



# PUBLIC SCHOOLS OF NORTH CAROLINA

State Board of Education | Department of Public Instruction

Office of Charter Schools

## GUIDANCE for QUALITY

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### ENROLLMENT AND LOTTERY

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#### GUIDANCE RESOURCES

[Charter School Law](#)

[2014 SB 793](#)

[SBE Policy TCS-U-003](#)

## OPEN ENROLLMENT

Definitive and highly-publicized dates for the start and end of open enrollment must be chosen by the charter school. The selected timeframe and dates (i.e. the first Friday of January through the last Friday of February) should be rooted in an official policy adopted by the nonprofit board that holds the charter from the State Board of Education.

Earlier versions of the law and State Board policy were silent in stipulating how long those periods should be, charter schools must use the rule of reason. If a charter school has open enrollment for one day, would a reasonable person determine that timeframe met the spirit and intent of open enrollment for the public? Is one week enough to be considered a fully open and transparent type of enrollment? It is unlikely that either example above meets the test of reason.

The Office of Charter Schools had previously recommended no less than a full calendar month for open enrollment to determine whether or not a charter school must have a lottery. The State Board modified policy TCS-U-003 in October 2013 to require charter schools to have open enrollment periods that are **“no less than 30 consecutive calendar days.”** This timeframe must be noticed for the public through a variety of methods to ensure the public charter school casts the widest net possible for enrollment. Understand that groups are watching your school’s enrollment process and will engage (*continued to page 2*)

(Open Enrollment continued from page 1) legal counsel to challenge actions they believe violate the charter law, the contents of your approved application, or the charter agreement. The public will also judge the integrity and reputation of your charter school based, in part, in how transparent your enrollment lottery is operated.

## APPLICATION FOR THE LOTTERY

Each charter school has the freedom to develop its own initial student application, but those documents must be crafted with care. Neither the statute nor State Board of Education policies specifically define what must or must not be included in a charter school's student enrollment application. The rationale for that omission is simple – every possible aspect of every possible situation cannot be conceived at the particular moment the law is drafted. Legislation establishes broad strokes that are further defined in policy or guidance. Each charter school board must have a clearly adopted enrollment or admissions policy that all interested parties can see and understand. A sample has been provided for you in Appendix 1.

Despite the lack of specificity, the charter school legislation provides 2 strong statements that every charter school must know and understand in creating enrollment applications:

G.S. 115C-218.45(a): *“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.”*

G.S. 115C-218.55: *“A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability.”*

Those two statutory citations reveal that public charter schools are to enroll any eligible student without discrimination. Thus, detailed questions about a student's Individualized Education Plan, race, gender, Grade Point Average, religion, or other nonessential information **should not be** on the initial enrollment application. If a charter school requests this information, potential applicants will presume that the charter school seeks this information to selectively enroll students. **Do not** have these types of questions on your initial enrollment applications. The Office of Charter Schools will be monitoring for the presence of these prohibitive questions on enrollment application. For a generic example, please see Appendix 2.

While we understand that many schools ask these questions with the caveat that they are “only for planning purposes,” the initial application, and subsequent lottery, deal with student enrollment and nothing else. The additional information for planning purposes is a student assignment issue not an initial enrollment question. Applications and lotteries only work with enrollment. The public charter school plans for its student populations after the enrollment has been determined.

Additionally, many charter schools have utilized an automated or online application process. This process can streamline the collection of the basic information, but it must be done in a fashion that promotes access for all. For instance, how does a school respond if a parent does not have a computer at home? Are they given access to a computer at the school to complete the necessary information? Another concern is the potential for additional barriers to technology-based enrollment. Just like schools should not mandate attendance at an open house to receive the enrollment application, charters that use an online process should not deny access to their automated application through additional steps or required programs.

