

# Charter School Admissions and Enrollment Guidance

## Introduction

The Minnesota Department of Education (MDE) developed this guidance to provide technical assistance to charter schools, authorizers, parents and other community members about admissions and enrollment policies and practices. This document does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. It is not a comprehensive or definitive response to a specific legal situation.

[Minnesota Statutes 2021, section 124E.11](#) states a charter school cannot “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 [section 124E.11].” In addition, charter schools are required to comply with the [Minnesota Human Rights Act](#), specifically [Minnesota Statutes 2021, section 363A.13](#), which prohibits educational institutions from discriminating against students based on a protected class including race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation or disability. These provisions set forth the guiding principles concerning charter school admissions and enrollment.

## Information Allowed on Applications for Admission

The application for admission is a document provided to prospective students/families and/or made available on the charter school’s website. It is also known as an application for enrollment, admissions application, enrollment application, charter school application, etc. The application for admission is completed by families to indicate their desire for their student(s) to be admitted to the charter school. Based on the number of applications received, a charter school may have to conduct a [lottery](#) to determine who will be admitted to the school.

Charter schools may only seek basic information about applicants seeking admission, such as the student’s name, name of parent or guardian, contact information, and the grade or program for which the student is applying, and information related to possible enrollment preferences for which the prospective student may qualify. Additional information such as race, age, ethnicity and disability status can be collected on [enrollment forms](#) once a student has been admitted to the school.

The Minnesota Human Rights Act specifically protects the rights of Minnesota students in educational settings and governs what information may or may not be asked of an individual seeking admission to a charter school on an application for admission or enrollment form. [Minnesota Statutes 2021, section 363A.13](#), provides the following:

Subdivision 2. **Exclude, expel, or selection.** It is an unfair discriminatory practice to exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability.

Subdivision 3. **Admission form or inquiry.** It is an unfair discriminatory practice to make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the creed, religion, sexual orientation, or disability of a person seeking admission, except as permitted by rules of the department.

Subdivision 4. **Purpose for information and record.** It is an unfair discriminatory practice to make or use a written or oral inquiry or form of application that elicits or attempts to elicit information, or to keep a record concerning the race, color, national origin, sex, age, or marital status of a person seeking admission, unless the information is collected for purposes of evaluating the effectiveness of recruitment, admissions, and other educational policies, and is maintained separately from the application.

Questions designed to evaluate the effectiveness of marketing or recruitment strategies such as “How did you hear about us?” or “Why did you choose to apply to this school?” should not be asked on applications for admission, as the answers could disclose identifying characteristics about a student’s protected class status. These types of questions can be asked of a student or family after the student is formally admitted to the charter school if such information is maintained separately from the application.

## Information Allowed on Enrollment Forms

The enrollment form is provided to families once their student has been formally accepted in order to register him or her at the charter school. It is also known as an enrollment packet, registration form, registration packet, etc. Enrollment forms request additional information about the student, such as date of birth, race/ethnicity, special education status, disability data, etc. This information is used to fulfill state and federal reporting requirements, place the student in an appropriate program or class, and identify resources or supports the charter school will provide to enable the student to succeed. In addition, all parents and guardians enrolling a student must complete a Minnesota Language Survey which should be on a separate page of the enrollment packet.

## Limits on Admissions

Minnesota Statutes 2021, section 124E.11(a) sets forth three instances where charter schools, including its preschool or prekindergarten program established under Minnesota Statutes 2021, section 124E.06, subdivision 3, paragraph (b) may limit admission, which are as follows:

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.

Per [Minnesota Statutes 2021, section 124E.03, subdivision 2\(j\)](#), “A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections [121A.40](#) to [121A.56](#).” The Pupil Fair Dismissal Act provides the requirements charter schools must follow when dismissing a student from the school’s education program. As described in [Minnesota Statutes 2021, section 121A.41](#), dismissal means the denial of the current educational program to any pupil, including exclusion, expulsion and suspension. Exclusion means an action taken by the school board to prevent enrollment or reenrollment of a pupil for a period of time that shall not extend beyond the school year. Expulsion means a school board action to prohibit an enrolled pupil from further attendance for up to 12 months from the date the pupil is expelled.

Charter schools must comply with kindergarten and first grade eligibility requirements and may limit admission to students who meet these requirements. As provided in Minnesota Statutes 2021, section 124E.11(d), to attend kindergarten, a student must be “at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences,” and to be eligible for first grade, a student must be “at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that a charter school may establish and publish on its website a policy for admission of selected pupils at an earlier age” consistent with enrollment preferences and processes provided in Minnesota Statutes 2021, section 124E.11(b) and (c). The charter school determines the criteria that allows admission of kindergarten and first grade students at earlier ages than those required by statute. When developing early entrance admission policies, charter schools are encouraged to align with best practice based on Minnesota Statutes 2021, section 124D.02.

