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**August 2, 2012**

**TO THE CHARTER ADMINISTRATOR ADDRESSED:**

**Re: Admission, Enrollment, and Withdrawal**

This letter summarizes several important statutes relating to open-enrollment charter school admission, enrollment, and withdrawal. We hope you will find this summary helpful as you begin the 2012-2013 school year. For more information addressing both charters and school districts, see the separate To the Administrator Addressed letter regarding attendance, admission, enrollment records, and tuition.

### **I. Admission and Enrollment**

As stated in the separate letter, §25.001<sup>1</sup> applies to open-enrollment charter schools for purposes of determining whether a student meets the residence requirements for the open-enrollment charter school's designated geographical boundary. However, there are other considerations unique to charters that are discussed in this letter.

Unlike a school district, an open-enrollment charter school may have an application deadline.<sup>2</sup> Once the application deadline has expired, a charter school is required to accept all timely applications from students who meet the residency requirements for the open-enrollment charter school's designated geographical boundary<sup>3</sup> up to the maximum enrollment capacity set out in the charter.

The charter for an open-enrollment charter school must designate a primary geographical boundary for the charter school. It also may have designated a secondary boundary approved in the original charter or via the charter amendment process. If a charter school has enrolled all eligible applicants from the primary geographical boundary but its enrollment has not reached the maximum number of students approved in its charter, it may admit students from its secondary geographical boundary in accordance with the terms of its charter.<sup>4</sup> Please note, however, that most charters include only primary geographical boundaries.

If more students apply to the charter school than can be accommodated, a charter school should allocate spaces through a lottery process or fill available positions in the order in which applications were received before the application deadline if notice to the public is provided as required in by statute.<sup>5</sup> In order to receive federal Charter School Program (CSP) funds, a charter school must have a lottery process.<sup>6</sup>

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<sup>1</sup> All statutory citations are to the Texas Education Code unless otherwise noted.

<sup>2</sup> See §12.117(a)(1).

<sup>3</sup> See §12.111(a)(14).

<sup>4</sup> See Id.

<sup>5</sup> See §12.117(a)(2) and (b).

<sup>6</sup> See 20 U.S.C. §7221i(1)(H); U.S. Dept. of Educ., Charter Schools Program, Non-regulatory Guidance at <http://www2.ed.gov/programs/charter/nonregulatory-guidance.html>.

A charter school's admissions policy may not discriminate against students on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability or the district the child would otherwise attend.<sup>7</sup>

A charter school may have an admissions policy that requires a student to demonstrate artistic ability if the school specializes in performing arts. No student auditions can be required prior to admission and enrollment at a charter school unless the charter school was originally approved by the State Board of Education (SBOE) as a performing arts school with an audition component or the charter was amended by the commissioner of education to designate the school as a performing arts school with an audition component.<sup>8</sup>

A student may be ineligible for admission to a charter school based on a history of a criminal offense, a juvenile court adjudication, or discipline problems under Chapter 37, Subchapter A, only if the exclusion was specifically approved by the SBOE when the charter was originally awarded, or if the charter was amended by the commissioner of education to allow this exclusion. It must be noted that the exclusion is allowed only for those serious discipline problems specified in Chapter 37, Subchapter A.<sup>9</sup>

As mentioned above, while there are specific statutes that allow audition components for performing arts charter schools and exclusion of students with documented histories of discipline problems, there are no statutes that allow for required parental interviews or attendance at meetings with school officials prior to admission or during their student's enrollment at the school. Likewise, parents cannot be required to volunteer or make payment in lieu of volunteering as a condition of admission to or enrollment at an open-enrollment charter school.

If space is available, an eligible student must be admitted and enrolled on any day at any time of the day and must be counted as and considered a charter student immediately. Open-enrollment charter schools cannot have specified days for admission and/or enrollment of students. State law does not allow for a trial enrollment period at a public school; therefore, there can be no period of time in which a student attends a charter school without being enrolled as a charter school student.

## **II. Withdrawal and Expulsion**

A student who fails to comply with the charter school's student code of conduct may not be administratively withdrawn. If a student commits an expellable offense, as outlined in the student code of conduct, charter administrators may expel the student only after due process has been afforded to the student, and the charter holder board has determined that expulsion is the appropriate consequence.<sup>10</sup> The charter holder shall notify the school district in which the student resides within three business days of any action expelling or withdrawing a student from the charter school.<sup>11</sup>

We hope this summary is helpful to you in preparing for the 2012-2013 school year. If you have questions about the statutory provisions summarized in this letter, you are welcome to call the Office of Legal Services at (512) 463-9720.

Sincerely,

David Anderson, General Counsel  
Texas Education Agency

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<sup>7</sup> See §12.111(a)(6)

<sup>8</sup> See §12.1171

<sup>9</sup> See §12.111(a)(6)(A)

<sup>10</sup> See §12.131

<sup>11</sup> See 19 T.A.C. §100.1211(c)