# LOTTERY PROCESS

The lottery implementation decision is for the charter school to determine. Some schools draw names or numbered Ping-Pong balls from a container, while others utilize computer generated lottery results. There are many ways to hold a charter school lottery. The key is that these lottery drawings must be noticed to the public and open for review by parents or interested parties. Any attempt at diminished transparency will cause allegations of impropriety.

These are difficult and emotional times as parents are disappointed that their children did not gain enrollment. Knowing that some parents will be dissatisfied with the results and will scrutinize your every move, charter schools need an admission or enrollment policy that has been adopted by the nonprofit board of directors. Each charter school should have a person unfamiliar with the process review their procedures to identify any areas of possible concern.

The list below contains procedural suggestions to help you ponder process and procedures:

- The format should be fair for all, fully agreed upon by the board, and followed consistently during the lottery event. Schools may want to run “practice lotteries” in front of impartial observers to receive feedback on the actual lottery process. Sometimes, their viewpoints will unearth a perception that would never have been considered.
- The lottery should be conducted in public and at a time and location conducive for the public to attend.
- The process should be provided to the parents in advance and explained again before the lottery begins. After the explanation, individuals conducting the lottery should allow time for questions from parents to ensure that everyone understands the process.
- Before pulling student names or numbers, one option is to draw the grade level numbers to determine what order the lottery will follow. This step promotes a total randomness of the lottery each year as the order of the drawing will change.
- For schools hosting their first lottery, or those with significant demand, this process will take considerable time, so plan a few breaks. A lottery always creates tension as parents want their children to be enrolled, and those short, stretch breaks help ease that nervous tension. It also affords the opportunity to re-explain the process that you are using.
- The charter school should have a segregation of duties in the lottery process – one person draws the name or number, one records it, and another announces it for all to see. If at all possible, invite a local community member not affiliated with the school to actually perform the drawing. This practice diminishes any allegations of impropriety in the selection of students.
- When all the slots have been filled, the charter school should continue the process until every name has been drawn. That process will determine the order of the waiting list should an opening arise. Further, if an application comes to the school AFTER the lottery process, the school’s policies should dictate what happens with that application. It could be added to the bottom of the wait list determined by the public lottery, or the school could decide not to accept late applications.
- The charter school should also have a system of checks and balances. During the drawing, one individual should be writing down the results to keep accurate record of when each child’s name was selected.
- Possibly, video-tape the proceedings to have a record for the school should a parent question the integrity of the process. However, understand that if a school chooses to video the process, that video can be requested by the public, and the school would need to provide them the opportunity to view and/or copy it.

If a school notices an error after the lottery (i.e. a student’s name was omitted for a specific grade level), the staff must take steps to rectify that situation. Depending on the error, that school may need to redo the grade level lottery to ensure fairness for all stakeholders involved.

Embedded within the lottery process is the consideration of siblings and the statutorily permitted preferences. Each nonprofit board should adopt admission policies to address whether or not the charter school will offer the smorgasbord of preferences permitted within the law. In deciding to implement many of these (i.e. the legacy or opportunity preferences), the charter school will need to develop and implement tracking mechanisms to ensure the accuracy of records.

## SIBLING PREFERENCE

- The law dictates the process that may be utilized by charter schools for a sibling lottery. Understand that the law is permissive, meaning that a charter school could use this process, but does not have to do so. The nonprofit board must have an adopted enrollment or admission policy to clearly specify if the school is or is not going to utilize this format.
  - ◊ The charter school may enter one surname for all the siblings applying at the same time; and if that name is drawn, then all children are admitted simultaneously.
  - ◊ If a charter school is brand new and is performing its first lottery, the charter school cannot offer sibling preference. Per the statute, sibling preference can be granted “to siblings of currently enrolled students who were admitted into the charter school in a previous year.” Obviously, a brand new charter school does not have any currently enrolled students from the previous year, so that preference cannot be granted in the first year of operation.
- The revised law, for the first time, provides a clear definition of sibling. Any of the following who reside in the same household: “half siblings, stepsiblings, and children residing in a family foster home.”
- The definition of sibling is vital for interpreting situations involving graduating seniors. If the senior was enrolled the previous year, although they may be graduating at the end of the current year, their siblings should also receive preference because that senior is still currently a student. If the lottery occurs during the summer, after graduation, then the preference would not be granted because that senior is no longer a current student.

