



# Clearinghouse

## Notes

CHARTER SCHOOLS

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### CHARTER SCHOOL EQUITY

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Charter schools are generally defined as independent public schools operating under contract with a state or local district, although this definition may vary from state to state. They are generally semi-autonomous schools created by teachers, parents, community groups or private organizations that operate under a written charter that defines (1) organization and management of the school and (2) standards, assessments and curriculum. Many charter schools enjoy freedom from rules and regulations affecting other public schools, as long as they continue to meet the terms of their charters. Since 1991, over 1,200 charter schools have been created in the United States.

One of the primary concerns about charter schools is a possible “brain drain” effect on traditional public schools. Policymakers, educators and the general public have expressed worry that students with the greatest academic potential would be lured to charter schools while the traditional public school would be left to contend with students of greater economic and educational needs. In an attempt to address the concerns over the possible re-segregation of public education this “brain drain” could cause, some states have incorporated civil law components as part of the statutes covering charter schools.

#### LEGISLATION

Laws regarding charter schools vary from state to state and are defined as ranging from “strong” to “weak”. The variables within the range are dictated by the amount of control given to the school district that houses the charter school and to the charter school itself. States in which school districts maintain the majority of the control regarding the charter contract are defined as having weak laws; states in which the school district maintains little control regarding the contract are defined as having strong laws.

The inclusion of an equity component appears to be unrelated to the strength or weakness of a state charter law. For example, states such as Arizona (listed below) that are described as strong supporters of charter schools still might include equity clauses as part of their charter school admission and enrollment practices. Examples of charter school admission provisions and their corresponding equity statutes follows:

STATE	EQUITY PROVISIONS-STATE CHARTER SCHOOL STATUTES
Alaska ALASKA STAT. § 14.03.265 (Michie)	Admission-no statute on equity specifically outlined in charter statute.

STATE	EQUITY PROVISIONS-STATE CHARTER SCHOOL STATUTES
<p>Arizona ARIZ. REV. STAT. ANN. § 15-184 (West 1998 supp.)</p>	<p>Charter schools; admission requirements. A. 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. If 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.</p>
<p>Arkansas ARK. CODE ANN. § 6-10-116 (Michie 1997 supp.)</p>	<p>Charter schools. (e)(1) Each year, the state board must review petitions for charter school status received from local schools. So long as a proposed charter school does not have a segregative effect on student assignments, the state board is directed to approve such petitions and to grant charter school status to local schools whose petitions, in the opinion of the state board: (A) Provide a plan for improvement at the school level for improving student learning and for meeting the national and state education goals;</p>
<p>California CAL. EDUCATION CODE §47605 (West 1999 supp.)</p>	<p>(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.</p>
<p>Connecticut CONN. GEN. STAT. ANN. §10-66bb (West 1999 supp.)</p> <p>CONN. GEN. STAT. ANN. §10-15c (West 1999 supp.)</p>	<p>(c) The State Board of Education shall give preference to applicants for charter schools that will serve students who reside in a priority school district pursuant to section 10-266p or in a district in which seventy-five percent or more of the enrolled students are members of racial or ethnic minorities and to applicants for state charter schools that will be located at a work-site or that are institutions of higher education.</p> <p>[This provision concerns <u>all</u> schools, including charter schools]: Discrimination in public schools prohibited. School attendance by five-year-olds. The public schools shall be open to all children five years of age and over who reach age five on or before the first day of January of any school year, and each such child shall have, and shall be so advised by the appropriate school authorities, an equal opportunity to participate in the activities, programs and courses of study offered in such public schools, at such time as the child becomes eligible to participate in such activities, programs and courses of study, without discrimination on account of race, color, sex, religion or national origin; provided boards of education may, by vote at a meeting duly called, admit to any school children under five years of age.</p>

