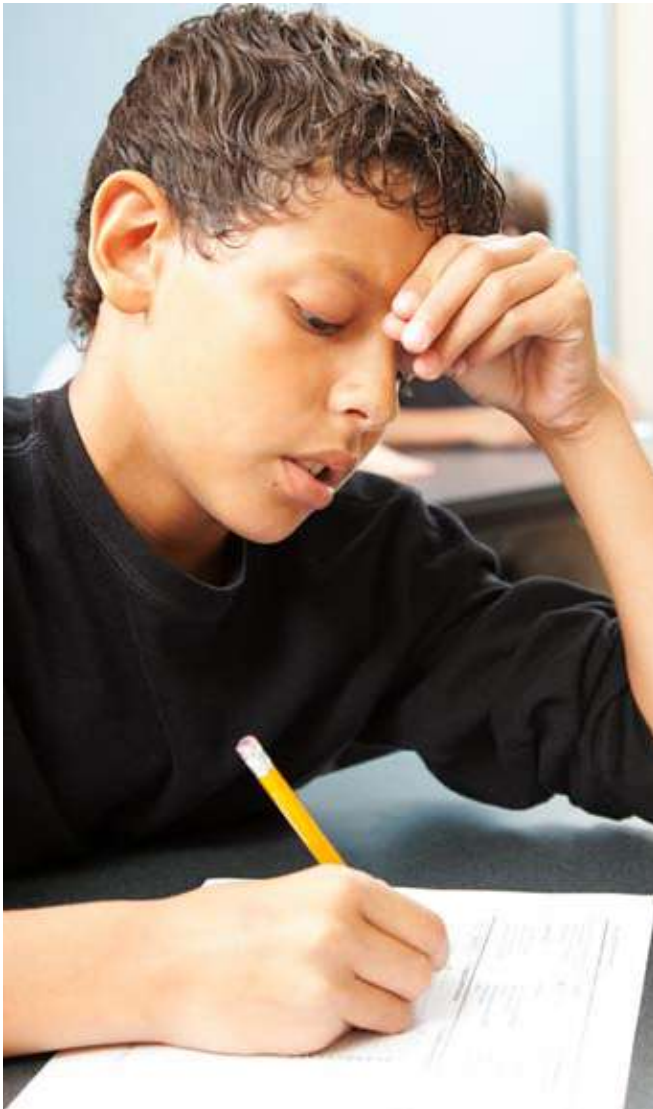
—American Educational Research Association, American Psychological Association, and the National Council on Measurement in Education

A single test should never be the only factor

Educational experts agree that a single test cannot be considered a definitive measure of a student’s knowledge.³ Because all measures have some degree of uncertainty and imprecision, it is best to use multiple criteria in combination, especially when making important decisions. This is a universally accepted norm of the field of testing, known as psychometrics. But the NYCDOE’s policy flies in the face of this standard. Its exclusive reliance on rank-order SHSAT scores to determine admission to the Specialized High Schools contradicts well-established test development standards jointly set forth by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education.⁴

“To the extent that you are requesting any studies of predictive validity (i.e. predictive studies of student performance), a diligent inquiry and search of responsive records has been conducted, and I have been informed that no predictive ability study of the SHSAT exists in the custody and control of the New York City Department of Education.”

—Excerpt of letter from NYCDOE Records Access Officer Joseph A. Baranello to LDF and Advocates for Children of New York (May 20, 2011)



The SHSAT is an arbitrary and unfair measure

Experts on educational testing also agree that even when a test is used as only one of several factors in educational placement decisions, there should still be some evidence documenting the relationship between test scores, educational programs, and desired outcomes.⁶ The SHSAT is not aligned to the curriculum students are expected to learn in middle school, nor is it aligned to expectations for performance in the Specialized High Schools. In fact, NYCDOE officials admit that the agency has never studied the SHSAT to determine whether it predicts success in the Specialized High Schools. To date, the NYCDOE has failed to produce any evidence at all on predictive validity.⁷

“[I]n all the years the SHSAT has been the lone determinant of admission to these schools, the NYCDOE has never conducted a predictive validity study to see how the test was performing. In addition, it has never been made clear what the objectives of the SHSAT are. Absent predictive validity studies, there’s no way to know if any test is providing useful information; and without well-specified objectives, it’s not even clear what the test is supposed to do or predict.”⁸

—Joshua Feinman, *High Stakes, but Low Validity? A Case Study of Standardized Tests and Admissions into New York City Specialized High Schools* (2008)

The NYCDOE is misusing its own test

The SHSAT does not have a standard cut-off score that guarantees admission. Instead, the NYCDOE’s reliance on rank-order scores means the score needed to gain admission to any Specialized High School can change every year. So, a score that yields an admissions offer this year may lead to *denial* of admission the following year, and vice versa. In other words, there is no actual standard.

Although the NYCDOE claims that using rank-order scores on the SHSAT is a fair way to distinguish between and among the many thousands of students who take the exam each year, it knows full well that the SHSAT is not designed to sort students in this way. A 2008 study by economist Joshua Feinman found that thousands of students who were offered admission to a Specialized High School had SHSAT scores that were statistically indistinguishable from thousands of students who were denied admission.⁹ So, many students who deserve an opportunity are being arbitrarily excluded.

Private test prep offers an unfair advantage

Sole reliance on the SHSAT also gives a significant advantage to those students who have access to test preparation classes, which can cost up to \$2,000 a year. Test-prep companies are able not only to drill students on the content that will be on the test—content that may not be taught in a student’s NYC public school—but can also teach applicants how to “game” the test by using the test’s scoring quirks to their advantage.¹⁰ For example, tutoring companies know that the SHSAT scoring system rewards exceptionally high scores on only one part of the test (either math or verbal) over a strong performance on both parts. Students with imbalanced scores actually have a better chance of being offered admission than students who get relatively strong scores on both parts of the test. Taking advantage of this odd scoring method, private tutors routinely advise students to focus on their area of strength in order to maximize their chance of scoring the most points. Meanwhile, the NYCDOE misleads students, advising them to spend equal amounts of time preparing for both parts of the test.¹¹

“It’s time to end the discriminatory use of test scores to determine Specialized High Schools admission. College admissions offices do not rely on standardized exams as the sole factor to select students. Many of the most competitive colleges don’t require applicants to submit test scores at all.”

—Monty Neill – Executive Director,
National Center for Fair and Open Testing

An Emerging Consensus

Across New York City, there is a growing consensus in favor of decreasing over-reliance on standardized tests to make important education placement decisions.

Recently, a consortium of elite private schools in New York City announced that its member schools will likely no longer use the Education Records Bureau test or “ERB”—a test that schools have been using as part of their kindergarten and first-grade admissions process for generations—because “the popularity of test-preparation programs and coaching had rendered its results meaningless.” The consortium is exploring alternatives including a multiple measures approach that considers non-cognitive skills and written evaluations of students.

And, in the wake of widespread concerns about equity and fairness, the New York City Department of Education recently abandoned the standardized test it had been using to identify 4-year-old children for its gifted and talented programs, and replaced it with a new test.¹² Despite the changes, there is no evidence that the process has become more equitable. In fact, it has been widely reported that the test has remained coachable and therefore gives an unfair advantage to those students who have access to costly test preparation services.¹³

On top of offering an advantage only to those with access, excessive test prep diverts time and resources away from academic and extra-curricular activities that could have a direct impact on the success of students in high school and beyond.

This Can't Be What Merit Looks Like: Qualified Students Locked Out

By distorting the definition of merit, the Specialized High Schools' admissions policy locks many qualified New York City students out of opportunity. The flawed admissions policy has a particularly devastating impact on black and Latino students. According to data provided by the NYCDOE, black and Latino students who take the SHSAT are far less likely to receive admissions offers than peers from other racial groups. In fact, the number of black and Latino students in the eight schools is shockingly low and has decreased over time. The decline in recent years has been particularly notable, given the highly-touted and controversial education reform efforts instituted during the Bloomberg administration.

There are two ways to understand the racial disparities:

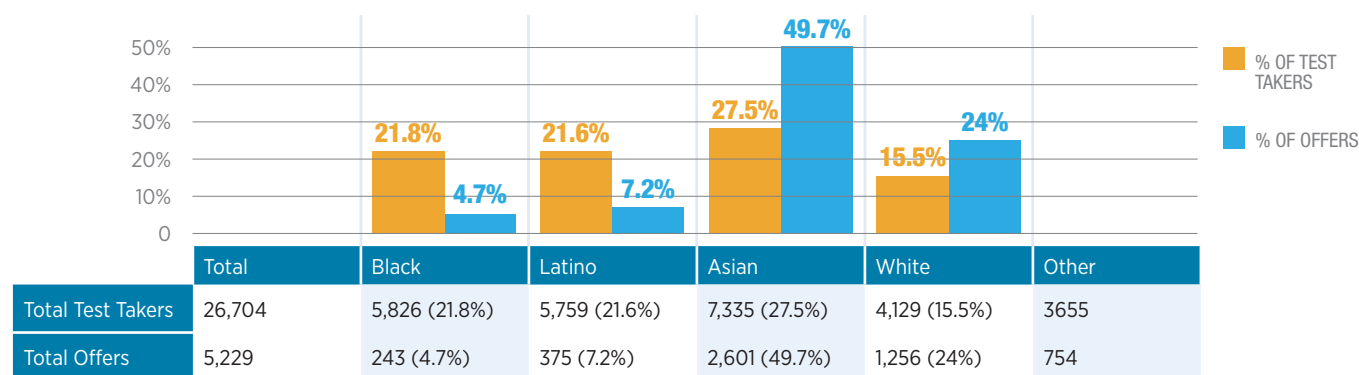
1. **Demographic Comparisons of Admissions Offers:** comparing the demographics of test-takers and those who received admissions offers as well as admissions rates by race
2. **Enrollment:** the number/percentage of students enrolled in the Specialized High Schools

Demographic Comparisons of Admissions Offers

In the fall of 2012, approximately 26,704 8th grade students took the SHSAT exam in the hopes of beginning their high school careers at a Specialized High School in the 2013–14 school year. Black and Latino students accounted for nearly 12,000 of these test-takers. But only a shade over 600 of these students received offers of admission to any of the Specialized High Schools. Incredibly, although black and Latino test-takers outnumbered white test-takers by almost three to one, more than twice as many white students received admissions offers. And while the share of Asian-American students taking the exam was less than six percentage points higher than that of black or Latino students, Asian-American students outnumbered the share of black and Latino students that got offers by a margin of more than forty percentage points.

Black students comprised 21.8 percent of test-takers, yet they received only 4.7 percent of offers; and Latino students comprised 21.6 percent of the test-takers, but only 7.2 percent of offers. In contrast, white students comprised just 15.5 percent of test-takers, yet received 24 percent of offers, and Asian-American students comprised 27.5 percent of test-takers and received 49.7 percent of offers.¹⁴ Altogether, while 70 percent of public high school students in New York City are black or Latino, they represented just fewer than 12 percent of those offered admission to a Specialized High School for the 2013–14 school year.

**ADMISSIONS OFFERS TO INCOMING 9TH GRADERS FOR 2013–14 SCHOOL YEAR
(BASED UPON FALL 2012 SHSAT)**



Source: Documents obtained from the NYCDOE

The numbers are even worse for the most sought after schools. Stuyvesant High School offered admission to only nine black students out of 963 admissions offers—less than 1 percent of the total. Latinos did not fare much better, with 24 offers, or 2.5 percent of total offers, to Stuyvesant. At The Bronx High School of Science, blacks accounted for 2.6 percent of admissions, and 5.5 percent of offers went to Latino students. And at Brooklyn Technical High School, the largest of the Specialized High Schools, the numbers are only slightly better. For the 2013–14 school year, 5.9 percent of offers went to black students, and 7.2 percent went to Latino students. These numbers are still exceptionally low and are part of a downward trend over the past several years.

“In a city where 40 percent of public-school students are Latino, it’s unacceptable that schools like Stuyvesant only admit a Latino population of 3 percent. It’s time for the city and state to end the single-test admission policy and truly evaluate each student’s academic record and promise.”

—José Calderón – President, Hispanic Federation

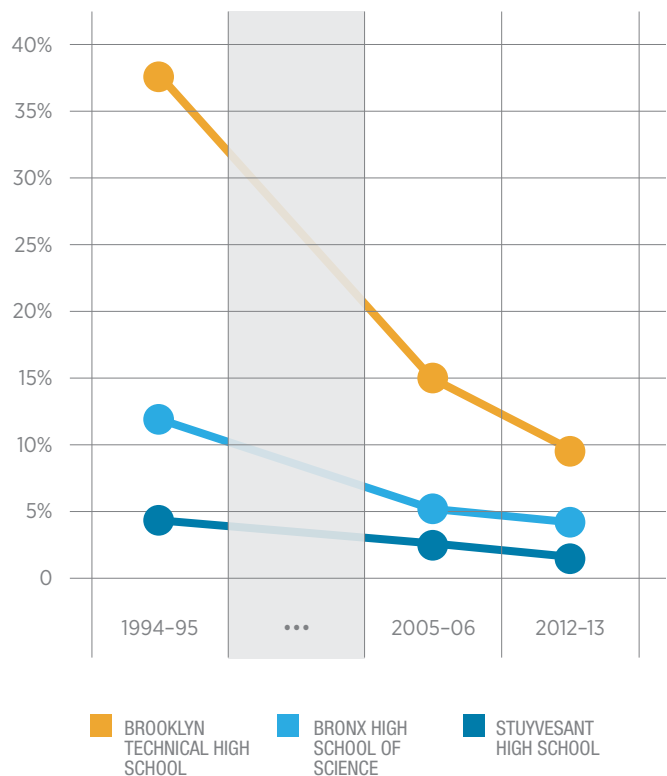
The latest data represent a five-year low in black and Latino admissions rates. Of the 5,826 black applicants to the eight schools for the 2013–14 school year, only 4.2 percent received an offer of admission to any one of the schools, and only 6.5 percent of the 5,759 Latino applicants were offered admission. In contrast, 30.4 percent of white students and 35.5 percent of Asian-American students who took the test were offered admission.¹⁵

Enrollment

Not surprisingly, these disparate admissions rates have resulted in extremely low black and Latino enrollment at the eight schools. In the 2012–13 school year, only 6 percent of all students enrolled at the Specialized High Schools were black, and just 7 percent were Latino.¹⁶ Data show that these numbers mark several-year lows, with the problem most acute at the three largest schools: Stuyvesant, Bronx Science, and Brooklyn Tech.

At Stuyvesant High School, in the 2012–13 school year, blacks fell to only 1.1 percent of the student population; Latinos were just 2.4 percent. Brooklyn Technical High School, which was nearly 40 percent black as recently as 1994–95, was only 9 percent black in the 2012–13 school year.

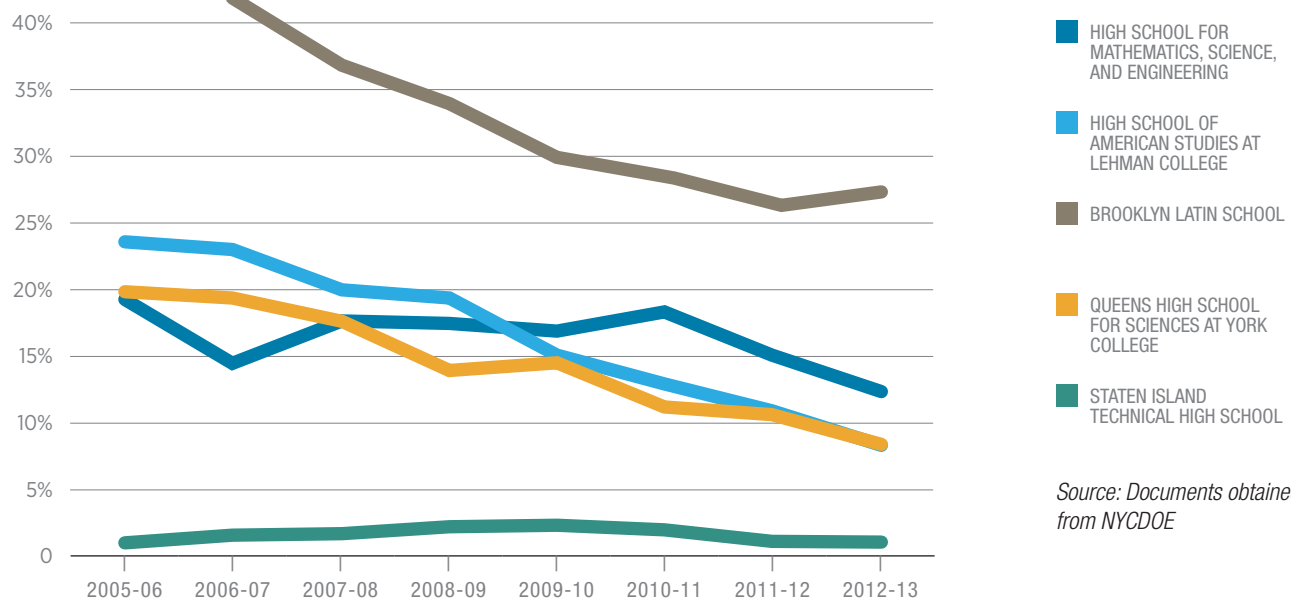
DECLINING BLACK ENROLLMENT AT THREE LARGEST SPECIALIZED HIGH SCHOOLS



Source: *The New York Times* and the NYCDOE¹⁷

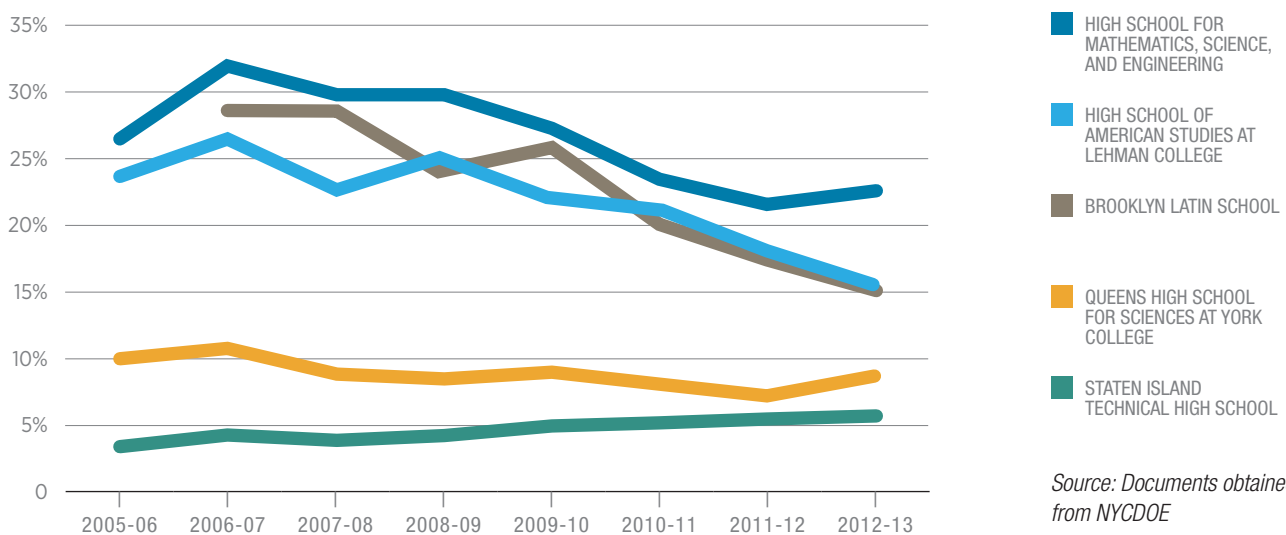
A similar trend is evident at the newest Specialized High Schools that were either created or so designated by the NYCDOE during the Bloomberg administration.

DECLINING BLACK ENROLLMENT AT THE FIVE NEWEST SPECIALIZED HIGH SCHOOLS



Source: Documents obtained from NYCDOE

DECLINING LATINO ENROLLMENT AT THE FIVE NEWEST SPECIALIZED HIGH SCHOOLS



Source: Documents obtained from NYCDOE

A Chorus of Voices Supporting Change...

Community leaders from all sectors of New York City have joined in the call for change.



“Compared to the current, single high stakes test approach, multiple measures are likely to favor accomplished, high achieving students (including some Asian Americans) who work hard and have strong track records of academic success. The multiple measures approach also helps capture students who may miss out because they happen not to perform well on a particular test, despite being academically qualified.”

—Asian American Legal Defense and Education Fund

“A single, flawed test should not determine the enrollment of our City’s Specialized High Schools, especially when that test has resulted in an overwhelming disproportionate representation of black and Latino students in those schools.”

—Jonathan Westin – Executive Director, New York Communities for Change

“It is appalling to me as an African-American mother that the Department of Education has sat back and watched the steady decline of these numbers and instead of acknowledging that something has to change, has permitted other schools to use the same criteria. . . It is time to move beyond the test and look at the entire scope of a child’s abilities.”

—Zakiyah Ansari – Advocacy Director, Alliance for Quality Education

“[A] multiple measures approach would help those students, including some Asian Pacific American students, who are academically qualified but just happen to not perform well on that single test, or have not had access to formal test preparation courses. These students are overlooked for admission when the SHSAT remains the sole criterion.”

—Coalition for Asian American Children and Families

A Better Approach for New York City

The Specialized High Schools admissions policy is far outside the mainstream of America's elite public high schools. None of the other top public high schools we examined across the nation rely upon a sole criterion, such as a test, to make admissions decisions. Even other top high schools within New York City do not base their admissions on the results of a single admissions test. Instead, they consider multiple measures of student achievement, ranging from grades and other test scores to student essays, class rank, and other considerations. When examined holistically and in context, these factors are better indicators of students' achievements and their future capabilities.

“[T]he DOE has failed to understand what every major university in the country has recognized—that standardized test scores alone do not indicate the merit of a student or measure their academic abilities. Relying solely on test scores for entry into our specialized high schools is wrong and does an enormous disservice to the thousands of worthy economically disadvantaged students.”

—Rubén Díaz, Jr. – Bronx Borough President

Given the standard practice of high schools in districts across the country, it is even more peculiar that New York City's Specialized High Schools would continue to rely solely on the SHSAT, particularly when the current policy fails to produce student bodies that reflect the broad spectrum of students capable of academic excellence. New York City students deserve a fairer admissions policy for what are some of the city's best high schools. The way forward requires a fair system for assessing merit—one that rewards academic achievement, recognizes potential, and acknowledges perseverance over time.

“Suggesting that Stuyvesant and other schools must adhere to this one-dimensional admissions process or risk losing their reputation for academic excellence of the highest order is a false choice. Nor is being a big-city system an excuse for lacking a more multi-faceted model.”¹⁸

—Jessica A. Hockett – Co-Author, *Exam Schools: Inside America's Most Selective Public High Schools*

One possible response to the persistent disparities in admissions to the Specialized High Schools is to point the finger solely at New York City's elementary and middle schools, which can offer significantly different opportunities to students from different communities. However, while we can—and should—continue to work to improve educational opportunities for all children, we must at the same time adopt a fairer and more merit-based admissions approach for the thousands of young people who, though highly qualified, are still being denied access to the Specialized High Schools by the current admissions policy.

We reviewed relevant educational research and examined the admissions policies of other academically selective high schools across the country.¹⁹ These schools all consider multiple criteria in various combinations to make admissions decisions, and all of them are regarded as some of the nation's best public high schools, consistently ranking in the *U.S. News & World Report*, *Newsweek* and *The Washington Post* “Best High Schools” lists. These schools have won numerous awards for their college preparatory curricula, academic outcomes, and high graduation and college acceptance rates, with many students going on to succeed in top-ranked universities like Harvard, MIT, and Yale. And while none of these schools have a perfect admissions policy, they all have student bodies that are far more diverse than the New York City Specialized High Schools as a whole. We do not hold up any of these schools as specific models that New York City must replicate; however, we do encourage city leaders to consider the menu of options that these schools provide in looking beyond a single test to make admissions decisions. By using multiple indicators in combination and providing additional pathways to admission, schools can produce



student bodies that are both academically meritorious and broadly diverse. (See the Appendix for the full list of schools surveyed for this report.)

“A multiple measures approach accounting for middle school grades, attendance, geographical location, or student portfolio would allow for a more reasonable admissions process. Students of color, including low-income Asian-American students from ethnic communities less represented at the specialized high schools, would have a more equitable chance at attending these schools. All students at the specialized high schools, including Asian Americans, stand to benefit from a student body that better reflects the diverse backgrounds of New York City.”

—CAAAY Organizing Asian Communities

Middle School Grades

Any high school admissions policy should consider middle school grades as one portion of the admissions process. Achieving and maintaining a strong GPA requires not only academic prowess, but also a significant degree of motivation and personal discipline. Unlike a score on a single test, strong student grades tell a story of progress, perseverance and hard work—a story that often defies an individual test score.

Research at the college level shows that grades are better predictors of student performance than standardized tests.²⁰ In fact, research has shown that high school grades “outperform standardized tests in predicting college outcomes,” irrespective of the quality or type of high school attended.²¹ And grades tend to tell a truer story about students of all walks of life, as they tend to correlate less to students’ socioeconomic or racial backgrounds than do results of standardized tests.²²

All of the schools we surveyed for this report consider applicants' middle school grades as part of their admissions processes. In some cases, such as in Boston Latin School in Boston, Massachusetts, grades are used as part of a comprehensive review process to evaluate students. In other cases, like the School of Science and Engineering in Dallas, Texas (ranked #2 in the country in *Newsweek*), minimum grade thresholds must be met for applicants to be considered for admission.

The NYCDOE has several options for using students' middle school grades as part of the admissions process; it could consider cumulative GPAs for middle school only, cumulative GPAs for grades K–8, grades earned in certain key subjects, or progress over either period of time. But failure to consider grades at all would continue to undermine the reliability of the admissions policy.

Class Rank or “Percentage Plan” Admissions

In addition to considering students' grades, the NYCDOE should guarantee admission to top-ranked students from every public middle school in the city. This type of plan would provide an alternative pathway for admission separate and apart from other factors. Such a plan could be limited to the valedictorians and salutatorians from each school or could include students ranking within a specified top percentage at each of the city's public middle schools.

This approach would ensure that top students from across New York City, including those attending all of the city's public middle schools that have previously been underrepresented at the Specialized High Schools, would have the opportunity to attend the top public high schools. While the admissions slots reserved for class rank or “percentage plan” admissions would account for only a small portion of the overall student body at each of the Specialized High Schools, they would dramatically increase access, opportunity and diversity, while incentivizing and rewarding excellence. And they would have the added benefit of providing a relative advantage to graduates of public middle schools—an important fact given that up to 20 percent of students offered admission to Specialized High Schools each year hail from private or parochial schools.

Scores on State-Mandated Examinations

When used in conjunction with other measures and weighted appropriately, students' scores on examinations mandated by the New York State Department of Education could also be acceptable factors for a revamped Specialized High Schools admissions policy. In general, statewide tests, such as the 8th grade Mathematics and English Language Arts exams, undergo rigorous analysis by testing experts, and are consistent with state and federal learning standards. They are therefore better indicators of a student's knowledge level than a single, non-validated multiple-choice exam taken in two and a half hours.

All of the selective high schools considered in our analysis, with the exception of Boston Latin, consider these types of test scores in their admissions processes.

Other Factors to Promote Inclusion

The NYCDOE could also consider other indicators, such as students' attendance records, interviews, essays, recommendations from school staff, and portfolio assessments. Recommendations, for example, can offer insight into an applicant's emotional intelligence, character, and behavior, which are strong predictors of future aptitude and success.²³ Portfolios that include an array of a student's past work could be used to assess academic accomplishments from throughout a student's middle school career. And interviews could provide evidence of maturity and potential for growth. Each of these criteria allows for an evaluation of a student's efforts and achievements over a period of time rather than simply their performance on a single test.

Again, using multiple imperfect indicators in combination is generally more reliable than relying upon any single indicator. This approach has been endorsed by the federal government in other contexts. For example, in a December 2011 policy guidance issued to all of the nation's school districts, the U.S. Department of Education and the Department of Justice pointed to multiple-measures admissions policies as examples of procedures that selective public schools, like the Specialized High Schools, may lawfully use to promote diversity. The guidance states that “[a] school district

could give special consideration to students from neighborhoods selected specifically because of their racial composition and other factors” or it “could give greater weight to the applications of students based on their socioeconomic status, whether they attend underperforming feeder schools, their parents’ level of education, or the average income level of the neighborhood from which the student comes, if the use of one or more of these additional factors would help to achieve racial diversity or avoid racial isolation.”²⁴

A Validated Admissions Exam

The NYCDOE need not abandon use of an admissions test altogether. When designed and used properly, an exam can be used to supplement other factors in the admissions process, provided the exam has been validated for the purpose for which it is being used. As a starting point, any test that is used should satisfy the following criteria:

- undergo analysis of predictive validity and bias;
- align with the skills students are expected to learn in the middle school curriculum as well as standards for success at the Specialized High Schools; and
- include a validated baseline score for admissions.

And even a properly validated test should still be utilized only as one factor in a comprehensive review; it should never be the sole criterion, and it should never be used to assess students in rank-order fashion.

Several of the schools we reviewed utilize an admissions test as one component of a comprehensive admissions process. These schools include the School of Science and Engineering in Dallas, Texas; the Bard High School Early Colleges in Manhattan and Queens; Walter Payton College Preparatory High School in Chicago, Illinois; and Boston Latin School in Boston, Massachusetts. These schools seek to validate their examinations through psychometric evaluation or align the exam content to specified standards or curricula.²⁵

Re-establishing the “Discovery Program”

When the New York State law mandating single test-based admissions to the Specialized High Schools was passed, it included a provision for a “Discovery Program” that was meant to help increase diversity at the schools. The Discovery Program was designed to allow students whose SHSAT scores fall short of the arbitrary cut-off score necessary for admission in a given year to take a summer preparatory course in order to then gain admission to one of the schools. However, relatively few students participate and gain admission through this channel. And some of the Specialized High Schools, including Bronx Science and Stuyvesant High School, have ceased to use the Discovery Program at all in recent years—either on their own initiative or at the suggestion of the NYCDOE.

Re-establishing the Discovery Program, along with adopting other measures in combination, could help the NYCDOE to do a better job of rewarding merit and recognizing potential in Specialized High School applicants.

More Test Prep is Not the Answer

In response to intense and sustained criticism of its flawed admission policy, the NYCDOE has attempted some modest efforts to increase diversity in the Specialized High Schools. But these efforts fail to address the fundamental flaw in the test-only policy because they have focused primarily on increasing access to test preparation programs.

For example, the NYCDOE created the Specialized High School Institute (SHSI) in 1995, at least in part as an effort to increase black and Latino enrollment at the Specialized High Schools. But the program has failed to level the playing field. Blacks and Latinos who participate in SHSI are more likely to secure an offer to a Specialized High School than blacks and Latinos who do not participate. Yet the disparity in acceptance rates between black and Latino students and their white and Asian peers remains high.²⁶

In 2012, the NYCDOE announced a new incarnation of SHSI, giving it the moniker “DREAM-SHSI.” However, nothing about the latest iteration of the program suggests it will have any more success in alleviating racial disparities at the Specialized High Schools than the earlier version of the program. In fact, after the first year of the DREAM-SHSI program, admissions rates for black and Latino students fell to their lowest point in five years. And only nine black students were offered admission to Stuyvesant, marking a pathetic low point for the NYCDOE.²⁷ Not-for-profit organizations that have provided free test prep services, including some offered by black and Latino alumni of the Specialized High Schools, have yielded similar lackluster results, despite their best efforts.

The consistently poor results demonstrate that additional test prep, or test prep for more students, cannot cure the fundamental flaw in the policy. Admissions should not be based upon a single test in the first place, especially when the NYCDOE has no indication that the test is an accurate measure for predicting success.

“Mayor Bloomberg has suggested that the SHSAT simply measures how smart an applicant is. But the test answers only one question with certainty: How well did a test-taker perform on the test on test day compared to the other test-takers? The solution is not to bolster test-prep programs for minority applicants, but to use better and more sophisticated means to create freshman classes that are just as qualified and more diverse.”²⁸

—Jessica A. Hockett — co-author, *Exam Schools: Inside America's Most Selective Public High Schools*

“The Department of Education has attempted to address the almost total segregation of its elite schools by increasing access to test cramming services. But encouraging students to spend weeks and months furiously studying—with or without a coach—for a test that has never been validated is wrong-headed and clearly hasn’t worked. We shouldn’t be pushing our children further into the world of pressurized high-stakes testing environment without a very good reason for doing so, and the Department of Education hasn’t given us one.”

—David R. Jones — President and CEO, Community Service Society of New York

Conclusion: Time for Change

There is growing consensus that the test-only admissions policy must come to an end. Education experts agree that no single test can possibly judge an individual's merit or academic promise. Colleges are moving away from heavy reliance on the SAT. And other top public high schools across the country utilize a variety of measures in their admissions processes.

It is clear that there are fairer ways for New York City to determine which 8th graders will be given the opportunity to attend a Specialized High School. Selective high schools across the country maintain high standards of excellence while more accurately reflecting the diversity of the cities they serve. For many years now, the media and education advocates have attempted to shine a light on the unfair practice of determining admission to the Specialized High Schools solely on the basis of a test score. **The call for change to this admissions policy is now broadly supported by New Yorkers of all walks of life.** In September 2012, eleven parent and community organizations that advocate on behalf of black, Latino and Asian-American constituencies filed a federal civil rights complaint challenging the test-only admissions policy to the Specialized High Schools, naming both the NYCDOE and the New York State Department of Education as targets. Since then, many other organizations, political leaders, and academics have also publically supported the call for a multiple-measures admissions process for these schools. In response to the complaint, the U.S. Department of Education Office for Civil Rights has launched a formal investigation into the flawed admissions policy. And the New York state legislature has also started to respond, with bills to address the problem gaining support in both the New York State Assembly and the New York State Senate.

The next Mayoral administration and City Council should act quickly to change course. Although changing the admissions policy at the three original Specialized High Schools (Stuyvesant, Bronx Science, and Brooklyn Tech) will require legislative action at the state level, the NYCDOE, particularly under Mayoral control of schools, can change the admissions policy at the five newest schools immediately and then join community advocates in crafting a solution for change at the state level.

At a minimum, the NYCDOE should be using both grades and a class rank percentage plan as part of its admissions policy. As the above demonstrates, however, there are many possibilities for the NYCDOE to consider as it moves forward. The decision on what factors to weigh in admissions to the Specialized High Schools should be driven by a careful examination of New York City data, as well as the concerns and insights of the community stakeholders, including students, parents, and educators. The schools profiled in the Appendix are examples of how school districts can utilize creative combinations of measures to find solutions that work well in specific contexts. We suggest that the Mayor convene a group of education policy experts and community stakeholders to examine data and existing research, and to develop policies that give all New York City students a fairer shot at the opportunity these fine schools represent.

The days of the test-only admissions regime will end. It is only a question of how soon. It is time for the NYCDOE to change its own policies and also join the community advocates and education experts in pressing for a change in the state law. New York City can do better, and its students deserve better.

Appendix:

Information on Comparison Schools²⁹

To ensure comparability to the Specialized High Schools in New York City, we selected other top schools across the nation using the following criteria:

1. The school is a public school, predominantly funded and supported by tax dollars, and does not charge tuition. Charter schools were not considered.
2. The school must be located in a large, diverse city, with blacks and Latinos representing at least 40 percent of the city's population.
3. The admissions process of the school is academically competitive. A competitive admissions process means that the number of applications received significantly outnumber available seats for admission, or if a student's application could be rejected on the basis of his/her academic merit in relation to that of other applicants and/or school standards.
4. The school is ranked highly by *U.S. News & World Report*, *The Washington Post*, or *Newsweek*. Details on each school's selectivity are in Table 3 of the Appendix.
5. The school offers a college preparatory curriculum. The curriculum prepares students for college-level work, offers Advanced Placement classes, and specializes in math, science, and/or liberal arts subjects.
6. The school's college acceptance and graduation rates are 90 percent or higher.

