



Arizona State Board for Charter Schools

Student Enrollment Guidance

Arizona charter schools shall enroll all eligible pupils and shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, and proficiency in the English language or athletic ability. Further, a school's enrollment policy or implementation of its enrollment policy should not have a disparate impact (i.e. a disproportionate and unjustified effect on a particular group or class of students).

The following guidance is provided to assist charter schools in reviewing their enrollment policies and documents to ensure that the enrollment process does not violate the rights of students. This guidance should not be considered legal advice; therefore, please consult your attorney for additional clarification or if you have questions.

Can charter schools limit their admission of students with disabilities or limit the amount or type of services they provide to a student with disabilities?

No. Charter schools are obligated to provide students with disabilities "a free appropriate public education that emphasizes special education and related services designed to meet their unique needs. . ." 20 U.S.C. § 1400(d)(1)(A) (The Individuals with Disabilities Education Act [IDEA]); A.R.S. §§ 15-183(E)(7), -763(A). Charter schools are prohibited from limiting the number of special education students they enroll or turning away students with disabilities or special needs. A.R.S. § 15-184(F) ("[A] charter school shall not limit admission based on . . . disabling condition . . .") Nor may a charter school limit the amount or type of special education or related services that it provides a particular child with a disability. A.R.S. § 15-763(A) ("All children with disabilities shall receive special education programming commensurate with their abilities and needs."); 20 U.S.C. § 1411 *et seq.* A charter school also cannot decline to provide the special education or other services required by a particular child with a disability on the basis that it does not currently offer those services (this includes the practice of "screening" or "counseling out" children and parents during the admission or enrollment process). *See Andrew F. ex rel. Joseph F. v Douglas County School Dist. RE-1*, 137 S. Ct. 988, 999 (2017) ("To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.").

It is recommended you speak with your legal counsel if you have questions about enrolling a prospective student that has a disability. Additionally, you may view the *Know Your Rights: Students with Disabilities in Charter Schools*, U.S. Department of Education, Office for Civil Rights (2016) at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-charter-school.pdf>.

Can a charter school require parents to provide a government-issued ID or a Social Security number for themselves or their children for admission to the charter school?

No. Charter schools may not require parents to provide a government-issued ID or a Social Security number for themselves or their children in order to enroll in or attend the school. See *Fact Sheet: Information on the Rights of All Children to Enroll in School* (2014) <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/08/plylerfact.pdf>.

Is a birth certificate required for admission to a charter school?

No. The obligation of a charter school to require and maintain verifiable documents of Arizona residency for students enrolling in the school must be undertaken in accordance with guidelines adopted by the Arizona Department of Education. The Department's guidelines identify the documentation required to meet this legal requirement; the guidelines do not require a student's birth certificate. See *Arizona Department of Education Arizona Residency Guidelines* (revised June 1, 2017) at <http://www.azed.gov/policy/files/2017/06/revised-residency-guideline-2017-1.pdf>. Charter schools may not ask or require parents to disclose or document their citizenship or immigration status to establish residency, nor may a charter school deny a homeless child (including a homeless child who is undocumented) enrollment because s/he cannot provide the required documents to establish residency. 42 U.S.C. § 11432(g)(3)(C)(i). See *Fact Sheet: Information on the Rights of All Children to Enroll in School* (2014) <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/08/plylerfact.pdf>.

In requesting documentation of a student's age and identity, Arizona law allows for a number of alternatives:

1. A certified copy of the student's birth certificate;
2. Other reliable proof of the student's identity and age, including the pupil's baptismal certificate, an application for a social security number or original school registration records and an affidavit explaining the inability to provide a copy of the birth certificate; or
3. A letter from the authorized representative of an agency having custody of the student pursuant to A.R.S., Title 8, Chapter 2 certifying that the student has been placed in the custody of the agency as prescribed by law. (A.R.S. § 15-828(A))

Charter schools must accept any of these forms of verification of a student's age and identity. Proof of a student's age and identity is not required for homeless students. (A.R.S. § 15-828(I))

Can a charter school give enrollment preference to students based on their academic performance or other pre-enrollment activities?

No. Charter schools may not give enrollment preference to students based on their academic performance. Nor may charter schools discourage or deny enrollment or re-enrollment to students who do not meet certain academic standards. "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.R.S. § 15-184(A). While charter schools may give enrollment preferences to certain pupils (e.g., returning students, siblings of pupils already enrolled in the charter school, children in foster care, homeless children, children of employees, and students within a certain age group or grade level), charter schools may not enroll students with higher test grades over students who are struggling academically. *Id.* at (B), (C), (D), (G), (H).