## Lottery Process

As required by Minnesota Statutes 2021, section 124E.11(b), all students who submit timely applications to a charter school must be enrolled unless the number of applications exceeds the capacity of a program, class, grade level or building. (Please note, “program” or “class” does not refer to a special education program or class for students with disabilities.) If a charter school faces a situation in which the number of applications exceeds the school’s capacity, then students must be accepted by lottery. The charter school must develop and publish on its website a lottery policy and process that it must use when accepting pupils via lottery.

## Enrollment Preferences

Minnesota Statutes 2021, section 124E.11(c) establishes certain preferential situations in which specific students must be given preference in admission over other students in the lottery pool. Enrollment preference are as follows:

### **Mandatory enrollment preferences (these are legally required)**

- A sibling of an enrolled student.
- Foster child of an enrolled student’s parents.

- Note: Statute does not indicate that foster children must be in “long-term placement.”
- For K-6 charter schools located in Duluth township in St. Louis County, students residing within a five-mile radius of the school and to siblings of enrolled students.

**Optional enrollment preferences (these are preferences the law allows but are not required)**

- Children of the school’s staff.
- Children currently enrolled in the school’s free preschool or prekindergarten program who are eligible to enroll in kindergarten in the next school year. The early learning program must be free for all children.
  - Note: If a student is enrolled in a charter school preschool or prekindergarten program for free (via scholarship or some other funding source), but other students in the early learning program pay tuition, then none of the students can receive enrollment preference because the early learning program is not free to all participants.

All enrollment preferences applicable to a specific charter school should be stated in that school’s published lottery/enrollment policy and process (i.e, all applicable mandatory preferences, and all optional preferences approved by the school, should be explicitly stated).

## Other Considerations

### 15 Consecutive Days Absent

Minnesota Statutes 2021, section 124E.11, paragraph (g) indicates, “Once a student is enrolled in the school, the student is considered enrolled in the school until the student formally withdraws or is expelled under the Pupil Fair Dismissal Act in sections [121A.40](#) to [121A.56](#).”

MDE’s Minnesota Automated Reporting Student System (MARSS) Manual indicates, “Minnesota Statutes, section 126C.05, subdivision 8 requires students to be withdrawn after 15 consecutive days absent unless instruction is being provided in the home, e.g., homebound instruction. There are no Executive Orders that allow students to remain on the rolls after reaching 15 consecutive days of absence.” This financial statute and the MARSS Manual provide guidance for school finance purposes only, but under section 124E.11, paragraph (g), a charter school is not permitted to withdraw the student unless the student formally withdraws (i.e., through an direct, express action) or is expelled by the charter school according to the provisions of the Pupil Fair Dismissal Act. See the MARSS Data Elements guide, which provides guidance on using Status End Code 14 (page 109 in the MARSS Data Elements) when a student is “Absent for 15 consecutive school days during the regular school year and no notice of withdrawal or request for records have been received” (among other criteria)). When 15 consecutive absences are exceeded, a charter school must remove a student from the rolls for funding purposes using Status End Code 14; however, the student remains enrolled in the school and the school maintains its obligations to the student for education, special education services, truancy follow-up, etc.

### Out-of-State Enrollment

A Minnesota public school, including a charter school, may serve a resident of another state. However, that student would not be eligible for Minnesota state aid. The public school may charge the family tuition at

whatever rate the two entities agree to. The school is not obligated to serve a student who is a resident of another state. The student would be reported in MARSS with State Aid Category 15 – ineligible for state funding. Please note, residents of other states cannot be admitted before Minnesota residents.

## **Admission of Homeless Students**

Please note that homeless youth and foster youth have additional legal protections which permit them to enroll in a school, even if the school has reached its enrollment cap, before documentation and paperwork may be in place with the school. Please ensure compliance with the law which provides for immediate enrollment of homeless, highly mobile and foster children in a new school if it is in the child's best interest, even if the child is unable to produce records normally required for enrollment. (See Minnesota Statutes, section 260C.212 (8)(ii), the federal Every Student Succeeds Act, section 1111 (g)(1)(E)(ii), and the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act, section 722 (g)(3)(C)).

## **Conclusion**

Charter schools must comply with federal and state laws applicable to charter schools, including Minnesota's Charter School Law, Chapter 124E, and the Minnesota Human Rights Act, Chapter 363A, when enrolling students and placing them in appropriate programs. Charter schools may seek basic information about students or their parents/guardians for the purposes of admissions, but may not use information sought about students or their parents/guardians for discriminatory purposes. Protected class data can only be collected after the student has gone through the admissions process and is enrolled. Charter schools may seek additional information about a student to assist with placement once a student is enrolled if this information is kept separate from a student's initial application. Certain limits on admissions and enrollment preferences are required of charter schools, while others are optional.

Please contact the Charter Center at [mde.charterschools@state.mn.us](mailto:mde.charterschools@state.mn.us) or 651-582-8297 if you have questions about charter school application and/or enrollment policies and processes.