The following schools satisfied the above criteria:

- Walter Payton College Preparatory High School (Chicago, Illinois)
- Boston Latin School (Boston, Massachusetts)
- School of Science and Engineering (Dallas, Texas)
- Michael E. DeBakey High School for Health Professions (Houston, Texas)
- California Academy of Math and Science (Carson, California)
- City Honors School at Fosdick Masten Park (Buffalo, New York)
- School Without Walls High School (Washington, D.C.)
- Bard High School Early Colleges (Manhattan and Queens, New York)
- Millennium High School (New York, New York)
- Beacon High School (New York, New York)

Table 1:

New York City's Top Specialized High Schools and our Comparison Schools, Sorted in Order of Total Percentage of Black and Latino Students

City	School	# of students	% black	% Latino	% Black and Latino	% black in school district	% Latino school district
Dallas, TX	School of Science and Engineering	407	18%	58%	76%	24%	69%
Washington, D.C.	School Without Walls High School	548	45%	9%	54%	69%	16%
Houston, TX	Michael E. Debakey	865	23%	30%	53%	25%	63%
Carson, CA	California Academy of Math and Science	644	15%	37%	52%	15%	39%
Chicago, IL	Walter Payton College Prep	859	21%	25%	46%	41%	45%
New York, NY	Beacon High School	1,263	14%	24%	38%	27%	40%
New York, NY	Bard High School Early Colleges (Manhattan and Queens)	1,192	14%	19%	33%	27%	40%
Buffalo, NY	City Honors School at Fosdick Masten Park	887	23%	6%	29%	54%	16%
New York, NY	Millennium High School	658	7%	20%	27%	27%	40%
Boston, MA	Boston Latin School	2,353	10%	10%	20%	39%	37%
New York, NY	Brooklyn Technical	5,451	9%	8%	17%	27%	40%
New York, NY	Bronx Science	3,060	3%	7%	10%	27%	40%
New York, NY	Stuyvesant High School	3,286	1%	2%	3%	27%	40%

**All school and district level enrollment data are for the 2012-13 school year and come from official district or state websites, with the exception of City Honors School at Fosdick Masten Park and the Buffalo City School System, for which information is from 2011-12.*

Table 2:

Admissions Measures Used by Each School

School	Entrance exam (multiple choice)	Entrance exam (w/essay portion)	Standardized test scores	Grades	Essay	Recommendation	Attendance	Interview	Portfolio
The 10 Selective Enrollment High Schools (Chicago, IL)	●		●	●					
The 3 Boston Exam Schools (Boston, MA)	●			●					
School of Science and Engineering (Dallas, Texas)	●	●	●	●				●	
Michael E. DeBakey High School for Health professions (Houston, Texas)	●	●	●	●					
California Academy of Math and Science (Carson, CA)			●	●	●	●			
City Honors School at Fosdick Masten Park (Buffalo, NY)	●	●	●	●	●	●	●		
School Without Walls High School (Washington, D.C.)	●	●	●	●				●	
Bard High School Early Colleges (Manhattan and Queens, NY)	●	●	●	●			●	●	
Millennium High School (New York, NY)			●	●	●		●		
Beacon High School (New York, NY)			●	●		●	●	●	●
The 8 Specialized High Schools (New York, NY)	●								

Table 3:

Additional Information about Comparison Schools

City	School	Selectivity	Highlights
Chicago, IL	Walter Payton College Prep	15,000 applications for 5,000 seats	Over 100 AP classes; study abroad opportunities; 98% college bound; ranked in top 100 high schools by <i>U.S. News & World Report</i> , <i>Newsweek</i> , and <i>The Washington Post</i>
Boston, MA	Boston Latin	4,000 applicants (to the three Boston exam schools) for 475 slots at Boston Latin	Ranked in top 100 high schools by <i>U.S. News & World Report</i> ; 100% college acceptance rate; 94% AP course participation rate; challenging graduation requirements: completion of a senior research paper and four years of Latin coursework
Dallas, TX	School of Science and Engineering	375 applications for 110 slots	Ranked in top 25 high schools by <i>U.S. News & World Report</i> , <i>Newsweek</i> , and <i>The Washington Post</i> ; students are required to pass ten AP courses in sciences, mathematics or engineering; 100% graduation rate; students go on to attend top universities such as Harvard, MIT, and Yale
Houston, TX	Michael E. Debakey	Over 1,000 applications for 250 seats	Ranked in top 100 high schools by <i>U.S. News & World Report</i> and <i>Newsweek</i> ; Blue Ribbon Award recipient; internship placements at the Texas Medical Center and Baylor College of Medicine
Carson, CA	California Academy of Math and Science	Over 1,000 applications for 180 seats	Former Blue Ribbon School; ranked in top 100 high schools by <i>U.S. News & World Report</i> ; students are required to complete two years of engineering, four years of science and math, and two years of a foreign language; located on the campus of California State University, students have the option to take college classes at the university in their junior year
Buffalo, NY	City Honors School at Fosdick Masten Park	485 applications for 130 seats	Ranked number 1 high school in the Northeast by <i>The Washington Post</i> and top 25 in New York State by <i>U.S. News & World Report</i> ; offers AP and International Baccalaureate courses; ninety-nine percent of students graduate with college credits
Washington, D.C.	School Without Walls	700 applications for 120 seats	Ranked number 1 public high school in Washington, D.C. by <i>U.S. News & World Report</i> ; located on the campus of George Washington University; select students may graduate with a high school diploma and an AAS from GWU; Blue Ribbon School in 2010
New York, NY	Beacon High School	2,000–2,500 applications for 250 slots	Beacon offers a dynamic, inquiry-based curriculum for all students that exceeds standards set by the New York State Regents; technology and arts are infused throughout the college preparatory curriculum; students must present performance-based projects to panels of teachers, pass New York State Regents exams, and complete community service to graduate; Blue Ribbon Award recipient
New York, NY	Millennium High School	Over 4,700 applications for over 150 seats	Rigorous liberal arts college preparatory program; Blue Ribbon Award recipient
New York, NY	Bard High School Early Colleges (Manhattan and Queens)	Approximately 3,000 students who sit for the math and writing assessments for 165 slots	Accepted BHSEC students complete most of the high school program in the first two years; qualified 9th and 10th grade students—those who have maintained a 2.0 grade point average—are eligible for entry into the early college program. At the end of four years, students will have completed 60 college credits and received the Associate in Arts (A.A.) degree in the liberal arts and sciences from Bard College as well as their high school diploma; Blue Ribbon Award recipient

Endnotes

1. The complainants are NYC Coalition for Educational Justice, La Fuente, Alliance for Quality Education, New York Communities for Change, Black New Yorkers for Educational Excellence, Community Service Society of New York, Garifuna Coalition USA Inc., Make the Road New York, Brooklyn Movement Center, UPROSE, and Desis Rising Up and Moving.
2. N.Y. Educ. Law § 2590-h(1)(b).
3. See U.S. Dep't of Educ., Office for Civil Rights, *The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers* 4 (2000) (quoting National Research Council, *High Stakes: Testing for Tracking, Promotion, and Graduation* 3 (Jay P. Heubert & Robert M. Hauser eds. 1999)); see also Arthur L. Coleman, *Excellence and Equity in Education: High Standards for High Stakes Tests*, 6 Va. J. of Soc. Pol'y & Law 81, 103 (1998); Complaint from NAACP Legal Def. and Educ. Fund, Inc., LatinoJustice PRLDEF, and the Ctr. for Law and Soc. Justice at Medgar Evers Coll., City U. of N.Y. to U.S. Dep't. of Educ 18 (Sept. 27, 2012) [hereinafter "Complaint"], http://www.naacpldf.org/files/case_issue/Specialized%20High%20Schools%20Complaint.pdf.
4. See Am. Educ. Res. Ass'n., Am. Psychological Ass'n., and the Nat'l Council on Measurement in Educ., *The Standards for Educational and Psychological Testing* 47 (1999) [hereinafter "Joint Standards"].
5. American Educational Research Association, American Psychological Association, and the National Council on Measurement in Education, *Standards for Educational and Psychological Testing*, Joint Standards at 141.
6. See Joint Standards.
7. See Letter from Joseph A. Baranello, NYCDOE to LDF and Advocates for Children (Mar. 17, 2011); Letter from Joseph A. Baranello, NYCDOE to LDF and Advocates for Children (May 20, 2011); see also Javier Hernandez, *Racial Imbalance Persists at Elite Public High Schools*, N.Y. Times (Nov. 7, 2008), available at <http://www.nytimes.com/2008/11/08/nyregion/08specialized.html?pagewanted=all>.
8. Joshua Feinman, *High Stakes, but Low Validity? A Case Study of Standardized Tests and Admissions into New York City Specialized High Schools*, Nat'l Educ. Pol'y Ctr. (2008), available at <http://epicpolicy.org/publication/high-stakes-but-low-validity> (last visited Sept. 26 2013).
9. *Id.*
10. See David Herszenhorn, *Admission Test's Scoring Quirk Throws Balance into Question*, N.Y. Times (Nov. 12, 2005), available at <http://www.nytimes.com/2005/11/12/nyregion/12exam.html?pagewanted=all>; Tutors of Oxford NYC, *Everything You Need to Know About the SHSAT*, <http://www.tutorsofoxford.com/SHSAT.htm#overview> (last visited Sept. 19, 2012).
11. *Id.*
12. See Anna M. Phillips, *Tutoring Surges with Fight for Middle School Spots*, N.Y. Times (Apr. 15, 2012), available at <http://www.nytimes.com/2012/04/16/education/new-york-citys-tutoring-industry-grows-with-competition-for-admissions.html?pagewanted=all>.
13. See Al Baker, *More in New York City Qualify as Gifted after Error is Fixed*, N.Y. Times (Apr. 19, 2013), available at <http://www.nytimes.com/2012/04/16/education/new-york-citys-tutoring-industry-grows-with-competition-for-admissions.html?pagewanted=all>.
14. Documents obtained from the New York City Department of Education.
15. *Id.*
16. *Id.*
17. Elissa Gootman, *In Elite N.Y. Schools, a Dip in Blacks and Hispanics*, N.Y. Times (Aug. 18 2006), available at <http://www.nytimes.com/2006/08/18/education/18schools.html?pagewanted=all>; see also N.Y.C. Dep't of Educ., *School Demographics and Accountability Snapshot*, available at <http://schools.nyc.gov/Accountability/data/default.htm> (last visited Sept. 26, 2013).
18. Jessica A. Hockett, Editorial, *Stuyvesant, There's a Better Way: Learning from Selective High Schools Around the Country*, N.Y. Daily News (Oct. 1, 2012), available at <http://www.nydailynews.com/opinion/stuyvesant-better-article-1.1170734#ixzz2g0kAlMB> (last visited Oct. 7, 2013).
19. These schools were picked based on their high national rankings and their cities' demographic similarities to New York City. Each of the schools uses multiple measures to admit students. The Appendix offers a deeper discussion of which schools were selected for comparison and why.
20. See e.g. Richard C. Atkinson and Saul Geiser, *Reflections on a Century of College Admissions Tests*, Ctr. for Studies of Higher Educ. Res. and Occasional Paper Series, U. of California (2009), available at <http://cshe.berkeley.edu/publications/docs/ROPS-AtkinsonGeiser-Tests-04-15-09.pdf>.
21. *Id.* at 665.
22. *Id.*
23. Paul Tough, *How Children Succeed: Grit, Curiosity, and the Hidden Power of Character*. Houghton Mifflin, 2012.
24. U.S. Department of Education and U.S. Department of Justice, *Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools* 12 (2011), available at <http://www2.ed.gov/about/offices/list/ocr/docs/guidance-ese-201111.pdf> (emphasis added).
25. The following are examples of validation and alignment efforts.
 - Boston Latin's admissions exam ensures their standards are aligned with the National Council of Teachers of English, the International Reading Association, and the National Council of Teachers of Mathematics, with "statisticians confirming that each item is relevant, content specific, and suited to providing the most accurate assessments."
 - The School of Science and Engineering in Dallas, Texas, utilizes the Accuplacer in their admissions exam. Accuplacer is a nationally recognized framework developed by the College Board and is used to measure skills in reading, writing and math. For more information, visit <https://www.accuplacer.org/cat/>.
 - According to Brian Pool, the Data Systems Manager at the Chicago Public Schools Office of Access and Enrollment, the district's selective enrollment admissions exam has undergone predictive validity studies and is audited on a yearly basis to ensure test questions correlate with curriculum standards. For schools that do not contract out to private test providers, the exam content is created in house by faculty and administration. Conversation with Brian Pool, July 2013.
 - The multiple choice math and free response writing assessments used by the Bard Early College High Schools in Manhattan and Queens are specifically developed by the schools' faculty and administration.
26. See Meredith Kolodner, *Prep Course Aimed at Diversifying Elite City Schools Fails to Reach Black and Latino Students*, N.Y. Daily News (Mar. 25, 2011).
27. Documents obtained from the New York City Department of Education.
28. Jessica A. Hockett, Editorial, *Stuyvesant, There's a Better Way: Learning from Selective High Schools Around the Country*, N.Y. Daily News, (Oct. 1, 2012), available at <http://www.nydailynews.com/opinion/stuyvesant-better-article-1.1170734#ixzz2g0kAlMB> (last visited Oct. 7, 2013).
29. Information on comparison schools comes from a variety of sources. These sources include school and district websites, interviews with school personnel, and information from *U.S. News & World Report*, *The Washington Post*, and *Newsweek*.



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American Civil Liberties Union Foundation of Delaware,
American Civil Liberties Union Foundation Racial Justice
Program, and Community Legal Aid Society, Inc.,
Complainants

v.

State of Delaware and Red Clay Consolidated School District,
Respondents

Complaint to the Office of Civil Rights, Region III
Regarding Charter Schools and the Segregation of
Delaware's Public Schools in Violation of Title VI
and § 504 of the Rehabilitation Act

12/3/2014

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I. INTRODUCTION

For over sixty years, the segregation of Delaware's public schools has been the subject of litigation. While the state made considerable progress after its segregated schools were challenged in 1952, recent trends resulting from the state's charter school policies have caused substantial and troubling resegregation. Specifically, the state's Charter School Act of 1995 ("Charter School Act") has led to the proliferation of high-performing charter schools¹ with practices and policies that result in the disproportionate exclusion of African-American and Hispanic students, low income students,² and students with disabilities. These disparities result from the state-sanctioned preferential admissions treatment of students in a 5-mile radius from a school, essay requirements regarding student "interest" in a school's teaching methods or why a

¹ This complaint refers to a charter school as "high-performing" when in the 2013-2014 academic year, at least 90% of students met the state reading and math standards (measured by the highest grade level for which data is available). *See* Exhibit A. In the 2013-2014 school year, these schools were: the Charter School of Wilmington, Newark Charter School, Sussex Academy, MOT Charter School, and Odyssey Charter School. *Id.*

² In this complaint, we use the definition of "low income" utilized by the State of Delaware in their publically available charter school data. Prior to the 2010-11 school year, Delaware considered students who received free or reduced lunch ("FRL") to be low income. *See* "Other Student Characteristics," State of Delaware: The Official Website of the First State, *available at* <http://profiles.doe.k12.de.us/SchoolProfiles/CommonControls/popUp.aspx?distCode=0&schoolCode=0&dataBlock=Demographics&catBlock=OtherCharacteristics> (last viewed Dec. 1, 2014). Between 2011 and 2013 Delaware counted students as low income who received FRL, TANF or SNAP Benefits. *Id.* Starting with the 2013-2014 school year, Delaware counts only students who receive Temporary Assistance for Needy Families ("TANF") or Supplemental Nutrition Assistance Program ("SNAP") as low income. *Id.* By eliminating students who receive free and reduced lunch (based on federal income guidelines) from the state's count of low income students, Delaware lowered the household income limit for classification as low income from 185% of the Federal Poverty Level to approximately 137% of the Federal Poverty Level. Delaware's FRL program allows households earning up to 185% of the Federal Poverty Level to qualify. *See* Income Eligibility Guidelines, State of Delaware: The Official Website of the First State, *available at* <http://www.doe.k12.de.us/Page/1237>; Federal Child Nutrition Programs-Income Eligibility Guidelines, Fed. Reg. Vol. 79, No. 43 (Mar. 5, 2014), *available at* <http://www.fns.usda.gov/sites/default/files/2014-04788.pdf> (last viewed Dec. 1, 2014). Comparing Delaware's TANF income eligibility limits to the Federal Poverty guidelines shows that the state's TANF income limits are approximately 137% of the Federal Poverty Level. *See* Temporary Assistance for Needy Families (TANF), State of Delaware: The Official Website of the First State, <http://www.dhss.delaware.gov/dss/tanf.html> (last viewed Dec. 1, 2014); Income Eligibility Guidelines: Federal Poverty Guidelines-100%, Fed. Reg. Vol. 79, No. 43 (Mar. 5, 2014), *available at* <http://www.fns.usda.gov/sites/default/files/2014-04788.pdf>. Residents of Delaware receiving SNAP benefits must earn at or below 130% of the Federal Poverty Level. Food Supplement Program, State of Delaware: The Official Website of the First State, <http://www.dhss.delaware.gov/dss/foodstamps.html> (last viewed Dec. 1, 2014).

While this complaint alleges that the State of Delaware's policies have the effect of allowing schools to discriminate against low income students, complainants recognize that there is no income-based disparate impact claim available. However, we refer to the effect of Delaware's charter school policies on low income students to emphasize that, in a state where income is so closely correlated with race and the race-based achievement gap is so stark, such policies will have a detrimental effect on both low income families and families of color.

school is a “good choice” for one’s child, and the state’s failure to adequately regulate school-level barriers to admission (i.e. expensive uniform requirements, parental involvement requirements, and activity fees). The State of Delaware through the Delaware Department of Education (“DDE”) and Red Clay Consolidated School District (“RCSD”) authorize all of the charter schools in the state and are responsible for the disproportionate exclusion of students of color, low income students, and students with disabilities from the high-performing schools.

These circumstances are informed by a long history. In 1952, eight African-American parents sued for their children’s right to attend the all-white public school in their community of Claymont, challenging the constitutionality of the “separate but equal” doctrine.³ The judge who heard the case, Chancellor Collins Seitz, ordered the all-white high school to admit the African-American students, bravely reversing centuries of state-sanctioned segregation in education.⁴ Chancellor Seitz weighed the merits of the “separate but equal” principle, ultimately concluding that the African-American school’s inferior facilities, limited curriculum, and heavy teaching load violated this principle.⁵ The court echoed plaintiffs’ assertion that “legally enforced segregation in education, in and of itself, prevents [African-American students] from receiving education opportunities which are ‘equal’ to those offered white [students]”⁶ and held that both the “facilities and educational opportunities” at the all-black school were “substantially inferior in a Constitutional sense, to those at [the all-white school].”⁷ In a rebuke to *Plessy v. Ferguson*,⁸ Chancellor Seitz ruled that he did “not believe the relief should merely be an order to make [the two schools] equal.”⁹

Through appeals, *Belton* became one of the five cases the Supreme Court consolidated into *Brown v. Board of Education*.¹⁰ The decision appealed from Delaware was the only decision that the Supreme Court affirmed when ruling in *Brown*. Over the course of the next forty years, Delaware integrated its public schools through the extensive use of busing and race-conscious

³ See *Belton v. Gebhart*, 87 A. 2d 862 (1952) *aff’d sub nom. Brown v. Bd. of Educ. of Topeka, Kan.*, 349 U.S. 294 (1955).

⁴ *An Interview with the Honorable Collins Jacques Seitz Conducted by the Honorable A. Leon Higginbotham Jr. and by David V. Stivison*, in CHOOSING EQUALITY: ESSAYS AND NARRATIVES ON THE DESEGREGATION EXPERIENCE 75 (Robert L. Hayman Jr. & Leland Ware, eds., Pennsylvania State Univ. Press 2009).

⁵ *Belton*, 87 A. 2d at 868-69.

⁶ *Id.* at 864.

⁷ *Id.* at 871.

⁸ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

⁹ *Belton*, 87 A. 2d at 871.

¹⁰ *Brown v. Bd. of Ed. of Topeka, Shawnee Cnty., Kan.*, 347 U.S. 483, 490 (1954) *supplemented sub nom. Brown v. Bd. of Educ. of Topeka, Kan.*, 349 U.S. 294 (1955) (hereinafter “*Brown*”).

public school assignments. Unfortunately, the integration Delaware public schools achieved has been significantly diminished over the last two decades, in step with the proliferation of charter schools across the state.

As detailed in Part IV of this complaint, Delaware's expansion of charter schools has led to segregated charter schools for students of color, students from low income families, and students with disabilities. Specifically, more than three-quarters of the state's charter schools are racially identifiable.¹¹ High-performing charter schools are almost entirely racially identifiable as White. In addition, low income students and students with disabilities (to the extent that students with disabilities are served by charter schools) are disproportionately relegated to failing charter schools¹² and charter schools that are racially identifiable as African-American or Hispanic. Relatedly, the proliferation of charter schools has been accompanied by increased segregation in public schools located in districts where charter schools operate. Despite the opening of many charter schools in racially and economically diverse areas, these trends will only worsen as long as Delaware's charter schools are permitted to employ their current exclusionary admission requirements. Exclusionary requirements include "interest" requirements in the form of examination scores,¹³ "good choice,"¹⁴ essays written by parents, access to gifted and talented (or

¹¹ In this complaint, racially identifiable schools are identified using the Department of Education's Office for Civil Rights ("OCR") "rule of thumb" for identifying such schools. A school is racially identifiable if there exists at least a 20% disparity between a given school and its surrounding district's enrollment for a given racial group. *See* Letter from Beth Gellman-Beer, Supervising Attorney Philadelphia Office, U.S. Dep't of Educ. To Mark Murphy, Secretary of Educ., Del. State Dep't of Educ. 3 (May 22, 2013) (on file with author) ("In determining whether a school is racially identifiable, OCR compares the percentage of minority students in the school to the percentage of minority students in the District as a whole. In comparing enrollment disparities, OCR looks for differences that are statistically significant and may also consider 'a rule of thumb' that flags disparities of 20 percent between school enrollments and district-wide enrollments as possible indicators of racial identifiability."). To determine whether charter schools in Delaware are racially identifiable, this complaint used the state's school-specific and district-specific enrollment data. *See generally* School and District Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Dec. 1, 2014). Because several charter schools are authorized by the RCSD and the district enrollment data for RCSD included charter school data, this complaint adjusted the RCSD enrollment data to include only public, non-charter schools in determining the racial identifiability of charter schools authorized by RCSD.

¹² The terms "failing" and "nonfailing" in this complaint are derived from Delaware's Adequate Yearly Progress ("AYP") standards. AYP is the name given to accountability standards that states developed under the federal No Child Left Behind Act. In Delaware, schools are put into three categories: "Above Target," "Meets Target," or "Below Target," based on students' scores on the Delaware Comprehensive Assessment System ("DCAS"), Delaware's statewide standardized test. 14 Del. Admin. Code 103, *available at* <http://regulations.delaware.gov/AdminCode/title14/100/103.pdf>. For this complaint, "low-performing charter schools" or "failing schools" are schools that are "below target," or fail to meet AYP.

¹³ Applicants to the Charter School of Wilmington ("CSW") who wish to be considered for admission under the school's first priority preference, "specific interest in CSW's methods, philosophy or educational focus," must score well on a "CSW-administered placement test" which "assesses exposure and foundation in Math and Reading." The Charter School of Wilmington, Student Admissions Policy (approved Oct. 28, 2014) at 1-2, *available at* <http://www.charterschool.org/aboutus/boardofdirectors/downloads/policies/csw-admissions-policy-rev102814.pdf> (last viewed Nov. 30, 2014). To assess "specific interest," the school evaluates performance on the placement test along with the following factors: report card grades for math and science in 7th and 8th grades, teacher recommendations, enrollment in honors classes for Math or Science, extracurricular activities in Math or Science,

“honors”) elementary and middle school programs,¹⁵ annual activity fees,¹⁶ mandatory parent involvement,¹⁷ and mandatory uniform purchases.¹⁸ The Complainants allege that charter schools’ exclusionary admissions requirements, which DDE and RCSD have allowed them to employ, have dissuaded parents of African-American, Hispanic, and low income students and students with disabilities from applying to charter schools and/or prevented them from successfully placing their children in high-performing charter schools.

Additionally, the Charter School Act, coupled with the Neighborhood Schools Act of 2000, has interfered with the integration of Delaware’s traditional urban public schools.¹⁹ Delaware’s school system now presents most inner-city students of color with a Hobson’s choice: attend a hyper-segregated traditional public school or attend a hyper-segregated charter school.²⁰ Though Delaware’s charter school system operates under the auspices of choice, the most desirable and/or high-performing schools cannot and will not admit every student who wishes to attend. Rather, such schools, especially the Charter School of Wilmington (“CSW”), Sussex Academy, and Newark Charter School (“NCS”), discussed in detail in Part IV, admit a

and an applicant essay. *Id.* at 2. The school evaluates all factors based on a system where each factor is weighted differently, but the placement test accounts for more than 50% of available points. Thus, CSW’s admissions process screens out children who have not had access to accelerated curriculums prior to seeking admission.

¹⁴ Sussex Academy requires parents to write an essay about why the school is a “good choice” for their child. Sussex Academy, Addendum Application to Delaware Standard Application (2015-2016), *available at* <http://www.sussexacademy.org/Admissions/>. This will screen out talented children whose parents are illiterate or function with low-literacy, whose parents do not speak English, and whose parents will consider an essay a significant barrier for other reasons.

¹⁵ See discussion of CSW admissions process *supra* note 13.

¹⁶ See, e.g., Sussex Academy, Student Handbook 2014-15 at 6, *available at* https://imageserv11.team-logic.com/mediaLibrary/1/Web2015_10_16_14.pdf (assessing a \$200 annual activity fee for middle school students and a \$225 activity fee for high school students and requiring parents seeking a waiver to contact the school’s office).

¹⁷ See, e.g., Sussex Academy, School Success Agreement, *available at* https://imageserv.team-logic.com/mediaLibrary/1/School_Success_Plan_1.pdf (requiring parents to “[v]olunteer to chaperone field work, review portfolio presentations, help with special assignments from [] child’s team and work to support the PTO and Sports Boosters as needed”).

¹⁸ See, e.g., Shirt Orders, The Charter School of Wilmington, <http://charterschool.org/shirt-orders/> (last viewed Nov. 12, 2014); Sussex Academy, Student Handbook 2014-2015 at 12, *available at* https://imageserv11.team-logic.com/mediaLibrary/1/Web2015_10_16_14.pdf; Uniform Purchases, Newark Charter School, http://ncs.charter.k12.de.us/pages/Newark_Charter_School/Parents/Uniform_Purchases (last viewed Nov. 12, 2014).

¹⁹ The Neighborhood Schools Act of 2000 required a number of Delaware school districts to develop neighborhood school plans, which were to address the way students were assigned to schools in a given district in order for students to attend the grade-appropriate school geographically closest to the student’s home. 72 Del. Laws c. 287 (2000).

²⁰ Leland Ware & Cara Robinson, *Charters, Choice, and Resegregation*, 11 DEL. L. REV. 1, 2-3 (2009) (citing Justice Souter’s dissent in *Zelman v. Simmons-Harris*, 536 U.S. 639, 707 (2002)).

disproportionate number of higher-income White students who have no disabilities. As a result, Delaware's nonfailing charter schools, especially its high-performing charter schools which form a subset of that category,²¹ by and large do not serve students of color, poor students, or students with disabilities.²² This situation leaves to the traditional public schools the more costly and difficult task of educating the students most challenged by poverty or special education needs. In sum, Delaware charter schools now deprive students of the fully integrated education their communities have fought so hard to achieve through *Belton*, *Brown*, and decades of litigation and advocacy, and they are leading to more segregated non-charter public schools. As demonstrated *infra*, the segregating effect of charter schools has increased with the growth in charter schools, but the state has long known of the problem. A 2006 report commissioned by DDE and the State Board of Education noted that many of the charter schools might be "accelerating the resegregation of public schools based on race, class and ability."²³

This Complaint, filed by the American Civil Liberties Union Foundation of Delaware, the American Civil Liberties Union Foundation's Racial Justice Program, and the Disabilities Law Program of Community Legal Aid Society, Inc., ("CLASI")²⁴ alleges that the policies of the State of Delaware and RCSD with respect to the expansion, approval and reapproval of charter schools violate the Department of Education's regulations interpreting Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Applying a "disparate impact" theory, the Complainants seek to vindicate the rights of African-American students, Hispanic students and students with disabilities in Delaware public schools, as they are disproportionately harmed by charter school admission policies that deny them admission or deter them from seeking admission to the high-performing charter schools, and interfere with the integration of Delaware's traditional public schools. The Complainants ask the Department of Education's Office for Civil Rights ("OCR") to investigate Delaware's charter school system and encourage and direct the state and RCSD to adopt new policies and practices to ensure that charter schools reverse the segregation of public school students by race, class, and disability.

²¹ See *supra* notes 1, 12 for a definition of "nonfailing" and "high-performing."

²² For a detailed breakdown of how admissions policies are correlated to racial identifiability and performance of Delaware's charter schools, please see Exhibits A and B.

²³ See Gary Miron, et al., *Evaluation of the Delaware Charter School Reform, Year 2 Report ii* (2006), available at http://homepages.wmich.edu/~miron/publics/de_cs-eval_year2_report.pdf. The finding was conditional because the report also recognized the resegregative effect of interdistrict choice and the Neighborhood Schools Act. *Id.*

²⁴ CLASI is the oldest and largest civil legal services program in Delaware, providing representation to people who are poor since 1946. CLASI, through its Disabilities Law Program, is also the Protection and Advocacy program for the State of Delaware, designated by the Governor to protect and advocate the rights of people with disabilities in Delaware.

II. LEGAL FRAMEWORK

Title VI of the Civil Rights Act of 1964 provides that the State of Delaware, DDE, and RCSD, as recipients of federal financial assistance, may not exclude students from participation in their programs or activities on the basis of race, color, or national origin.²⁵ Even a facially neutral law may have an unlawful discriminatory impact on students of a particular race or color. OCR has explained that in “determining whether a facially neutral policy has an unlawful disparate impact on the basis of race,” OCR will engage in a three-part inquiry.²⁶ First, OCR will determine whether a policy has “resulted in an adverse impact on students of a particular race as compared with students of other races.”²⁷ Next, in the case of an adverse impact, OCR will determine whether the policy in question is “necessary to meet an important educational goal.”²⁸ In making this determination, OCR will “consider both the importance of the goal that the school articulates and the tightness of the fit between the stated goal and the means employed to achieve it.”²⁹ Finally, if the policy is necessary to meet an important educational goal, OCR will assess whether there are (a) “comparably effective alternative policies or practices that would meet the school’s stated educational goal with less of a burden or adverse impact on the disproportionately affected racial group,” or whether (b) “the school’s proffered justification [is] a pretext for discrimination.”³⁰ An affirmative answer to either (a) or (b) results in a finding of unlawful discrimination.³¹

Regulations promulgated by the U.S. Department of Education prohibit a recipient of federal funds from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin.”³² Section 504 of the Rehabilitation Act prohibits discrimination against students with disabilities.

²⁵ 42 U.S.C. § 2000d.

²⁶ U.S. Dep’t. of Educ. OCR, Guidance Letter at 11 (Jan. 8, 2014), *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 11-12.

³² 34 C.F.R. § 100.3(b)(2); U.S. Dep’t of Justice, Title VI Legal Manual 47-49 (2001), *available at* <http://www.justice.gov/crt/about/cor/coord/vimanual.pdf>.

Facially neutral policies that have the effect of discriminating against students with disabilities are similarly prohibited by Section 504.³³

As detailed below, the DDE authorizes all but four of the state's charter schools; the remaining four are approved, i.e., authorized, by the RCSD. Under Delaware law, DDE, the State Board of Education and (as to the charter schools authorized by RCSD) RCSD are responsible for oversight of the charter schools.³⁴ All charter schools are required to submit annual reports addressing, *inter alia*, school operations and management to DDE, the State Board, and the approving authority. Those entities may conduct compliance reviews, and the approving authority is required to do so at least every three years.³⁵ In considering charter school renewal applications, which must be filed periodically by every continuing charter school, the approving authority is required to determine the school's compliance with the criteria set forth in the Charter Schools law, 14 Del. C. §§ 501-17.³⁶ The criteria include not discriminating in the admissions process against any student because of race, color, national origin or disability.³⁷

The charter schools discussed in Part IV, CSW, Sussex Academy, and NCS, are three of the high-performing charter schools in Delaware.³⁸ Each has created structural barriers to the admission of students of color and students with disabilities, and, despite evidence of underrepresentation of these groups, they have inadequately taken diversity into account in their admissions and outreach practices. Comparing the African-American and Hispanic student enrollment at these three schools with the African-American and Hispanic student enrollment in their corresponding school districts leaves no doubt that the demographic makeup of the three charter schools in no way reflects their surrounding districts. In fact, as noted in Figure 5, *infra*, all three of these schools are considered racially identifiable as White.³⁹ The following charts illustrate the segregated nature of Delaware's charter schools and their lack of diversity relative to their surrounding districts.

Figure 1. Demographics of Three Delaware High-Performing⁴⁰ Charter Schools and Their Surrounding Districts (2013-14)⁴¹

³³ 29 U.S.C. § 701 *et seq.*

³⁴ Charter School of Wilmington Preferences, Del. Op. Att'y Gen. 06-IB07, at *1 (April 10, 2006).

³⁵ 14 Del. C. § 513.

³⁶ *Id.* at §514A(a).

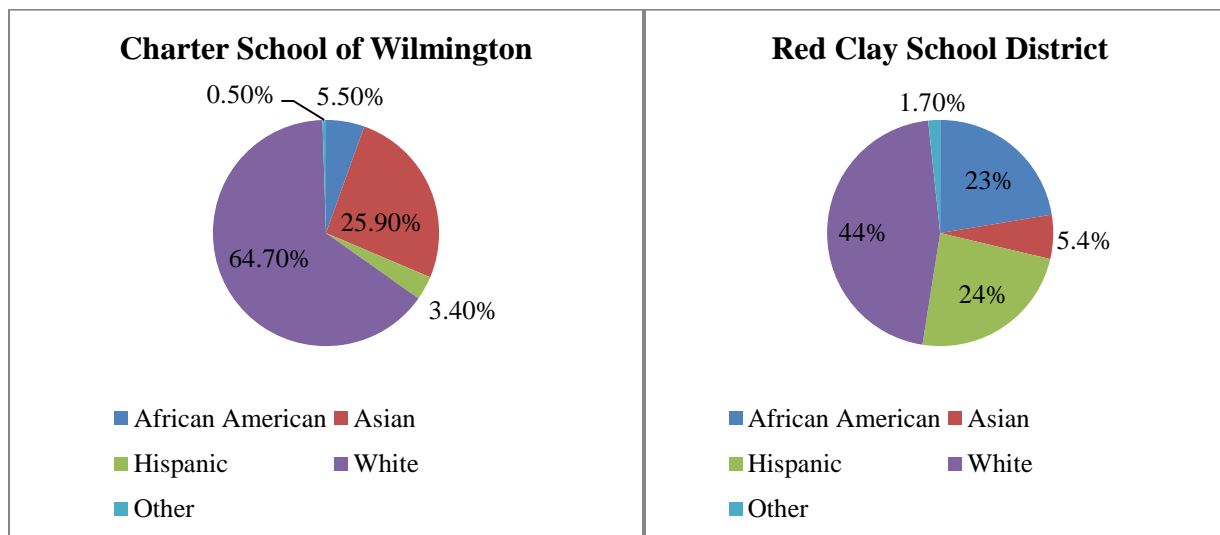
³⁷ *Id.* at §506(a)(4).

³⁸ *See supra* note 1.

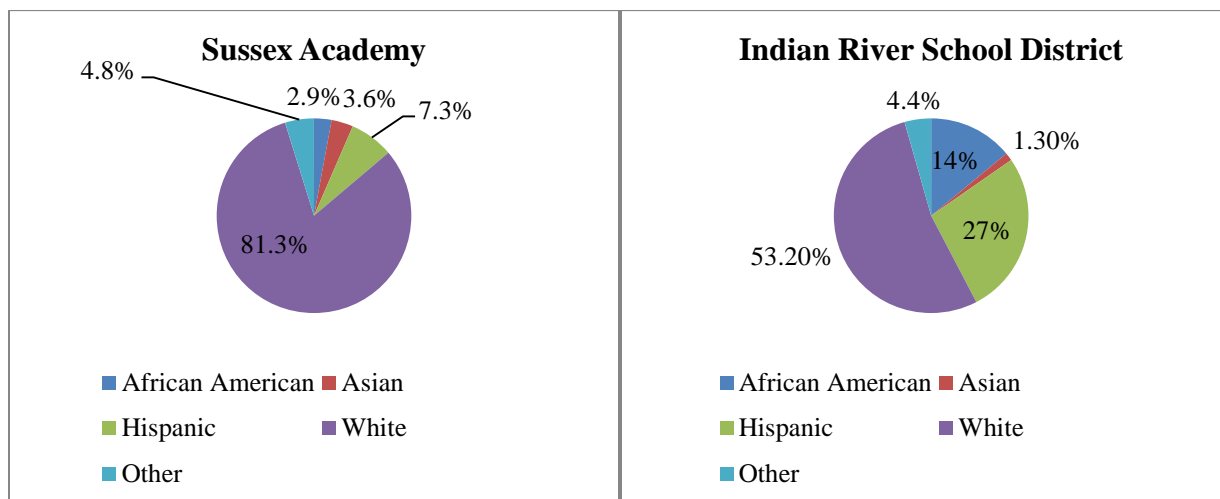
³⁹ *See also* Exhibit A.

⁴⁰ *See supra* note 1.

Charter School of Wilmington v. Red Clay School District (2013-14)⁴²



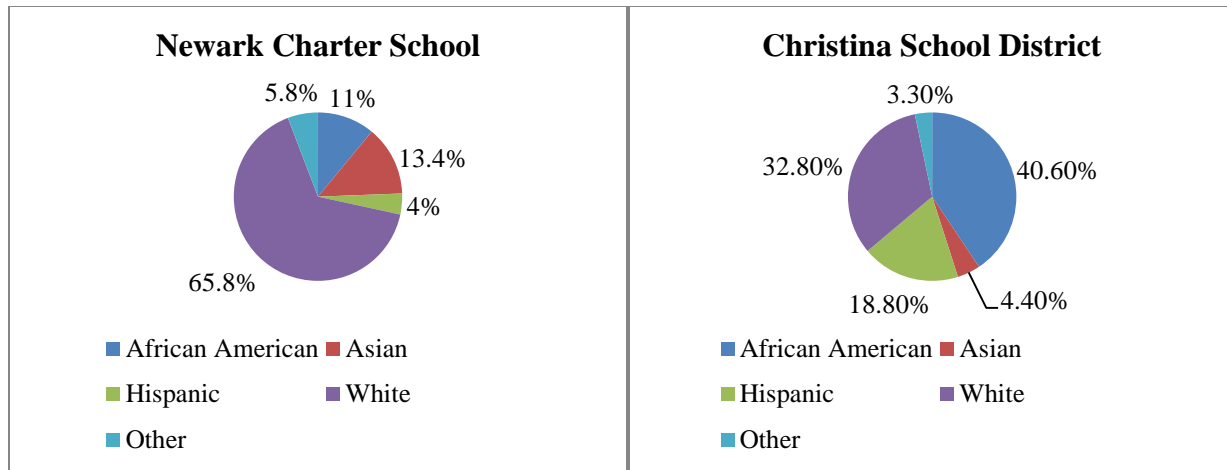
Sussex Academy v. Indian River School District (2013-14)



⁴¹ See generally Delaware School and District Profiles, State of Delaware: The Official Website of the First State, available at <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx>.

⁴² Because several charter schools are authorized by the RCSD and the district enrollment data for RCSD on the State of Delaware website included charter school data, this complaint adjusted the RCSD enrollment data from that website to include only public, non-charter schools.

Newark Academy v. Christina School District (2013-14)



These schools are but the most extreme examples of the segregation that Delaware’s charter policy has engendered, in which students must choose between schools that are failing, segregated, or both.

III. DESEGREGATION HISTORY

Perhaps because of its location in the mid-Atlantic region, historically sandwiched between slave and free states, Delaware’s history with respect to race is unique. In 1992, the *New York Times* described Sussex County, Delaware’s southernmost county, as the “northernmost county in Mississippi.”⁴³ Delaware’s northernmost county is, in contrast, part of metropolitan Philadelphia, Pennsylvania. As a result, Delaware is inconsistent in its relationship to race; it was both a national leader in school integration and has been a microcosm of many communities’ struggles throughout the country to integrate public schools. An arduous school integration process, documented in the state’s rich desegregation litigation, preceded Delaware’s current public school system and the relatively recent emergence of charter schools.