Charter schools also cannot require students or their parents to complete pre-enrollment activities, such as essays, interviews, or school tours as conditions of or prior to enrollment or re-enrollment.

Can a charter school deny enrollment to students who have been suspended from a prior school?

No. Arizona law defines the parameters of charter school admission requirements. A.R.S. § 15-184. “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.R.S. § 15-184(A). A charter school may limit admission “to pupils within a given age group or grade level” and “to pupils of a single gender, with the approval of the sponsor of the charter school.” A.R.S. § 15-184(G), (H). In 1999, the Arizona Legislature extended to charter schools the authority already granted to school districts to refuse admission to a pupil who was expelled or being expelled.

Current statute allows a district school to refuse admission of a pupil who has been expelled or is being expelled from another public school . . . H.B. 2293 statutorily allows a charter school to refuse admission of a pupil who has been expelled or is being expelled from another school in the same manner as a district school.

Arizona State Senate Fact Sheet for H.B. 2293, 1st Reg. Sess., 1999; A.R.S. § 15-841(C); A.R.S. § 15-184(I) (“A charter school may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.”). Arizona law does not authorize a charter school to deny enrollment to a student who has been or is in the process of being suspended or long-term suspended.

Can a charter school exclude students on the basis of proficiency in the English language?

No. Charter schools are prohibited from limiting admission on the basis of “ethnicity, national origin, gender, income level, disabling condition, and proficiency in the English language or athletic ability.” A.R.S. § 15-184(F). Moreover, the manner in which a charter school identifies the primary or home language of newly enrolled students is prescribed by the Arizona Superintendent of Public Instruction. A.R.S. § 15-756(A). The website of the Arizona Department of Education contains the state-approved Primary Home Language Other Than English (PHLOTE) Home Language Survey that charter schools are required to use to determine whether a student will be assessed for English Language Proficiency. <https://cms.azed.gov/home/GetDocumentFile?id=55230f61aadebe0aa4096768>. The Survey form contains three questions and advises parents that “[r]esponses to these statements will be used to determine whether the student will be assessed for English Language Proficiency.” *Id.* Charter schools are prohibited from altering the form in any way. <http://www.azed.gov/oelas/forms/>. Charter schools must educate students who are English learners through sheltered English immersion. A.R.S. § 15-752.

Charter schools must communicate to limited English proficient parents in a language they can understand about any program, service, or activity that is called to the attention of parents who are proficient in English. See *Information for Limited English Proficiency (LEP) Parents and Guardians and for Schools and School Districts That Communicate with Them*, U.S. Dep't of Justice, Civil Rights Division, and U.S. Dep't of Education, Office for Civil Rights at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-lep-parents-201501.pdf>. This includes the communication of information related to enrollment in school and school programs. *Id.* The state-approved English Learner ("EL") forms are made available online in English and Spanish at <http://www.azed.gov/oelas/forms/>.

Can a charter school require parental involvement or a sum of money as a condition of enrollment or continued enrollment?

No. The Arizona Constitution (Article 11) guarantees children a free public education. Charter schools are precluded from charging tuition. A.R.S. § 15-185(B)(6). Generally, "tuition" is the price or payment for instruction. See Merriam-Webster at <https://www.merriam-webster.com/dictionary/tuition> (December 20, 2017). Charter schools may not require parental involvement or a sum of money as a condition of enrollment or continued enrollment. Charter schools can charge fees for extracurricular activities, but they cannot charge fees for activities or items that are part of the required curriculum, rather than optional. See A.R.S. § 15-185(B)(6); See Ariz. Att'y. Gen. Op. I98-007 at footnote 9 ("... if a charter school offers a curriculum with an emphasis on fine arts, performing arts, or vocational education, see A.R.S. § 15-183(E)(3), courses in such areas would be part of the required curriculum, rather than optional, and no fees may be charged. See A.R.S. § 15-185(B)[6].") When a charter school assesses fees, its governing body must "ensure that all fees contain a provision that allows the fees to be waived in the event of economic hardship to the pupil." A.R.S. § 15-116(A). The nonpayment of fees charged by a charter school may not prevent a student from enrolling in, applying to or remaining enrolled in the school. A.R.S. § 15-116(B). When requesting a donation from a parent, charter schools should make clear that any donation to the school is voluntary and is not a prerequisite for student enrollment or continued enrollment. See A.R.S. § 15-185(B)(6).

The material contained in this document is for informational purposes only. The information is not intended to be and should not be considered legal advice. Charter schools should consult their own legal counsel for further information and advice.