

Memorandum

To : Marta Reyes
Charter Schools Division

Date : February 9, 2006

From : Michael Hersher
Deputy General Counsel

Subject : Parent participation as charter school admission requirement

You have requested a legal opinion whether a charter school may require a parent to sign an agreement to perform certain hours of work for the benefit of the charter school, as a condition of admitting a student to the school. In my opinion, such a requirement is within the discretion of a charter school and does not prevent an authorizing entity from approving the charter.

With regard to who may enroll in a charter school, the Charter School Act has several provisions that refer to “admission requirements” and others that refer to “admission preferences.” The distinction appears to be that a “requirement” applies to an individual student’s eligibility to apply at all, while a “preference” allows certain categories of students to compete with each other when there are more applicants than spaces in the school. After applying the allowable preferences, if there are still more applicants than spaces, charter schools are authorized to conduct lotteries to select students for enrollment.

Education Code section 47605(b)(5)(H) states a charter petition must include a reasonably comprehensive description of the “admission requirements, if any.” This provision implies that a charter school may set reasonable limitations on which students may apply for admission. Section 47605(d)(2)(A), however, says “a charter school shall admit all pupils who wish to attend the school.” That provision seems to conflict with the previously quoted section in suggesting that all pupils are eligible to be admitted without limitation. It also conflicts with, or is limited by, the various preferences that charter schools may allow that limit the duty to “admit all pupils who wish to attend.” In order to harmonize these provisions of the overall statutory scheme, it seems reasonable to interpret Section 47605(d)(2)(A) as requiring that charter schools admit all students,

regardless of residence, who meet the lawful criteria for admission and/or preference stated in the petition.

In terms of the criteria that are not lawful, Section 47605(d)(1) states a charter school's admission policies must be nonsectarian, may not require tuition, may not discriminate on the basis of ethnicity, national origin, gender, or disability, and may not be based on the residence of the parents or guardians. However, specific preferences are allowed for pupils currently attending a converted charter school, pupils who reside within the attendance area of the former attendance area of that converted school, and pupils who reside in the school district of the converted school. In addition, a charter school that is not a conversion school may also give preference to pupils from the school attendance area in which the charter school is located, if the public school in that area has more than 50 percent pupils eligible for free and reduced price lunches based on family income. (Educ. Code sec. 47605.3.)

In conclusion, the Charter School Act does not expressly address the issue of parent participation requirements for admission to a charter school. Parent participation is not one of the expressly prohibited criteria for admission or preference and is a factor that is relevant, if not integral, to the educational goals and philosophy of a charter school. Given the flexibility that was intended by the Charter School Act and the number of statutory limitations on admission that are already permitted, it is my opinion that a charter petition may lawfully include reasonable admission criteria, including a requirement that parents agree to do work for the charter school.