Wilmington, Delaware is located in New Castle County. In 1950, Wilmington’s population was about 110,000, 15% of whom were African-American.⁴⁴ Suburban New Castle County’s population at the time was about 62,000, 6.4% of whom were African-American.⁴⁵ During the next two decades, the suburban New Castle County population ballooned to five

⁴³ WILLIAM H. WILLIAMS, *SLAVERY AND FREEDOM IN DELAWARE, 1639-1865* xii (1996).

⁴⁴ *Evans v. Buchanan*, 393 F. Supp. 428, 432 (D. Del. 1975) *supplemented*, 416 F. Supp. 328 (D. Del. 1976) *aff’d as modified*, 555 F.2d 373 (3d Cir. 1977).

⁴⁵ *Id.*

times its previous size, while the suburban African-American population “declined slightly.”⁴⁶ As a result, by the mid-1970s, the African-American population of the County had become heavily concentrated within the City of Wilmington.”⁴⁷ The disparity led to racially identifiable schools whose resources hugely varied.

Prior to the Supreme Court’s decision in *Brown*, the Delaware Chancery Court, in *Belton*, held that the state’s segregated schools were not *per se* unconstitutional, but that the facilities and educational opportunities were substantially inferior at the all-black schools at issue in the case.⁴⁸ The court considered differences in facilities, transportation, teacher training, pupil-teacher ratios, and overall educational opportunities.⁴⁹ *Belton* became one of five cases before the Supreme Court in *Brown* regarding the constitutionality of the “separate but equal” doctrine outlined by *Plessy*⁵⁰ and its application to public schools. The case was the only case affirmed by the Supreme Court.⁵¹

However, despite this initial leadership, Delaware delayed and resisted implementation of *Brown*’s desegregation mandate. The initial regulations drawn by the State Board of Education after *Brown* created a loophole to prevent immediate desegregation by requiring local school districts to file a request before desegregation could begin.⁵² For more than three years after the *Brown* decision in 1954, local school districts did not file the requests, and the state did not force the schools to desegregate.⁵³ In *Evans v. Buchanan*, the Third Circuit Court of Appeals was not swayed by this blame-shifting; it compelled admission of the named parties to schools in their respective districts without regard to race and ordered the state to formulate a desegregation plan.⁵⁴ In 1959, the district court approved almost the entire grade-by-grade State Board plan for desegregation that would span over twelve years.⁵⁵ However, the Third Circuit Court of Appeals

⁴⁶ *Id.*

⁴⁷ *Id.* at 432-33.

⁴⁸ *Belton*, 87 A.2d at 869, 871.

⁴⁹ *Id.* at 869-70.

⁵⁰ *Plessy*, 163 U.S. 537 (1896).

⁵¹ *Brown*, 349 U.S. at 301.

⁵² *Evans v. Buchanan*, 152 F. Supp. 886, 887-88 (D. Del. 1957) *aff’d in part, vacated in part*, 256 F.2d 688 (3d Cir. 1958).

⁵³ *Id.*

⁵⁴ *Id.* at 888-89.

⁵⁵ *Evans v. Buchanan*, 172 F. Supp. 508, 516 (D. Del. 1959) *supplemented*, 173 F. Supp. 891 (D. Del. 1959) and *vacated sub nom. Evans v. Ennis*, 281 F.2d 385 (3d Cir. 1960).

held, in part, that the twelve-year plan failed to follow the “intent and substance” of *Brown*.⁵⁶ It ordered the lower court to compel the State Board to submit for its approval a “modified plan which [would] provide for full integration of all grades of the public schools of Delaware commencing with the Fall term 1961.”⁵⁷ It also ordered the lower court to direct the individual defendants, members of the Board of Trustees or of the Boards of Education in the named School Districts, “to integrate commencing with the Fall term 1960, the respective . . . plaintiffs who . . . actively [sought] integration,” in addition to ordering the continued grade-by-grade integration then in effect until the modified plan providing for full integration was put in place.⁵⁸

In 1968, eight years after the Third Circuit’s desegregation order in *Evans*, the state legislature passed the Education Advancement Act to change district boundaries and consolidate schools.⁵⁹ The Act excluded Wilmington from the reorganization planned by the State Board and from any consolidation plan.⁶⁰ Thus, the Act effectively ensured that segregation persisted in Wilmington, given that Wilmington’s core black schools remained segregated.⁶¹ Indeed, in 1974, “[t]he Wilmington Public Schools . . . ha[d] an enrollment of 14,688 pupils, of whom 83% [we]re black and 14% [we]re white.”⁶² Of the 22 schools in the city, “11 ha[d] virtually all-black (94-100%) enrollments and one ha[d] a virtually all-white (89%) enrollment.”⁶³ African-American families from Wilmington sued to desegregate their schools by including suburban schools in their district, and the district court ordered the presentation of alternate desegregation plans, both within the current boundaries of the Wilmington School District and incorporating other parts of New Castle County.⁶⁴ The court passed on the question of whether the Educational Advancement Act violated the constitution in its confinement of Wilmington students to Wilmington schools.⁶⁵ The district court referred to schools that had previously been *de jure* black schools and that between 1956-1973 had black student enrollment of no less than 91% as “racially identifiable,”⁶⁶ viewing such enrollment numbers as “a clear indication that segregated

⁵⁶ *Evans*, 281 F.2d at 388.

⁵⁷ *Id.* at 390.

⁵⁸ *Id.*

⁵⁹ *Evans*, 393 F. Supp. at 438

⁶⁰ *Id.* at 438-39.

⁶¹ *Id.* at 439.

⁶² *Evans v. Buchanan*, 379 F. Supp. 1218, 1222 (D. Del. 1974).

⁶³ *Id.*

⁶⁴ *Id.* at 1224.

⁶⁵ *Id.*

schooling in Wilmington [had] never been eliminated and that there still exist[ed] a dual school system.”⁶⁷

The portion of the Education Advancement Act excluding Wilmington was declared unconstitutional in 1975, in subsequent phases of *Evans*.⁶⁸ The district court found in 1975 “(a) a historic arrangement for inter-district segregation within New Castle County, (b) significant governmental involvement in inter-district discrimination, and (c) unconstitutional exclusion of Wilmington from consideration for consolidation by the State Board.”⁶⁹ By leaving Wilmington out of any broader desegregation plan, the state had excluded nearly 75% of the African-American student population of New Castle County and 44% of the African-American student population in Delaware, effectively preserving the racial identifiability of Wilmington and the suburban New Castle County Districts and thus contributing to a “separation of the races.”⁷⁰

In 1976, the district court reviewed proposals to desegregate Wilmington and northern New Castle County schools.⁷¹ The court rejected an intra-district plan that would have left in place racially identifiable schools in Wilmington and suburban New Castle districts.⁷² Notably, the court considered Wilmington schools that were, “for the most part, 85% to 95% black” to be racially identifiable.⁷³ The court also rejected inter-district proposals including voluntary plans involving magnets, forced busing, and part-time desegregation.⁷⁴ The court ordered inter-district reorganization and desegregation within two years.⁷⁵ The court’s proposed plan (which could be substituted by an approved state plan), among other things, included all of northern New Castle County, set up an interim board of education, and set a range of 10–35% African-American enrollment as *prima facie* evidence of having desegregated.⁷⁶ The Third Circuit upheld the

⁶⁶ *Id.* at 1223.

⁶⁷ *Id.* (citation omitted).

⁶⁸ *Evans*, 393 F. Supp. at 447.

⁶⁹ *Id.*

⁷⁰ *Id.* at 439, 446 (internal quotations omitted) (citation omitted).

⁷¹ *Evans v. Buchanan*, 416 F. Supp. 328, 343-352 (D. Del. 1976), *aff’d as modified*, 555 F.2d 373 (3d Cir. 1977).

⁷² *Id.* at 343-44.

⁷³ *Id.* at 343.

⁷⁴ *Id.* at 344-47.

⁷⁵ *Id.* at 353-61.

⁷⁶ *Id.* at 354 -58.

decision but disapproved of the *prima facie* desegregation percentages, holding “that no particular racial balance will be required in any school, grade, or classroom.”⁷⁷

In 1978, the district court adopted a “9-3 plan” where children would attend schools in the predominantly suburban districts for nine years and schools in the City of Wilmington for three consecutive years.⁷⁸ In 1981, after the state legislature empowered the State Board to “ensure compliance with the parameters set forth in the 1978 order,” the Delaware district court approved the State Board’s division of the single consolidated district into four separate school districts.⁷⁹ These school districts closely resembled the previous attendance areas.⁸⁰ Under these conditions, Delaware reached the height of its integration efforts in the 1980s.

In 1989, the State Board requested RCSD “to bring the racial composition of its student populations at each District school to within +/- 10% of the minority percentages for each grade level in the District by Fall 1991.”⁸¹ The Red Clay Consolidated School Board submitted a plan in March 1990 (the “Plan”) in response that contained a “mixed feeder plan” and a “choice component” to be developed and submitted at a subsequent date.⁸² This Plan was to be implemented in September 1991.⁸³ A “mixed feeder plan” is one which incorporates race-conscious alternatives to a geographic feeder plan in order to achieve desegregated schools.

In 1991, RCSD moved to have the 1978 order amended to allow a deviation from the 9-3 plan in order to implement a “CHOICE” or magnet school plan in conjunction with a part of the District’s mixed feeder plan proposed in March 1990.⁸⁴ The court granted the motion with certain conditions that addressed, in part, concerns raised throughout the proceedings.⁸⁵ Notably, the court paid special attention to the RCSD’s history of “delay, obfuscation, and recalcitrance” in remedying racial disparities from 1984-91.⁸⁶ Additionally, the court explained that RCSD had

⁷⁷ *Evans v. Buchanan*, 555 F.2d 373, 380 (3d Cir. 1977), *cert. denied*, 434 U.S. 880 (1977).

⁷⁸ *Evans v. Buchanan*, 447 F. Supp. 982, 989, 1008 (D. Del. 1978) *aff’d*, 582 F.2d 750 (3d Cir. 1978).

⁷⁹ *Coal. To Save Our Children v. Buchanan*, 744 F. Supp. 582, 584 (D. Del. 1990).

⁸⁰ *Evans v. Buchanan*, 512 F. Supp. 839, 846 (D. Del. 1981).

⁸¹ *Coal. To Save Our Children*, 744 F.Supp. at 584-85.

⁸² *Id.* at 585.

⁸³ *Id.* at 584-85.

⁸⁴ *Coal. to Save Our Children v. State Bd. of Educ. of State of Del.*, 757 F. Supp. 328, 331, 333 (D. Del. 1991).

⁸⁵ *Id.* at 354-64.

⁸⁶ *Id.* 341-46.

not reached unitary status.⁸⁷ While the CHOICE plan was never implemented due to incomplete funding, RCSD nevertheless developed several magnet programs with approval of the court.⁸⁸ The district eventually implemented the Mixed Feeder II plan (a version of the mixed feeder plan proposed by Red Clay in 1990).⁸⁹

In 1995, the State Board and all four Northern New Castle County school districts successfully moved for a declaration of unitary status.⁹⁰ Despite evidence of segregated classrooms,⁹¹ vastly different educational outcomes for students of color,⁹² and evidence of disparate treatment in special education identification and discipline,⁹³ the court found that the defendants had achieved unitary status.⁹⁴ Ultimately, the court concluded that the defendants had “complied in good faith with the desegregation decrees” at issue, that they were “unlikely to return to the segregative practices of their predecessors,” and that “the vestiges of past discrimination ha[d] been eliminated to the extent practicable.”⁹⁵ In reaching that conclusion the court relied on its finding, based on the data presented to it, that only one school in the four

⁸⁷ *Id.* at 350 (“[T]he court cannot and will not make a finding that the Red Clay District is currently operating in compliance with the Equal Protection Clause, nor can the court find that the currently constituted majority of the Red Clay Board, in the absence of supervision by the State Board, will operate the District in compliance with the United States Constitution in the near future.”).

⁸⁸ *Coal. to Save Our Children v. State Bd. of Educ. of State of Delaware*, No. CIV. A. 1816-1822-SLR, 1994 WL 829065, at *2 (D. Del. Aug. 29, 1994).

⁸⁹ *Id.*

⁹⁰ *Coal. to Save Our Children v. State Bd. of Educ. of State of Del.*, 901 F. Supp. 784, 785 (D. Del. 1995), *aff’d*, 90 F.3d 752 (3d Cir. 1996).

⁹¹ The court acknowledged, for example, that the “‘classroom imbalance’ issue of concern to plaintiff [was] that ostensibly created by ‘tracking’ or ‘ability grouping,’” that “[i]n each school district, . . . more white than minority students had been kept at the same ‘honors’ level throughout high school,” and that there was “evidence among high school students who achieve identical testing scores, [that] black students were more likely to be placed in the lower level class than were white students.” *Id.* at 799-801.

⁹² The court noted that “[v]arious demographic data demonstrate[d] that there [was] a ‘black/white gap’ in the desegregation area and New Castle generally” as to socioeconomic measures such as attainment of a high school degree, poverty, unemployment, and fertility rates. *Id.* at 818.

⁹³ The court noted that the “percentage of minority students in special education programs in the 4 districts [was] higher than the percentage of minority students in the general population” and that “[t]he disproportionate placement of minority students in special education programs [was] a national concern and a matter of national debate.” *Id.* at 820.

⁹⁴ *Id.* at 823-24.

⁹⁵ *Id.*

Northern New Castle County school districts was racially identifiable and that the schools were “among the most racially balanced in the United States.”⁹⁶

That laudable racial balance is no longer the case. As shown *infra* in Figure 12, RCSD alone, where CSW is located, has ten racially identifiable schools, as does Christina School District, where NCS is located. The same year that schools in Delaware were declared “unitary,” Delaware adopted the Charter School Act of 1995. Delaware’s first charter school, CSW, was authorized by RCSD and opened in 1996. As the state legislature debated the bill that would become the Charter School Act, state senators worried that the Act would interfere with Delaware’s ability to abide by ongoing desegregation orders.⁹⁷ In addition, lawmakers, representatives of the Parent Teacher Association (“PTA”), and school leaders voiced concerns that the Act would negatively impact low income families and result in resource disparities across schools and communities.⁹⁸ Senator Harris McDowell pointed out that charter schools could potentially benefit more privileged, higher-income families, leaving “the remainder of [sic] a worse situation.”⁹⁹ Wayne Bastian, Superintendent of the Delmar School District, feared that corporations would disproportionately fund schools in certain areas, noting, for example, that students in Delmar would not have the same opportunity as students in Wilmington due to the “additional finances” that corporations around Wilmington would contribute.¹⁰⁰ His concerns were justified, as all of the companies still in existence that formed a consortium in partnership with parents and other community members to establish CSW are located within 5 miles of the school.¹⁰¹ Jeanette Krause, representing the PTA, wondered what would happen to funds that follow students to charter schools in the cases where students return to their home districts during the academic year.¹⁰²

⁹⁶ *Id.* at 799.

⁹⁷ See SB. 200, Del. S. Deb. Audio Recording, 138th Gen. Assembly, 1995 (audio of debate on file with author).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ See The Charter School of Wilmington, School Profile, *available at* <http://charterschool.org/downloads/aboutus/csw-school-profile-2015.pdf> (noting that “a consortium of six local companies, together with teachers, parents, and community leaders, organized [CSW]”); The Charter School of Wilmington, Quick Fact Sheet, *available at* <http://www.charterschool.org/downloads/aboutus/quick-fact-sheet-2015.pdf> (stating that the “1996 Consortium Member Companies include Bell Atlantic, Delmarva Power, DuPont Company, Hercules, Inc., Medical Center of Delaware, and Zeneca, Inc”). Delmarva Power, DuPont Company, Medical Center of Delaware (now Christiana Care Health System), and Zeneca, Inc. (now AstraZeneca, Inc.) are all located within 5 miles of CSW. See generally Googlemaps, googlemaps.com (last viewed Dec. 1, 2014).

¹⁰² See *supra* note 97.

In 2000, despite continued concerns about charter schools' impact on segregation, Delaware adopted the Neighborhood Schools Act of 2000. The Act requires the Brandywine, Colonial, Christina, and Red Clay Consolidated School Districts "to develop and implement Neighborhood School Plans . . . that allows [sic] every student to attend the grade-appropriate school geographically closest to the student's home."¹⁰³ The Act's legislative record includes a letter from Wilmington's Mayor, James H. Sills, Jr. to Senator David P. Sokola, the Act's sponsor in the Senate, expressing concern "that [the] bill, if passed by the Senate, could reincarnate a segregated school system."¹⁰⁴ The legislative record also shows that the City of Wilmington went on to pass a City Council Resolution by unanimous vote opposing the bill "absent studies to determine the impact on the City of Wilmington."¹⁰⁵

These individuals' comments and concerns have proved prescient over the years. In the years since charter schools first took root, researchers nationwide have found that "charter schools often lead to increased school segregation" and, "[i]n many cases, [charter schools] exacerbate current school segregation," a phenomenon that Delaware's system exemplifies.¹⁰⁶

IV. FACTS

A. Charter School Law

Delaware passed legislation permitting independent charter schools in 1995 to "create an alternative to traditional public schools operated by school districts and improve public education."¹⁰⁷ Charter schools may not "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 . . . be formed to circumvent a court-ordered desegregation plan."¹⁰⁸ Per the statute, charter schools may not restrict admissions

¹⁰³ 72 Del. Laws c. 287 (2000) (on file with author).

¹⁰⁴ H. 140, 16th day of 2nd Legislative Session, at page 246 (Del. 2000) (Letter from James H. Sills, Jr., Mayor of City of Wilmington, Del., to Sen. David P. Sokola, Del. S. (June 30, 1999)) (on file with author).

¹⁰⁵ H. 140, 16th day of 2nd Legislative Session, at page 246 (Del. 2000) (Letter from Theopalis K. Gregory, Sr., Council Member At-Large and President Pro Tempore, City Council of City of Wilmington, Del., to Sen. Margaret Rose Henry, Del. S. (Mar. 31, 2000)) (on file with author).

¹⁰⁶ Iris C. Rotberg, *Charter Schools and the Risk of Increased Segregation* (2014), *available at* http://www.edweek.org/ew/articles/2014/02/01/kappan_rotberg.html.

¹⁰⁷ Del. Code Ann. tit.14 § 501.

¹⁰⁸ Del. Code Ann. tit. 14 § 506(a)(4)-(5).

except through age and gender, or through a lottery in the case of over-enrollment.¹⁰⁹ Yet the law allows for charter schools to give *preference* in admission to siblings, as well as to (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; and (c) students who have a specific interest in the school's teaching methods, philosophy or educational focus, among other preferences.¹¹⁰

In practice, the high-performing charter schools' preferences for students who have a specific interest in the school's teaching methods, philosophy or educational focus or a sibling already enrolled in the school so dramatically determine which students are granted admission at those charter schools that the other preferences have become nearly irrelevant for low income students and students of color.¹¹¹ CSW and Sussex Academy use the "interest" exception to justify enrolling a high number of White, middle-class children from areas that are far more diverse than their corresponding charter school populations, rendering both these charters and the more heavily-minority public schools racially identifiable.¹¹²

Even though the statutes governing charter schools in Delaware are race-neutral on their face, they fail to address a number of barriers for students of color, students from low income families, and students with disabilities seeking to enroll in Delaware's charter schools. The admissions processes and attendance requirements for charter schools vary throughout the state, and practices at the high-performing schools, such as the CSW, NCS, and Sussex Academy, stand out as creating particularly challenging barriers for these groups. CSW, for example, screens out underserved students by prioritizing admission for applicants who perform well on an entrance test assessing math and reading skills. As discussed above, CSW gives the highest preference in admission to students who can demonstrate a "specific-interest" in CSW's methods.¹¹³ The school has created a point system to measure a student's interest whereby a student can accrue a maximum of 383 points.¹¹⁴ The entrance test offers applicants an opportunity to accrue over 50% of the total 383 points.¹¹⁵ The remainder is made up of seventh and eighth grade report cards (up to 120 points) and a combination of teacher recommendations, previous enrollment in math and science honors classes, extracurricular activities in math or

¹⁰⁹ Del. Code Ann. tit. 14 § 506(a)(3).

¹¹⁰ Del. Code Ann. tit. 14 § 506(b)(1)-(4).

¹¹¹ See discussion *infra* Part IV, C-E.

¹¹² See Exhibit A (showing that CSW and Sussex Academy require parent and/or student essays regarding specific interest in the schools).

¹¹³ See discussion *supra* note 13.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

science, and an applicant essay (up to 65 points).¹¹⁶ A student must accrue 325 points or more to establish a “specific-interest preference.”¹¹⁷

Many other Delaware charter schools enroll few low income students because they do not provide the same transportation that is required of traditional public schools. Delaware’s Charter School laws dictate that students residing outside of the district where a charter school is located shall not have busing or subsidized transportation available.¹¹⁸ The effect of this policy is that low income students residing outside of a charter school’s district can often not afford to enroll because poor parents, including many parents of students of color, either have no car or only one car and work obligations interfere with their ability to drive their children to school or a pick-up site.

While charter schools may not charge tuition, many carry out substantial fundraising campaigns each year that pressure parents to raise significant sums of money for or donate to the schools.¹¹⁹ The high-performing charter schools in the state also require that students purchase and wear expensive uniforms.¹²⁰ Students with disabilities are frequently deterred from applying

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ The language of the Charter School statute with respect to transportation is:

The charter school *may* request to have the school district where the charter school is located transport students residing in that district to and from the charter school on the same basis offered to other students attending schools operated by the district, or to receive from the State a payment equal to 70% of the average cost per student of transportation within the vocational district in which the charter school is located and become responsible for the transportation of those students to and from the charter school. *In the case of students not residing in the district where the charter school is located, the parents of such students shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the charter school.* In lieu of the payment from the State specified above, if a charter school utilizes a contractor for student transportation the charter school shall publicly bid the routes, and the State shall reimburse the charter school for the actual bid costs only if lower than the payment specified above. Notwithstanding the foregoing, a student at a charter school shall receive such transportation assistance as is made available to students pursuant to a public school choice program established by this Code provided that such student otherwise meets the eligibility requirements for such assistance. In the event a charter school chooses to transport students itself, it shall do so in accordance with all public school transportation safety regulations. Local school districts and charter schools shall cooperate to ensure that the implementation of this chapter does not result in inefficient use of state appropriations for public school transportation and the State Board shall exercise its authority to approve bus routes so as to avoid such waste.

Del. Code Ann. tit. 14, § 508 (emphasis added).

¹¹⁹ Declaration of Prof. Eve Buckley attached as Exhibit C (“Buckley Decl.”), ¶ 2.

¹²⁰ See Shirt Orders, The Charter School of Wilmington, <http://charterschool.org/shirt-orders/> (last viewed Nov. 12, 2014); Sussex Academy, Student Handbook 2014-2015 at 12, *available at* https://imageserv11.team-logic.com/mediaLibrary/1/Web2015_10_16_14.pdf; Uniform Purchases, Newark Charter School, http://ncs.charter.k12.de.us/pages/Newark_Charter_School/Parents/Uniform_Purchases (last viewed Nov. 12, 2014); MOT Charter School, Family Handbook (2013-2014) at 17-19, *available at* <http://www.motcharter.com/Family->

to certain charter schools or are discouraged from receiving services through an Individual Education Program once they are enrolled in a charter school.¹²¹

B. Charter Schools in Delaware 2014-2015

There are currently 24 active charter schools in Delaware,¹²² and more are scheduled to open in the next two school years.¹²³ Of the 24 active charter schools, 20 were granted charters from the state of Delaware, and the remaining four, including CSW, were authorized by RCSD.¹²⁴ According to data for the 2013-14 school year, charter schools represent approximately 10% of the schools in the state,¹²⁵ and serve approximately 8% of the state's public school population.¹²⁶

Figure 2. Delaware Public Schools by Type and County (2013-14)¹²⁷

County	High	Vocational Technical	Middle	Elementary	Early Edu. & Kindergarten	Special, ILC* & Other	Total
Kent	5	1	7	28	2	10	53
New Castle	15	4	17	62	5	20	123
Sussex	7	1	8	18		7	41

Handbook/; Uniforms/Dress Code, Odyssey Charter, <http://odysseycharterschooldel.com/uniforms.html> (last viewed Nov. 12, 2014).

¹²¹ Exhibit C, Buckley Decl., ¶ 4.

¹²² Charter Schools, Delaware Department of Education, <http://www.doe.k12.de.us/Page/1735> (last viewed Nov. 12, 2014).

¹²³ *Id.*

¹²⁴ *Id.* The Charter School of Wilmington, Delaware College Preparatory Academy, Delaware Military Academy, and Odyssey Charter School (initial charter only) were authorized by the Red Clay School Board. *Id.*

¹²⁵ See Figure 2 (showing that in the 2013-2014 school year, there were 217 charter schools in Delaware); *supra* note 122 (according to the list of active charter schools, 21 charter schools operated in the 2013-2014 school year).

¹²⁶ See Information (Charter School by County (2013-2014)), State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Account.aspx> (last viewed Dec. 1, 2014) (stating that in the 2013-14 school year, there were 11,078 students enrolled in Delaware charter schools); About (State Enrollment History for Public Schools), State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last visited Dec. 1, 2014) (in the 2013-14 school year, there were 131, 514 students enrolled in Delaware public schools).

¹²⁷ About (Delaware Public Schools by Type and County (2013-14)), State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/schoolprofiles/State/Default.aspx> (last viewed Dec. 1, 2014).

Total	27	6	32	108	7	37	217
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*ILCs are “Intensive Learning Centers” for students who need additional academic and behavioral supports. These are referred to as alternative schools in most places.

Figure 3. Charter Schools by County (2013-14)¹²⁸

County	Number of Schools	Combined Enrollment	Percent of Statewide Charter Enrollment
Kent	4	1,536	14%
New Castle	16	9,130	82%
Sussex	1	412	4%
Total	21 ¹²⁹	11,078	100%

As described more fully below, charter school demographics and corresponding trends in public school enrollment indicate that Delaware’s charter schools’ admissions policies and the state’s authorization of charter schools have had a significant disproportionate impact on students of color, low income students, and students with special needs. The state’s charter schools are becoming increasingly racially identifiable. High-performing charter schools are almost entirely racially identifiable as White. Low income students and students with disabilities are disproportionately relegated to failing charter schools and those charter schools that are racially identifiable as African-American or Hispanic. In addition, students in traditional public schools have become more segregated. The state and RCSD have failed to ensure that charters attempt to represent their local school district’s demographic makeup and serve all eligible students, regardless of race. For the 2013-14 school year, 16 of the 21 charter schools operating (76%) were racially identifiable as White, African-American, or Hispanic.¹³⁰ Within Delaware’s nonfailing charter schools in the 2013-14 academic year, the high-performing schools were racially identifiable as White with the exception of MOT Charter School, where White students nevertheless made up 71.1% of the student body.¹³¹ The state and RCSD are not ensuring that

¹²⁸ Information (Charter School by County (2013-2014)), State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Account.aspx> (last viewed Dec. 1, 2014).

¹²⁹ There are currently 24 charter schools in Delaware; this figure reflects the number of charter schools open in Delaware during the 2013-2014 school year. *See supra* note 122.

¹³⁰ *See* Figures 4, 5, 6.

¹³¹ *See* Figure 5; Exhibit A.

African-American and Hispanic students are given equal access to these high-performing schools.

Figure 4. Delaware Charter Schools, Racial Identifiability (2013-14)¹³²

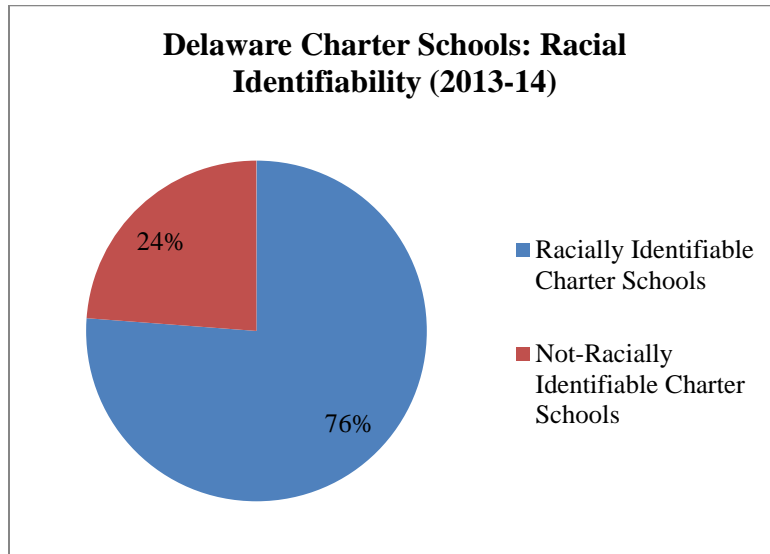
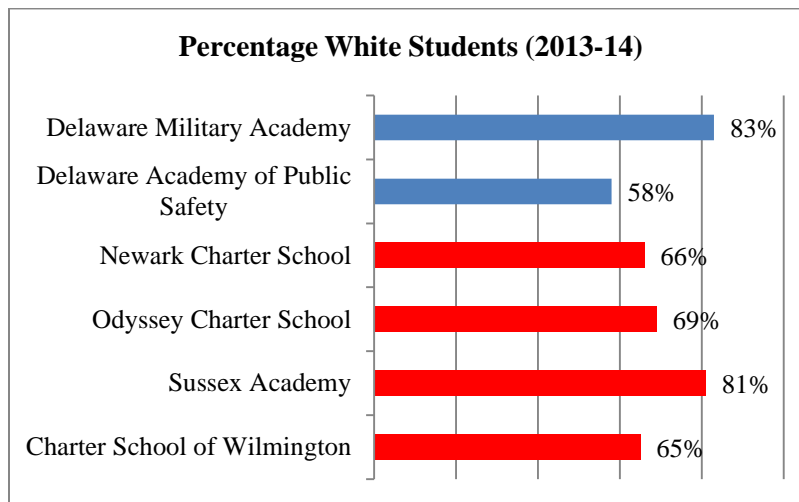


Figure 5. Delaware Charter Schools, Racially Identifiable as White (2013-14)^{*133}



* Red Bars indicate Schools that are “high-performing.”¹³⁴

¹³² See Exhibits A and B.

¹³³ See Exhibits A and B.

¹³⁴ See *supra* note 1 for explanation of term “high-performing.”

Figure 6. Delaware Charter Schools, Racially Identifiable as African-American or Hispanic (2013-14)¹³⁵

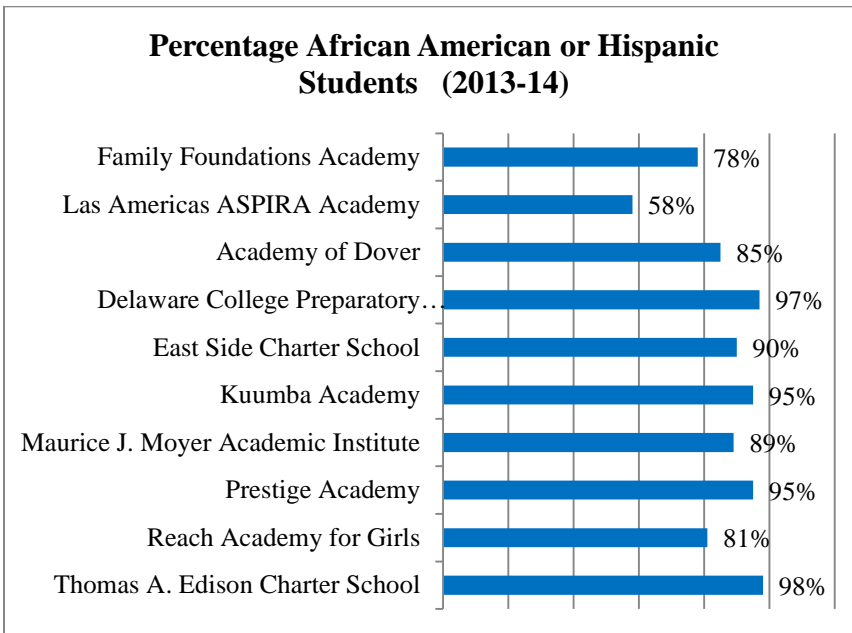
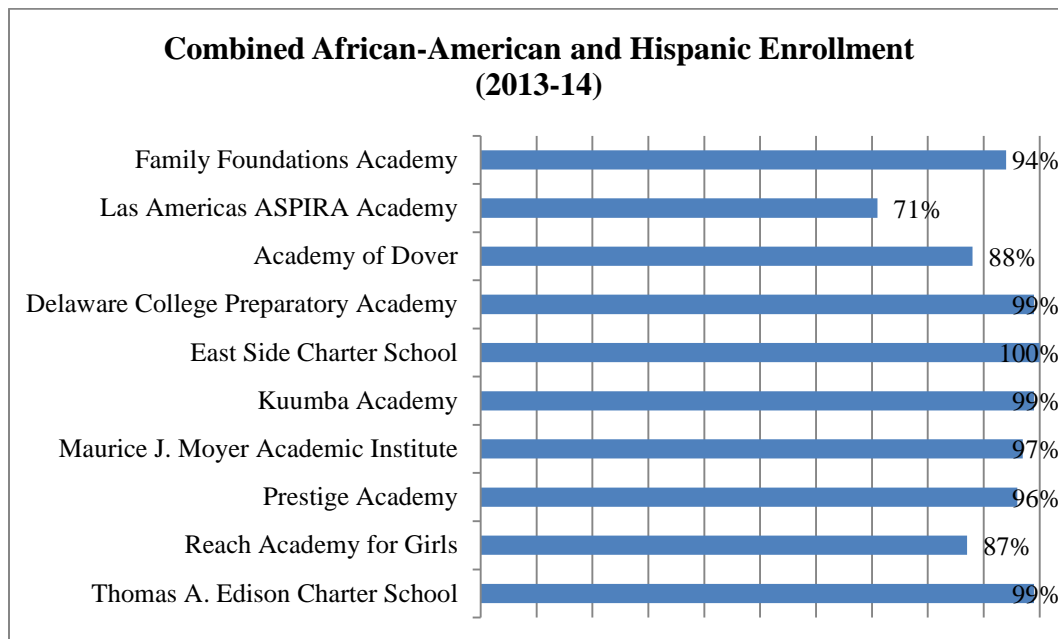


Figure 7. Delaware Charter Schools, Racially Identifiable as African-American or Hispanic - combined African-American and Hispanic Enrollment (2013-14)¹³⁶



¹³⁵ See Exhibits A and B.

¹³⁶ See *supra* note 41.

With regards to low income students, failing charter schools serve a disproportionate number of low income students. In the 2013-14 school year, the average percentage of low income students at failing charter schools was 55%, compared with 33% at nonfailing charter schools. See Figure 8. Moreover, for the same school year, the average percentage of low income students at charter schools that were racially identifiable as African-American or Hispanic was 65%, compared with 13% at charter schools that were racially identifiable as White. See Figure 9.

Figure 8. Average Percentage of Low Income Students at Failing vs. Nonfailing Delaware Charter Schools (2013-14)¹³⁷

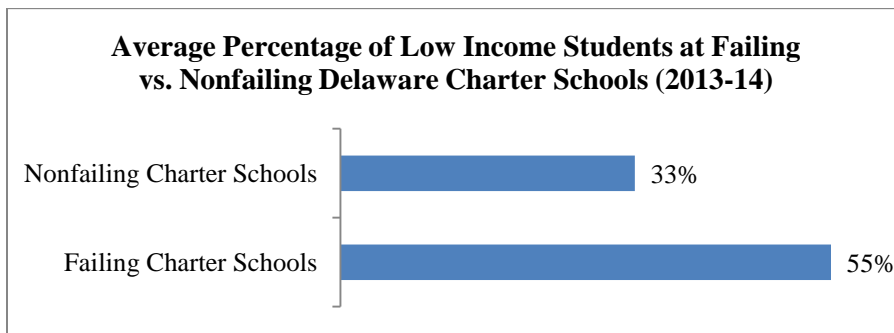
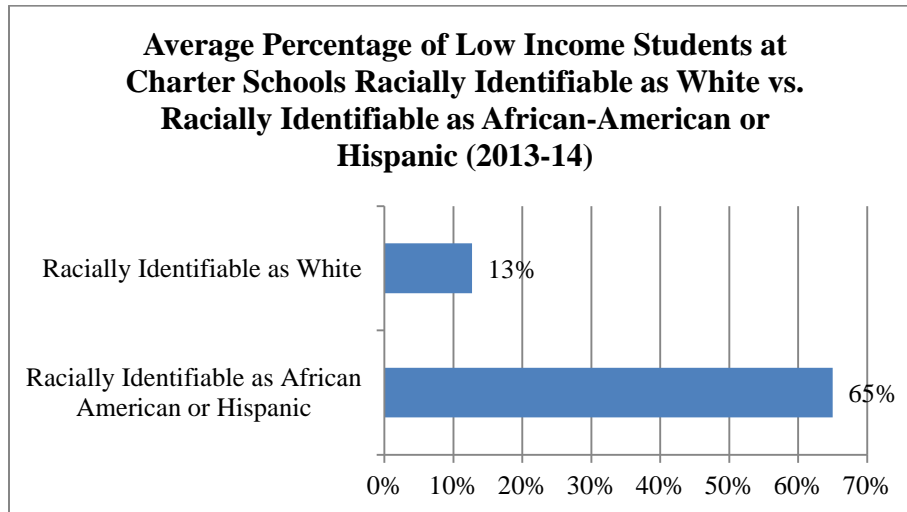


Figure 9. Average Percentage of Low Income Students at Charter Schools Racially Identifiable as White vs. Racially Identifiable as African American or Hispanic (2013-14)¹³⁸



¹³⁷ *Id.*

¹³⁸ *Id.*

To the extent that charter schools serve special needs students, failing charter schools also serve a similarly disproportionate number of this group. The average percentage of special needs students at failing charter schools is 26%, compared with 6% at nonfailing charter schools. See Figure 10. As is the case with low income students, special needs students are disproportionately served by schools that are racially identifiable as African-American or Hispanic. The average percentage of special needs students at African-American or Hispanic-identifiable schools is slightly more than twice the average of special needs students at charter schools that are racially identifiable as White. See Figure 11.

