



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.