STATE	EQUITY PROVISIONS-STATE CHARTER SCHOOL STATUTES
<p>Delaware DEL. CODE ANN. TIT. 14 §506 (1998 supp.)</p>	<p>Restrictions. (4) 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; or (5) Be formed to circumvent a court-ordered desegregation plan.</p>
<p>Florida FLA. STAT. ANN. § 228.056 (West 1999 supp.)</p>	<p>(6) Eligible Students (a) A charter school shall be open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located. When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. A charter school may give enrollment preference to a sibling of a student enrolled in the charter school or to the child of an employee of the charter school. (c) A charter school may limit the enrollment process only to target the following student populations: 4. Students residing within a reasonable distance of the charter school, as described in paragraph (13) (c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (9)(a) 8. or any federal provisions which require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.</p>
<p>Georgia GA. CODE ANN. § 20-2-2065 (1998 supp.)</p> <p>GA. CODE ANN. § 20-2-2066 (1998 supp.)</p>	<p>(a) A charter school shall be: (4) Subject to all federal, state, and local rules, regulations, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct  (2) (b) A charter school shall not discriminate on any basis that would be illegal if used by a school system.</p>
<p>Illinois 105 ILL. COMP. STAT. ANN. 5/27A-4 (West 1998)</p>	<p>(a) The General Assembly does not intend to alter or amend the provisions of any court-ordered desegregation plan in effect for any school district. 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, gender, national origin, religion, ancestry, marital status, or need for special education services.</p>
<p>Kansas KAN. STAT. ANN. §72-1906</p>	<p>(d) In addition to satisfying a board of education with regard to the key elements contained in the charter, a charter school must comply with the following requirements in order to qualify for establishment or continuation: 2) pupils in attendance at the school must be reasonably reflective of the racial and socio-economic composition of the school district as a whole;</p>
<p>Massachusetts MASS. GEN. LAWS. ANN. Ch. 71, §89 (West 1996)</p>	<p>(l) Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language or a foreign language, and academic achievement. Charter schools may limit enrollment to specific grade levels and may structure curriculum around particular areas of focus such as mathematics, science, or the arts.</p>

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<p>Minnesota MINN. STAT. ANN. §124D.10 (b)</p>	<p>Subd.9 Admission requirements may limit admission to:</p> <p>(1) pupils within an age group or grade level;</p> <p>(2) people who are eligible to participate in the graduation incentives program under section 124D.68; or</p> <p>(3) residents of a specific geographic area where the percentage of the population of non-Caucasian people of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area.</p>
<p>Missouri MO. ANN. STAT. §160.410 (West 1999 supp.)</p>	<p>1. A charter school shall enroll all pupils resident in the district in which it operates or eligible to attend a district's school under an urban voluntary transfer program who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that: 2. A charter school shall not limit admission based on race, ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level.</p>
<p>New Hampshire N.H. REV. STAT. ANN. §194-B:9 (1998 supp.)</p>	<p>I. Except as provided for under RSA 194-B: 8, IV: (a) Charter schools may set maximum enrollment as they deem appropriate. (b) Charter 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) Charter 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.</p>
<p>New Jersey N.J. STAT. ANN. §18A:36A-8 (West 1999 supp.)</p>	<p>Enrollment preference- 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.</p>
<p>North Carolina N.C. GEN. STAT. §115C-238.29F (1998 supp.)</p>	<p>(g) Admission Requirements. --(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.</p>

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<p>Pennsylvania P.A. STAT. ANN. §17-1723-A (West 1998 supp.)</p>	<p>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.</p>
<p>Rhode Island R.I. GEN. LAWS §16-77-4 (1996)</p>	<p>(b) (10) Describe enrollment procedures including the nondiscriminatory criteria for admission in accordance with applicable state and federal law, along with a program to encourage the enrollment of a diverse student population. The makeup of the charter public school must be reflective of the student population of the district, including but not limited to special education children, children at risk, children eligible for free or reduced cost lunch, and limited English proficient students. No charter shall be authorized for a school with a student population that does not include students eligible for free or reduced cost lunch, students with limited English proficiency, and special education students in a combined percentage which is at least equal to the combined percentage of those student populations enrolled in the school district as a whole;</p>
<p>South Carolina S.C. CODE ANN. §59-40-50 (Law Co-op, 1998 supp.)</p>	<p>As used in this chapter: (2) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services. Enrollment must be open to any child who resides within the school district;</p>
<p>Texas TEX. EDUC. CODE ANN. §12.111 (West 1996)</p>	<p>Each charter granted under this subchapter must: (6) prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic or athletic ability, or the district the child would otherwise attend in accordance with this code, although the charter may provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37.</p>

STATE	EQUITY PROVISIONS-STATE CHARTER SCHOOL STATUTES
Wyoming WYO. STAT. ANN. §21-3-202 (Michie)	Charter school prohibitions. (vii) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted; (d) In addition to any other requirement imposed under this article, a charter school shall be nonsectarian in its programs, admission policies, employment practices and all other operations, shall not charge tuition and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender or disability. Admission to a charter school shall not be determined according to the place of residence of the pupil or of his parent or guardian within this state, except that any existing public school converting partially or entirely to a charter school under his article shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school. Additionally, admission to a charter school shall not be determined solely on academic abilities or achievements, including minimum test scores or intelligence quotient scores.

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