Figure 10. Average Percentage of Special Needs Students at Failing vs. Nonfailing Delaware Charter Schools (2013-14)¹³⁹

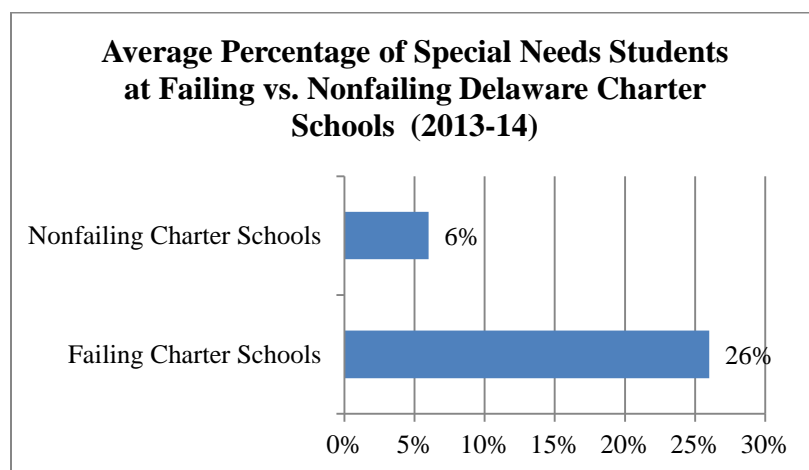
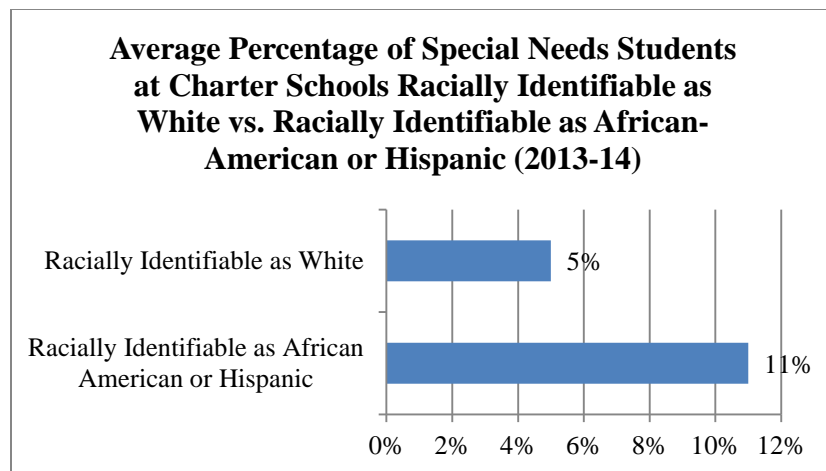


Figure 11. Average Percentage of Special Needs Students at Charter Schools Racially Identifiable as White vs. Racially Identifiable as African American or Hispanic (2013-14)¹⁴⁰



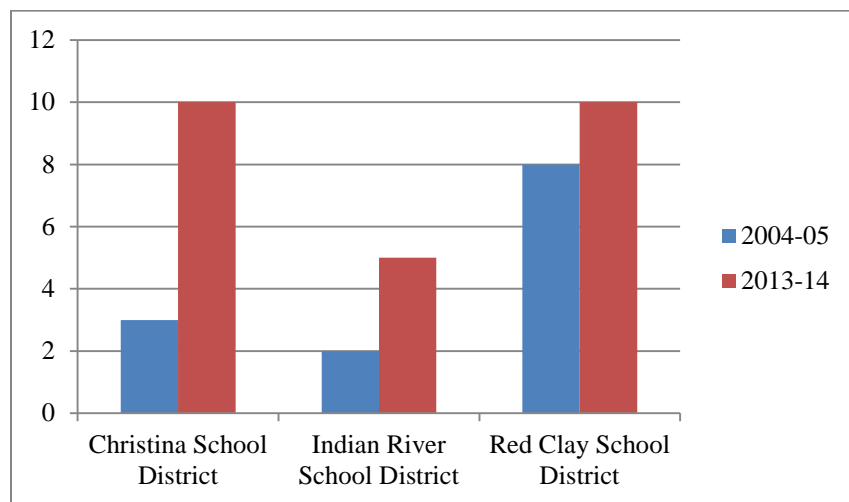
¹³⁹ *Id.*

¹⁴⁰ *Id.*

The growth of charter schools has led to the increased segregation of students within traditional public school districts as well. The charts and discussion in the subparts below illustrate this phenomenon in the three school districts surrounding the three charter schools we examine in depth: RCSD (surrounding CSW), Indian River School District (surrounding Sussex Academy), and Christina School District (surrounding NCS). Overall, in each location, for the last ten school years (2005-2014), the percent of White students enrolled in traditional public schools has decreased while Hispanic and low income student enrollment in those same schools has generally increased.

In addition to these visible demographic changes across the districts, students of the same racial groups have become even more clustered by schools. This is evident while tracking changes in the number of racially identifiable schools in the three districts examined closely in this Part IV, C-E. Between the 2004-05 school year, the oldest year for which data is available on the DDE website, and the 2013-14 school year, the most recent, the number of racially identifiable traditional public schools in each district has increased. In the Christina School District during this time period, the number of racially identifiable schools more than tripled from three to ten. Indian River School District's racially identifiable schools increased from two to five, and RCSD saw an increase from eight to ten. These changes show that school-level resegregation is occurring at a disproportionately high rate compared to districtwide demographic¹⁴¹ trends, underscoring the significance of Delaware's charter school proliferation.

Figure 12. Racially Identifiable Public, Non-Charter Schools by District¹⁴²



¹⁴¹ Districtwide demographics cited *infra* include students enrolled in non-charter public schools.

¹⁴² See *supra* note 41.

In RCSD, the percentage of White students dropped from 49.7% in 2005 to 44% in 2014.¹⁴³ In the Indian River School District, the percentage of White students dropped from 64.7% to 53.2% during the same time period. In the Christina School District, White student enrollment dropped from 44.8% to 32.8% during the same window.¹⁴⁴ On the other hand, in RCSD, during the same period, the percentage of Hispanic student enrollment increased from 17.7% to 24%.¹⁴⁵ In the Indian River School District, during the same period, the percentage of Hispanic student enrollment increased from 13.6% to 27%,¹⁴⁶ and in the Christina School District for that period, it increased from 10.8% to 18.8%.¹⁴⁷

In sum, charter school demographics and corresponding demographic trends in public school enrollment indicate that the proliferation of Delaware's charter schools has had a significant disproportionate impact on students of color, low income students, and students with special needs. This has left the state's high-performing charter schools almost entirely racially identifiable as White while low income students and students with disabilities are disproportionately relegated to failing charter schools and those charter schools that are racially identifiable as African-American or Hispanic. The unfortunate result is that students in traditional public schools have become more segregated.

The worsening segregation in terms of race and ethnicity, income, and special needs in Delaware's public and charter schools undermines the *quality* of education that Delaware's schools might otherwise be able to offer to African-American students, Hispanic students, and students with disabilities. In particular, extensive research regarding the impact of racial diversity in schools and classrooms points to important and unique benefits of racial diversity. The National Academy of Education concluded, for example, that the "overall academic and social effects of increased racial diversity are likely to be positive."¹⁴⁸ Specifically, regarding academic achievement, the Academy has found a "relatively common finding" among studies that "African American student achievement is enhanced by less segregated schooling" and that "these positive effects for African American students tend to be larger in earlier grades than in later grades."¹⁴⁹ Regarding "inter-group relations," the Academy has found that while "racially

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ National Academy of Education, Race-conscious Policies for Assigning Students to Schools: Social Science Research and the Supreme Court Cases 3 (2007), *available at* http://www.naeducation.org/cs/groups/naedsite/documents/webpage/naed_080863.pdf.

¹⁴⁹ *Id.* at 2.

diverse schools and classrooms will not guarantee improved inter-group relations,” the research “supports the conclusion that, generally speaking, such diverse environments are likely to be constructive in this regard.”¹⁵⁰ In the long-term, “experience in desegregated schools” at the elementary and secondary levels “increases the likelihood of greater tolerance and better intergroup relations among adults of different racial groups.”¹⁵¹ Moreover, the Academy has found that while diversity cannot be “understood as a guarantee of positive relations,” striving for diversity “should be understood as an attempt to avoid the harms of racial isolation and to create an environment that allows for positive intergroup relations.”¹⁵²

C. Charter School of Wilmington

CSW is Delaware’s oldest charter school, and one of the highest-performing schools in the state. CSW was recently ranked the 10th-best high school in the nation by *Newsweek* magazine.¹⁵³ While it is located within the boundaries of RCSD, which enrolls over 50% nonwhite students, its own demographics are predominantly White. As discussed above, CSW’s admissions policies are heavily weighted in favor of students that “have a specific interest in [the school’s] methods, philosophy, or educational focus,” as permitted by Del. Code Ann. 14 §§ 506(b)(1)-(3).¹⁵⁴

CSW’s specific-interest priority is determined by a point system, based in large part on an academic examination. As discussed in Part I, applicants can earn up to 383 points by combining the values of (1) their score on a CSW-administered entrance test covering math and reading (up to 198 points); (2) their middle school grades in math and science (up to 120 points); and (3) teacher recommendations, enrollment in honors math or science classes, extracurricular math or science programs, and an essay written by the applicant (up to 65 points).¹⁵⁵ Any student who scores 325 points or more is deemed to have met the standards for the specific-interest priority. Students who do not meet that threshold can request an interview with the school to determine whether the point system screened out an otherwise-qualified student.¹⁵⁶ Students deemed to “have met the requisite foundation for the specific-interest preference”¹⁵⁷ are

¹⁵⁰ *Id.* at 27.

¹⁵¹ *Id.* at 32.

¹⁵² *Id.* at 35.

¹⁵³ America’s Top High Schools: 2014, *Newsweek*, <http://www.newsweek.com/high-schools/top-10-schools-2014> (last viewed Nov. 12, 2014).

¹⁵⁴ *See supra* note 13.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

prioritized by the following categories (in order of priority): 1) Students residing within RCSD; 2) Siblings of students enrolled in CSW; and 3) Children of CSW permanent employees.¹⁵⁸ Because CSW admits students who meet the requisite specific-interest score *and* have a sibling at the school before applicants who meet the score but have no siblings in the school, their system inevitably works to perpetuate the school’s existing racial imbalance. Each year, the waiting list for admission contains at least one hundred students.¹⁵⁹

Highly selective yet racially neutral admissions policies, like the one at CSW, are devoid of diversity considerations and have devastating effects on diversity. CSW enrolled 970 high school students in the 2013-14 school year, of which 64.7% were White, 25.9% were Asian/Pacific Islander, 5.5% were African-American, and 3.4% were Hispanic.¹⁶⁰ In the 2013-14 school year, non-charter public schools within RCSD, on the other hand, were 44% White, 5.4% Asian/Pacific Islander, 23% African-American and 24% Hispanic/Latino.¹⁶¹ See Figure 13 for a full demographic breakdown.

Figure 13. Enrollment Demographics for CSW and Surrounding District (2013-14)¹⁶²

Race/Ethnicity	Red Clay Consolidated School District		Charter School of Wilmington	
	2012-13	2013-14	2012-13	2013-14
African-American	22.9%	23%	6.2%	5.5%
Other	1.4%	1.7%	0.3%	0.4%
Asian	5.1%	5.4%	26.6%	25.9%
Hispanic/Latino	25.3%	24.4%	3.1%	3.4%
White	44%	44%	63.6%	64.7%
Low Income	56.9 %	37.9 %	5.5%	2.4%

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Complainants requested data from charter schools regarding admissions and wait lists via the Delaware Freedom of Information Act (“FOIA”). Charter School of Wilmington’s response showed that 881 applicants applied for 231 seats for the class of 2018 (on file with author). The exact number of students on the waiting list was unclear. The NCS FOIA response shows that for the 2014-15 school year 3,285 students applied and 3,095 were placed on the waiting list.

¹⁶⁰ *See supra* note 41.

¹⁶¹ *Id.*; *see also supra* note 42.

¹⁶² *Id.*; *see also supra* note 42.

Special Education	12.9 %	13%	0.2%	0.6%
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In the 2013-14 school year, only 2.4% of CSW's student population was low income.¹⁶³ Additionally, only 0.6% of the student population was identified as special education.¹⁶⁴ According to the National Center for Education Statistics ("NCES"), in the 2012-13 school year only 14 CSW students were eligible for the free lunch program, and 11 were eligible for the reduced-price lunch program, out of a total enrollment of 970.¹⁶⁵

D. Sussex Academy

Sussex Academy is the only charter school in Delaware's southernmost county, Sussex County. Authorized by the state, Sussex Academy's student population is over 80% White despite facially race-neutral admissions policies. In the 2013-14 school year, only 4.4% of the school's students were considered special education students, compared to a statewide average of 13.6%.¹⁶⁶ Sussex Academy served grades 6-8 until the 2013-14 school year, when, with state approval, it added a 9th grade. The school now plans to expand to offer grades 10-12 over the next three years, pursuant to approval received from DDE in 2012. Sussex Academy draws students from public schools throughout Sussex County's Indian River School District, and the difference in diversity between Sussex Academy and the Indian River schools is stark.

For the 2013-14 school year, Sussex Academy enrolled a student population that was 81.3% White, 7.3% Hispanic, and 2.9% African-American, with 4.4% of students receiving special education services and 11.2% designated as low income students.¹⁶⁷ In contrast, in the 2013-14 school year, traditional public schools in the surrounding school district, the Indian River School District, were 53.2% White, 27% Hispanic, and 14% African-American, with 15.7% designated as special education students and 46.6% designated as low income students.¹⁶⁸ See Figure 14 below for a full demographic breakdown.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Charter School of Wilmington, National Center for Education Statistics, http://nces.ed.gov/ccd/schoolsearch/school_detail.asp?Search=1&SchoolID=100000400012&ID=100000400012 (last viewed Dec. 1, 2014).

¹⁶⁶ *See supra* note 41.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

Figure 14. Comparative Demographics of Sussex Academy & Indian River School District (2013-14)¹⁶⁹

	White	African-American	Hispanic	Special Education	Low income
Sussex Academy (charter school)	81.3%	2.9%	7.3%	4.4%	11.2%
Indian River School District	53.2%	14.0%	27.0%	15.7%	46.6%
Difference	+28.1%	-11.1%	-19.7%	-11.3%	-35.4%

In part, the racial imbalance at Sussex Academy results from a daunting application process. In the school’s 2012 application to expand and offer high school grades, Sussex Academy requested and was permitted by the state to grant a preference to children who expressed an interest in the school’s teaching methods, philosophy or educational focus, as determined through an additional essay and interview beyond the standard state-approved application.¹⁷⁰ The current Sussex Academy Charter Renewal defines “Children with Specific Interest in Teaching Methods, Philosophy, or Educational Focus” as “[c]hildren who express an interest to be considered for such preference and are identified through an essay and interview submitted during the open application period and evaluated by a committee of the Executive Board.”¹⁷¹ All applicants must complete both the state-approved standard application and a supplemental application for Sussex Academy, which requires a parent’s written explanation of why Sussex Academy is a good fit for their child and a student essay explaining why the child wants to attend Sussex Academy. Student essays must “[i]nclude specific information about what Sussex Academy can offer [them] in terms of the methods, philosophy or educational focus and explain how [the] school would be the best fit for [their] learning preferences.”¹⁷² The student essay requirement applies even to grade school applicants.¹⁷³ As a practical matter, particularly given the age of the applicants, children of more educated parents will be better able to take advantage of that preference.

¹⁶⁹ *Id.*

¹⁷⁰ Sussex Academy of Arts & Sciences, Charter Renewal 2013-2018 65 (2012), *available at* http://www.doe.k12.de.us/cms/lib09/DE01922744/Centricity/Domain/151/SAAS_Ren2013_Apl.pdf.

¹⁷¹ *Id.* (internal quotations omitted).

¹⁷² Sussex Academy, Addendum Application to Delaware Standard Application (2015-2016), *available at* <http://www.sussexacademy.org/Admissions/>.

¹⁷³ *Id.*

Over the years, the percentage of African-American students at Sussex Academy has fallen to new lows. In 2006, 5% of the school's students were African-American.¹⁷⁴ In 2007 African-Americans made up 4% of the student body.¹⁷⁵ The percentage of African-American students declined to between 2.5% and 3.1% in 2008, 2009 and 2010.¹⁷⁶ While the percentage of African-American students rose to 3.6% in 2011, it fell again to 2.1% in 2012, and to 1.8% in 2013.¹⁷⁷

In addition to the burdensome application, low income students must overcome several financial barriers to attend Sussex Academy. The Sussex Academy student handbook advises that each student will be assessed a \$200-\$225 activity fee annually, and families must affirmatively apply for a waiver or reduction if the fee poses difficulty.¹⁷⁸ The handbook also advises that students are required to wear uniforms sold by a school-approved vendor.¹⁷⁹ Those requirements dissuade low income children and their parents from applying and keep them from attending. Furthermore, there are fundraising "goals" for parents.¹⁸⁰ Because parents may not know that these fundraising goals are optional, less affluent parents may be opting out of sending their children because they know they cannot raise money for the school.

Despite years of meager enrollment of African-American, Hispanic, and low income students, the school has offered nothing beyond assurances that it will conduct outreach to potential minority or low income students at Sussex Academy.¹⁸¹ In addition, the state of

¹⁷⁴ See *supra* note 41.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ See *supra* note 16.

¹⁷⁹ Sussex Academy, Student Handbook 2014-2015 at 12, available at https://imageserv11.team-logic.com/mediaLibrary/1/Web2015_10_16_14.pdf.

¹⁸⁰ Sussex Academy, Student Handbook 2014-15 at 6, available at https://imageserv11.team-logic.com/mediaLibrary/1/Web2015_10_16_14.pdf. The handbook states that "[i]n keeping with the student-centered nature of Sussex Academy, it is [the school's] desire to offer a plethora of enrichment/extracurricular activities for students to develop their interests and talents." *Id.* In addition, the handbook states that to support such initiatives requires monies," and "[i]t shall be the practice of Sussex Academy to limit *fundraising* activities somewhat to avoid overlapping of initiatives and the nuisance of such." *Id.* (emphasis added). In this section discussing "fundraising activities," the handbook also discusses the school's activity fees, creating confusion as to the type of fundraising and other expenses parents will incur.

¹⁸¹ To the extent that the School addressed diversity issues in its Charter Renewal Application for the 2013-18 period, it stated that "[t]he Executive Board is desirous of maintaining a [board] membership that is knowledgeable in" several areas, including "diversity issues, including but not limited to, outreach, student recruitment, and instruction; [and] at risk-populations and children with disabilities, including, but not limited to, students eligible for special education and related services." See *supra* note 170 at 10. In describing how the background of the school's founding members "makes him or her qualified to operate a charter school" and able to "maintain collective

Delaware did not require any changes in the school's marketing plan when Sussex Academy applied for expansion in 2012.

E. Newark Charter School

NCS is a successful charter school located in the suburban section of the Christina School District. The Christina School District covers the western portion of Delaware's northernmost county, New Castle, as well as a noncontiguous portion of the City of Wilmington, located twenty miles away. Newark is home to the University of Delaware. Founded largely by professionals residing in Newark, Delaware, NCS serves a large number of families affiliated with the University of Delaware.¹⁸² Its charter was authorized by the State of Delaware.

NCS uses the standard state application for admissions, but it embraces many practices and traditions that align it more closely with private schools than traditional public schools and pose admissions barriers for students of color and students with disabilities. If a child is not admitted in Kindergarten, it is very difficult for him/her to gain admission at a later time, even though the school currently offers K-10 instruction levels, because there is a sibling preference and, with the exception of the 2013-14 school year, very few seats have become available each year.¹⁸³ Uniforms are expensive and can only be ordered through a private vendor, such as Land's End.¹⁸⁴ Parents are pressured by the school community to volunteer and contribute financially to the school's success, which does not account for the financial and time constraints faced by lower-income families.¹⁸⁵ The school decided not to include a cafeteria in its original design – making it impossible to serve students who needed federally funded free- or reduced-priced lunch – claiming that the space was needed for a library.¹⁸⁶ This policy decision has had a

experience, of contractual access to such experience" in the area of "[d]iversity issues," the Renewal Application states that 1) Marc Cooke, one founding member has had "many opportunities to work with diverse student populations;" 2) Nancy Gideon, another founding member, "works with diverse populations" as a physician, "hired a Spanish-speaking physician who is starting to care for many members of the Hispanic community," and "is involved with outreach in [the Spanish-speaking] community as well;" 3) Delbert Kwan, a third founding member, has demonstrated his commitment to diversity by employing a medical practice that is 25% minority; and 4) Jill Menendez, the fourth founding member, "brings a range of knowledge relative to diversity" because "[h]er family is ethnically diverse" and "brings a metropolitan sensibility to outreach in Sussex County." *Id.* at 10, 13. Apart from noting that the Board has formed an "Outreach" committee "responsible for public relations and reaching underserved populations for application to the school," the renewal application does not provide details as to the schools' specific outreach or diversity efforts. *Id.* at 18.

¹⁸² Declaration of Eve Buckley, attached as Exhibit C ("Buckley Decl.") at ¶ 3.

¹⁸³ Exhibit C, Buckley Decl., at ¶ 5. As discussed *infra*, NCS did not use those additional seats to increase diversity.

¹⁸⁴ Uniform Purchases, Newark Charter School, http://ncs.charter.k12.de.us/pages/Newark_Charter_School/Parents/Uniform_Purchases (last viewed Nov. 12, 2014).

¹⁸⁵ Exhibit C, Buckley Decl., at ¶ 2.

¹⁸⁶ *Id.*, at ¶ 7.

lingering effect on the demographic make-up of NCS because once students are admitted their siblings are given priority admissions, and by the time NCS began offering free and reduced lunch in 2012-13, eleven years after the school opened, the school had very few low income students or students of color relative to Christina School District. *See* Figure 15.

For the 2013-14 school year, demographic data shows that the proportion of African-American, Hispanic, low income and special education students living in the Christina School District far outpaces the diversity of the NCS student body, as evidenced by Figure 15, below.

Figure 15. Racial/Ethnic Makeup of Newark Charter School Compared to Area Residents and Public Schools (2013-14)¹⁸⁷

	African-American	Hispanic	White	Special Education	Low Income
Newark Charter School	11%	4%	65.8%	5.7%	8.4%
Christina School District	40.6%	18.8%	32.8%	14.2%	46.5%
Difference	-29.6%	-14.8%	33.0%	-8.5%	-38.1%

In late 2011, NCS requested state approval for a major expansion of their K-8 program to include grades 9-12. In 2012, the Delaware Board of Education approved the request despite the dramatic differences between the student body demographics of NCS and the student body of Christina School District (see Figure 15). This led to an increased minority population at Newark High School (“NHS”) (see Figure 18), the Christina high school most commonly attended by students who completed the K-8 program at NCS. NHS’s minority population grew from 53.7% in the 2012-13 school year to 57.7% in the 2013-14 school year.¹⁸⁸ NCS’s high school students continue to reflect the demographic makeup of the K-8 program, so the state’s approval of NCS’s expansion effectively increased the likelihood that middle-class White students will attend the high-performing charter school and that minority and disadvantaged students will continue to attend the district’s lower-performing high schools.¹⁸⁹ The state further enabled NCS

¹⁸⁷ *See supra* note 41.

¹⁸⁸ *Id.*

¹⁸⁹ In considering and granting the NCS application to expand from grades K-8 to K-12, Delaware’s Secretary of Education recognized that the demographics of the Christina School District are more diverse than those within the preferred five mile radius area. She recognized that she had the discretion to condition approval of the application on elimination of that preference, yet declined to eliminate even that anti-diversity preference. She rejected that opportunity because lifting the preference could have a negative impact on parent and community engagement with the school and “since NCS is significantly less diverse than the public school population *within the 5 mile radius*, it

to create a high school that is much less diverse than the school district population when it permitted NCS to give priority in high school admissions to students who were enrolled in NCS's eighth grade class. Prior to the expansion, NCS's eighth grade class had 163 students, of whom 73% were White and 11% were African American.¹⁹⁰ Of those 163 students, 126 accepted seats in the new ninth grade, leaving only 35 spots to be filled.¹⁹¹ The addition of thirty-five new students to the NCS ninth grade had, at most, a trivial effect on diversity. In the 2013-14 school year, the first year of the NCS's expansion, African-American and Hispanic students together accounted for just 15% of students.¹⁹² The ninth grade classes at Christina's three traditional public high schools, on the other hand, were 69.1% African-American or Hispanic.¹⁹³ The NCS eighth grade during the 2012-13 school year was 11% African-American, 2.5% Hispanic, 73% White, and 4.9% special education; the NCS ninth grade during the 2013-14 school year was 12.4% African-American, 3.1% Hispanic, 3.7% special education, and 68.9% White. See Figure 16.

Figure 16. Demographics of Newark Charter School Expansion to Ninth Grade*¹⁹⁴

School	Grade	White	African American	Hispanic	Special Education	Low income
NCS (2012-13)	8 th	73.0%	11.0%	2.5%	4.9%	9.2%
NCS (2013-14)	9 th	68.9%	12.4%	3.1%	3.7%	3.8%
Christina School District (2013-14)	9 th	25.9%	50.4%	18.7%	20.3%	47.4%

* This data was initially calculated in September 2014. The data publically available on the State webpage has since changed to exclude any figures under 5 percentage points, but the underlying data for these calculations is on file with Complainants.

does not appear the geographic radius restriction is the principal cause of the current disparity.” 4/12/12 Memorandum from Lillian M. Lowery to the Delaware State Board of Education, at 3, *available at* <http://archive.delawareonline.com/assets/pdf/BL187896412.PDF> (emphasis in original).

¹⁹⁰ *See supra* note 41.

¹⁹¹ *Id.*

¹⁹² *See supra* note 41.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

Approval of NCS's expansion application was conditioned on "(1) the development, approval and implementation of an outreach plan to significantly increase, consistent with the public school population it serves, the diversity of NCS going forward; and (2) NCS providing a free and reduced lunch program for all grades starting in the fall of 2012."¹⁹⁵ The requirement to implement an outreach program has not been meaningful for the reasons outlined below.

First, although NCS sought to expand the entire school, the Secretary of Education instructed NCS to focus its diversity outreach efforts at the kindergarten level despite the fact that NCS is "located within one of [Delaware's] most diverse and lowest performing districts" and serves "strikingly few of the most at-risk students within its five mile radius."¹⁹⁶ Even if NCS increased diversity in its kindergarten class through outreach, the increased diversity would do little to address the lack of diversity in the school's other grades. A decade would have to pass before the incoming kindergarteners reach the high school and the impact of outreach efforts could encompass the elementary and middle school.

Second, even though the state issued a directive (albeit a conservative one) to increase diversity in the NCS kindergarten class through outreach, the state failed to meaningfully monitor NCS's outreach efforts to ensure the school materially increased diversity at that level. The data shows no increase in diversity.

Rather than instruct NCS to focus its diversity outreach efforts at the kindergarten level, the state could have seized on NCS's expansion plans and required it to conduct diversity outreach to fill *any* new slots created through the expansion. In fact, in accordance with its expansion plans, in the 2013-14 school year, NCS enrolled a total of 760 students in grades 1-4.¹⁹⁷ In the 2012-13 school year, NCS enrolled 532 students in grades K-3.¹⁹⁸ Thus, assuming all of its students were promoted to the next grade, NCS should have had 228 new spots for students in the 2013-2014 school year, in addition to the 190 open spots in its kindergarten class.¹⁹⁹ Had the state and/or NCS prioritized increasing diversity at the school, NCS could have significantly increased the school's diversity with respect to non-white students and students with disabilities through those 228 new spots. Instead, the percentage of African-American and special education

¹⁹⁵ Memorandum from Lillian M. Lowery, *supra* note 189 at 1.

¹⁹⁶ *Id.* at 7.

¹⁹⁷ *See supra* note 41.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

students decreased in the 2013-14 school year, and these groups continue to be disproportionately excluded from this excellent school.²⁰⁰

Figure 17. NCS Demographics After Mandated Outreach*²⁰¹

	White	African-American	Hispanic	Special Education	Low income
NCS Grades K-4 (2012-13)	64.4%	11.7%	4.1%	6.3%	8.5%
NCS Grades K-4 (2013-14)	66.2%	10.5%	4.9%	5.9%	10.3%

* This data was initially calculated in September 2014. The data publically available on the State webpage has since changed to exclude any figures under 5 percentage points, but the underlying data for these calculations is on file with Complainants.

While NCS was adding 161 students to its debut 9th grade class, NHS became even more heavily concentrated with students of color. From the 2012-13 to the 2013-14 school year, the number of NHS 9th grade African-American students increased from 38.1% to 44.6% of the class; its Hispanic students increased from 13.4% to 19.2%; its special education students increased from 9.9% to 14.1%.²⁰²

Figure 18. Newark High School Ninth Grade Demographics Before/After NCS Expansion*²⁰³

	White	African-American	Hispanic	Special Education	Low income
NHS Grade 9 (2012-13)	43%	38.1%	13.4%	9.9%	63.1%
NHS Grade 9 (2013-14)	30.5%	44.6%	19.2%	14.1%	47.9%*

*As described in footnote 2, the State of Delaware changed their definition of low income in advance of the 2013-14 school year.

F. Other Charter Schools Authorized by the State of Delaware

Overall, the Charter School Act has created a system of segregated public schools and segregated charter schools. Rather than creating laboratories of success, as the charter school

²⁰⁰ The number of African-American students decreased from 11.2% to 11.0%, and the number of special education students decreased from 6.8% to 5.7%. *Id.*

²⁰¹ *Id.*

²⁰² *See supra* note 41.

²⁰³ *Id.*

movement initially envisioned, Delaware’s charter schools have renewed the segregation and achievement disparities that Delaware suffered sixty years ago. Today, most of Delaware’s public charter schools are racially identifiable. By and large, the charter schools identifiable as mostly-White are successful academically, while the charter schools identifiable as mostly-African American and Hispanic are, on the whole, unsuccessful. There are exceptions to this rule, but the results are consistent. Charter schools are extremely segregated, and charter schools that are academically successful are more likely to be predominately White.

V. COMPLAINANTS AND TIMELINESS

This Complaint is brought by the ACLU of Delaware, the ACLU Racial Justice Program, and CLASI. This Complaint is timely because the policies and practices complained of are ongoing and evidence presented in this Complaint of the racial and disability-related disparities is based on the most recent publicly-available data. The complaining organizations, through membership and representation, file this Complaint on behalf of impacted students with disabilities and African-American and Hispanic students in Delaware.

VI. ARGUMENT

A. The Complainants Have Established a Violation of Title VI and Section 504

Title VI prohibits recipients of federal financial assistance from discriminating based on race, color, or national origin.²⁰⁴ Section 504 likewise prohibits recipients of federal financial assistance from discriminating based on disability.²⁰⁵ The Department of Education regulations implementing these statutes prohibit state or school conduct that has “the effect of subjecting individuals to discrimination because of their race, color, or national origin,” as well as conduct that has “the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap.”²⁰⁶ The regulations prohibit practices and policies that have a *disparate impact* by race or disability, even if there is no *discriminatory intent* behind those practices.²⁰⁷ As a result, in order to establish that State of Delaware laws and policies, and Respondent’s actions with respect to charter schools, have violated Title VI and Section 504, complainants need to show

²⁰⁴ 42 U.S.C §§ 2000d-2000d-7 (2012).

²⁰⁵ 29 U.S.C. § 794 (2012).

²⁰⁶ 34 C.F.R. § 100.3(b)(2); 28 C.F.R. § 41.51(b)(3)(i).

²⁰⁷ See discussion *supra* Part II.

that those laws and actions have a disparate impact on students of color and students with disabilities.²⁰⁸ Discriminatory intent need not be established.

In the education context, a disparate-impact analysis proceeds in three steps. The first step is to ascertain whether a state or school district's facially neutral practice has a disproportionate and adverse impact on children of a particular race or children with disabilities. If so, then there is a *prima facie* case of disparate-impact discrimination. Next, if there is a *prima facie* case of disparate impact, the practice is unlawful unless the district demonstrates that it serves an educational necessity or an important educational goal.²⁰⁹ In other words, the state would be required to show that the challenged course of action bears a manifest relationship to an objective that is "legitimate, important, and integral to [its] educational mission."²¹⁰ Finally, even if the practice does serve an educational necessity, it is unlawful if equally effective and less discriminatory alternative practices are available.²¹¹

In this case, each step of this analysis demonstrates that the state's charter school laws and authorization policies, coupled with the practices of the schools themselves, have the unlawful effect of discriminating by race and disability. The state and RCSD have disadvantaged African-American and Hispanic students and students with disabilities by permitting charter schools to employ exclusionary practices, which have the effect of denying students of color and students with disabilities access to its high-performing schools while increasing segregation in non-charter public schools.

The facts demonstrate that the challenged policies and practices permitted by Respondents do not constitute an "educational necessity" and are not part of an important educational goal. Generally, charter schools are considered a solution for failing public schools. But educational outcomes at the failing public schools have not significantly improved with the introduction of charter schools in Delaware. Many of the charter schools that serve students of color are themselves failing. Moreover, even if Respondents' practices with regard to charter

²⁰⁸ See, e.g., *Larry P. ex rel. Lucille P. v. Riles*, 793 F.2d 969, 982 (9th Cir. 1984) (Title VI); 29 U.S.C. § 794 (2012); 28 C.F.R. § 41.51 (§ 504 enacting regulations' general prohibition against discrimination that "[n]o qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance"); see also *GI Forum v. Texas Educ. Agency*, 87 F. Supp. 2d 667, 678-79 (W.D. Tex. 2000) (analyzing student pass rates to determine whether high school exit exam had a disparate impact on students of color in an action under Title VI); U.S. Dep't of Justice, Title VI Legal Manual at 49-50 (2001).

²⁰⁹ *Riles*, 793 F.2d 969 at 982.

²¹⁰ *Elston v. Talladega County Bd. of Educ.*, 997 F.2d 1394 at 1413 (11th Cir. 1993) (compiling Title VI cases holding that defendants bear the burden of demonstrating that their challenged practice is supported by a "substantial legitimate justification"); U.S. Dep't of Justice, Title VI Legal Manual 50-53 (2001).

²¹¹ See *Elston*, 997 F.2d at 1407; *Young ex rel. Young v. Montgomery County Bd. of Educ.*, 922 F. Supp 544, 550-51 (M.D. Ala. 1996); U.S. Dep't of Justice, Title VI Legal Manual 53 (2001).

schools had led to significant educational improvement for Delaware children generally, there would be no basis for a finding that Respondents had to disadvantage disabled children and children of color in order to achieve that gain. In this case, the facts, coupled with disparate impact analysis, demonstrate that Respondents' actions under Delaware's Charter School Law, result in segregated charter schools and increasingly segregated regular public schools, to the detriment of its students of color and students with disabilities and in violation of Title VI and § 504.

VII. PROPOSED LEGAL REMEDIES

In order to resolve this complaint OCR should:

1. Compel the State of Delaware and RCSD to place a moratorium on the authorization and opening of new charter schools until an effective desegregation plan for African-American students, Hispanic students, and students with disabilities has been developed and implemented;
2. Compel the State of Delaware and RCSD to require charter school admissions to be based upon a random opt-out lottery only and open and available to all students in the school district in which they are located.
3. Compel the State of Delaware and RCSD to ensure that the cost of attending a public charter school is free and that parents are not required or pressured to purchase uniforms or raise money for the school.
4. Compel the State of Delaware and RCSD to ensure that total funding for non-charter public schools is equal to that of charter schools serving comparable demographics and that class sizes are capped at the same levels in charter schools as in public schools.
5. Compel the State of Delaware to ensure that schools with higher than average percentages of low income and students of color receive additional funding to offset the money and talent siphoned by charter schools.
6. Compel the State of Delaware to ensure that students with disabilities are recruited and reasonably accommodated in all charter schools in Delaware. OCR should compel the State of Delaware to train charter school personnel regarding disability discrimination and reasonable accommodations, and to monitor each charter school for its enrollment and retention of students with disabilities until it reaches the state average (i.e. ten percent).

VIII. CONCLUSION

While charter schools generally and in Delaware could serve the educational goal of providing laboratories of innovation, Delaware's charter schools are not worth the discrimination they engrain. Delaware proved that it can operate integrated public schools. Its schools have been inclusive of students with disabilities, low income students, and students of color. There is no indication that Delaware's high-performing charter schools are even attempting to serve students with disabilities or African-American and Hispanic students. Because diverse public schools are possible, and the exclusion of students from high-performing public schools due to their race or disability is a violation of Title VI and § 504, the Complainants request that OCR open an investigation and work with the parties to resolve the Complaint and ensure that Delaware's public schools, including charter schools, are accessible to all of its eligible students.

Dated this 3rd day of December, 2014.