## MULTIPLE BIRTH SIBLINGS

- Multiple birth situations are resolved in the statute by the inclusion of one surname in the lottery. If the multiple birth siblings are in different grades, the school should ask the parent to select the grade level to place the name. That affords the parent rather than the school the opportunity to select.
- If one slot remains in the grade span when the multiple birth sibling card is drawn, the statute is clear in that “all of the multiple birth siblings shall be admitted.” The charter school would then need to enroll each child.

## LEGACY PREFERENCE

- Again, the language of the law is permissive in that it says the “charter school **may** give enrollment priority.” This is not required but permitted should the nonprofit board decide to offer this priority.
- Siblings of students that completed the highest grade offered by the charter school and were enrolled at least four years at the charter school can receive preference. If the charter school has fewer than four grades, the charter school would default to the maximum number of grades offered by the school.
- For instance, a charter school with only grades 6 through 8 could grant the preference under the following conditions: a sibling completed the 8<sup>th</sup> grade and attended the school during 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> grades.

## STAFF AND BOARD MEMBER PREFERENCE

- Again, the language of the law is permissive in that it says the “charter school may give enrollment priority.” This is not required but permitted should the nonprofit board decide to offer this priority.
- If the charter school chooses to grant enrollment preference for board and/or staff children, the law limits that amount to no more than 15% of the school’s total enrollment. The charter school could, however, petition for a waiver from the State Board of Education for a higher percentage. The preference includes:
  - ◇ Children of the school’s full-time employees
  - ◇ Children of the board of directors. There is no longer a restriction that prevents board member children in private or public school conversion charters from receiving this enrollment preference.
- Senate Bill 793 Amended the board of directors preference to state all board of directors. Prior to the ratification of this bill, preference of children of the board was limited to the initial board of directors listed in the school’s SBE approved charter application.

## OPPORTUNITY PREFERENCE

- Again, the language of the law is permissive in that it says the “charter school may give enrollment priority.” This is not required but permitted should the nonprofit board decide to offer this priority; and if so, the board’s policies would need to describe how this will be handled in an open and transparent manner.
- If a former student was enrolled in a charter school within the last two academic years but left due to an academic study abroad program, competitive admission residential program, or vocational opportunities of the parents, the charter school may grant enrollment preference.

## POST-LOTTERY ISSUES

Upon the conclusion of the lottery and notification of parents about enrollment, the charter school must maintain accurate records related to the order of the wait list. If the first student on the wait list enters the charter school, the charter school should update that list accordingly. Some schools have failed to regularly update their waiting list producing significant confusion and frustration by parents. A parent should be able to contact the school and receive an answer related to their spot on the admissions wait list. If a charter school cannot provide that information, it undercuts the credibility of the overall process.

Sometimes, after the lottery has occurred, charter school staff realizes that erroneous information has been provided to the school on the initial application. Charter schools have faced this issue in one of the two following scenarios: (1) a parent provides incorrect student grade level information in order to get a better chance at admission, or (2) a student’s retention decision is made after the child’s name was drawn for enrollment in a specific grade level. These two issues, although related, are totally separate.

If a parent has willingly and knowingly provided incorrect information on the enrollment application, the charter school would need a policy to address this circumstance. The school would need (*Continued to page 6*)

*(Continued from page 5)* to investigate to be absolutely certain that a parent purposefully and intentionally misled the charter school in their enrollment application. Even with those steps, a parent could sue the school and may win in court.

