

**MEMORANDUM**

To: Charter School Leaders and Charter School Authorizers

From: Nathan Williamson, Director of Title Grants and Support  
Cole Dietrich, Assistant Director of Charter Schools and Special Programs

Date: June 21, 2019

Re: House Enrolled Act 1641 - Charter School Enrollment (2 of 2)

**Background:**

House Enrolled Act (HEA) 1641, as authorized in the 2019 legislative session, allows a charter school to provide preferential enrollment to siblings of student alumni or affiliated charter schools, such as those within the same network or organizer. In addition, it provides that a student who attends a charter school co-located in the same building as another charter school may also receive preferential admission. All instances can only occur if the preference is specifically included in the charter school's charter agreement and is approved by the charter school's authorizer.

However, charter schools who exercise these flexibilities may impact their eligibility for federal Charter School Program (CSP) funding.

**Guidance:**

While these actions are permitted under state statute effective July 1, 2019, such enrollment policies may jeopardize a charter school's ability to meet the federal definition of a public charter school with open enrollment. Per federal statute and guidance, charter schools must equally admit all children until capacity is reached, and then institute a lottery. In accordance with guidance from the U.S. Department of Education, charter schools not meeting the federal definition of a charter school will not be eligible for subgrants as part of the Charter School Program-Quality Counts grant.

Federal statute does allow for preferential enrollment of students who are:

- Enrolled only in the immediate prior grade level of an affiliated charter school, and not any student enrolled in the co-located school. (e.g. grade six students of Charter School A may be preferentially enrolled in grade seven of affiliated Charter School B).
- Siblings of current students enrolled in the charter school, and not just siblings of alumni that the state statute authorizes.
- Children of a charter school's founders, teachers, and staff (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment, which has been defined as 10 percent).

In all other instances, the charter school must equally enroll all students. Federal guidance has also prohibited providing preferential enrollment to students who attend an affiliated preschool.

In order to remain eligible for Charter School Program-Quality Counts grants, charter schools must ensure their enrollment policies allowing for enrollment preferences meet the definition of a public charter school in accordance with Section 4210 of the Elementary and Secondary Education Act and do not allow for enrollment preferences beyond those allowed for in federal statute and guidance.

If you have any questions, please contact Cole Dietrich at 317-233-0786 or e-mail at [adietrich@doe.in.gov](mailto:adietrich@doe.in.gov).

This bill was authored by Representative Bob Behning. The full bill text can be found [here](#). Information regarding how to contact your legislators can be found [here](#).