/s/ Courtney A. Bowie

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EXHIBIT A

EXHIBIT A. ADMISSIONS AND ENROLLMENT REQUIREMENTS AT DELAWARE NONFAILINGⁱ CHARTER SCHOOLSⁱⁱ

Delaware Nonfailing Charter Schools (2013-2014)	Racially Identifiable (2013-2014) ⁱⁱⁱ	Percent of Racially Identifiable Group (2013-2014) ^{iv}	Percent Low-Income Enrollment (2013-2014) ^v	Percent Special Education (2013-2014) ^{vi}	High-Performing (2013-2014) ^{vii}	Placement Test	Parent Essay for Admission	Student Essay for Admission Regarding Specific Interest	Past Grades Evaluated for Admission	Uniform Purchase Required from Specific Vendors	Annual Activity Fee	Parental Involvement Requirement
1. Charter School of Wilmington	YES	64.7% White	2.4%	0.6%	✓	✓ ^{viii}		✓ ^{ix}	✓ ^x	✓ ^{xi}		
2. Newark Charter School	YES	65.8% White	8.4%	5.7%	✓					✓ ^{xii}		
3. Sussex Academy	YES	81.3% White	11.2%	4.4%	✓		✓ ^{xiii}	✓ ^{xiv}		✓ ^{xv}	✓ ^{xvi}	✓ ^{xvii}
4. Odyssey Charter School	YES	69.4% White	17.8%	4.0%	✓					✓ ^{xviii}		
5. Delaware Military Academy	YES	83.3% White	6.7%	2.8%						✓ ^{xix}		
6. Reach Academy for Girls	YES	80.8% African American (“Af.Am.”)	59%	5.3%						✓ ^{xx}		
7. Academy of Dover Charter School	YES	85.4% Af.Am.	68.8%	8.4%								

[illegible]



= Racially Identifiable (White)



= Racially Identifiable (African American (‘Af.Am.’) or Hispanic)



= Not Racially Identifiable

ⁱ The terms “failing” and “nonfailing” in this complaint are derived from Delaware’s Adequate Yearly Progress (“AYP”) standards. AYP is the name given to accountability standards that states developed under the federal No Child Left Behind Act. In Delaware, schools are put into three categories: “Above Target,” “Meets Target,” or “Below Target,” based on students’ scores on the Delaware Comprehensive Assessment System (“DCAS”), Delaware’s statewide standardized test. 14 Del. Admin. Code 103, *available at* <http://regulations.delaware.gov/AdminCode/title14/100/103.pdf>. For this complaint, “low-performing charter schools” or “failing schools” are schools that are “below target,” or fail to meet AYP.

ⁱⁱ All information in this table regarding schools’ use of a placement test, parent essay for admission, student essay for admission, past grades, uniform purchase requirements, annual activity fees, and parental involvement requirements is based from the information made publicly available on each school’s website.

ⁱⁱⁱ In this complaint, racially identifiable schools are identified using the Department of Education’s Office for Civil Rights (“OCR”) “rule of thumb” for identifying such schools. A school is racially identifiable if there exists at least a 20% disparity between a given school and its surrounding district’s enrollment for a given racial group. *See* Letter from Beth Gellman-Beer, Supervising Attorney Philadelphia Office, U.S. Dep’t of Educ. To Mark Murphy, Secretary of Educ., Del. State Dep’t of Educ. 3 (May 22, 2013) (on file with author) (“In determining whether a school is racially identifiable, OCR compares the percentage of minority students in the school to the percentage of minority students in the District as a whole. In comparing enrollment disparities, OCR looks for differences that are statistically significant and may also consider ‘a rule of thumb’ that flags disparities of 20 percent between school enrollments and district-wide enrollments as possible indicators of racial identifiability.”). To determine whether charter schools in Delaware are racially identifiable, this complaint used the state’s school-specific and district-specific enrollment data. *See generally* School and District Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Dec. 1, 2014). Because several charter schools are authorized by the RCSD and the district enrollment data for RCSD included charter school data, this complaint adjusted the RCSD enrollment data to include only public, non-charter schools in determining the racial identifiability of charter schools authorized by RCSD.

^{iv} *See* School Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Nov. 14, 2014).

^v *Id.*

^{vi} *Id.*

^{vii} This complaint refers to a charter school as “high-performing” when in the 2013-2014 academic year, at least 90% of students met the state reading and math standards (measured by the highest grade level for which data is available). *See* School Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Nov. 17, 2014). In the 2013-2014 school year, these schools were: the Charter School of Wilmington, Newark Charter School, Sussex Academy, MOT Charter School, and Odyssey Charter School. *Id.*

^{viii} The Charter School of Wilmington, Student Admissions Policy (approved Oct. 28, 2014) at 1-2, *available at* <http://www.charterschool.org/aboutus/boardofdirectors/downloads/policies/csw-admissions-policy-rev102814.pdf> (last viewed Nov. 30, 2014).

^{ix} *Id.*

^x *Id.*

^{xi} Shirt Orders, The Charter School of Wilmington, <http://charterschool.org/shirt-orders/> (last viewed Nov. 12, 2014).

^{xii} Newark Charter School, http://ncs.charter.k12.de.us/pages/Newark_Charter_School/Parents/Uniform_Purchases (last viewed Nov. 12, 2014)

^{xiii} Sussex Academy, Addendum Application to Delaware Standard Application (2015-2016), *available at* <http://www.sussexacademy.org/Admissions/> (last viewed Dec. 1, 2014).

^{xiv} *Id.*

^{xv} Sussex Academy, Student Handbook 2014-2015 at 12, *available at* https://imageserv11.team-logic.com/mediaLibrary/1/Web2015_10_16_14.pdf.

^{xvi} *Id.* at 6.

^{xvii} Sussex Academy, School Success Agreement at 2, *available at* https://imageserv.team-logic.com/mediaLibrary/1/School_Success_Plan_1.pdf (requiring parents to “[v]olunteer to chaperone field work, review portfolio presentations, help with special assignments from [] child’s team and work to support the PTO and Sports Boosters as needed).

^{xviii} Uniforms/Dress Code, Odyssey Charter School, <http://odysseycharterschooldel.com/uniforms.html> (last viewed Nov. 17, 2014).

^{xix} Delaware Military Academy, DMA Cadet Handbook 2012-2013 at 17, *available at* http://www.demilacad.org/index_htm_files/Handbook%202012-2013%20Final.pdf.

^{xx} Reach Academy for Girls, Uniform Policy, *available at* http://www.reachacademyforgirls.org/UserFiles/Servers/Server_4072197/File/School%20Policies/Uniform%20Policy%202013.pdf.

^{xxi} Family Foundations Academy, 2014-2015 Student Code of Conduct at 23-25, *available at* <http://www.familyfoundationsacademy.org/ourpages/auto/2014/1/3/46286396/Family%20Foundations%20Academy%20Student%20Code%20of%20Conduct%202014-2015.pdf>.

^{xxii} Family Responsibility, Family Foundations Academy, http://www.familyfoundationsacademy.org/apps/pages/index.jsp?uREC_ID=225969&type=d&pREC_ID=552193 (last viewed Nov. 17, 2014) (parents must check their child's progress each week on Home Access Center).

^{xxiii} Kuumba Academy Charter School, Required Documents for All Applications, *available at* <http://kuumbaacademy.org/modules/cms/pages.phtml?pageid=146264&sessionid=799576ebe6eeb5119ed0bcfe6788d24b&sessionid=799576ebe6eeb5119ed0bcfe6788d24b> (requiring state test scores for students applying to grades 2-8).

^{xxiv} Kuumba Academy Charter School, Kuumba Academy Charter School Student Code of Conduct (Revised Aug. 2014) at 16, *available at* <http://kuumbaacademy.org/modules/groups/homepagefiles/cms/953202/File/Kuumba%20Code%20of%20Conduct%202014-2105.pdf?sessionid=799576ebe6eeb5119ed0bcfe6788d24b>.

^{xxv} Las Americas ASPIRA Academy, School Uniform Policy, *available at* http://www.aspiraacademy.org/pdf/Code_Of_Conduct/School_Uniform_policy_2012.pdf.

^{xxvi} Las Americas ASPIRA Academy, School Code of Conduct (2014-2015 School Year, Grades K-8th) at 10, *available at* http://www.aspiraacademy.org/pdf/Code_Of_Conduct/LAAA_Code_of_Conduct_2014-2015.pdf (requiring parents to “[c]omplete a minimum of five (5) hours of volunteer time during each school year (July 1-June 30).

^{xxvii} MOT Charter School, Admissions Policies & Procedures at 2, *available at* https://imageserv11.team-logic.com/mediaLibrary/15/MOT__Admissions_Policy_K-12_4.pdf.

^{xxviii} *Id.*

^{xxix} *Id.*

^{xxx} MOT Charter, High School Family Handbook 2014-2015 at 13, *available at* https://imageserv11.team-logic.com/mediaLibrary/15/HS_Handbook_Website.pdf.

^{xxxi} *Id.* at 21 (“Because parent involvement is integral to the success of MOT Charter School, we request that each family serve at least 10 volunteer hours each academic year.”)

^{xxxii} Providence Creek Academy Charter School, School-Parent-Student Compact School Year 2014-2015, *available at* <http://www.pcasaints.org/wp-content/uploads/2014/03/Student-handbook-14-15.pdf> (requiring parents to “[v]olunteer[] in or for [their] child’s classroom.”).

EXHIBIT B

EXHIBIT B. ADMISSIONS AND ENROLLMENT REQUIREMENTS AT DELAWARE FAILINGⁱ CHARTER SCHOOLSⁱⁱ

Delaware Failing Charter Schools (2013-2014)	Raci- ally Identi- fiable (2013- 2014) ⁱⁱⁱ	Percent of Racially Identifiable Group (2013- 2014) ^{iv}	Percent Low- Income Enrollm- ent (2013- 2014) ^v	Percent Special Educati- on (2013- 2014) ^{vi}	High- Perform- ing (2013- 2014) ^{vii}	Placem- ent Test	Parent Essay for Admiss- ion	Student Essay for Admiss- ion	Past Grades Evaluated for Admiss- ion	Uniform Purchase Required from Specific Vendors	Annual Activity Fee	Parental Involve- ment Requir- ement
1. Delaware Academy of Public Safety and Security	YES	57.9% White	29.4%	13.3%				✓ ^{viii}	✓ ^{ix}	✓ ^x		
2. Prestige Academy	YES	94.8% African American ("Af.Am.")	60.6%	19.5%						✓ ^{xi}		✓ ^{xii}
3. The Maurice J. Moyer Academic Institute	YES	88.5% Af.Am.	78.4%	31.3%								
4. Thomas A. Edison Charter School	YES	98.3% Af.Am.	80.9%	6.8%			✓ ^{xiii}		✓ ^{xiv}			✓ ^{xv}
5. Delaware College Preparatory Academy	YES	96.8% Af.Am.	82.1%	4.1%						✓ ^{xvi}		✓ ^{xvii}
6. Gateway Lab School	NO	(Gateway Lab School is not a racially	27.9%	58.7%						✓ ^{xviii}		

		identifiable school, but the majority of the student body is White, 64.4%)										
7. Campus Community Charter School	NO	(Campus Community is not a racially identifiable school, but African American students comprise the largest group, 41.1%)	39.2%	9.0%			✓ ^{XXIX}	✓ ^{XX}	✓ ^{XXI}			✓ ^{XXII}
8. Positive Outcomes Charter School	NO	(Positive Outcomes is not a racially identifiable school, but the majority of the student body is White, 65.8%)	38.3%	63.3%			✓ ^{XXIII}	✓ ^{XXIV}	✓ ^{XXV}	✓ ^{XXVI}		



= Racially Identifiable (White)



= Racially Identifiable (African American (“Af.Am.”) or Hispanic)



= Not Racially Identifiable

ⁱ The terms “failing” and “nonfailing” in this complaint are derived from Delaware’s Adequate Yearly Progress (“AYP”) standards. AYP is the name given to accountability standards that states developed under the federal No Child Left Behind Act. In Delaware, schools are put into three categories: “Above Target,” “Meets Target,” or “Below Target,” based on students’ scores on the Delaware Comprehensive Assessment System (“DCAS”), Delaware’s statewide standardized test. 14 Del. Admin. Code 103, *available at* <http://regulations.delaware.gov/AdminCode/title14/100/103.pdf>. For this complaint, “low-performing charter schools” or “failing schools” are schools that are “below target,” or fail to meet AYP.

ⁱⁱ All information in this table regarding schools’ use of a placement test, parent essay for admission, student essay for admission, past grades, uniform purchase requirements, annual activity fees, and parental involvement requirements is based from the information made publicly available on each school’s website.

ⁱⁱⁱ In this complaint, racially identifiable schools are identified using the Department of Education’s Office for Civil Rights (“OCR”) “rule of thumb” for identifying such schools. A school is racially identifiable if there exists at least a 20% disparity between a given school and its surrounding district’s enrollment for a given racial group. *See* Letter from Beth Gellman-Beer, Supervising Attorney Philadelphia Office, U.S. Dep’t of Educ. To Mark Murphy, Secretary of Educ., Del. State Dep’t of Educ. 3 (May 22, 2013) (on file with author) (“In determining whether a school is racially identifiable, OCR compares the percentage of minority students in the school to the percentage of minority students in the District as a whole. In comparing enrollment disparities, OCR looks for differences that are statistically significant and may also consider ‘a rule of thumb’ that flags disparities of 20 percent between school enrollments and district-wide enrollments as possible indicators of racial identifiability.”). To determine whether charter schools in Delaware are racially identifiable, this complaint used the state’s school-specific and district-specific enrollment data. *See generally* School and District Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Dec. 1, 2014). Because several charter schools are authorized by the RCSD and the district enrollment data for RCSD included charter school data, this complaint adjusted the RCSD enrollment data to include only public, non-charter schools in determining the racial identifiability of charter schools authorized by RCSD.

^{iv} *See* School Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Nov. 14, 2014).

^v *Id.*

^{vi} *Id.*

^{vii} This complaint refers to a charter school as “high-performing” when in the 2013-2014 academic year, at least 90% of students met the state reading and math standards (measured by the highest grade level for which data is available). *See* School Profiles, State of Delaware: The Official Website of the First State, <http://profiles.doe.k12.de.us/SchoolProfiles/State/Default.aspx> (last viewed Nov. 17, 2014). In the 2013-2014 school year, these schools were: the Charter School of Wilmington, Newark Charter School, Sussex Academy, MOT Charter School, and Odyssey Charter School. *Id.*

^{viii} Delaware Academy of Public Safety and Security, Cadet Service Information, *available at* <http://www.dapsscharterschool.org/apps/download/2/eUOcd8mBQ4bAc6nMvd1mxUzatBvphOP5SmrCrAAAYDNjajpdJ.pdf/Cadet%20Service%20Information.pdf>.

^{ix} Delaware Academy of Public Safety and Security, Application Cover Letter, *available at* <http://www.dapsscharterschool.org/apps/download/2/gLSR9TKmHVP1vKrvuZ0ZgbyDXCb0fw5EOniVw9caSOjtdWBo.pdf/Cover%20Letter.pdf>.

^x Delaware Academy of Public Safety and Security, DAPSS Uniform Policy 2014-2015, *available at* http://www.dapsscharterschool.org/apps/download/2/QWn58CY33Hwayglvc7YNfOaru9mUmmGCIgRSWOzdMfeBbHsC.pdf/2014-15_Uniform.pdf.

^{xi} Uniform Orders, Prestige Academy, <http://www.prestigeacademy.org/uniform-orders.html> (last viewed Nov. 17, 2014).

^{xii} Prestige Academy, Prestige Academy Family Covenant at 2, *available at* http://www.prestigeacademy.org/uploads/7/2/2/9/7229998/famcovsample_000.pdf (requiring parents to “volunteer at least once each trimester”).

^{xiii} Thomas A. Edison Charter School, 2015-2016 K-8 Student Supplemental Application, *available at* <http://thomasedison.charter.k12.de.us/education/page/download.php?fileinfo=U3R1ZGVudF9BcHBsaWNhdGlvbI9Db21iaW5lZF8yMDE1LTlwMTYucGRmOj06L3d3dzUvc2Nob29scy9kZS90aG9tYXNlZGlzb25jaGFydGVyL2ltYWdscy9kb2NtZ3IvN2ZpbGU0NDEucGRm§iondetailid=1> (requiring parents to state why they are choosing TECS for their child and providing two lines for parents’ response).

^{xiv} *Id.*

^{xv} Thomas A. Edison Charter School, Student Handbook/Code of Conduct for Students, Parents, Teachers, and Administrators 2013-2014 at 10, *available at* <http://thomasedisoncharter.de.schoolwebpages.com/education/page/download.php?fileinfo=U3R1ZGVudENvZGVpZkNvbmlR1Y3QucGRmOj06L3d3dzUvc2Nob29scy9kZS90aG9tYXNlZGlzb25jaGFydGVyL2ltYWdscy9kb2NtZ3IvMTBmaWxlMzAwLnBkZg==§iondetailid=581> (“Thomas Edison Charter School Parents are required to volunteer a minimum of 3 hours per year.”).

^{xvi} School Uniforms, Delaware Preparatory Academy, <http://delaware.gabbartllc.com//index.php?pageID=9042> (last viewed Nov. 17, 2014).

^{xvii} Delaware College Preparatory Academy, Scholar Code of Conduct: Scholar Rights and Responsibilities, Grades Kindergarten through Five, School Year 2013-2014 at 5, *available at* http://delaware.gabbartllc.com/page/56233_2 (“Parents are required to complete fifteen hours of service to the school.”).

^{xviii} FAQs, Gateway Lab School, <http://www.gatewaylabschool.org/faqs/> (last viewed Nov. 17, 2014).

^{xix} Campus Community School, Supplemental Application, *available at* <http://campuscommunityschool.fatcow.com/CCS%20Supp%20App%202014-2015.pdf> (requiring parents to state “[i]n what ways [they] feel that Campus Community School will serve [their] child” and providing two lines for response).

^{xx} *Id.*

^{xxi} Campus Community School, Application for Enrollment 2015-2016, *available at* <http://www.positiveoutcomescs.org/ourpages/auto/2011/6/15/51625980/2%20-%20Application%20Directions%202015-16.pdf>.

^{xxii} Campus Community School, Handbook 2012-2013 at 5, *available at* <http://campuscommunityschool.fatcow.com/pdfs/student-handbook-12-13-final-1.original.pdf> (“All parents are expected to volunteer in some way during the year.”).

^{xxiii} Positive Outcomes Charter School, Supplemental Application for Enrollment 2015-2016, *available at* <http://www.positiveoutcomescs.org/ourpages/auto/2011/6/15/51625980/5%20-%20POCS%20Supplemental%20Application%202015-16.pdf>.

^{xxiv} *Id.*

^{xxv} Positive Outcomes Charter School, Application for Enrollment 2015-2016, *available at* <http://www.positiveoutcomescs.org/ourpages/auto/2011/6/15/51625980/2%20-%20Application%20Directions%202015-16.pdf>.

^{xxvi} Positive Outcomes Charter School, Student Handbook 2014-2015 at 15-16, *available at* <http://www.positiveoutcomescs.org/ourpages/auto/2012/4/24/58076073/POCS%20Student%20Handbook%202015%20Final.pdf>.

EXHIBIT C

DECLARATION OF EVE BUCKLEY

I, Eve Buckley, hereby declare:

1. I am a resident of Newark Delaware and the Christina School District. I am a professor of history at the University of Delaware in Newark. I have a child in elementary school in the Christina School District.
2. Many charter schools carry out substantial fundraising campaigns each year that pressure parents to raise significant sums of money for or donate to the schools. In addition, there are mandatory supply and activity fees at various charter schools, including Newark Charter School and Charter School of Wilmington.
3. Newark Charter School was founded largely by professionals residing in the Newark area, and serves a large number of families affiliated with the University of Delaware.
4. Newark Charter School uses the standard state application for admissions, but it embraces many practices and traditions that align it more closely with private schools than traditional public schools. These pose admissions barriers for students of color and students with disabilities.
5. If a child is not admitted to Newark Charter School in Kindergarten, it is very difficult for the child to gain admission at a later time, though the school currently offers K-10 instruction levels, because there is a sibling preference and, with the exception of an

increase during the 2013- 2014 expansion, very few seats have become available each year.

6. Parents of Newark Charter School students are pressured by the school community to volunteer and contribute financially to the school's success, although that is difficult for lower-income families because of the financial and time constraints faced by lower-income families.
7. Newark Charter School decided not to include a cafeteria in its original design, claiming that the space was needed for a library. As a result it could not serve students who needed federally funded free- or reduced-priced lunch .

I declare under penalty of perjury under the laws of the United States and the State of Delaware that the foregoing is true and correct.

EXECUTED this 1 day of December, 2014 in Newark, Delaware.

Eve Buckley

A handwritten signature in cursive script, appearing to read "Eve Buckley", written over a horizontal line.

Appendix K

Materials for Task Force Meeting 10

March 10, 2015

Enrollment Preference Task Force
Buena Vista Conference Center – New Castle, Delaware
March 10, 2015 – 6:30PM – 8:30PM

Agenda

- I. Welcome and Introductions
- II. Approval of December 2014 minutes
- III. Introduction & Presentation
Alex Medler, National Association of Charter School Authorizers
- IV. Discussion, Q & A
- V. Public Comment
- VI. Adjourn

Enrollment Preferences Task Force Minutes: Meeting #10
Tuesday, March 10, 2015
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Representative Earl Jaques, Delaware House of Representatives
- Frederika Jenner, Delaware State Education Association
- Susan Francis, Delaware School Board Association
- Dr. Mervin Daugherty, New Castle County Superintendent
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Chuck Taylor, Charter School Network
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Mark Pruitt, Magnet School Representative
- Henry Clampitt, Charter School Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware
- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Lindsay O'Mara, Governor's Office
- Randall Hughes, Delaware State Board of Education
- Yvonne Johnson, Delaware Parent Teacher Association
- Dr. David Ring Superintendent from Sussex County
- Julie Rumschlag, Magnet School Representative
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Dr. Deborah Zych, Superintendent from Polytech
- Gary Stockbridge, Delaware Business Roundtable
- Dr. Terri Hodges, Parent Representative
- Donald Mell, Charter School Representative

Public attendees:

- Kelly Sherretz, University of Delaware/IPA
- Kathy Demarest, New Castle County Vo-Tech
- Greg Meese, Newark Charter School
- Kendall Massett, Delaware Charter School Network
- Alfred Lance, Red Clay
- Joanne Schlosberg, Newark Charter School
- Jennifer Nagourney, Delaware Department of Education
- Donato Rufo, New Castle County Vo-Tech

Meeting was called to order at 6:40 p.m.

1. Introduction

Representative Williams began the meeting by asking for a motion to approve the minutes from the previous meeting with one typographical correction. Frederika Jenner made the motion that was seconded by Elizabeth Lockman and unanimously adopted by the task force. Representative Williams introduced Alex Medler from the National Association of Charter School Authorizers, who would be giving a presentation to the task force.

2. Presentation

Alex Medler began his presentation by complimenting the task force for all the thorough and extensive research that had been done. He had looked at all the documents created since the task force's inception and was impressed by all the hard work. Mr. Medler then asked members of the task force what topics they would like him to cover. Among them included enrollment comparisons between magnet, vo-tech, and charter schools, oversight of enrollment preferences and practices, examples of equity issues that occur during enrollment, and the enrollment practices that work best nationwide.

Mr. Medler discussed the use of a strict lottery as a requirement for receiving federal start up grant funds. He pointed out that Delaware charter schools are ineligible for these federal grants due to the use of preferences. Mr. Medler pointed out that Delaware's charter law is unique in that it allows specific interest (which he characterized as inclusive of testing and performance-based assessment) as a preference. Most states do not. A strict lottery is considered best practice nationally to avoid the appearance of preferential admissions.

Mr. Medler discussed the best practices his organization has seen nationwide. One is the focus on accessible transportation for all students. Another is the need for a collaborative effort from cities, school districts, and states to access the need for specific programming in certain areas leading to an authorization process that brings all of these shareholders to the table. Additionally, if an at-risk group is underrepresented in a charter school population, it is considered best practice to give that population a double shot in the lottery. For example, if a school is using the ping pong ball method, then two balls are used for this student population. Mr. Medler further discussed that if geographic boundaries are indicated as a preference, it is common to use the district boundaries for a new charter school. If the charter is created from an existing school, students within the original school boundaries could be given preference. Typically, the most successful charter schools are usually part of the district in which they reside.

Mr. Medler offered the following suggestions to address some of Delaware's issues. A moratorium on new charter schools is usually be counterproductive and negatively impacts a community looking to fill an educational void. Delaware could create a waiver process that would require a new charter school to receive approval before using a performance or testing-based assessment during enrollment. Delaware law could also benefit from defining magnet schools in order to make clear where they differ from charter schools. A third party (such as NACSA) could also be helpful in facilitating future discussions between charter schools and the school districts in which they reside. If future changes in Delaware enrollment preferences will affect current schools, then those changes might be easier for the public to accept if the current schools are grandfathered to continue as they now operate and having the future changes only apply to new schools.

For more information on the National Association of Charter School Authorizers, visit

<http://www.qualitycharters.org/>

Voting will conclude at the next meeting.

****Note: Digital copies of all the document pertaining to the task force can be found on***

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

4. Public Comment- The views and opinions expressed in this section are those of the individual speakers.

Greg Meece spoke about Newark Charter School and how the 5-mile radius has aided in parental and community involvement in the school.

5. Next Steps

Next meeting: April 14th, 2015 from 6:30pm-8:30pm in the Buck Library at Buena Vista.
The meeting adjourned at 8:20 pm.

NACSA develops quality
authorizing environments
to foster a greater number
of quality charter schools.

Visit NACSA's Web site for additional resources developed to aid authorizers
in the implementation of quality practices in charter school authorizing.

www.qualitycharters.org



nacsa
NATIONAL ASSOCIATION OF
CHARTER SCHOOL AUTHORIZERS

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Charter School Authorizers**
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nacsa
NATIONAL ASSOCIATION OF
CHARTER SCHOOL AUTHORIZERS

Principles & Standards

for Quality Charter School Authorizing



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About NACSA

The National Association of Charter School Authorizers (NACSA) is committed to advancing excellence and accountability in the charter school sector and to increasing the number of high-quality charter schools across the nation. To accomplish this mission, NACSA works to improve the policies and practices of authorizers—the organizations designated to approve, monitor, renew, and, if necessary, close charter schools. NACSA provides training, consulting, and policy guidance to authorizers. It also advocates for laws and policies that raise the bar for excellence among authorizers and the schools they charter. Visit www.qualitycharters.org.

NACSA's members first ratified *Principles & Standards for Quality Charter School Authorizing* on May 14, 2004.
© 2004, 2005, 2007, 2009, 2010, 2012.

Dear Colleagues,

It has been 20 years since the first charter school opened its doors. Today, more than two million children depend on more than 5,600 charters to provide them with excellent educational opportunities. Many of these schools are innovative and outstanding, offering children a great and often significantly better alternative to the traditional district schools available to them. Yet too many charters do not provide the education promised—failing children, communities, and the public trust.

It is the responsibility of nearly 1,000 charter school authorizers across the country to help ensure that charter schools fully deliver on the charter promise. To get there, we can and must demand more of ourselves. Good authorizing means approving only those schools with the best likelihood of succeeding and providing a sound education for children, closing bad schools, and strengthening the performance and accountability of all charter schools.

Authorizing has evolved over the course of these 20 years, led in part by the National Association of Charter School Authorizers' *Principles & Standards for Quality Charter School Authorizing*. This resource serves as a guide for authorizers in making the critical decisions necessary to ensure that every charter school is a great school. NACSA's *Principles & Standards* reflects best practices developed through years of experience working with entities of all types who are engaged in the daily work of charter school authorizing. These guidelines have been written into numerous state laws, have informed federal legislation, and have served as the basis for the evaluation of authorizer practices. When embraced by authorizers and policymakers, they help to create an environment in which authorizers can better do their jobs to foster, and grow great charter schools.

A host of factors impact the quality of authorizing. NACSA's *Principles & Standards* is not the only tool in the toolbox or the only factor relevant to good authorizing. But it provides a solid foundation of best practices to guide authorizers in the critical and often complex job of improving educational options for children through charter schools. Every child deserves a great education; if we get authorizing right, we can go a long way to making that goal a reality.

Sincerely,



Greg Richmond
President and Chief Executive Officer

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Introduction

Charter school authorizing is a powerful strategy for making excellent public schools and educational opportunities available to all students. Done well, charter authorizing increases student achievement by expanding the supply of quality public schools to satisfy unmet needs—particularly by providing life-changing opportunities for students ill-served by the existing school system.

Charter authorizing is complex work, requiring constant balancing of diverse and often competing interests. It is a **public responsibility** for authorizing institutions, as well as a highly developed **profession** for the individuals charged with this stewardship role. Quality authorizing requires specialized knowledge, skills, commitment, and adherence to essential **professional standards** in order to serve students and the public well, and achieve the purposes of state charter laws. Since 2004, the National Association of Charter School Authorizers (NACSA) has established and widely promoted such standards—the first *Principles & Standards for Quality Charter School Authorizing* and subsequent editions—to provide essential guidance to charter authorizing organizations and leaders, as well as to policymakers who seek to support quality authorizing.

Because charter authorizing is a continually developing profession, these professional standards must likewise continually evolve in conjunction with the growth and complexity of the ever-growing charter school sector. *Principles & Standards for Quality Charter School Authorizing* derives from NACSA's vast experience, research, and lessons learned from working with authorizers across the nation.¹ Accordingly, NACSA revisits and updates these **Principles and Standards** regularly to ensure that they address current authorizing challenges and reflect the latest lessons drawn from practice, research, and analysis.

Who should use this resource

These **Principles and Standards** are designed primarily for **authorizing institutions**, and as such, they provide practical guidance to help **authorizer staff and authorizer board members** carry out their work as a standards-based profession rather than simply a list of tasks. For **policymakers**, this publication should highlight the complexity and challenges of quality authorizing—and the need for state policy to contemplate and invest adequately in authorizing to achieve a quality charter school sector.

Purposes of these Principles and Standards

Principles & Standards for Quality Charter School Authorizing is intended to serve, above all, as a **guide to formative development** for charter authorizers at all stages and levels of experience. For new or less-experienced authorizers, these **Principles and Standards** offer an essential road map to guide planning and organizational development of strong practices, including the identification of areas where deeper guidance or additional assistance is needed. For experienced authorizers, this publication is a resource for identifying areas for improvement or refinement to achieve ever-stronger outcomes, as demonstrated by the quality of the schools they oversee. (NACSA has a wide range of practical resources that

offer more guidance and support in fulfilling these [Principles and Standards](#). Most of these resources are available at www.qualitycharters.org and will be fully available, along with an even more robust set of resources in NACSA's new knowledge and learning system, scheduled to launch in 2013. In addition, NACSA stands ready to provide further assistance to authorizers upon request.)

NACSA uses these [Principles and Standards](#) to guide its professional development of authorizers, authorizer evaluations, and research and policy agendas. NACSA recommends that these professional standards anchor state policies concerning charter authorizing, including adequate investment in authorizing as well as evaluations of authorizer quality. To that end, NACSA recommends that states endorse and apply professional standards for charter authorizing that meet or exceed these [Principles and Standards](#). In recent years, a rapidly growing number of states have done exactly this, and NACSA advocates the adoption of similar policies in all charter school states. We hope NACSA's *[Principles & Standards for Quality Charter School Authorizing](#)* will continue to advance and elevate the profession, giving authorizers clear guidance to develop, strengthen, and refine their practices in pursuit of educational excellence for all students.

In addition to promoting academic success, these [Principles and Standards](#) are designed to promote additional goals that are also the responsibility of authorizers. These goals include safeguarding:

1. The rights of all students to enjoy equal access to the schools of their choice, to receive appropriate services, and to be treated fairly;
2. The public interest in ensuring that publicly funded programs are accountable, transparent, well governed, efficient, and effectively administered; and
3. The autonomy of charter school operators, giving them the freedom to control core functions, which lies at the heart of the charter school concept.

The pursuit of these multiple, sometimes-competing goals will often require authorizers' professional judgment and thoughtful balancing.

How these Principles & Standards were developed

NACSA's *Principles & Standards for Quality Charter School Authorizing* is based on an enormous body of work, research, and input over many years from authorizers and other experts in this unique field. In addition to NACSA's own considerable board, staff, and organizational experience in authorizing, these [Principles and Standards](#) are grounded in broad and deep experience collected over the years through:

- Multiple national advisory panels and focus groups bringing together experienced authorizers of all types, researchers, and other experts and leaders in the charter movement;
- Broad input from NACSA members and other education leaders; and
- NACSA's research practice, including in-depth authorizer evaluations, extensive interviews, document and policy analysis, and examination of reported practices and outcomes.

These inclusive processes have produced a rich base of knowledge built on deep experience, study, deliberation, and refinement that reflects collective insights on best practices among authorizers of all types and portfolio sizes across the country.

The structure and content of this publication

These [Principles and Standards](#) begin with three clearly stated Core Principles, followed by more detailed Standards and accompanying practical guidance that authorizers often seek. Readers should note:

- The **Core Principles** are broad, bedrock values that authorizers should uphold consistently throughout their pursuit and implementation of the Standards.
- The **Standards** are presented in five sections, each of which is introduced by a brief statement that summarizes the scope of the Standards that follow.
- Most of the Standards are “**essential standards**,” meaning that authorizers at every stage of development should place priority on following them. In addition, a small number of “**advanced standards**” are also fully recommended for all authorizers; but given the need to prioritize, these may be more practical for authorizers who are already implementing the essential standards.

Principles for Quality Charter School Authorizing

A quality authorizer engages in responsible oversight of charter schools by ensuring that schools have both the autonomy to which they are entitled and the public accountability for which they are responsible. The following three responsibilities lie at the heart of the authorizing endeavor, and authorizers should be guided by and fulfill these Core Principles in all aspects of their work:

Three Core Principles of Charter Authorizing

- 1. Maintain high standards for schools*
- 2. Uphold school autonomy*
- 3. Protect student and public interests*

In short, authorizers should ensure quality oversight that maintains high educational and operational standards, preserves school-level autonomy, and safeguards student and public interests.

Principle I.

A Quality Authorizer ...

Maintain High Standards

- Sets high standards for approving charter applicants.
- Maintains high standards for the schools it oversees.
- Effectively cultivates quality charter schools that meet identified educational needs.
- Oversees charter schools that, over time, meet the performance standards and targets on a range of measures and metrics set forth in their charter contracts (see Box 4, “Performance Standards,” on p. 24).
- Closes schools that fail to meet standards and targets set forth in law and by contract.

Principle II.

A Quality Authorizer ...

Uphold School Autonomy

- Honors and preserves core autonomies crucial to school success, including:
 - Governing board independence from the authorizer;
 - Personnel;
 - School vision and culture;
 - Instructional programming, design, and use of time; and
 - Budgeting.

	<p>Assumes responsibility not for the success or failure of individual schools, but for holding schools accountable for their performance.</p> <p>Minimizes administrative and compliance burdens on schools.</p> <p>Focuses on holding schools accountable for outcomes rather than processes.</p>
Principle III.	A Quality Authorizer ...
<i>Protect Student and Public Interests</i>	<p>Makes the well-being and interests of students the fundamental value informing all the authorizer's actions and decisions.</p> <p>Holds schools accountable for fulfilling fundamental public-education obligations to all students, which includes providing:</p> <ul style="list-style-type: none"> - Nonselective, nondiscriminatory access to all eligible students; - Fair treatment in admissions and disciplinary actions for all students; and - Appropriate services for all students, including those with disabilities and English learners, in accordance with applicable law. <p>Holds schools accountable for fulfilling fundamental obligations to the public, which includes providing:</p> <ul style="list-style-type: none"> - Sound governance, management, and stewardship of public funds, and - Public information and operational transparency in accordance with law. <p>Ensures in its own work:</p> <ul style="list-style-type: none"> - Ethical conduct; - Focus on the mission of chartering high-quality schools; - Clarity, consistency, and public transparency in authorizing policies, practices, and decisions; - Effective and efficient public stewardship; and - Compliance with applicable laws and regulations. <p>Supports parents and students in being well-informed about the quality of education provided by charter schools.</p>

These [Principles for Quality Charter School Authorizing](#) constitute the foundation for the following [Standards for Quality Charter School Authorizing](#) that guide authorizers’ practices day to day, from establishing a chartering office through all major stages of chartering responsibility. NACSA’s [*Principles & Standards for Quality Charter School Authorizing*](#) provide essential guidance for the unique professional practice of authorizers and their daily balancing act of honoring the autonomy of charter schools while holding them accountable for high achievement, effective management, and serving all students well.

Standards for Quality Charter School Authorizing

1. Agency Commitment and Capacity

A quality authorizer engages in chartering as a means to foster excellent schools that meet identified needs, clearly prioritizes a commitment to excellence in education and in authorizing practices, and creates organizational structures and commits human and financial resources necessary to conduct its authorizing duties effectively and efficiently.

Standards	A Quality Authorizer ...
<i>Planning and Commitment to Excellence</i>	<p>Supports and advances the purposes of charter school law.</p> <p>Ensures that the authorizer’s governing board, leadership, and staff understand and are committed to the three Core Principles of authorizing.</p> <p>Defines external relationships and lines of authority to protect its authorizing functions from conflicts of interest and political influence.</p> <p>Implements policies, processes, and practices that streamline and systematize its work toward stated goals, and executes its duties efficiently while minimizing administrative burdens on schools.</p> <p>Evaluates its work regularly against national standards for quality authorizing and recognized effective practices, and develops and implements timely plans for improvement when it falls short.</p>
	<p>Advanced Standards</p> <p>States a clear mission for quality authorizing.</p> <p>Articulates and implements an intentional strategic vision and plan for chartering, including clear priorities, goals, and time frames for achievement.</p> <p>Evaluates its work regularly against its chartering mission and strategic plan goals, and implements plans for improvement when falling short of its mission and strategic plan.</p> <p>Provides an annual public report on the authorizer’s progress and performance in meeting its strategic plan goals.</p>



*Human
Resources*

Enlists expertise and competent leadership for all areas essential to charter school oversight—including, but not limited to, education leadership; curriculum, instruction, and assessment; special education, English learners, and other diverse learning needs; performance management and accountability; law; finance; facilities; and nonprofit governance and management—through staff, contractual relationships, and/or intra- or inter-agency collaborations.

Employs competent personnel at a staffing level appropriate and sufficient to carry out all authorizing responsibilities in accordance with national standards, and commensurate with the scale of the charter school portfolio.

Provides for regular professional development for the agency's leadership and staff to achieve and maintain high standards of professional authorizing practice and to enable continual agency improvement.

*Financial
Resources*

Determines the financial needs of the authorizing office and devotes sufficient financial resources to fulfill its authorizing responsibilities in accordance with national standards and commensurate with the scale of the charter school portfolio.

Structures its funding in a manner that avoids conflicts of interest, inducements, incentives, or disincentives that might compromise its judgment in charter approval and accountability decision making.²

Deploys funds effectively and efficiently with the public's interests in mind.