For the retention issue, a charter school principal, by law, has the authority to grade and classify students. The principal may decide to promote the child into the appropriate grade level to grant the student admission. On the other hand, the principal may agree with the decision made from the sending school. If the principal decides to honor the retention AND the school has already conducted its lottery AND the parents accepted the offer of enrollment, the charter school may need to honor its offer of enrollment. If, however, the school has not yet held its lottery and realizes the incorrect grade level has been selected, school officials should immediately notify the parent of the issue and place that student in the appropriate grade level.

Another issue that frequently arises regards how long a parent has to make a determination to accept the offer of enrollment. The Office of Charter Schools encourages schools to receive parental notification of enrollment decisions, whether to accept or deny, in writing. That written evidence serves as protection for the charter school.

Each school should also have a policy that provides a reasonable time for the parents to consider options and make their choice. Twenty-four hours is not sufficient, and it is best to provide, at a minimum, one full week to ten days. Whatever time selected by the school must be clearly recorded in board policy and should be announced throughout the entire open enrollment process. Also, the school needs to consider how to address extenuating circumstances (i.e. maybe the family is out of state due to a death in the family).

## **OUT-OF-STATE STUDENTS**

Both parents and school administrators have inquired about allowing students from other states to apply for attendance to one of North Carolina's charter schools. We frequently hear that schools vary in their interpretation of whether or not they may accept applications from out-of-state students if the parents or legal guardian "plan on moving" to the state prior to the beginning of the next school year.

According to discussions with an attorney in the Attorney General's Office, a student must be domiciled in NC to attend NC public schools, including charter schools. Therefore, students who are eligible to attend a traditional LEA would be accepted into a charter school subject to spatial constraints. Further opinions by the Attorney General's office indicate that the student is considered eligible to attend NC schools if the parents, or legal guardians, are domiciled with a permanent home in a NC school district.

Therefore, it is required that all applications for students accepted by NC charter schools be from parents who are currently legal residents of NC. It is insufficient that the parent intends to move here at some point in the future. The domiciliary must be in place at the time of the student application in order for that particular application to gain consideration in the charter school lottery.

Just as traditional schools require proof of permanent residency, charter schools should do likewise. Sample, but not exhaustive, documentation that can be examined to determine domiciliary is below:

- Copy of deed or record of most recent mortgage payment;
- Copy of lease agreement;
- A utility bill dated within the past 30 days, including: gas, water, electric, landline phone, cable, or satellite;
- A valid NC driver's license or NC photo identification card;
- A vehicle or property tax bill (dated within the past year); and
- A bank or credit card statement with a NC address (dated within the past 60 days)

The charter school will obviously need to make adjustments to any permanent residency requirements for students that are classified as homeless under the McKinney-Vento Act.

# SAMPLE APPLICATION FOR LOTTERY

## INITIAL APPLICATION FORM

Grades K – 12

Applying for GRADE: \_\_\_\_ (in YEAR 20xx-20xx)

Is this new student a sibling of a currently enrolled student? YES \_\_\_\_ NO \_\_\_\_

If you checked yes, please give name and current grade of sibling: \_\_\_\_\_

### NEW STUDENT INFORMATION:

STUDENT'S LEGAL LAST NAME, FIRST NAME, MIDDLE NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

STREET ADDRESS APT#, CITY, STATE & ZIP CODE: \_\_\_\_\_

HOME TELEPHONE NUMBER: \_\_\_\_\_ CELL PHONE (include area code) \_\_\_\_\_

RESIDENT COUNTY: \_\_\_\_\_

### PARENT/GUARDIAN INFORMATION

Parent Name: \_\_\_\_\_

Parent Address: \_\_\_\_\_

Parent email address: \_\_\_\_\_

PARENT/GUARDIAN SIGNATURE \_\_\_\_\_  
DATE: \_\_\_\_\_

**\*Please mail, fax, or hand-deliver completed forms to:**

Admissions Office  
XYZ Charter School  
123 Educational Highway  
Anytown, NC 55555  
FAX: (555) 555-5555