



CHARTER SCHOOLS

# ALERT

## ADMISSIONS POLICIES FOR PENNSYLVANIA CHARTER SCHOOLS: DON'T LOSE YOUR OWN LOTTERY

By Alan F. Wohlstetter and A. Kyle Berman

Who can forget the lottery scenes in the movie, “Waiting for Superman,” where hopeful students and their families wait expectantly for their seat at a quality charter school. This drama is replayed every spring in charter schools throughout the Commonwealth. Every charter school must have admissions policies in the parent/student handbook that not only comply with the Charter School Law, but also maximize the charter school payments that may be available for students. Without such policies in place, a successful charter school that is attracting students from inside and outside of Philadelphia might end up losing its own lottery.

### How Many Vacancies Do You Have?

It is important for the charter school to have all application materials readily available at the school and on its website, and for administrators to have an accurate count by March 15 of how many student openings they will have for next fall, broken down by grade. Of course, that breakdown is only the first step to knowing which children will be admitted. The charter school must also set the dates for the application deadline and the lottery. As the charter school receives completed applications, it creates a roster of applicants categorized by name, grade, address, home district, contact information and date of receipt of completed application, along with a note of any priority factor.

### Who Gets Priority?

A charter school may use criteria set in its charter to evaluate prospective students, so long as they are not

discriminatory, but only within the framework of the Charter School Law’s priorities.

The absolute first priority is to accept applicants from the “host district,” which is the district where the charter school is located. From there, other priorities include applicants whose parents actively participated in development of the charter school, siblings of existing students or other non-discriminatory criteria set forth in the school’s charter. However, if host district applicants equal or exceed the available seats in a particular grade, then no students from outside the host district can be admitted to that grade, even if they fit one of the other priorities.

Under the Charter School Law, discrimination is not permitted with respect to intellectual ability, athletic ability, measures of achievement or aptitude, disability, proficiency in the English language or any other basis that would be illegal if used by a school district. That being said, once a student is admitted, if he or she later moves from the host district to outside the host district, the student does not have to surrender their spot to a host district resident.

### Charter School Payments to the School

Under the Charter School Law, a student’s school district of residence must pay for a student to attend a charter school (inside or outside the district of residence) at the rate set according to the district of residence for each student. That rate differs for each school district. Where a school district refuses to pay, the Charter School Law lets charter schools report the failure to the Pennsylvania Department of Education (PDE) under the reconciliation

process and demand that PDE pay the charter school from the PDE subsidy due for the offending school district. A charter school has to be diligent about this, however, as the courts have held that PDE can only take such subsidy funds for the same year as the payment is due. For example, once PDE has paid a district its entire subsidy for 2010, PDE cannot thereafter withhold subsidy for 2011 or any succeeding year to enforce the 2010 charter school payments.

### **Objections to Payments from Non-Host School Districts**

Charter schools in Philadelphia have been attracting students from neighboring school districts for some time. Recently, however, those neighboring districts have challenged the admissions practices of charter schools in an effort to avoid paying the per-pupil cost. So far, they have been primarily focusing on whether the charter schools have properly followed the admission priorities set up in the Charter School Law. There is ongoing litigation concerning whether a non-host school district can receive the return of past payments going back for many years. But charter schools should be aware that even if that challenge for back payments by a non-host school district is rejected, challenges to improper charter school payments in the year in which payments are made would still be available.

### **Winning the Lottery**

To recap, putting the appropriate admissions policies in place, a quality charter school can maximize its enrollment

and its charter school payments.

- Make sure your parent/student handbook has admissions policies with a clear date by which returning students must give notice and a clear process for how the lottery will be held.
- A charter school may establish reasonable criteria to evaluate prospective students which must be outlined in the school's charter. First priority, however, must be given to applicants who live within the host district. Priority may also be given to applicants whose parent actively participated in the development of the charter school, as well as siblings of existing students.
- PDE has set up a reconciliation process where charter school payments that are wrongly withheld by a school district will be sent directly to the charter school from PDE and deducted from the PDE payments due the offending school district. Prompt billing with all required follow-up where a student's home school district does not pay quickly is essential.

With the number of quality charter school seats and deserving students out of balance, keeping these rules in mind will help ensure that when you run your lottery, everyone wins.

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