2. Application Process and Decision Making

A quality authorizer implements a comprehensive application process that includes clear application questions and guidance; follows fair, transparent procedures and rigorous criteria; and grants charters only to applicants who demonstrate strong capacity to establish and operate a quality charter school.³

Standards	A Quality Authorizer ...
<i>Proposal Information, Questions, and Guidance</i>	<p>Issues a charter application information packet or request for proposals (RFP) that:</p> <ul style="list-style-type: none">- States any chartering priorities the authorizer may have established;- Articulates comprehensive application questions to elicit the information needed for rigorous evaluation of applicants' plans and capacities; and- Provides clear guidance and requirements regarding application content and format, while explaining evaluation criteria. <p>Welcomes proposals from first-time charter applicants as well as existing school operators/replicators, while appropriately distinguishing between the two kinds of developers in proposal requirements and evaluation criteria.</p> <p>Encourages expansion and replication of charter schools that demonstrate success and capacity for growth.</p> <p>Is open to considering diverse educational philosophies and approaches, and expresses a commitment to serve students with diverse needs.</p> <p>Advanced Standards</p> <p>Broadly invites and solicits charter applications while publicizing the authorizer's strategic vision and chartering priorities, without restricting or refusing to review applications that propose to fulfill other goals.</p>
<i>Fair, Transparent, Quality-Focused Procedures</i>	<p>Implements a charter application process that is open, well publicized, and transparent, and is organized around clear, realistic timelines.</p> <p>Allows sufficient time for each stage of the application and school pre-opening process to be carried out with quality and integrity.⁴</p> <p>Explains how each stage of the application process is conducted and evaluated.</p> <p>Communicates chartering opportunities, processes, approval criteria, and decisions clearly to the public.</p>

	<p>Informs applicants of their rights and responsibilities and promptly notifies applicants of approval or denial, while explaining the factors that determined the decision.</p>
<p><i>Rigorous Approval Criteria</i></p>	<p>Requires all applicants to present a clear and compelling mission, a quality educational program, a solid business plan, effective governance and management structures and systems, founding team members demonstrating diverse and necessary capabilities, and clear evidence of the applicant's capacity to execute its plan successfully. (See NACSA resources at www.qualitycharters.org)</p> <p>Establishes distinct requirements and criteria for applicants who are existing school operators or replicators. (See Box 1)</p> <p>Establishes distinct requirements and criteria for applicants proposing to contract with education service or management providers. (See Box 2)</p> <p>Establishes distinct requirements and criteria for applicants that propose to operate virtual or online charter schools. (See NACSA resources at www.qualitycharters.org)</p>
<p><i>Rigorous Decision Making</i></p>	<p>Grants charters only to applicants that have demonstrated competence and capacity to succeed in <i>all</i> aspects of the school, consistent with the stated approval criteria.</p> <p>Rigorously evaluates each application through thorough review of the written proposal, a substantive in-person interview with the applicant group, and other due diligence to examine the applicant's experience and capacity, conducted by knowledgeable and competent evaluators.</p> <p>Engages, for both written application reviews and applicant interviews, highly competent teams of internal and external evaluators with relevant educational, organizational (governance and management), financial, and legal expertise, as well as thorough understanding of the essential principles of charter school autonomy and accountability.</p> <p>Provides orientation or training to application evaluators (including interviewers) to ensure consistent evaluation standards and practices, observance of essential protocols, and fair treatment of applicants.</p> <p>Ensures that the application-review process and decision making are free of conflicts of interest, and requires full disclosure of any potential or perceived conflicts of interest between reviewers or decision makers and applicants.</p>

3. Performance Contracting

A quality authorizer executes contracts with charter schools that articulate the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms. The contract is an essential document, separate from the charter application, that establishes the legally binding agreement and terms under which the school will operate and be held accountable.

Standards	A Quality Authorizer ...
<i>Contract Term, Negotiation, and Execution</i>	<p>Executes a contract with a legally incorporated governing board independent of the authorizer.</p> <p>Grants charter contracts for a term of five operating years or longer only with periodic high-stakes reviews every five years.⁵</p> <p>Defines material terms of the contract.</p> <p>Ensures mutual understanding and acceptance of the terms of the contract by the school's governing board prior to authorization or charter granting by the authorizing board.</p> <p>Allows—and requires contract amendments for—occasional material changes to a school's plans, but does not require amending the contract for non-material modifications.</p>
<i>Rights and Responsibilities</i>	<p>Executes charter contracts that clearly:</p> <ul style="list-style-type: none">- State the rights and responsibilities of the school and the authorizer;- State and respect the autonomies to which schools are entitled—based on statute, waiver, or authorizer policy—including those relating to the school's authority over educational programming, staffing, budgeting, and scheduling;- Define performance standards, criteria, and conditions for renewal, intervention, revocation, and non-renewal, while establishing the consequences for meeting or not meeting standards or conditions;- State the statutory, regulatory, and procedural terms and conditions for the school's operation;- State reasonable pre-opening requirements or conditions for new schools to ensure that they meet all health, safety, and other legal requirements prior to opening and are prepared to open smoothly;

- State the responsibility and commitment of the school to adhere to essential public-education obligations, including admitting and serving all eligible students so long as space is available, and not expelling or counseling out students except pursuant to a legal discipline policy approved by the authorizer; and
- State the responsibilities of the school and the authorizer in the event of school closures.

Ensures that any fee-based services that the authorizer provides are set forth in a services agreement that respects charter school autonomy and treats the charter school equitably compared to district schools, if applicable; and ensures that purchasing such services is explicitly not a condition of charter approval, continuation, or renewal.

Performance Standards

Executes charter contracts that plainly:

- Establish the performance standards under which schools will be evaluated, using objective and verifiable measures of student achievement as the primary measure of school quality;
- Define clear, measurable, and attainable academic, financial, and organizational performance standards and targets that the school must meet as a condition of renewal, including but not limited to state and federal measures; (For guidance in establishing performance standards, see Box 3 and NACSA resources at www.qualitycharters.org)
- Include expectations for appropriate access, education, support services, and outcomes for students with disabilities;
- Define the sources of academic data that will form the evidence base for ongoing and renewal evaluation, including state-mandated and other standardized assessments, student academic growth measures, internal assessments, qualitative reviews, and performance comparisons with other public schools in the district and state;⁶
- Define the sources of financial data that will form the evidence base for ongoing and renewal evaluation, grounded in professional standards for sound financial operations and sustainability;
- Define the sources of organizational data that will form the evidence base for ongoing and renewal evaluation, focusing on fulfillment of legal obligations, fiduciary duties, and sound public stewardship; and
- Include clear, measurable performance standards to judge the effectiveness of alternative schools, if applicable—requiring and appropriately weighting rigorous mission-specific performance measures and metrics that credibly demonstrate each school's success in fulfilling its mission and serving its special population.⁷

*Provisions for
Education
Service or
Management
Contract
(if applicable)*

For any school that contracts with an external (third-party) provider for education design and operation or management, includes additional contractual provisions that ensure rigorous, independent contract oversight by the charter governing board and the school's financial independence from the external provider. (See Box 4)

Reviews the proposed third-party contract as a condition of charter approval to ensure that it is consistent with applicable law, authorizer policy, and the public interest.



4. Ongoing Oversight and Evaluation

A quality authorizer conducts contract oversight that competently evaluates performance and monitors compliance; ensures schools’ legally entitled autonomy; protects student rights; informs intervention, revocation, and renewal decisions; and provides annual public reports on school performance.

Standards	A Quality Authorizer ...
<i>Performance Evaluation and Compliance Monitoring</i>	<p>Implements a comprehensive performance accountability and compliance monitoring system that is defined by the charter contract and provides the information necessary to make rigorous and standards-based renewal, revocation, and intervention decisions.</p> <p>Defines and communicates to schools the process, methods, and timing of gathering and reporting school performance and compliance data.</p> <p>Implements an accountability system that effectively streamlines federal, state, and local performance expectations and compliance requirements while protecting schools’ legally entitled autonomy and minimizing schools’ administrative and reporting burdens.</p> <p>Provides clear technical guidance to schools as needed to ensure timely compliance with applicable rules and regulations.</p> <p>Visits each school as appropriate and necessary for collecting data that cannot be obtained otherwise and in accordance with the contract, while ensuring that the frequency, purposes, and methods of such visits respect school autonomy and avoid operational interference.</p> <p>Evaluates each school annually on its performance and progress toward meeting the standards and targets stated in the charter contract, including essential compliance requirements, and clearly communicates evaluation results to the school’s governing board and leadership.</p> <p>Requires and reviews annual financial audits of schools, conducted by a qualified independent auditor.</p> <p>Communicates regularly with schools as needed, including both the school leaders and governing boards, and provides timely notice of contract violations or performance deficiencies.</p> <p>Provides an annual written report to each school, summarizing its performance and compliance to date and identifying areas of strength and areas needing improvement.</p> <p>Articulates and enforces stated consequences for failing to meet performance expectations or compliance requirements.</p>

<p><i>Respecting School Autonomy</i></p>	<p>Respects the school’s authority over its day-to-day operations.</p> <p>Collects information from the school in a manner that minimizes administrative burdens on the school, while ensuring that performance and compliance information is collected with sufficient detail and timeliness to protect student and public interests.</p> <p>Periodically reviews compliance requirements and evaluates the potential to increase school autonomy based on flexibility in the law, streamlining requirements, demonstrated school performance, or other considerations.</p> <p>Refrains from directing or participating in educational decisions or choices that are appropriately within a school’s purview under the charter law or contract.</p>
<p><i>Protecting Student Rights</i></p>	<p>Ensures that schools admit students through a random selection process that is open to all students, is publicly verifiable, and does not establish undue barriers to application (such as mandatory information meetings, mandated volunteer service, or parent contracts) that exclude students based on socioeconomic, family, or language background, prior academic performance, special education status, or parental involvement.</p> <p>Ensures that schools provide access and services to students with disabilities as required by applicable federal and state law, including compliance with student individualized education programs and Section 504 plans, facilities access, and educational opportunities.</p> <p>Ensures clarity in the roles and responsibilities of all parties involved in serving students with disabilities.⁸</p> <p>Ensures that schools provide access to and appropriately serve other special populations of students, including English learners, homeless students, and gifted students, as required by federal and state law.</p> <p>Ensures that schools’ student discipline policies and actions are legal and fair, and that no student is expelled or counseled out of a school outside of that process.</p>
<p><i>Intervention</i></p>	<p>Establishes and makes known to schools at the outset an intervention policy that states the general conditions that may trigger intervention and the types of actions and consequences that may ensue.</p> <p>Gives schools clear, adequate, evidence-based, and timely notice of contract violations or performance deficiencies.</p>

Allows schools reasonable time and opportunity for remediation in non-emergency situations.

Where intervention is needed, engages in intervention strategies that clearly preserve school autonomy and responsibility (identifying what the school must remedy without prescribing solutions).

Public Reporting

Produces an annual public report that provides clear, accurate performance data for the charter schools it oversees, reporting on individual school and overall portfolio performance according to the framework set forth in the charter contract.



5. Revocation and Renewal Decision Making

A quality authorizer designs and implements a transparent and rigorous process that uses comprehensive academic, financial, and operational performance data to make merit-based renewal decisions, and revokes charters when necessary to protect student and public interests.⁹

Standards	A Quality Authorizer ...
<i>Revocation</i>	Revokes a charter during the charter term if there is clear evidence of extreme underperformance or violation of law or the public trust that imperils students or public funds.
<i>Renewal Decisions Based on Merit and Inclusive Evidence</i>	<p>Bases the renewal process and renewal decisions on thorough analyses of a comprehensive body of objective evidence defined by the performance framework in the charter contract.</p> <p>Grants renewal only to schools that have achieved the standards and targets stated in the charter contract, are organizationally and fiscally viable, and have been faithful to the terms of the contract and applicable law.</p> <p>Does not make renewal decisions, including granting probationary or short-term renewals, on the basis of political or community pressure or solely on promises of future improvement.</p>
<i>Cumulative Report and Renewal Application</i>	<p>Provides to each school, in advance of the renewal decision, a cumulative performance report that:</p> <ul style="list-style-type: none">- Summarizes the school's performance record over the charter term, and- States the authorizer's summative findings concerning the school's performance and its prospects for renewal. <p>Requires any school seeking renewal to apply for it through a renewal application, which provides the school a meaningful opportunity and reasonable time to respond to the cumulative report; to correct the record, if needed; and to present additional evidence regarding its performance.</p>
<i>Fair, Transparent Process</i>	<p>Clearly communicates to schools the criteria for charter revocation, renewal, and non-renewal decisions that are consistent with the charter contract.</p> <p>Promptly notifies each school of its renewal (or, if applicable, revocation) decision, including written explanation of the reasons for the decision.</p>

Promptly communicates renewal or revocation decisions to the school community and public within a time frame that allows parents and students to exercise choices for the coming school year.

Explains in writing any available rights of legal or administrative appeal through which a school may challenge the authorizer’s decision.

Regularly updates and publishes the process for renewal decision making, including guidance regarding required content and format for renewal applications.

Closure

In the event of a school closure, oversees and works with the school governing board and leadership in carrying out a detailed closure protocol that ensures timely notification to parents; orderly transition of students and student records to new schools; and disposition of school funds, property, and assets in accordance with law.



Key Elements for Special Topics

Box 1. *Elements for Existing School Operators or Replicators*

Applicants who are existing school operators or replicators should be required to:

- Provide clear evidence of their capacity to operate new schools successfully while maintaining quality in existing schools;¹⁰
- Document their educational, organizational, and financial performance records based on all existing schools;
- Explain any never-opened, terminated, or non-renewed schools (including terminated or non-renewed third-party contracts to operate schools);
- Present their growth plan, business plan, and most recent financial audits; and
- Meet high standards of academic, organizational, and financial success to earn approval for replication.

Box 2. *Elements for Applicants Proposing to Contract with Education Service or Management Providers*

Applicants proposing to contract for education services or management should be required to provide:

- Evidence of the service provider's educational and management success;
- A draft (or existing) service/management contract that sets forth proposed key terms, including roles and responsibilities of the school governing board, the school staff, and the service provider; the services and resources to be provided; performance-evaluation measures and mechanisms; detailed explanation of compensation to be paid to the provider; financial controls and oversight; investment disclosure; methods of contract oversight and enforcement; and conditions for contract renewal and termination; and
- Disclosure and explanation of any existing or potential conflicts of interest between the school governing board and proposed service provider or any affiliated business entities.

Box 3. *Performance Standards*

Performance standards enable schools and authorizers to know the outcomes for which authorizers will hold schools accountable. They are the basis for school evaluation and should be incorporated in the charter contract, commonly as an attachment. Academic, financial, and organizational performance standards should include clearly defined and measurable indicators, measures, metrics, and targets that:

Academic Performance

- Set expectations for student **academic achievement status or proficiency**, including comparative proficiency;
- Set expectations for student **academic growth**, including adequacy of growth toward state standards;
- Incorporate **state and federal accountability systems**, including state grading and/or rating systems;
- Set expectations for **postsecondary readiness**, including graduation rates (for high schools); and
- Provide schools an option to incorporate **mission-specific performance measures** for which the school has presented valid, reliable, and rigorous means of assessment approved by the authorizer.¹¹

Financial Performance

- Enable the authorizer to monitor and evaluate the school's financial stability and viability based on short-term performance, and
- Enable the authorizer to monitor and evaluate the school's long-term financial sustainability.

Organizational Performance

- Define the essential elements of the educational program for which the authorizer will hold the school accountable;
- Define financial management and oversight standards based on generally accepted accounting principles;
- Hold school governing boards accountable for meeting statutory and board-established operating and reporting requirements;¹²
- Ensure school compliance with student and employee rights and obligations; and
- Establish expectations related to the school environment, including health and safety, transportation, facilities, and appropriate handling of records.

Box 4. *Education Service or Management Contracts*

Charter contracts for schools that are contracting with external (third-party) providers for comprehensive services or management should include additional provisions that:

- Clearly establish the primacy of the charter contract over the third-party contract;
- Clearly identify the school governing board as the party ultimately responsible for the success or failure of the school, and clearly define the external provider as a vendor of services;
- Prohibit the third party from selecting, approving, employing, compensating, or serving as school governing board members;
- Require the school governing board to directly select, retain, and compensate the school attorney, accountant, and audit firm;
- Provide for payments from the authorizer to the school to be made to an account controlled by the school governing board, not the third party;
- Require all instructional materials, furnishings, and equipment purchased or developed with public funds to be the property of the school, not the third party;
- Condition charter approval on authorizer review and approval of the third-party contract; and

Require the third-party contract to articulate:

- The roles and responsibilities of the school governing board and the service provider, including all services to be provided under the contract;
- The performance measures, consequences, and mechanisms by which the school governing board will hold the provider accountable for performance, aligned with the performance measures in the charter contract;
- All compensation to be paid to the provider, including all fees, bonuses, and what such compensation includes or requires;
- Terms of any facility agreement that may be part of the relationship;

- Financial reporting requirements and provisions for the school governing board's financial oversight;
- All other financial terms of the contract, including disclosure and documentation of all loans or investments by the provider to the school, and provision for the disposition of assets in accordance with law;
- Assurances that the school governing board, at all times, maintains independent fiduciary oversight and authority over the school budget and ultimate responsibility for the school's performance;
- Provisions for contract termination without "poison pill" penalties; and
- Respective responsibilities of the governing board and service provider in the event of school closure.



Endnotes

- ¹ The term “authorizers,” as used in this publication, may refer to authorizing institutions as well as the individuals who carry out the work.
- ² For example, an authorizing agency that also has non-charter school responsibilities should structure its authorizing-related funding to avoid conflicts or competition with its non-charter school programs and services. Likewise, authorizers that receive funding from school fees should implement protections to ensure that the potential for revenue gain or loss from each school does not influence charter approval, renewal, or revocation decisions. An authorizer’s use of oversight fees should be restricted to fulfillment of its authorizing responsibility so that the authorizing function is revenue neutral.
- ³ Some states refer to the charter application as the charter “petition” or “proposal.”
- ⁴ Some authorizers allow charter applications to be submitted any time on a rolling basis. NACSA recommends establishing fixed, published application periods and deadlines to enable the authorizer to proactively plan and conduct a high-quality review process—integrated into the authorizer’s annual work calendar—rather than simply react to applications whenever they might arrive. A well-planned process might include minimum timeframes such as: 1) three months from release of the RFP/application packet to the application deadline; 2) three months for evaluation of the applications; and 3) nine months, but preferably 12–18 months, from approval to school opening.
- ⁵ Although some state laws allow or require shorter charter terms—or do not establish a term at all—NACSA recommends five operating years per charter term. Such a term allows a school to develop beyond the startup phase and to produce a sufficient performance record and body of data needed for sound high-stakes decision making.
- ⁶ See www.qualitycharters.org for recommendations on selecting comparison schools.
- ⁷ Alternative schools subject to different performance standards should be formally designated by the state for serving a primarily special-needs, non-traditional, or highly at-risk population. Mission-specific measures for alternative schools may include, for example, measures for student academic growth or postsecondary readiness, and should be grounded in objective, valid, reliable assessments.

-
- ⁸ Many authorizers, particularly those that are state education agencies or local education agencies for special education purposes, have responsibilities of their own regarding the identification, admissions, and placement of students with disabilities who enroll in charter schools, as well as with the delivery of services, transfer of records, and oversight of special-education programs in the schools they oversee. These agencies retain such responsibilities with charter schools they oversee, though the mechanisms, procedures, and roles and responsibilities may shift as a result of the relationship between a charter school and its authorizer.
- ⁹ Revocation, as distinguished from non-renewal, may occur at any time during the charter term when there is clear evidence of extreme violations or failings that warrant termination of the charter to protect student and public interests. Non-renewal is an authorizer's decision not to renew a charter at the end of its term.
- ¹⁰ For more detailed guidance on evaluating existing school operators or replicators, see NACSA resources at www.qualitycharters.org.
- ¹¹ NACSA recommends that all authorizers include rigorous assessment of student academic growth in their performance standards for charter schools. Authorizers should be aware that there are a variety of types of growth measures and methodologies, some of which may be used or required by particular states. A majority of states have either adopted or are in the process of adopting student academic growth targets as part of their assessment system. To understand individual student progress in states that do not provide growth analysis, charter authorizers can obtain and analyze state assessment data themselves, or require charter schools to administer national assessments that readily provide student growth data and analysis. To select and implement assessment systems that will produce quality student growth data, it is important for authorizers (and schools) to have a basic understanding of common methods of growth analysis and their respective advantages, limitations, and appropriate (or inappropriate) uses. For a concise, practical guide to growth measures and methodologies, see *NACSA Issue Brief No. 19, "An Authorizer's Guide to the Use of Student Growth Data,"* at www.qualitycharters.org.
- ¹² Examples of statutory requirements include compliance with open-meeting and public records laws. Examples of board-established requirements include duly adopted bylaws and policies.
- ¹³ This category, NEG, includes local and state governmental entities that are not LEAs or SEAs. NEGs may include municipalities, mayor's offices, and a variety of county and state agencies.

Who Can Authorize Charter Schools?

This chart is intended to give a snapshot, using broad categories, of the types of entities with the authority to approve and oversee charter schools in a given state. Individual state laws may contain provisions that restrict the authority of certain chartering entities. Furthermore, state laws are subject to amendments that may affect the validity of this information in the future. Please consult a state's charter school law for more detailed information.





States	Year Law Passed	Authorizers
Alaska	1995	LEA
Arizona	1994	LEA, SEA, ICB
Arkansas	1995	SEA
California	1992	LEA, SEA
Colorado	1993	LEA, ICB
Connecticut	1996	LEA, SEA
Delaware	1995	LEA, SEA
DC	1996	ICB
Florida	1996	LEA, HEI
Georgia	1996	LEA, SEA
Hawaii	1994	ICB, HEI, NFP, NEG
Idaho	1998	LEA, ICB
Illinois	1996	LEA, SEA, ICB
Indiana	2001	LEA, ICB, HEI, NEG
Iowa	2002	LEA
Kansas	1994	LEA
Louisiana	1995	LEA, SEA, HEI, NFP, NEG
Maine	2011	ICB
Maryland	2003	LEA, SEA
Massachusetts	1993	SEA
Michigan	1993	LEA, HEI
Minnesota	1991	LEA, HEI, NFP
Mississippi	2010	SEA
Missouri	1998	LEA, SEA, ICB, HEI
Nevada	1997	LEA, ICB, HEI
New Hampshire	1995	LEA, SEA
New Jersey	1996	SEA
New Mexico	1993	LEA, SEA
New York	1998	LEA, SEA, HEI
North Carolina	1996	LEA, SEA, HEI
Ohio	1997	LEA, SEA, HEI, NFP
Oklahoma	1999	LEA, HEI
Oregon	1997	LEA, SEA
Pennsylvania	1995	LEA, SEA
Rhode Island	1995	SEA
South Carolina	1996	LEA, ICB
Tennessee	2002	LEA, SEA
Texas	1995	LEA, SEA
Utah	1998	LEA, ICB
Virginia	1998	LEA
Wisconsin	1993	LEA, HEI, NEG
Wyoming	1995	LEA

Key

LEA	Local School Districts or Regional Education Agencies	HEI	Higher Education Institutions
SEA	State Education Agencies	NFP	Not-For-Profit Organizations
ICB	Independent Chartering Board	NEG	Non-Educational Government Entities ¹³



Good schools don't just teach children, they open doors for them. One Million Lives will help open doors for more than one million children by giving them the opportunity to attend a great school.

The National Association of Charter School Authorizers (NACSA) has launched the *One Million Lives* campaign, dedicated to providing one million more children the chance to attend a great school that will prepare them for success throughout their lives. By engaging authorizers and a broad coalition to close failing charter schools and open many more good ones, we can get one million more children into 3,000 high-performing schools over the next five years.

The Problem: Charter schools are doing well, but not well enough

Public charter schools first started 20 years ago because too many children didn't have the opportunity to attend a good school. We've made great strides, and thousands of charter schools have been providing an excellent education to students around the country. But even after two decades of chartering, too many students fail to graduate and too few students are academically prepared for success. While many charter schools perform at the highest levels, many others perform at the lowest performance levels. Charter schools are not the only solution in public education, but they shouldn't be part of the problem. The authorizers that have approved these failing charter schools and allow them to stay open bear much of the responsibility. Now is the time for the charter school community to fix the failings in its sector so that more children can have the opportunity to attend an excellent school.

The Solution: One million seats in great schools

The charter movement is growing at a healthy pace, but we need to bend the quality curve upward. The *One Million Lives* campaign will engage charter school authorizers to lead the way by closing failing schools and opening more great schools over the next five years. We want to see children in 3,000 more higher-achieving schools by the end of the 2017-18 school year.

Not all the new high-performing schools have to be charters—so we challenge state and district leaders to join with us. But we can start by demanding more of our own movement. Providing one million children with the opportunity to attend a great school is a team effort that will require stronger performance and greater accountability all around.

NACSA is working to support three critical areas—People, Policy, and Practice. We will work with lawmakers to create stronger performance and accountability laws for charter schools and for authorizers. We will advocate for the creation of statewide authorizers that develop professional, independent expertise. We are also launching new human capital initiatives and powerful, personalized online resources to strengthen the skills of authorizing staff.

Throughout the nation, more and more state, city, and school leaders are embracing high-quality chartering as a way to improve public education in their communities. These leaders know that charter schools can be excellent and they want them to serve all children well. In these communities, quality, high standards, and accountability are at the forefront of the charter school philosophy.

The public charter school idea will only succeed if charters are great schools. Not only will schools need to be at their best, but authorizers also need to improve. By expecting more from everyone, we can give one million children a better chance to succeed in life.

Join the One Million Lives initiative! Find out more at www.qualitycharters.org/one-million-lives

Tell us how you are working to change *One Million Lives* through high-quality charter school authorizing! Contact Lynne Baker, Vice President of Communications, to share your story.

✉ lynneb@qualitycharters.org ☎ 312.376.2321



nacsa
NATIONAL ASSOCIATION OF
CHARTER SCHOOL AUTHORIZERS

Appendix L

Materials for Task Force Meeting 11

April 14, 2015

ENROLLMENT PREFERENCES TASK FORCE- Meeting 11

Tuesday, April 14, 2015- 6:30pm

Buena Vista Conference Center

Agenda

- I. Welcome and Introductions
- II. Approval of March 10, 2015 minutes
- III. Continue discussion on parking lot issues in the following areas:
 - a. G. Student Input - Vote
 - b. M. Attachment with Application – Vote
- IV. Discussion of Preferences
 - a. Vote
- V. Explanation of Draft of Report/Recommendations Timelines
- VI. Public Comment
- VII. Conclude

Enrollment Preferences Task Force Minutes: Meeting #11
Tuesday, April 14, 2015
6:30 pm- Buena Vista Conference Center

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Representative Earl Jaques, Delaware House of Representatives
- Frederika Jenner, Delaware State Education Association
- Susan Francis, Delaware School Board Association
- Dr. Mervin Daugherty, New Castle County Superintendent
- Chuck Taylor, Charter School Network
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Randall Hughes, Delaware State Board of Education
- Yvonne Johnson, Delaware Parent Teacher Association
- Mark Pruitt, Magnet School Representative
- Julie Rumschlag, Magnet School Representative
- Henry Clampitt, Charter School Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware
- Mark Brainard Jr., Delaware House of Representatives

Members Absent:

- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Lindsay O'Mara, Governor's Office
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Dr. David Ring Superintendent from Sussex County
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Dr. Deborah Zych, Superintendent from Polytech
- Gary Stockbridge, Delaware Business Roundtable
- Dr. Terri Hodges, Parent Representative
- Donald Mell, Charter School Representative

Public attendees:

- Kathy Demarest, New Castle County Vo-Tech
- Greg Meese, Newark Charter School
- Kendall Massett, Delaware Charter School Network
- Jennifer Nagourney, Delaware Department of Education
- Mike Matthews, Red Clay

1. Introduction

The meeting was called to order at 6:44 p.m. Representative Williams began the meeting by asking for a motion to approve the amended minutes from the previous meeting. Frederika Jenner made the motion that was seconded by Catherine Hegedus and unanimously adopted by the task force. Representative Williams turned the meeting over to Fran Fletcher who would facilitate the rest of the meeting.

2. Voting

Fran Fletcher began by referencing the document containing the parking lot items. Dr. Vicki Gehrt asked if discussions would be taking place on the parking lot items because none had taken place.

Representative Williams said that discussion did occur on these items because they were all placed on the parking lot after agreement could not be reached. Representative Williams followed up by saying that it is the last meeting and members know their stance on these issues after 19 months of serving on this task force. Dr. Gehrt said that with regards to vo-techs, there has been a philosophical discussion but no practical discussion on the procedural operation of admitting students or the long history of why vo-techs operate the way they do. Representative Williams said that those discussions have been taking place over the course of the task force and that these votes are a first step. All opinions will be captured in the draft and shared with the membership, so the legislature can make an informed decision based on the varying views expressed in the report. Henry Clappitt suggested that because some of the recommendations in the final report will be based on the number of members in attendance at this final meeting, a roll call for each vote should be recorded. Mr. Clappitt followed up by saying it would be helpful for members of the legislature to see how each member voted on issues that did not have an overwhelming majority. Dr. Mervin Daugherty made the motion to conduct a roll call for each vote. The motion was seconded by Henry Clappitt, and approved by the task force.

G3: Do you agree with the use of requiring a student essay as part of the decision-making process for admission to...

Vo-Techs

YES: Taylor, Lathbury, Clappitt, Pruitt, Francis, Johnson, Rumschlag

NO: Daugherty, Jenner, Hegedus, Poore, Lockman, Jaques, Hughes, Williams

ABSTAIN: Gehrt

TALLY: 7 YES, 8 NO, 1 ABSTAIN

Magnet Elementary Schools

TALLY: 0 YES, 15 NO, 1 ABSTAIN: Gehrt

Magnet Middle Schools

YES: Taylor, Clappitt, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lathbury, Lockman, Hegedus

ABSTAIN: Lathbury

TALLY: 5 YES, 10 NO, 1 ABSTAIN

Magnet High Schools

YES: Taylor, Lathbury, Clappitt, Pruitt, Gehrt, Johnson, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Daugherty, Lockman, Hegedus

TALLY: 7 YES, 9 NO

Charter Elementary Schools

TALLY: 0 YES, 15 NO, 1 ABSTAIN: Lathbury

Charter Middle Schools

YES: Taylor, Clappitt, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lathbury, Lockman, Hegedus

TALLY: 5 YES, 11 NO

Charter High Schools

YES: Taylor, Lathbury, Clappitt, Pruitt, Gehrt, Johnson, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Daugherty, Lockman, Hegedus

ABSTAIN: Francis

TALLY: 7 YES, 8 NO, 1 ABSTAIN

M5: Do you agree with the use of a student's most recent report card as part of the decision-making process for admission to...

Vo-Techs

YES: Poore, Gehrt, Taylor, Lathbury, Clampitt, Pruitt, Francis, Johnson, Rumschlag

NO: Williams, Jaques, Hughes, Jenner, Lockman, Hegedus

ABSTAIN: Daugherty

TALLY: 9 YES, 6 NO, 1 ABSTAIN

Magnet Elementary Schools

TALLY: 0 YES, 16 NO

Magnet Middle Schools

YES: Taylor, Lathbury, Clampitt, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lockman, Hegedus

TALLY: 6 YES, 10 NO

Magnet High Schools

YES: Daugherty, Poore, Taylor, Lathbury, Clampitt, Pruitt, Gehrt, Francis, Johnson, Rumschlag

NO: Williams, Jaques, Hughes, Jenner, Lockman, Hegedus

TALLY: 10 YES, 6 NO

Charter Elementary Schools

TALLY: 0 YES, 16 NO

Charter Middle Schools

YES: Taylor, Lathbury, Clampitt, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lockman, Hegedus

TALLY: 6 YES, 10 NO

Charter High Schools

YES: Daugherty, Poore, Taylor, Lathbury, Clampitt, Pruitt, Gehrt, Johnson, Rumschlag

NO: Williams, Jaques, Francis Hughes, Jenner, Lockman, Hegedus

TALLY: 9 YES, 7 NO

M8: Do you agree with the use of the state-recognized standardized test scores as part of the decision-making process for admission to...

Vo-Techs

YES: Taylor, Clampitt, Pruitt

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lathbury, Rumschlag, Lockman, Hegedus

ABSTAIN: Gehrt

TALLY: 3 YES, 12 NO, 1 ABSTAIN

Magnet Elementary Schools

TALLY: 0 YES, 16 NO

Magnet Middle Schools

YES: Taylor, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lathbury, Lockman, Hegedus, Clampitt

TALLY: 4 YES, 12 NO

Magnet High Schools

YES: Daugherty, Taylor, Clampitt, Lathbury, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Lockman, Hegedus

TALLY: 7 YES, 9 NO

Charter Elementary Schools

TALLY: 0 YES, 16 NO

Charter Middle Schools

YES: Taylor, Pruitt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Daugherty, Lathbury, Lockman, Hegedus, Clampitt, Gehrt

TALLY: 3 YES, 13 NO

Charter High Schools

YES: Daugherty, Taylor, Clampitt, Lathbury, Pruitt, Gehrt, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Johnson, Lockman, Hegedus

TALLY: 7 YES, 9 NO

M10: Do you agree with the use of requiring a letter from the applicant's teacher as part of the decision-making process for admission to...**Vo-Techs**

YES: Taylor, Clampitt, Pruitt, Johnson, Rumschlag

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Daugherty, Lathbury, Lockman, Hegedus

ABSTAIN: Gehrt

TALLY: 5 YES, 10 NO, 1 ABSTAIN

Magnet Elementary Schools

TALLY: 0 YES, 16 NO

Magnet Middle Schools

YES: Taylor, Clampitt, Gehrt, Johnson, Rumschlag, Pruitt

NO: Williams, Poore, Lathbury, Jaques, Hughes, Jenner, Francis, Daugherty, Lockman, Hegedus

TALLY: 6 YES, 10 NO

Magnet High Schools

YES: Taylor, Clampitt, Gehrt, Johnson, Rumschlag, Pruitt

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Daugherty, Lathbury, Lockman, Hegedus

TALLY: 6 YES, 10 NO

Charter Elementary Schools

TALLY: 0 YES, 16 NO

Charter Middle Schools

YES: Taylor, Clampitt, Gehrt, Johnson, Rumschlag, Pruitt

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Daugherty, Lathbury, Lockman, Hegedus

TALLY: 6 YES, 10 NO

Charter High Schools

YES: Taylor, Clampitt, Gehrt, Johnson, Rumschlag, Pruitt

NO: Williams, Poore, Jaques, Hughes, Jenner, Francis, Daugherty, Lathbury, Lockman, Hegedus

TALLY: 6 YES, 10 NO

M11: Do you agree with the use of requiring a completed signed supplemental application packet as part of the decision-making process for admission to...

Dr. Mervin Daughtery made the motion to strike item M11. Yvonne Johnson seconded the motion, and it was unanimously adopted by the task force.

M12: Do you agree with the use of requiring an evaluation form from the applicant's mathematics teacher as part of the decision-making process for admission to...

Yvonne Johnson made the motion to strike item M12. Catherine Hegedus seconded the motion, and it was unanimously adopted by the task force.

M13: Do you agree with the use of requiring an optional additional teacher evaluation form as part of the decision-making process for admission to...

Yvonne Johnson made the motion to strike item M13. Representative Earl Jaques seconded the motion, and it was unanimously adopted by the task force.

M17: Do you agree with the use of requiring transcripts as part of the decision-making process for admission to...

Mark Pruitt made the motion to strike item M17. Representative Earl Jaques seconded the motion, and it was unanimously adopted by the task force.

Preferences in student admission may be given to:

P1: Siblings of students currently enrolled at the school

YES: Williams, Poore, Jaques, Jenner, Taylor, Lathbury, Daugherty, Gehrt, Pruitt, Rumschlag, Clampitt,

NO: Lockman, Hegedus, Francis

ABSTAIN: Hughes

TALLY: 11 YES, 3 NO, 1 ABSTAIN

P2: Students attending an existing public school converted to charter status; Parents of students of 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

YES: Williams, Poore, Jenner, Hughes, Francis, Taylor, Daugherty, Lathbury, Gehrt, Pruitt, Rumschlag, Clampitt, Lockman, Hegedus

NO: Jaques

TALLY: 14 YES, 1 NO

P3a: Students residing within a 5-mile radius of the school

YES: Taylor, Lathbury, Clampitt

NO: Williams, Poore, Jaques, Jenner, Hughes, Francis, Daugherty, Rumschlag, Lockman, Hegedus

ABSTAIN: Pruitt, Gehrt

TALLY: 3 YES, 10 NO, 2 ABSTAIN

P3b: Students residing within the regular school district in which the school is located

YES: Williams, Poore, Jaques, Jenner, Daugherty, Taylor, Lathbury, Clampitt, Rumschlag, Lockman, Hegedus

NO: Hughes, Francis

ABSTAIN: Pruitt, Gehrt

TALLY: 11 YES, 2 NO, 2 ABSTAIN

P3c: Students who have specific interest in the schools teach methods, philosophy, or educational focus (As it applies to a Charter Elementary School)

TALLY: 0 YES, 13 NO, 2 ABSTAIN

P3c: Students who have specific interest in the schools teach methods, philosophy, or educational focus (As it applies to a Charter Middle School)

YES: Taylor, Lathbury, Clampitt, Pruitt, Rumschlag

NO: Williams, Poore, Jaques, Jenner, Daugherty, Francis, Hughes, Lockman, Hegedus

ABSTAIN: Gehrt
TALLY: 5 YES, 9 NO, 1 ABSTAIN

P3c: Students who have specific interest in the schools teach methods, philosophy, or educational focus (As it applies to a Charter High School)

YES: Daugherty, Taylor, Lathbury, Clampitt, Pruitt, Rumschlag
NO: Williams, Poore, Jaques, Jenner, Francis, Hughes, Lockman, Hegedus
ABSTAIN: Gehrt
TALLY: 6 YES, 8 NO, 1 ABSTAIN

P3d: Students who are at risk of academic failure

YES: Williams, Poore, Jaques, Daugherty, Jenner, Taylor, Lathbury, Clampitt, Pruitt, Francis, Hughes, Rumschlag, Lockman, Hegedus
ABSTAIN: Gehrt
TALLY: 13 YES, 2 ABSTAIN

P3e: Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.

TALLY: 15 YES, 0 NO

P4: 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.

YES: Williams, Poore, Daugherty, Jenner, Taylor, Lathbury, Clampitt, Gehrt, Francis, Hughes, Rumschlag, Lockman
NO: Jaques
ABSTAIN: Hegedus, Pruitt
TALLY: 12 YES, 1 NO, 2 ABSTAIN

****Note: Digital copies of all the documents pertaining to the task force can be found on <http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>***

4. Public Comment- The views and opinions expressed in this section are those of the individual speakers.

None

5. Next Steps

A rough draft of the final report will be provided to the members upon its completion.
The meeting adjourned at 8:20 pm.

TITLE 14

Education

Free Public Schools

CHAPTER 5. CHARTER SCHOOLS

§ 506 Restrictions.

(a) A charter school shall not:

(1) Charge tuition, except in accordance with Chapter 6 of this title, or collect fees not permitted to be assessed by other school districts;

(2) Be home-based nor engage in any sectarian or religious practices in its educational program, admissions policies, employment policies or operations;

(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, except that there may not be more than 1 same-gender school for each gender operating simultaneously, and any same-gender charter school authorized prior to June 30, 2014, may have their charter renewed and continue to operate. Any subsequent same-gender charter school that seeks to operate in the State shall make its application to the Department of Education and the State Board of Education. d.-g. [Repealed.]

(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. (c)(1) On or before April 1 of each school year, a charter school shall have enrolled, at a minimum, 80% of its total authorized number of students, and the administrator of each charter school shall, pursuant to the requirements below, provide a written certification of that enrollment to the Department of Education and to the superintendent of each public school district in which 1 or more of the charter school's students reside.

(2) The certification from the charter school's administrator shall contain an updated roster of students who are enrolled at the charter school, together with their home address and district of residence.

(3) A charter school shall obtain a written confirmation, signed by a parent or guardian of each student in that student's initial year of attendance at the charter school, that the student will remain in the charter school for at least 1 school year. That confirmation shall include a statement reading:

"I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least 1 school year"

and shall be kept on file at the school and made available for inspection to Department of Education officials or representatives from the public school district in which the student resides. After a student's initial year of enrollment, it shall be presumed for school district planning purposes only that the student will continue to attend the charter school until completion of the school's highest grade level and no further written confirmation need be obtained by the charter school.

(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in the marital status of the child's parents, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health treatment program, a reported and recorded instance of "bullying" against their child as defined in § 4112D of this title, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of "good cause."

(e) If at any time during any fiscal year of its existence, a charter school knows or reasonably should know that it has or will become unable to pay in full its projected expenses as they fall due, the school shall immediately so advise the Department of Education and its authorizer, and shall provide the Department with

all financial information relating to revenues and expenses of the school necessary for the Department to determine the extent and cause of any potential operating deficit. If a charter school should fail to provide the notice to the Department of Education and authorizer required by this subsection or shall fail to cooperate with the Department in the production of financial information pursuant to this subsection, the authorizer shall subject the school's charter to formal review pursuant to the provisions of § 515 of this title in order to determine whether grounds exist to take remedial measures.

(f) If a child would qualify for a no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program, beginning in the 2014-2015 school year, the charter school shall provide breakfast and lunch to the child at no or low cost to the child's family. Charter

schools shall not consider whether a child would qualify for no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program when making enrollment decisions.

[70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 367, § 1; 72 Del. Laws, c. 118, § 2; 72 Del. Laws, c. 312, § 1; 72 Del. Laws, c. 316, §§ 1, 2; 73 Del. Laws, c. 164, § 24; 73 Del. Laws, c. 313, §§ 2, 7, 11; 74 Del. Laws, c. 327, § 1; 76 Del. Laws, c. 202, §§ 1-6; 79 Del. Laws, c. 51, §§ 1, 2; 79 Del. Laws, c. 321, § 1; 79 Del. Laws, c. 323, § 2;](#)

Appendix M

Public Comment

First Draft of Resolution for School Choice Enrollment Reform

Delaware School Choice Enrollment Reform Resolution

Reform is necessary to equalize the impact of school choice, resulting in a disproportionate demographic of minority students, students in poverty, special education students and students with special needs, including English Language learners, between districts in the State of Delaware. Currently students in these demographic categories are not fairly, equally accepted, recruited or enrolled by choice schools, particularly vocational, technical, and charter schools, as there are much lower percentages of minority, poverty, special education, special needs and ELL students in these schools.

In order to bring socioeconomic, racial and special needs equality, fairness and balance to our public schools, we resolve to support policy, regulation and legislation that would require choice or receiving schools to mirror the demographics of the sending school district. For example if a sending school has a 70% minority and 70% poverty demographic, then the selected students enrolling in a choice school from that district, would be required to compose this same demographic. This requirement would dramatically improve equality, fairness and social justice in Delaware public schools.

Once adopted, this regulation, legislation or policy, would apply to every public school in the state of Delaware including vocational, technical and charter schools, as every child deserves an equal opportunity to learn a trade at a vocational technical school or attend a charter school, regardless of race, social status or special need.

By adopting this resolution, we request that all Delaware legislators, the Delaware Department of Education and all Delaware School Districts pass legislation, adopt policies, procedures and regulations that would support Delaware School Choice Enrollment Reform.

This resolution is approved and adopted by a majority vote of The _____
School Board.

Board President Signature _____ date

Superintendent Signature _____ date

Here is the first draft. Please review and send me your thoughts or revisions.

Sincerely,

Frank Parks
Seaford School Board Member
Delaware School Boards Association Legislative Committee Representative

Frank@4htr.com
Cell 302-745-7653

To the Diversity Committee of Red Clay Consolidated Schools:

I am prefacing this letter with my intention: that this letter is a catalyst for opening up a dialogue about how we can keep diversity in the forefront of our thinking when it comes to providing equal access to all of the educational opportunities that exist for the students of the Red Clay Consolidated School District.

I recently had a conversation with a friend of mine about the experience her daughter had when going through the application process at Cab Calloway. Her daughter – middle school age – applied to the creative writing program and as part of her audition she was asked to respond to the following writing prompt: Describe what it feels like to have a sunburn. My friend and her daughter are black and, while my friend admits that she knows some black people can get sunburned, many of them do not – her daughter being one of them. That simple question assumes so many things, many rooted in bias and privilege: that the candidate has lighter skin, or has perhaps frequented the beach or waterparks. This experience, among others, was enough for she and her daughter to decide that even if she were accepted, she would not attend Cab Calloway.

The above conversation inspired me to bring up the subject with other parents in the district, and I learned that many others hold the view that our charter and magnet schools are discriminatory in their admissions process. When I look at the requirements for applying to Cab Calloway, and I think about some of our most disadvantaged students, I can see why they might feel this way. How many of our low-income students have access to the types of music and dance required to be performed in the auditions? How many of these disadvantaged students have access to the technology that is required for Digital Communication or Technical Theatre?

I am not one to offer criticism without suggestions, so I pose these questions:


- Can we find ways to evaluate raw talent so that we are not just assessing the skills that one possesses, but rather the potential that one has to do well in an environment where natural talent and passion are developed and fostered through a challenging and supportive academic environment?
- Can we reach out to our partners in the community (West End Neighborhood House, Hilltop Neighborhood Center, etc.) to offer classes that would help prepare our lesser-advantaged students for the audition process?
- Can we reach out to the many financial institutions that take advantage of Delaware's tax breaks to house their companies here and ask them to invest in our community and help provide opportunities to our students?

- Have we looked to research to find model programs that have a high percentage of low-income students in their charter/magnet schools?

The child whose parents could afford private voice coaches and dance lessons will often outperform the student whose parents could not afford them, but this does not mean that they are less capable, or that they should be denied the opportunity to nourish their passion. I ask the Diversity Committee to please consider the issues and questions raised in this letter. Please continue to seek out ways to provide access to educational opportunities for *all* of our students. Please continue to explore ways that we can encourage a rich dialogue not just about the benefits of diversity, but about the benefits of *talking* about diversity (there truly is a lack of dialogue in our schools). I fully believe that recognizing and embracing our differences will make us a stronger and better society, and I know that I am not alone in these beliefs. Thank you for your time and consideration.

Sincerely,

A Citizen for Diversity


Sent: Friday, September 27, 2013 5:04 PM
To: Williams, Kimberly (LegHall)

Kim,

Finally, someone is actually going to research charter schools in Delaware. I have felt for years that there is some unfairness in their choosing of students. If public funds are going into these schools, they need to be more inclusive on what students they choose. My daughter took the test years ago in 8th grade and scored on a 10th grade level. She still did not get accepted. I really want to know if they purposely do not accept lower income students. I hope any findings do not show this type of behavior but it is worth looking into.

Thank you for all the work your doing to improve our educational system.



Charter School Task Force

Sent: Friday, September 27, 2013 11:10 AM
To: Williams, Kimberly (LegHall)

Dear Kim,

For what it's worth, here is the comment I posted on today's DelawareOnLine article about the charter school task force you co-chair. So far, it has gotten 5 'likes'.

[REDACTED] Works at Alexis I. du Pont High School [REDACTED]

This study is long overdue, but expect powerful political pressure from some in an effort to blunt or discredit the committee's findings. One need only look at the disturbingly small lower-socio-economic and minority enrollment (not to mention students with special needs) at some of the leading charters to find gross inequities which would never be permitted in regular public schools, and yet these bastions of privilege-by-selection are paid for by Delaware's public tax-dollars.

Reply · 5 · 2 hours ago

How does one get an opportunity to testify before, or address the taskforce?

I wish you well in this daunting task.

School Choice Enrollment Reform

Sent: Tuesday, October 01, 2013 11:30 PM
To: Williams, Kimberly (LegHall)
Attachments: First Draft of Resolution ~1.pdf (15 KB)

Dear Mrs. Williams,

I am glad to hear that a task force has been assembled to look at school choice enrollment and hopefully reform will occur as soon as possible. It is very discouraging to see our schools becoming segregated once again by school choice. Seaford has been particularly abused by choice schools skimming the cream of the crop from our district. The choice schools in our area have been Sussex Tech and Sussex Academy. They claim to be doing a better job while I am convinced and the data will show they are doing the easier job because they are starting with the honor roll students. Of course their scores will be higher when you eliminate any challenges like high poverty rates, high minority rates, special needs and English Language Learners. Sussex Tech is close to 80% white and 30% poverty. Sussex Academy is 92% white and 7% poverty. How can these schools exist and be run with public funds is unbelievable to me. While our county demographic is nowhere close to these numbers. I am not just sending this email to point out the problems with school choice as I am sure you are quite aware of the same issues with schools in New Castle County. The Charter School of Wilmington, Delaware Military Academy and the Vo-Tech Schools all have very low percentages of poverty, minority, special needs and ELL students especially compared to the traditional public school districts.

[REDACTED]

There were 8 districts (Christina, Brandywine, Cape, Seaford, Laurel, Milford, Indian River and sorry I can't remember the last one) represented at this meeting and all in attendance were very supportive of the idea. Basically this proposal would require choice schools to match the demographics of the sending schools. For example if a school is accepting 50 choice students from Seaford which has a 70 percent minority and 75 percent poverty demographic, then the students accepted by the choice school would consist of this same demographic. This would apply to neighboring traditional districts as well.

I have spoken directly with Senator Venables, Representatives, Short and Dukes and I emailed Representative Schwartzkopf about this proposal. Senator Venables said this is the best idea he has heard yet to correct this issue he would take the proposal to the Senate lawyers to give me feedback. Representative Short agreed with the concept as well and suggested that our board draft and adopt a resolution with this proposal and send to other districts to adopt as well. I have attached the first draft of this resolution and would appreciate your input. We are going to review and discuss this resolution at our next board meeting October 7th. We hope to approve a final draft at our November meeting. Hopefully the other school districts in the state will review and pass quickly as well. The problems are obvious and I hope this solution will come to pass.

Thank you for your efforts on this matter and do not hesitate to call my cell if you have any questions or concerns.

Sincerely,

[REDACTED]

<https://owa.state.de.us/OWA/?ae=Item&t=IPM.Note&id=RgAAAAAd0jAtXISCRH9V7h...> 10/2/2013

The state has formed a Task Force to determine, "What impact do charter, vo-tech and magnet schools have on traditional schools in their areas?" and "Are students from low income families getting the same access to these schools as other kids."

I believe we need a Task Force to determine why in some districts far fewer poor children and special needs children drop out than in others. Should we not find out why the Red Clay School District has a far higher drop out rate of poor children and special needs children than Brandywine, Colonial and Indian River?

Chart below provides, number and percentage of low income and special needs children who entered the 9th grade but did not enter the 12th, the percentage of low income students in the districts, total choice students, a choice students from other districts and expenditure on EPER, supervisors and temporary employees.

Number & % Low Income Dropped Out	Number & % Special Needs Dropped Out	Total % low income in district	Total Choice	Choice other districts	Expenditure & Per Student cost for —See Comment	
287/52.8	104/61.3	49.2	4,695	1,209	\$8,693,465/\$533.43	Red Clay
87/23.7	34/29.8	43.8	1,169	564	\$3,983,508/\$367.07	Brandywine
49/14.2	15/19.4	66.3	1,029	251	\$1,626,649/\$177.83	Indian River
77/24.5	40/43.9	61.3	66	54	\$3,526,184/\$354.71	Colonial

Comment. Expenditure represent the compensation cost in 2013 for EPER Extra Curricular Activities, EPER Miscellaneous, Supervisors and cost of temporary employees.

I am convinced the poor children and children with special needs are suffering because of the management of Choice and use of funding by the Red Clay School Board. Until we connect the

<https://owa.state.de.us/OWA/?ac=Item&t=IPM.Note&id=RgAAAAAd0jAtXISCRH9V7h...> 10/2/2013

Appendix N

Additional Reference Material



JOSEPH R. BIDEN, III
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
NEW CASTLE COUNTY
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

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CRIMINAL DIVISION (302) 577-8500
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FRAUD DIVISION (302) 577-8600
FAX (302) 577-6499
TTY (302) 577-5783

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE
Attorney General Opinion No. 13-IB05
October 1, 2013

VIA EMAIL AND REGULAR MAIL

Mr. John D. Flaherty, President
Delaware Coalition for Open Government
712 W. 26th Street
Wilmington, DE 19802
jdf0000@aol.com

Ms. Eve E. Buckley
Christina School District parent
eve.buckley@gmail.com

**Re: FOIA COMPLAINT CONCERNING CHARTER
SCHOOL REFORM WORKING GROUP**

Dear Mr. Flaherty and Ms. Buckley:

By petition dated June 10, 2013, you asked this Office to determine whether a 24-member working group convened by the Governor to make recommendations for changes to Delaware's charter school policies and procedures (the "**Working Group**") is a "public body" within the meaning of Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10006 ("**FOIA**"), and, if so, whether the Working Group violated FOIA by failing to provide you with access to the minutes of the Working Group's monthly meetings. For the reasons discussed below, we determine that the Working Group is a public body subject to FOIA. The Working Group did not prepare formal minutes of its meetings. We do not believe that a court would require and therefore do not recommend that the Working Group attempt to reconstruct minutes

under the circumstances presented here, including the fact that the Working Group's recommendations are a matter of public record.

I. INTRODUCTION

This case involves an underlying debate about Delaware's 1995 charter school law. After the tension between charter school proponents and opponents escalated last year, members of the House of Representatives announced the approval of a task force that was to take a holistic and collaborative look at charter school issues. The task force, which was to include legislators, executive branch officials and other stakeholders, was never established. Several months after the task force announcement, the Governor, at the request of multiple legislators and constituent groups, convened the Working Group to discuss and propose recommendations to strengthen charter school policies and practices. The Working Group ultimately made such recommendations, and those recommendations were incorporated into and formed the foundation of House Bill 165. That bill, which made significant changes to Delaware's charter school law, was approved by the General Assembly and signed by the Governor in June 2013.

Delaware citizens have important rights -- rights protected in FOIA's "open meeting" provisions -- to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy. Those rights were frustrated with respect to the activities of the Working Group. The public had little ability to observe the performance of the Working Group members as they formulated the policy framework for what ultimately became House Bill 165. It is the position of this Office that FOIA requires more openness during the formulation of public policy on issues of critical importance to the citizens of this State.

II. BACKGROUND

By letters dated July 31 and August 1, 2012, the Governor extended invitations to a number of individuals to participate in the Working Group as representatives of several public bodies, including the General Assembly, the Department of Education and the State Board of Education, and various private stakeholder groups (the “**Invitations**”). The Invitations state that the purpose of the Working Group was to work together to propose “several tangible recommendations” to strengthen:

- the framework for assessing new charter applicants;
- the support provided to charter schools and associated requirements; and
- the process for reauthorizing charters.

As contemplated in the Invitations, the Working Group convened monthly meetings beginning in August 2012. The final meeting took place in January 2013.

On February 28, 2013, the Department of Education held a public meeting to provide members of the public with the opportunity to discuss and review the main content areas covered during the Working Group’s meetings. At that meeting, Department of Education officials provided attendees with and discussed a handout summarizing the Working Group’s recommendations.

On May 30, 2013, House Bill 165 was introduced in the House of Representatives. House Bill 165 appears to track closely the Working Group’s recommendations. On June 11, 2013, the House held a lengthy hearing on the bill. After nearly two hours of debate, the House approved House Bill 165, and the bill passed to the Senate for deliberation. On June 25, 2013, the Senate approved House Bill 165. The Governor signed it into law the next day.

On June 10, 2013, you filed this appeal seeking access to the Working Group's meeting minutes. We received a response on July 11, 2013. The response indicates that the Working Group did not consider itself to be a "public body" within the meaning of section 10002(h), due primarily to the informal nature of the Working Group.

III. DISCUSSION

FOIA, Delaware's "sunshine law," mandates transparency and is designed to ensure government accountability through an informed electorate.¹ These "bedrock" principles are memorialized in FOIA's express declaration of policy, which states:

It is vital in a democratic society that public business be performed in an open and public manner so that our citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy; and further, it is vital that citizens have easy access to public records in order that the society remain free and democratic. Toward these ends, and to further the accountability of government to the citizens of this state, this chapter is adopted, and shall be construed.²

As stated in FOIA's declaration of policy, and as twice reiterated by the Delaware Supreme Court, FOIA's open records and open meeting requirements are to be liberally construed to further the General Assembly's mandate of openness.³

FOIA, with certain exceptions not relevant here, establishes a public right to inspect all "public records" and requires that all meetings of public bodies be open to the public.⁴ FOIA's

¹ See *Guy v. Judicial Nominating Comm'n*, 659 A.2d 777, 780 (Del. 1995).

² 29 Del. C. § 10001; see also *Chem. Indus. Council of Del., Inc. v. State Coastal Zone Indus. Control Bd.*, 1994 WL 274295, at *7 (Del. Ch. May 19, 1994).

³ See *Guy*, 659 A.2d at 780; *Del. Solid Waste Auth. v. News-Journal Co.*, 480 A.2d 628, 631 (Del. 1984); see also *Layfield v. Hastings*, 1995 WL 419966, at *3 (Del. Ch. July 10, 1995) ("Aside from the clear mandate of [FOIA] § 10001, it is a traditional principle of statutory construction that remedial statutes are to be construed liberally in order for the goal of the statute to be attained.").

“open meeting” provisions call for advance notice to the public of all public meetings and require public bodies to prepare and make available to the public agendas for and minutes of their public meetings.⁵

FOIA’s open record and open meeting requirements apply only to the records and meetings of a public body. The definition of “public body” set forth in section 10002(h) is expansive and covers a wide range of government bodies associated with the executive and legislative branches of State government. We conclude that the Working Group was a “public body” within the meaning of FOIA.

FOIA generally defines a “public body” as “any regulatory, administrative, *advisory*, executive, appointive or legislative *body of the State*.”⁶ The Working Group clearly was “advisory” in nature.⁷ It was asked to and did make recommendations for charter school reform. The primary question before us is whether the Working Group constituted an advisory “body of the State” as contemplated in section 10002(h).⁸

Section 10002(h) provides substantial guidance as to the types of entities and bodies encompassed within the phrase “body of the State.” That concept, as used in FOIA, includes, among other things, any “group . . . appointed by any . . . public official of the State” that was

⁴ See generally 29 Del. C. §§ 10003, 10004; see also *Guy*, 659 A.2d at 780.

⁵ See 29 Del. C. §§ 10002(a), 10004(e), 10004(f).

⁶ 29 Del. C. § 10002(h) (emphasis added).

⁷ See <http://www.merriam-webster.com/dictionary/advisory> (defining “advisory” as “having or exercising power to advise”); see also <http://www.merriam-webster.com/dictionary/advise> (“advise” means “to give (someone) a recommendation about what should be done”).

⁸ 29 Del. C. § 10002(h).

“impliedly or specifically charged” with making recommendations.⁹ The Working Group was a “body of the State” within the meaning of section 10002(h).

The Working Group easily fits within the very broad definition of a “group.”¹⁰ We also think the Governor “appointed” the Working Group within the meaning of section 10002(h). The word “appoint” means “to name officially.”¹¹ The Governor, acting in his official capacity as the State’s chief executive officer, convened the Working Group. He did so by issuing a series of Invitations that identified the various public bodies and other stakeholder groups that were to participate in the Working Group’s activities, the specific goals for the Working Group, the frequency with which the Working Group members would meet and the general timeframe within which meetings would take place. Finally, as evidenced by the Invitations, the Working Group itself clearly was “charged” with making recommendations for proposed changes to the State’s charter school law and practices.¹² The fact that the Governor, via the Invitations, only asked the addressees to participate in the Working Group is not determinative.

We conclude, based on a straight-forward reading and application of section 10002(h), that the Working Group was a public body subject to FOIA. The response asserts otherwise, based primarily on the grounds that the Working Group lacked the necessary “formality and

⁹ *Id.*

¹⁰ See <http://www.merriam-webster.com/dictionary/group> (defining “group,” in relevant part, as “a number of individuals assembled together or having some unifying relationship”).

¹¹ <http://www.merriam-webster.com/dictionary/appoint> (citing as an example: “a committee appointed by Congress”). Though we are not entirely sure what the General Assembly intended by employing the term “appointed,” we are confident that that word does not have the meaning asserted in the response. The response suggests that the word “appointed,” at least with respect to the Governor, requires the appointment of “officers.” We disagree. The object of the verb “appointed” is a “body of the State,” not an individual. 29 Del. C. § 10002(h).

¹² See <http://www.merriam-webster.com/dictionary/charge> (the verb “charge” means “to impose a task or responsibility on”).

structure” to be a public body. In support, the response directs us to the Federal Advisory Committee Act (“FACA”) and case law decided under FACA.¹³ For several reasons, we are not persuaded that FOIA requires the degree of formality and structure suggested in the response.

First, this Office consistently has rejected arguments that FOIA’s applicability hinges on adherence to formalities in the creation of a public body, lest FOIA’s goals of openness and government accountability be subverted.¹⁴ Second, FACA, by its express terms, does not apply to or govern entities or bodies established to advise or make recommendations to state or local officials or agencies.¹⁵ Third, we are hesitant to rely on FACA, or case law interpreting and applying same, as FACA contains different statutory language and, unlike FOIA, has been construed narrowly by federal courts to avoid constitutional separation of powers issues.¹⁶

¹³ FACA governs the federal government’s solicitation of policy advice from “advisory committees” and provides the public with certain FOIA-like rights with respect to the activities of such groups. *See generally* 5 U.S.C. App. 2 §§ 1-16.

¹⁴ *See, e.g.*, Op. Att’y Gen. 08-IB08 (May 5, 2008), 2008 WL 2397496, at *2 (dismissing argument that “Middletown Action Network” did not become a “public body” until after its bylaws were adopted); Op. Att’y Gen. 02-IB19 (Aug. 19, 2002), 2002 WL 31867895, at *6 (determining that meetings attended by representatives of individual school boards constituted a joint or hybrid public body notwithstanding that body was not created by any single formal action); Op. Att’y Gen. 02-IB08 (Apr. 4, 2002), 2002 WL 970059, at *3 (“We do not believe that the manner in which an advisory group comes into being is controlling, otherwise the open meeting law could be easily circumvented.”); Op. Att’y Gen. 94-IO07 (Feb. 2, 1994), 1994 WL 55695, at *2 (rejecting argument that “informal meeting” between mayor and 4 members of city council to discuss and recommend potential amendments to city charter was not subject to FOIA).

¹⁵ *See* 5 U.S.C. App. 2 § 4(c) (“Nothing in [FACA] shall be construed to apply to . . . any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.”).

¹⁶ FACA was designed, in part, to increase openness in the advisory committee system. According to scholarly authorities, FACA has not been effective in increasing transparency. *See, e.g.*, William Funk, PUBLIC PARTICIPATION AND TRANSPARENCY IN ADMINISTRATIVE LAW -- THREE EXAMPLES AS AN OBJECT LESSON, 61 Admin. L. Rev. 171, 185-188 (2009) (“FACA’s quest to increase public participation and transparency in agency policymaking has not been particularly successful.”); Michael J. Mongan, FIXING FACA: THE CASE FOR EXEMPTING

Finally, even if we were inclined to rely on FACA case law, the sole FACA decision cited in the response, *Nader v. Baroody*,¹⁷ is readily distinguishable.¹⁸

Nader involved a challenge to the White House's failure to follow FACA in convening biweekly, three-hour meetings between high-level executive officials and representatives of major business organizations and private interest groups. A different group met every two weeks. The *Nader* court found the biweekly groups lacking because "there [was] little or no continuity of membership between meetings."¹⁹ The court also noted that the meetings under

PRESIDENTIAL ADVISORY COMMITTEES FROM JUDICIAL REVIEW UNDER THE FEDERAL ADVISORY COMMITTEE ACT, 58 Stan. L. Rev. 895, 896 (Dec. 2005) ("[FACA] is broken and badly needs fixing."). Contributing factors include decisions by the U.S. Supreme Court and other federal courts strictly construing FACA's terms to avoid constitutional separation of powers issues. *See Pub. Citizen v. U.S. Dept. of Justice*, 491 U.S. 440, 466 (1989) (rejecting literal meaning of the word "utilized" because construing FACA to apply to the American Bar Association's Standing Committee on the Federal Judiciary would "present formidable constitutional difficulties"); *Nader v. Baroody*, 396 F. Supp. 1231, 1234 (D.D.C. 1975) (refusing to construe FACA as covering informal bi-weekly White House meetings with various special interest groups in order to avoid "serious questions under our tripartite form of government as to the congressional power to restrict the effective discharge of the President's business").

¹⁷ 396 F. Supp. 1231.

¹⁸ This Office looked to FACA for guidance in applying FOIA on only one prior occasion. That case, Op. Att'y Gen. 02-IB08 (Apr. 4, 2002), 2002 WL 970059, involved allegations that county officials violated FOIA by discussing and developing a redistricting ordinance outside of public view. County council had directed the county attorney to prepare a draft redistricting ordinance. The county attorney, in turn, secured necessary information from the chairman of the county board of elections and obtained advice from a private consultant. Looking to FACA case law for a "helpful analytical framework," we determined that FOIA did not apply to the county attorney's meetings with those individuals because the meeting participants did not "render advice or recommendations, *as a group*." *Id.* at *4 (emphasis original). Our determination in Op. Att'y Gen. 02-IB08 was based on our finding that the meetings in question were part of "an unstructured arrangement" in which the county attorney sought advice from two individuals who did not significantly interact with each other. *Id.* at *5. The present case is distinguishable from our determination in Op. Att'y Gen. 02-IB08. The members of the Working Group were asked to and did work together as a group to formulate consensus-based changes to Delaware's charter school law.

¹⁹ *Id.* at 1234.

scrutiny did not involve “a presidential request for specific recommendations on a particular matter of governmental policy.”²⁰

The facts here are much different. Unlike the situation in *Nader*, the Working Group had continuity of membership. The Working Group’s public and private constituent groups were fixed at the outset and did not change during the course of the Working Group’s meetings. The vast majority of the individual representatives who participated in the Working Group’s activities also did not change throughout the course of the meetings. Further, this case, in contrast to *Nader*, involves written requests by the Governor for specific recommendations on a particular matter of governmental policy -- namely, ways to improve Delaware’s charter school policies and practices.

We conclude that the Working Group had and exceeded whatever degree of formality and structure FOIA may require. The Working Group was an “advisory . . . body of the State” within the meaning of section 10002(h).

IV. REMEDIATION

Having determined that the Working Group is a “public body” within the meaning of section 10002(h), it follows that the Working Group had an obligation to comply with FOIA’s open records and open meeting provisions, including the requirement that it maintain minutes of all meetings and make such minutes available for public inspection and copying.²¹ It is undisputed that the Working Group did not prepare formal minutes of its meetings or otherwise adhere to FOIA’s open meeting requirements. The remediation question posed is whether the Working Group should be required to recreate minutes for each meeting based on the collective

²⁰ *Id.*

²¹ *See* 29 *Del. C.* § 10004(f).

memory of the Working Group members and any documents evidencing the Working Group's discussions and other activities.²²

Preliminarily, we note that this Office has no jurisdiction or authority to issue an injunction, a writ of mandamus or any other form of relief available under section 10005(d). It has been our long-standing practice, however, to suggest that public bodies take certain steps to remediate FOIA violations identified in our written determinations, absent which this Office may seek a court order to compel FOIA compliance and remedial action.

In the course of recommending remedial action, we have, on occasion, asked public bodies to prepare minutes for past meetings.²³ We do not think that such form of remediation is appropriate under the circumstances presented here. We doubt that minutes, if prepared, would shed significant light on the Working Group's activities. FOIA requires only that minutes include a record of those members present at each meeting and a record, by individual member, of each vote taken and action agreed upon.²⁴ The record is clear that no votes were taken at the Working Group's meetings. As far as we can tell, the only "action" the Working Group agreed upon was to make recommendations for changes to the State's charter school law and practices, which recommendations are a matter of public record. Further, the burdens associated with the preparation of formal minutes would outweigh whatever minimal benefit they may provide.

²² We note that petitioners, as part of their initial FOIA request, sought documents evidencing the Working Group's activities. Petitioners did not expressly seek those documents as part of this appeal, and the record is not clear as to whether or to what extent they were produced to petitioners. Given our determination that the Working Groups is a public body, we think that documents evidencing the Working Group's activities may be "public records" under section 10002(1), subject to applicable exemptions, if any.

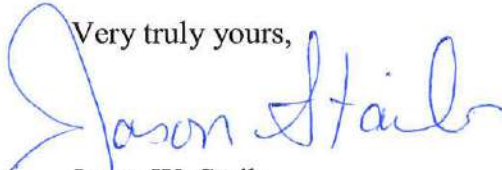
²³ See, e.g., Op. Att'y Gen. 97-IB13 (June 2, 1997), 1997 WL 606460, at *5 (requiring city to prepare minutes for meetings of city's "Personnel Policy Review Committee" during the prior two years where said meetings were tape-recorded and preserved).

²⁴ See 29 Del. C. § 10004(f).

While FOIA's minutes requirements are not onerous, the preparation of minutes for the Working Group's six meetings between August 2012 and January 2013 will take time. Unlike past cases where we have recommended that minutes be prepared after the fact, the meetings at issue here were not recorded.²⁵ Given the unique circumstances of this case, we do not believe that remedial efforts are warranted.

V. CONCLUSION

For the foregoing reasons, we conclude that the Working Group is a "public body" within the meaning of section 10002(h). We do not believe that a court would compel the Working Group to create minutes based on the record in this case.

Very truly yours,

Jason W. Staib
Deputy Attorney General

Approved:

/s/ Allison E. Reardon
Allison E. Reardon, State Solicitor

cc: Ian R. McConnel, Chief Deputy Attorney General (via e-mail)
Andrew H. Lippstone, Esq. (via e-mail)
FOIA Opinion Distribution List (via e-mail)

²⁵ See Op. Att'y Gen. 97-IB13 at *5.

April 10, 2006

New Castle County-Civil Division

Honorable Nancy H. Wagner
State Representative
Legislative Hall
P. O. Box 1401
Dover, DE 19903

RE: Charter School of Wilmington Preferences

Dear Representative Wagner:

You have asked whether the student recruitment and selection process (“Process”) at the Charter School of Wilmington (“School”) complies with the Charter School Law.

An Attorney General’s Opinion is appropriate when there is no issue of material fact to be decided and the question presented is one of law. As discussed below, however, in this case there are several factual issues that must be resolved in order to provide a definitive answer to your question. Moreover, the Charter School Law itself provides the appropriate means for evaluating and determining the legality of the School’s student recruitment and selection process. Therefore, this opinion will not finally resolve this matter.

You have also asked “[i]f they are found to be in error, then the question will need to be posed as to how to enforce the law to make sure that they are in compliance.” Again, the statute provides a process for enforcement. As discussed below, the Red Clay Consolidated School

District (“Red Clay”) is the School’s approving authority and is responsible for oversight of the charter school.¹ Additionally, the Department of Education (“Department”), the State Board of Education and the approving authority may conduct financial, programmatic, or compliance audits of any charter school.²

Historical Background

The School is a Delaware public charter school whose charter was approved by Red Clay. The School opened in 1996. In its first few years of operation, there were fewer applicants than seats available and all who applied were admitted. Many students struggled with the school’s curriculum and the failure and attrition rate exceeded 25%. As a result, when applications exceeded the number of seats available, the school began to apply a system of admission preferences.³ In 2003, the Auditor conducted an audit of the School and issued a report (“Report”) containing a factual conclusion that “[t]he Charter School of Wilmington . . . did not conduct a lottery for the over subscription of ninth grade students submitting applications for school year 2003/2004. . . .⁴ However, in a letter dated February 4, 2004 with which he transmitted the Report to the Secretary of Education, the Auditor noted that:

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on compliance [with the Charter School Law]. Accordingly, we do not express such an opinion.

¹ 14 Del. C. §515(a)

² 14 Del. C. §513(c)

³ The preferences and the processes by which they are implemented are as set forth herein and, to the extent required by 14 Del. C. §506(b)(3), the preferences are described in the school’s charter.

⁴ Auditor’s *Final Report on Statewide Charter School Student Enrollment Agreed-Upon Procedures as of May 1, 2003*, at p. 4

Accordingly, the Auditor did not actually opine that the School's student recruitment and selection process was in violation of the Charter School Law. Nevertheless, acting in response to the Report the School amended its admission preferences. Specifically, the School amended its method of applying the "interest" preference provided for in 14 *Del. C.* §506(b)(3)c. That section permits an admission preference for "[s]tudents who have a specific interest in the school's teaching methods, philosophy, or educational focus." The statute provides no guidance as to how a charter school is to determine that a student has a "special interest."

In order to determine whether an applicant could receive the "interest" preference, the School adopted an admissions procedure that uses a combination of the following:⁵

1. Placement test which measures the applicant's exposure to math and reading;
2. The applicant's grades in 7th and 8th grade which shows the applicant's interest in math/science irrespective of at what level he/she was being taught in grade school. This factor does not try to compare one grade school to another;
3. Teacher Recommendations;
4. Enrollment in honor classes for math/science;
5. Activities in math or science extra-curricular functions; and
6. An essay written by the applicant.

⁵ The following is a verbatim description of the process provided to us by counsel for the School and Red Clay.

Each of the above factors is assigned a point total. The maximum score for each item is as follows:

Placement Test	198
Grade School Scores	120
Teacher Recommendation	25
Honor Courses	10
Extra-Curricular Activity	10
Essay	<u>20</u>
Total	383 ⁶

The showing of interest cut-off is set at the 78th percentile; however, students who fall below the 78th percentile may still demonstrate that they have the requisite specific interest in the School's philosophy and educational focus of Math and Science. These students may request a personal interview with the School. The School uses panels of three (3) Faculty members to interview the applicants. Based upon the interviews, the Faculty may add applicants to those who have demonstrated a specific interest in the School's philosophy and educational focus.

Once the above process has established a pool of students who the School deems to have met the "interest" preference, then the following preferences are applied to the pool in the following order:

1. Red Clay residents;
2. Siblings;
3. Children of full-time employees;
4. Children of the School's founders.

⁶ Obviously this system heavily weighs in favor of an applicant's test score and grades.

If any seats remain to be filled, the School conducts a lottery among the pool of remaining students who have satisfied the “interest” preference. The result is that the School ranks preferences and, in effect, makes the “interest” preference a super preference for admission. The effect of this process is that only students who qualify for the “interest” preference are admitted to the school.

The Charter School Law

The law prohibits a charter school from restricting student admissions except by age and grade, and by lottery in the case of over-enrollment.⁷ However, 14 *Del. C.* §506(b) provides:

Preferences in student admissions may be given to:

- (1) Siblings of students 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 (non-converted) 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;

⁷ 14 *Del. C.* §506(a)(3)a. and b.

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.

The law does not directly address the rank ordering of preferences, nor does it provide any specific direction as to how preferences are to be applied. As noted above, oversight authority is vested in the School's approving authority, Red Clay, pursuant to 14 *Del. C.* §515. An approving authority has the ability to submit a school's charter to formal review and to order remedial measures including placing the school on probation or revoking

its charter.⁸ The statute provides a process by which issues may be investigated, a school's comments may be received and, potentially, public hearings held to assist the approving authority in determining whether the school is in compliance. To our knowledge, none of those processes has occurred in this case. Further, the State Board of Education and the Department of Education have the authority to audit a charter school pursuant to 14 *Del. C.* §513. It is our understanding that discussions are currently underway between the Department and Red Clay to craft a process to implement the provisions of section 513.

Discussion

Preliminarily, we believe that a rank-ordered system of imposing admissions preferences may, if properly crafted and implemented, comply with the Charter School Law. The law does not require the granting of any preference. A charter school "may," but is not required to give a preference. 14 *Del. C.* §506(b). The law does not require that a charter school give all or any of the permitted preferences, nor does it restrict the order in which preferences may be granted until a school is fully enrolled. Accordingly, a charter school is not precluded from creating an admissions process that gives priority to certain preferences as a pre-condition to the imposition of other preferences permitted by law.

At the core of this matter is the School's application of the "specific interest" preference in 14 *Del. C.* §506(b)(3)c., and its use of a test and grades as a part of the method of determining eligibility for the preference. If that preference and the other preferences permitted by law are being properly applied and all eligible seats are filled as a result thereof, then there is no need to

⁸ 14 *Del.C.* §515(c) through (h), inclusive.

conduct any lottery other than the one described above. The potential problem with the School's process is that it assumes that a student's special interest may be determined by grades and test scores. In effect, the School assumes that success or doing well is the same as having a "specific interest" in the School's teaching methods, philosophy, or educational focus.

While we have solicited supporting materials from counsel for the School, we are without a factual record that would enable us to determine whether the test currently being used by the School is simply an aptitude test or a test that may also be used to reliably measure student interest. This is a question of psychometrics that is more properly left to the review and determination of those responsible for oversight under the statutory scheme; namely, Red Clay, the State Board of Education and the Department of Education. Likewise, we have no evidence that either proves or disproves that the use of grades is an appropriate measure of interest rather than simply a measure of aptitude. Again, at issue is the assumption that success in testing or the ability to achieve good grades is the functional equivalent of a demonstration of "specific interest." These are issues that merit serious examination and the input of educators with expertise in these areas. It would be inappropriate for us to assume facts that have not been established in the proper forum, and to substitute our determination for the informed judgments of appropriate experts in these highly specialized areas.

Conclusion

For the reasons set forth above, we are unable to determine whether the student recruitment and selection process employed by the Charter School of Wilmington is compliant

The Honorable Nancy H. Wagner
Charter School of Wilmington
May 1, 2006
Page 9

with the provisions of the Delaware Charter School Law. This is a determination that must be made pursuant to the processes provided by the Charter School Law.

Very truly yours,

John B. Hindman
Deputy Attorney General

Approved by:

Lawrence W. Lewis
State Solicitor

Xc: The Honorable Carl C. Danberg
Malcolm S. Cobin, Chief Deputy Attorney General
Phillip Johnson, Opinion Administrator
Alfred J. D'Angelo, Jr., Esq.

For Office Use Only:
Date / Time received _____
Entered in eSchool _____

Thomas A. Edison Charter School
2200 North Locust Street Wilmington, DE 19802
Office: 302-778-1101 Fax: 302-778-2232

For Office Use Only:
☐ Birth Certificate ☐ Immunizations
☐ Proof of Residency ☐ Child Hind (KN only)
☐ Current Report Card ☐ Custody Papers
☐ Discipline Report ☐ Parent ID
Student Application ID#: _____

2013-2014 K-8 STUDENT Application

1. Complete one application for **each** child enrolling. 2. All information must be **complete** and **accurate** on this form.
3. Please see reverse side and return the following items to the school's main office.

The Thomas A Edison Charter School is a tuition-free public school, serving students in grades K - 8. Parents, students, and teachers will be expected to attend trimester conferences in which they promise to work together for student success.

Student Information (please print)

1. Name _____
2. Mailing Address _____ City _____ State _____ Zip _____
3. Date of Birth ____/____/____ 4. Social Security Number _____
5. My child will be in grade _____ in August 2013. *We start in mid-August and go through mid-June.*
6. School Previously Attended _____ City and State of Previous School _____
7. Type of School: ☐ Public ☐ Private ☐ Parochial ☐ Home 8. School district where student lives _____

The information requested in items 9-14 will NOT be used for selection purposes. It will be used to assist the school in evaluating the effectiveness of its recruitment.

9. Gender: ☐ Male ☐ Female 10. Child resides with: ☐ Parents ☐ Mother ☐ Father ☐ Other _____
11. Ethnic Background: ☐ African American ☐ American Indian ☐ Asian/Pacific Islander ☐ Caucasian ☐ Hispanic
12. What is the language spoken at home? _____ What language/s does your child speak? _____
Has your child participated in either of these programs? ☐ English as a Second Language ☐ Bilingual Education
13. Are Special Education Services needed? ☐ Yes ☐ No Does your child have an IEP? ☐ Yes ☐ No
504 Plan? ☐ Yes ☐ No

Parent/Guardian Information (please indicate address of residence)

14. Name _____ Relationship _____ Address _____
Home Phone (____) _____ Cell Phone (____) _____ Work Phone (____) _____ ext. _____
15. Name _____ Relationship _____ Address _____
Home Phone (____) _____ Cell Phone (____) _____ Work Phone (____) _____ ext. _____
16. Are you planning to enroll any siblings in Thomas Edison Charter School this year? ☐ Yes ☐ No
17. Please list the names of any siblings you are enrolling or who are already attending Thomas Edison Charter School.
Brother/Sister's Name _____ ☐ Applying ☐ Attending Grade in August 2013 _____
Brother/Sister's Name _____ ☐ Applying ☐ Attending Grade in August 2013 _____
Brother/Sister's Name _____ ☐ Applying ☐ Attending Grade in August 2013 _____
18. Why are you choosing TECS for your child? _____

My signature here indicates that I am applying for my child's admittance to The Thomas A Edison Charter School. I acknowledge that if accepted, I intend for my child to attend this school for the complete 2013-14 year. I understand that I am permitted to withdraw my child from the school for "good cause" set forth in DE Charter School Law.

Parent/Guardian Signature _____ Date ____/____/____

Please return completed application to Thomas A. Edison Charter School. For more information, please call 302-778-1101.

Thomas A. Edison Charter School

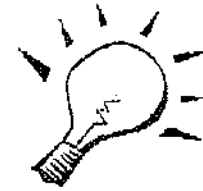
2200 North Locust Street

Wilmington, DE 19802

302.778.1101 fax 302.778.2232

Salome Thomas-EL, Principal/Head of School

info@tecs.k12.de.us, www.thomasedisoncharter.k12.de.us



K-8 Student Application Requirements

We must have copies of the following information in order to process an application. We will not accept an application until all required documents are submitted.

- ☐ 1. **LEGAL BIRTH CERTIFICATE**
(A Birth Record with footprints is not acceptable)
- ☐ 2. **STUDENT SERVICES INTAKE INFORMATION FORM** (Attached)
- ☐ 3. **CHILDCARE TRANSPORTATION FORM** (if applicable)
- ☐ 4. **PROOF OF RESIDENCY**
Recent (within 3 months) Utility bill with your name and address: Delmarva, Water, Lease Agreement or Mortgage Statement will only be accepted

a. If you reside at someone else's address we need: a copy of one of their bills and a notarized letter stating that you and your child live at that address.
- ☐ 5. **IMMUNIZATION RECORD** (see attached letter from Nurse)
- ☐ 6. **MOST RECENT PROGRESS REPORT/REPORT CARD at time of registration** (if applicable)
(If your child is accepted, we will require the final report card from the current school year to verify promotion and grade placement)
- ☐ 7. **MOST RECENT BEHAVIOR/DISCIPLINE FILE at time of registration** (if applicable)
- ☐ 8. **I.E.P. (INDIVIDUALIZED EDUCATIONAL PROGRAM)**
We must have a copy of the most recent I.E.P. or 504 Plan for all Special Education students.
- ☐ 9. **LEGAL DOCUMENTATION**
If you are not the parent of the child you are registering, you will need to provide legal documentation from Family Court or the Division of Social Services indicating that you are the legal guardian.
- ☐ 10. **CHILD FIND SCREENING** (Kindergarten Students ONLY)
If available, or complete the attached Child Find Screening Form
- ☐ 11. **PARENT/GUARDIAN'S DRIVER'S LICENSE OR STATE ISSUED PICTURE ID**

~~ Thomas Edison Charter School holds mandatory family interviews for all new students ~~

For Office Use:

Student ID _____

THOMAS EDISON CHARTER SCHOOL

Student Services Intake Information

Thomas Edison Charter School, is fully committed to providing quality education to all of our students—including those with special needs. We need your help, so please complete this page with care.

1. Has your child been involved with early intervention services (birth to 3)?

☐ Yes ☐ No

2. Has your child been screened for special education by the public schools?

☐ Yes ☐ No

3. Does your child have a current Individual Educational Plan (IEP)?

☐ Yes ☐ No

**** If your child does have an Individual Educational Plan (IEP), we should receive a copy of the IEP prior to your child entering school.**

4. Has your child ever received special education services? ☐ Yes ☐ No

5. Does your child receive services under section 504 of the Rehabilitation Act of 1973?

☐ Yes ☐ No

6. Please check the services your child has and/or still receives. (Check all that apply)

☐ speech and language

☐ occupational therapy

☐ physical therapy

☐ counseling

☐ inclusion services

☐ resource room

☐ self-contained classroom

☐ visually impaired

☐ orientation and mobility

☐ medical services

☐ deaf & hard of hearing

☐ adapted physical education

7. Does your child take medication? (for ADHD, Diabetes, etc.) ☐ Yes ☐ No

If yes, what medication does your child take? _____

8. Does your child wear glasses? ☐ Yes ☐ No

9. Does your child wear a hearing aid? ☐ Yes ☐ No

10. Does your child receive special transportation? ☐ Yes ☐ No

11. Are you concerned that your child may have a special need that has not been evaluated yet?

☐ Yes ☐ No If yes, please explain: _____

Because the school is legally obligated to provide your child with all services on his or her IEP, it is extremely important that you inform us whether your child has an IEP. Please call or drop in to ask any questions you may have.

Your signature on this form indicates that you understand these questions and that the information you provide is accurate.

Parent/Guardian's Signature

Date

Student Name: _____

DOB: _____

DELAWARE STUDENT HEALTH FORM – CHILDREN

PreK- Grade 6

To be completed by licensed healthcare provider:

Physician (MD or DO), Clinical Nurse Specialist (APN), Advanced Practice Nurse (APN), or Physician's Assistant (PA)

To Parent or Guardian:

In order to provide the best educational experience, school personnel must understand your child's health needs. This form requests information from you (Part I) and your health care provider (Parts I, II, and III). All students in Delaware public schools must provide documentation of current immunizations, and a current (within 2 years) physical examination upon school entry and at ninth (9th) grade.

Talk with your health care provider about important issues¹ regarding your child, such as:

- ☐ **School** (readiness or adaptation, after school, parent-teacher communication, maturity, performance, special services)
- ☐ **Mental and Physical Activity** (healthy weight, well-balanced diet, physical activity, limited screen time)
- ☐ **Emotional Well-Being** (family time, social interactions, self-esteem, resolving conflicts, friends)
- ☐ **Physical Growth & Development** (dental care, healthy eating, puberty)
- ☐ **Injury & Illness Prevention & Safety** (seat belt or booster seat, bicycle safety, swimming, abuse protection, guns, fire safety, supervision, sunscreen, internet, infection, disaster planning)
- ☐ **Immunizations**
 - **Influenza (seasonal) vaccine** is recommended *each year* for *all* children (6 months and up).
 - **Human papillomavirus vaccine (HPV)** is recommended for all girls and boys (ages 11 or 12, minimum age 9) to prevent cancers, pre-cancers, and genital warts.
 - **Hepatitis A, Meningococcal, and Pneumococcal vaccines** are recommended for certain high risk groups.

Immunization Requirements for Newly Enrolled Students at Delaware Schools

KINDERGARTEN²: **DTaP/DTP:** 4 or more doses. If the 4th dose was prior to the 4th birthday, a 5th dose is required.
Polio: 3 or more doses. If the 3rd dose was prior to the 4th birthday, a 4th is required.
MMR³: 2 doses. The 1st dose should be given on or after the 1st birthday. The 2nd dose should be given after the 4th birthday.
Hep B³: 3 doses.
Varicella⁴: 2 doses. The 1st dose should be given on or after the 1st birthday and the 2nd dose after the 4th birthday.

GRADES 1-6: **DTaP/DTP:** 4 or more doses. If the 4th dose was prior to the 4th birthday, a 5th dose is required. Students who start the series at age 7 or older only need a total of 3 doses. A booster dose of Td or Tdap is recommended by the Division of Public Health for all students at age 11 or five years after the last DTaP, DTP, or DT dose was administered - whichever is later.
Polio: 3 or more doses. If the 3rd dose was prior to the 4th birthday, a 4th is required.
MMR³: 2 doses. The 1st dose should be given on or after the 1st birthday. The 2nd dose should be given after the 4th birthday.
Hep B³: 3 doses. For children 11 to 15 years old, two doses of a vaccine approved by CDC may be used.
Varicella⁴: 2 doses. The 1st dose must be given on or after the 1st birthday and the 2nd dose after the 4th birthday.

¹ Based on Bright Futures: Guidelines for Health Supervision of Infants, Children and Adolescents, (3rd ed.) AAP, 2008

² Children who enter school prior to age four shall follow current Delaware Division of Public Health recommendations.

³ Disease histories for measles, rubella, mumps and Hepatitis B will not be accepted unless serologically confirmed.

⁴ Varicella disease history must be verified by a health care provider to be exempted from vaccination.

CHILD'S NAME _____

PART I – HEALTH HISTORY*To be completed by parent/guardian prior to exam**The healthcare provider should review and provide comments in the last column.*

Name: _____ Gender: _____ DOB: _____

Date: _____ Examiner: _____

	PARENT		HEALTHCARE PROVIDER COMMENT
	Yes	No	
Developmental delay (speech, ambulation, other)?			
Serious injury or illness?			
Medication?			
Hospitalizations?			
When? What for?			
Surgery? (List all)			
When? What for?			
Ear/Hearing problems?			
Heart problems/Shortness of breath?	Yes	No	
Heart murmur/High blood pressure?	Yes	No	
Dizziness or chest pain with exercise?	Yes	No	
Allergies (food, insect, other)?	Yes	No	
Family history of sudden death before age 50?	Yes	No	
Child wakes during the night coughing?	Yes	No	
Diagnosis of asthma?	Yes	No	
Blood disorders (hemophilia, sickle cell, other) ?	Yes	No	
Excessive weight gain or loss?	Yes	No	
Diabetes?	Yes	No	
Loss of function of one or paired organs (eye, ear, kidney, testicle)?			
Seizures?	Yes	No	
Head injuries/Concussion/Passed out?	Yes	No	
Muscle, Bone, or Joint problem/Injury/Scoliosis?	Yes	No	
ADHD/ADD?	Yes	No	
Behavior concerns?	Yes	No	
Eye/Vision concerns?	Yes	No	
<input type="checkbox"/> Glasses <input type="checkbox"/> Contacts			
<input type="checkbox"/> Other _____			
Dental concerns?	Yes	No	
<input type="checkbox"/> Braces <input type="checkbox"/> Bridge <input type="checkbox"/> Plate <input type="checkbox"/> Other?			
Date of exam _____			
Other diagnoses?	Yes	No	
Does your child have health insurance?	Yes	No	
Does your child have dental insurance	Yes	No	

Information may be shared with appropriate personnel for health and educational purposes.

Parent/Guardian

Signature _____

Date _____

PART II – IMMUNIZATIONS

Entire section below to be completed by MD/DO/APN/NP/PA
Printed VAR form may be attached in lieu of completion.

Immunizations – Shaded Vaccines Required. *Regulations is located at Title 14 Section 804 Immunizations*

DTaP/DT	DTaP/DT	DTaP/DT	DTaP/DT	DTaP/DT
OPV/IPV	OPV/IPV	OPV/IPV	OPV/IPV	OPV/IPV
PCV7/PCV13	PCV7/PCV13	PCV7/PCV13	PCV7/PCV13	PCV7/PCV13
Hib	Hib	Hib	Hib	
MMR	MMR	MMR/HepB2	HepB/HepB-2	MMR
MMR	MMR	RV-2/ RV-3	RV-2/ RV-3	RV-3
MCV4	MCV4	HPV	HPV	HPV
Hep A	Hep A	Td/ Tdap	Td/ Tdap	Td
Influenza	Influenza	PPSV23	PPSV23	
Other:	Other:	Other:	Other:	Other:

PART III – SCREENING & TESTING

Entire section below to be completed by MD/DO/APN/NP/PA

Screen	Height: _____ (inches)	Weight: _____ (pounds)	BMI: _____	BMI Percentile: _____	BP: _____	Pulse: _____	Other: _____
Dental Screen	<input type="checkbox"/> Problem Identified: Referred for treatment <input type="checkbox"/> No Problem: Referred for prevention <input type="checkbox"/> No Referral: Already receiving dental care						
Tuberculosis Screen	All new enterers must have TB test <u>or</u> TB Risk Assessment, which must be done within 12 months <u>prior</u> to school entry. Risk Assessment: Date: _____ Results: <input type="checkbox"/> At-Risk <input type="checkbox"/> No Risk Mantoux Skin Test: Date: _____ Results: _____ MM Other: (type) _____ Date: _____ Results: _____ MM						
Lead Test	Blood lead test required for children age 6 months through 6 years Date: _____ Results: _____						
Other Screen	Hearing: Type: _____ Date: _____ Results: _____ Referral: <input type="checkbox"/> No <input type="checkbox"/> Yes _____ _____ Vision: Type: _____ Date: _____ Results: _____ Referral: <input type="checkbox"/> No <input type="checkbox"/> Yes _____ _____ Other: Type: _____ Date: _____ Results: _____ Referral: <input type="checkbox"/> No <input type="checkbox"/> Yes _____ _____						

PART IV – COMPREHENSIVE EXAM*Entire section below to be completed by MD/DO/APN/PA*

PHYSICAL EXAMINATION	Check (✓)			HEALTHCARE PROVIDER COMMENT
	NORMAL	ABNORMAL	REFERRAL	
General Appearance				
Skin				
Eyes				
Ears				
Nose/Throat				
Mouth/Dental				
Cardiovascular				
Respiratory				
Thyroid				
Gastrointestinal				
Genito-Urinary				
Neurological				
Musculoskeletal				
Spinal examination				
Nutritional status				
Mental health status				

FOR CHRONIC & LIFE THREATENING CONDITIONS:Children with life-threatening conditions need an emergency care plan for school.

Please attach care plan, protocols, and/or emergency care plan.

Please provide the parent with information on Special Needs Alert Program (SNAP) for EMS.

Recommendations or Referrals: _____

DIAGNOSIS	EMERGENCY PLAN ATTACHED		CARE PLAN OR PRESCRIPTION PLAN ATTACHED	
	YES	NO	YES	NO

Print Name: _____ **Signature:** _____ **Date:** _____☐ Physician (MD or DO) ☐ Clinical Nurse Specialist (APN) ☐ Advanced Practice Nurse (APN) ☐ Physician Assistant (PA)**Address:** _____ **Phone:** _____

Original Charter

Thomas A. Edison Charter School

Wilmington, Delaware

**CHARTER SCHOOL APPLICATION
FOR A NEW SCHOOL OPENING
IN SEPTEMBER, 1999**

Originally Submitted: 12/30/97

Revised: 2/17/98

- c. Using student evaluation information to improve performance.

Individual student results from standardized testing, the ETS reading studies and the Edison Common Assessments are provided to the students' teachers. These results are reviewed with parents during the Quarterly Learning Conferences and are the subject of analysis within the House teaching teams. Lead teachers are responsible for working with their teammates to assure that assessment information is used to guide future instruction and to take action in instances when students are not making satisfactory progress.

- d. Actions to be taken when student do not meet performance expectations.

Students who do not perform at expected levels will receive additional attention and assistance. Tutors associated with the reading program will provide individual assistance to students experiencing reading difficulty. Students' grouping assignments will be adjusted in the particular subject areas in which they are experiencing difficulty to assure that instruction is being provided at the appropriate level. Further assistance, including after school tutoring, academic practice via the home computer network, and summer instruction, will be provided as needed.

Students will be expected to achieve the standards for each of the School's Academies prior to their promotion to the next Academy. Assessments for the Primary Academy will take place near the end of the 2nd grade. Assessments for the Elementary Academy will take place near the end of the 5th grade. Assessments for the Junior Academy will take place near the end of the 8th grade. Students who do not successfully complete the Academy assessments may be retained in their current Academy for an additional semester or more, at the discretion of the faculty and in consultation with parents.

Admissions Policies and Procedures

8. Plan and timetable for recruiting students.

The proposed Charter School will enroll a student body that is broadly representative of Wilmington's school age population in terms of racial and academic factors. Recruiting efforts will include:

February - March 1999:

- Newspaper advertisements
- Outreach through various community organizations (social service agencies, religious organizations, etc.)
- Public affairs announcements on local radio and television
- Public presentations and discussions with interested families throughout the community

The Edison Project has considerable successful experience in conducting such outreach efforts for the independent public charter schools that it currently operates in other parts of the country.

March - April 1999:

- Applications accepted
- Further outreach efforts in under represented neighborhoods, if needed
- Lottery conducted for oversubscribed grade levels
- Enrollment and registration conducted for admitted students
- Student roster reported to the State Department of Education

9. **Plan for selecting students.**

The proposed Charter School will admit students on an open enrollment basis, without regard to past academic performance or handicapping condition. No evaluation or examination will be required as a condition of admission. Parents will complete a brief application form. Also, parents (for students K-5) or students (grade 6 and up) will provide a brief statement explaining their particular interest in the School's offerings. Applicants for admission to Kindergarten must attain the age of five years on or before October 1.

In the event of over-subscription of any particular grade level, a random lottery will be conducted to determine the students to be admitted to the School. The lottery will be conducted in public, and all applicant families will

be invited to attend. Detailed written procedures will be posted prior to the lottery. Applicants not selected in the lottery will be placed on waiting lists, by grade level, in the order in which their names are drawn. Applicants will be invited to remain on the waiting lists from year to year, if they wish to do so. The lottery will be conducted on or about April 10, 1999.

10. Admission preferences.

The lottery will be conducted in accordance with procedures distributed by the Delaware Department of Education on January 30, 1998. No preferences will be employed in the process of student selection.

11. Accommodating at-risk and special education students.

Community presentations and application materials will make it clear that at-risk and special education students are welcome to enroll in the proposed Charter School. No assessment of academic performance or previous school records will be conducted as a condition of admission. Those families who wish to do so will be invited to consult with special education representatives from the Edison Project regarding program accommodations necessary to the success of their children in the School. The School's staff will be up to date on current IDEA law, as amended in 1997, including but not limited to evaluation, re-evaluation, accommodations, and having certified special education teachers on staff. Please see Section 6.c. (Educational Program) and Attachment 6 (Special Education Services) for additional information on accommodations for at-risk and special needs students.

Administrative/Management Operations

12. Governance: Board of Directors

a. Roles and responsibilities of the board of directors:

The Board of Directors will:

- Serve as the charter holding, governing and fiduciary authority of the School;
- Adopt all policies related to the operation of the school;
- Adopt the School's annual operating budget;

3. In December and January, the school will advertise for the open enrollment period for kindergarten through grade eight.
4. Flyers will be distributed to all students in the school to share with friends and neighbors.
5. Advertisements about the school will be placed in local community newspapers.
6. School staff members will visit the Kingswood Community Center preschool program and speak with parents about kindergarten registration.
7. Intent to Return forms will be sent out at the beginning of January to all students enrolled in kindergarten through grades seven. These must be completed by parents and returned so that the administration can start to build enrollment needs for the following school year.

m. List all the admissions preferences authorized by this statute the school will use. If more than one preference will be used, describe how the various preferences will be employed together. (Renewal/Modifications – provide original documentation and any changes)

Thomas A. Edison Charter School admits students without regard for past academic performance or mental or physical condition. No evaluation or examination will be required as a condition of admission. Applicants for admission to kindergarten must attain the age of five on or before October 1 of the coming school year. In the event that any particular grade level is full after the lottery described below, the school will maintain a wait list by grade level. If an opening becomes available, the parents of the first student on the list will be contacted. All admission documents are included in Appendix O.

To fill open seats in each grade level, the Thomas A. Edison Charter School will use two preferences in accordance with Delaware Department of Education regulations. The following students in the order of preferences listed below will be given preference for any open seats in each grade level prior to the lottery.

1. Siblings of students enrolled at Thomas A. Edison Charter School who live in the same household
2. Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school

n. If the proposed school will give admissions preference to children of the school's founders, describe how the school will identify the founders and how the preference will be used in the enrollment process. (Renewal/Modifications – provide original documentation and any changes)

Thomas A. Edison Charter School does not give preference to the children of the school's founders.

o. Describe the plan for selecting students if more students seek admission than space allows. If a lottery is used, describe how it will be conducted. (Renewal/Modifications – provide original documentation and any changes)

The administration of the Thomas A. Edison Charter School will follow the procedures outlined below to select students for enrollment. If the school is over-subscribed by the end of the enrollment period and open seats are still available after the preferences outlined above have been accommodated, a lottery will be conducted for the open seats.

1. In November, the administration will review the school application and make any revisions based on new Delaware Department of Education regulations or new policies of the Thomas A. Edison Charter School Board.



- 100 N. Dupont Road, Wilmington, DE 19807, (302) 651-2700
- [A Red Clay Consolidated School District Public School | Grades 6-12](#)
- [Copyright Notice & Disclaimer](#)
- [Bullying Prevention & School Crime | Contact: 1-800-220-5414](#)

CAB CALLOWAY SCHOOL of the ARTS

- [ABOUT US](#)
- [LEARNING](#)
- [STUDENTS](#)
- [EVENTS](#)
- [ADMISSIONS](#)
- [SUPPORT](#)
- [ALUMNI](#)

Application Process

Cab Calloway's Choice Application Process

Your student will be asked to select at least 1 (but up to 2) arts areas in which to assess—a first choice and a second choice. CCSA offers several art areas, including Dance, Theatre, Stage Tech, Visual Arts, Communication Arts, Vocal Music, Strings, Piano, and Instrumental Music.

New Castle County residents apply only online at www.cabcallowayschool.org. Kent and Sussex County residents must apply using the paper applications (One application for the State of Delaware and one for CCSA). Applications will become available November 1, 2013.

APPLICATION PERIOD

November 1, 2013 – January 8, 2014.

PLEASE NOTE: When applying online, both the state choice application and the Cab Calloway application are combined into one. Please remember to keep hitting submit until you receive the confirmation page with the confirmation number. Print out the confirmation page and keep until assessments.

Due to limited seats in 7th, 8th, 10th, 11th and 12th grades, applications for those grade levels are limited to Red Clay residents.

Complete the applications before the January 8, 2014 deadline. If your student is coming from a private or charter school, you must first preregister at your public “feeder” school before completing the applications. When pre-registering, please have the school give you the new Student ID for your child. This may be needed during the application process.

Applications **must** be received before 3:00 pm on January 08, 2014. Applications received after that time will be considered late and cannot be considered for enrollment.

You will be contacted with an appointment for an assessment. Scheduling assessments for 1,000+ students each year in the time allotted is challenging and Cab Calloway School of the Arts wants to make sure each student receives equal time with the arts assessor. Therefore, please understand that **we are unable** to reschedule any assessments.

PLEASE NOTE: ALL assessment time and invite decision notifications will be done by email. The email will come from DSC Helpdesk so, please make sure that your computer will accept the email.

ASSESSMENT DATES

Saturday, January 18, 2014 –SNOW DATE: February 1, 2014

Saturday, January 25, 2014 – SNOW DATE: February 1, 2014

Show up and be prepared; failure to attend the assessment(s) will automatically disqualify you from the enrollment process. **Please be prepared to assess on January 18th as most of the assessments will occur on that date.**

Practice, practice, practice for your assessment. Your enrollment is based solely on your performance during the assessment. Get a good night’s sleep the night before, eat a healthy breakfast, and come prepared to show us your best!

After all assessments are completed, you will be notified by email from the DCS Helpdesk notifying you of your enrollment status. The emails will be sent out the last week of February. You may be admitted (congratulations!), placed in a waiting pool or declined.

The table below indicates each step that needs to be completed to successfully apply to Cab Calloway. Please choose the correct category for your student. It is recommended that the steps be done in the listing order.

	New Castle County	New Castle County	Kent & Sussex Counties	Kent & Sussex Counties
	Students attending public schools	Students attending private and charter schools	Students attending public schools	Students attending private and charter schools
Read The Skills Assessment Requirements	X	X	X	X
<u>Pre Register</u> for Choice at local feeder school.		X		X
Complete and return state choice application to RCCSD Choice Office	X On-line Only	X On-Line Only	X Paper Only	X Paper Only
Complete and return Cab's choice application to Cab	X On-line Only	X On-Line Only	X Paper Only	X Paper Only
Complete required skills assessment(s)	X	X	X	X

To pre-register for choice: please take the student's birth certificate, a copy of his/her immunizations and proof of your address to the local feeder school. The list of acceptable proofs of address can found on the Red Clay Consolidated website of www.redclay.k12.de.us/psregistration/registrationindex.shtml

You will need a few minutes at the school as you will need to fill out registration paperwork.

When pre-registering, please have the school give you the new Student ID for your child. This may be needed during the application process.

How the skills assessment process works.

1. Each student who has completed the applications will be scheduled for the assessments by CCSA.

2. Each student will be scored on his/her assessments by the instructor. The score is based on a 100 point scale with 70 points or higher passing.
3. If the student passes the assessment, he/she is put into the first round of the lottery.
4. The lottery is run by an off site computer and forwarded to CCSA who will then start inviting students according to the order on the lottery.
5. The lottery is run for each arts area by middle or high school.
6. Students will receive a letter stating the status of their assessments the last week of February.

Lottery Priority

Priority Codes

1. Current CCSA Students
2. Red Clay residents with siblings attending CCSA
3. Out-of-district residents with siblings attending CCSA
4. Red Clay residents
5. Out-of-district residents

Each student is assigned a priority code by the computer based on the above criteria. Within each priority code, the student is given a random number by the computer and those numbers are put into numeric order. The lottery lists are then printed in priority code order for each arts area.

Scoring

Cab Calloway Assessments are used only for the purposes of determining potential in our arts programs at Cab Calloway School of the Arts. The school will not discuss the specifics of any assessment with a student or parent/guardian. CCSA will share which scoring category the student fell into only after notifications have been sent to the parents and upon request of the parent/guardian:

Student scored a 70 or above out of a possible 100 points (invitation or wait list option based on available space and the lottery)

- Student scored in the 60 – 69 range out of a possible 100 points. (wait list option)
- Student scored below a 59 (no invitation option)

ALL students who pass the assessment whether they are in-district or out-of-district will be invited before any student who scored 60 – 69 points.

Notifications will be emailed on February 26, 2014. **Please make sure that you enter an email address that you check daily. Also the email will come from the “DSC helpdesk” and depending on your computer security, the email may be sent to your SPAM file.**

- Middle School Applications (includes Skills Assessment Requirements)
- High School Applications (includes Skills Assessment Requirements)

Upcoming Events

- Sing Pink. Think Cure

October 25, 7:00pm

- Almost, Maine--HS Play

November 7-9, 7:00 pm

- Cab Calloway Gazette

Students launch school newspaper

- Gallery: Works by Andy Lendway

Sep 26-Nov 1

- Welcome back Cab students!

Read information from Cab's administrators

News & Information

- Marching Band win

Tournament of Bands champs!

- Tours for prospective students

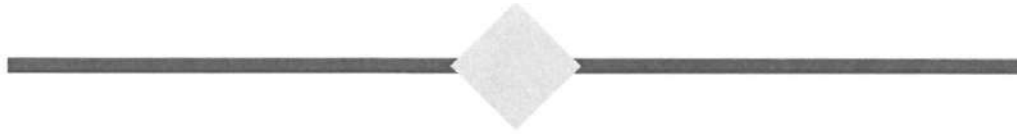
Thinking of attending Cab?

- Cab seniors earn National Merit Scholar honors

Congratulations!

- Theater demolition underway

SUSSEX TECHNICAL HIGH SCHOOL



Application for Admission



2013-2014

STUDENT

- Complete pages 2 and 3

PARENT/GUARDIAN

- Sign page 2
- Complete page 4
- Enclose current eighth-grade report card

ADMISSIONS OFFICE

302-854-2820 • Fax 302-856-7210

SUSSEX TECHNICAL HIGH SCHOOL

STUDENT APPLICATION

Please **type or print** using a ballpoint pen.

Complete all pages and **attach** a copy of first-quarter 8th-grade **report card** (or current quarter).

(Students applying prior to first quarter please send the first-quarter 8th-grade report card copy as soon as possible.)

Student's Last Name:	First:	Middle:
Student's Address:		
City:	State:	Zip Code:
Home Phone:		
Present School:	School Phone:	
School Address:		
City:	State:	Zip Code:
School District of Residence:		

PROGRAM LISTINGS

AUTOMOTIVE TECHNOLOGIES

Automotive Technologies

Collision Repair Technologies

HEALTH/HUMAN

SERVICES TECHNOLOGIES

Athletic Health Care - Physical Therapy

Cosmetology

Dental Services and Technologies

Early Care Education and Services

Health Professions

Legal Support Services & Criminal Justice Technologies

COMMUNICATIONS AND INFORMATION TECHNOLOGIES

Business, Finance, and Marketing Technologies

Digital Publishing and Design Technologies

Electronics/Computer Information Systems Engineering

Media Broadcasting Communications Technologies

INDUSTRIAL ENGINEERING TECHNOLOGIES

Carpentry/Mill & Cabinet Technologies

Electrical and Green Energy Technologies

Landscape Management and Environmental Technologies

Please review the technical areas listed above and indicate your interests by preference order. (You must choose six.)

- | | |
|----|----|
| 1. | 4. |
| 2. | 5. |
| 3. | 6. |

NOTE: Due to safety concerns and equipment limitations, space may be limited in technical areas.

I hereby authorize and request the chief school officer or designated school official to forward or release school records to Sussex Technical High School. Additionally, I authorize and request the Department of Education to forward all Delaware Comprehensive Assessment System (DCAS) scores to Sussex Technical High School.

X

Parent/Guardian Signature

Date

Please sign completed application, **attach report card**, and place in envelope.

Mail envelope to: Student Services, Sussex Technical High School, P.O. Box 351, Georgetown, Delaware 19947.

SUSSEX TECHNICAL HIGH SCHOOL

Information below is given on a voluntary basis and is used for administrative purposes only. Providing or not providing this information has no impact on the selection process.

STUDENT LIVES WITH:

- ☐ Mother
 ☐ Father
☐ Both Parents
 ☐ Guardian

Social Security Number: _____ - _____ - _____

Sex: ☐ Male ☐ Female

Birthdate: ____ - ____ - ____ Age: ____

Ethnic Group: Please answer BOTH 1 and 2 below:

- | | |
|------------------------------|--|
| 1. Hispano | 2. <input type="checkbox"/> American or Alaska Native |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Asian |
| <input type="checkbox"/> No | <input type="checkbox"/> Black or African American |
| | <input type="checkbox"/> Native Hawaiian or Other Pacific Islander |
| | <input type="checkbox"/> White |

Current Math Course:

Present Grade Level:

Mother's Last Name:

First:

Middle:

Work Phone:

Cell Phone:

Father's Last Name:

First:

Middle:

Work Phone:

Cell Phone:

Guardian's Last Name:

First:

Middle:

Work Phone:

Cell Phone:

Parent/Guardian's Address: ☐ Same as student address on page 2

City:

State:

Zip Code:

Home Phone:

Best time to call:

E-mail Address:

Extracurricular Activities: (Check the activities in which you currently participate in your school.)

- | | | | | |
|--|--|---|--|--|
| <input type="checkbox"/> Band | <input type="checkbox"/> Boys' Track | <input type="checkbox"/> Girls' Basketball | <input type="checkbox"/> Intramurals | <input type="checkbox"/> Softball |
| <input type="checkbox"/> Baseball | <input type="checkbox"/> Cheerleading | <input type="checkbox"/> Girls' Cross Country | <input type="checkbox"/> JROTC | <input type="checkbox"/> Student Gov't |
| <input type="checkbox"/> Bowling Club | <input type="checkbox"/> Chorus | <input type="checkbox"/> Girls' Lacrosse | <input type="checkbox"/> Key Club | <input type="checkbox"/> Swim Team |
| <input type="checkbox"/> Boys' Basketball | <input type="checkbox"/> Drama Club | <input type="checkbox"/> Girls' Soccer | <input type="checkbox"/> Math League | <input type="checkbox"/> Weight Room |
| <input type="checkbox"/> Boys' Cross Country | <input type="checkbox"/> Field Hockey | <input type="checkbox"/> Girls' Track | <input type="checkbox"/> Odyssey of the Mind | <input type="checkbox"/> Wrestling |
| <input type="checkbox"/> Boys' Lacrosse | <input type="checkbox"/> Football | <input type="checkbox"/> Golf | <input type="checkbox"/> Science Olympiad | <input type="checkbox"/> Yell Club |
| <input type="checkbox"/> Boys' Soccer | <input type="checkbox"/> Girls' Volleyball | <input type="checkbox"/> Pom Pom Squad | <input type="checkbox"/> Yearbook | |

In what other activities would you like to participate? Please list below.

To be completed by the student. Please explain in your own handwriting why you would like to attend Sussex Tech. (Students with mechanical disabilities or limited English skills may call the Admissions Counselor at 854-2820 for additional options other than a handwritten statement.)

SUSSEX TECHNICAL HIGH SCHOOL

To assist us in staffing and in the facility planning process, please indicate below if special services are needed by the student. Please check all boxes that apply.

☐ Student attends Academic Challenge Program at Delaware Tech: Please check all that apply.

- ☐ Academic Challenge Math Only
- ☐ Academic Challenge English Only
- ☐ Both

☐ Student requires special education services.

Explain: _____

☐ ESL

☐ Student is under medical care.

Explain: _____

☐ Student does NOT require special services.

Please check if you are interested in any of the following elective classes for 9th grade:

- | | |
|--------------------------------|------------------------------------|
| <input type="checkbox"/> Band | <input type="checkbox"/> JROTC |
| <input type="checkbox"/> Choir | <input type="checkbox"/> Spanish 1 |

☐ Are you a brother/sister of a current student or a brother/sister of a past graduate of the last two years?

(circle one) YES NO

If YES, student's name: _____ When: _____

Explain Relationship: _____

(Sibling policy only applies during the first lottery.)

DECLARATION OF NON-DISCRIMINATION

The Sussex Technical School District does not discriminate on the basis of race, color, gender, religion, age, disability, national status, national origin, genetic information, or other legally protected categories in its programs and activities. The following person has been designated to handle inquiries regarding non-discrimination policies: Curt Bunting, Ed.D., Assistant Superintendent, P.O. Box 351, Georgetown, DE 19947, telephone 302-856-9509.

EL AVISO DE NONDISCRIMINACION

El Distrito Escolar de Sussex Tech no discrimina en base a raza, color, sexo, religión, edad, incapacidad, origen nacional, estado nacional, información genética, otras categorías protegidas legalmente en sus programas o actividades. Las preguntas concernientes a las políticas discriminatorias pueden ser dirigidas a: Curt Bunting, Ed.D., Assistant Superintendent, P.O. Box 351, Georgetown, DE 19947, teléfono 302-856-9509.

Did you:

- Get a parent/guardian to sign on page 2?
- Attach your first-quarter 8th-grade report card?
- Complete all parts of the application?