

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Part CXXXIX. Bulletin 126--Charter Schools

(LAC 28: CXXXIX.2701, 2703, 2707, and 2709)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17:6. to amend LAC 28: CXXXIX, *Bulletin 126--Charter Schools*: §2701. Students Eligible to Attend, §2703. Enrollment Capacity, §2707. Application Period, and §2709. Enrollment of Students, Lottery, and Waitlist. This Declaration of Emergency, effective August 19, 2016, will remain in effect for a period of 120 days, or until finally adopted as Rule.

The proposed revisions enable state-authorized charter schools to enroll students displaced as a result of the recent federally declared disaster, *Louisiana Severe Storms and Flooding (DR-4277)*. BESE has exercised the emergency provision in the adoption of these policy revisions to ensure students impacted by DR-4277 continue to receive a high-quality education as their communities and schools rebuild.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126 – Charter Schools

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. Type 2 Charter Schools. Students meeting residency requirements established in a type 2 charter school's charter are eligible to attend a type 2 charter school. A type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

1. Type 2 charter schools shall collect and verify documents substantiating the residency of each student prior to submitting residency information to statewide student information system. Acceptable documents shall be as follows:

- a. mortgage (if owned);
- b. tax assessor's bill (if owned);
- c. homestead exemption bill (if owned);
- d. current lease of residence for the school year (if leased);
- e. current rent receipt (if leased);
- f. previous two months utility bill (Disconnect notices are not acceptable:
 - i. gas;
 - ii. water or sewer;
 - iii. telephone (land line only);
 - iv. cable or satellite television bill;
 - v. internet service;
- g. current driver's license or government-issued identification;
- h. current official letter from a government agency such as Department of Children and Family Services or Department of Health regarding services provided; or
 - i. current bank statements.

2. The name of the parent or legal custodians must appear on each document and the addresses must match on all documents. The residency information must be updated annually prior to the start of school for the student to be enrolled in that school year.

3. If the parent or legal custodian neither owns nor rents a residence and is therefore living with another individual, the parent or legal custodian must provide a notarized affidavit of residency signed by the parent or legal custodian of the student as well as the individual with whom the parent or legal custodian is living. The affidavit of residency must attest to the following:

- a. student's name;
- b. name of parent or legal custodian;
- c. address of parent or legal custodian;
- d. name of the person with whom the parent or legal custodian is living;
- e. a statement of attestation by the parent or legal custodian that the student is living with him at the address recorded on the affidavit and that the student has no other residence or domicile; and
- f. a statement of attestation by the person with whom the parent or legal custodian is living that these persons in fact live with the individual listed.

4. The person with whom the parent or legal custodian and student are living (who has signed the notarized affidavit) must provide three forms of evidence of residency from the acceptable list of documents outlined above.

5. If parents are separated, divorced or if the legal custodian is other than the biological parents, legal custody documents, signed by a judge with a docket number, indicating the legal custodian or domiciliary parent must be provided.

6. The residency requirements must also be included in the application requirements section contained in exhibit D of the type 2 charter school contracts.

7. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the Type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a Type 4 charter school, unless an agreement with another city, parish, or other local school board is reached to allow students to attend the charter school.

C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such Type 5 charter schools which have capacity for another student in the appropriate grade.

D. Type 5 Charter School Transferred Pursuant to R.S. 17:10.7. Students eligible to attend a Type 5 charter school transferred to the jurisdiction of the recovery school district include any student eligible to attend any school in the system from which the school was transferred. Students eligible to attend such Type 5 charter schools may be required to reside in a designated attendance zone, as set forth in a charter school's approved charter.

E. Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a Type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this Bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5 charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

F. Notwithstanding the residency eligibility and verification requirements above, upon approval of the state superintendent, a charter school may enroll a student without such documentation who has been displaced due to a federally declared disaster in Louisiana or surrounding states. As a condition of enrollment, the parent or legal custodian must provide a form signed by the parent or legal custodian of the student that must attest to the following:

- a. student's name;
- b. name of parent or legal custodian;
- c. current address of parent or legal custodian;
- d. statement indicating that the student is displaced from another school due to a federally declared disaster; and
- e. name of the school in which the student was previously enrolled prior to the federally declared disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016).

§2703. Enrollment Capacity

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter.

B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

C. In the event of a federally declared disaster in Louisiana or surrounding states, the state superintendent may approve a charter school to exceed 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter solely for the purpose of enrolling students who have been displaced from their homes or are unable to attend the school in which they were previously enrolled or zoned to attend. The state superintendent shall provide a report to the state board at its next regularly scheduled meeting outlining each charter school granted an increase in its enrollment capacity pursuant to this paragraph. Students enrolled pursuant to this paragraph shall be permitted to remain enrolled in the charter school for the remainder of the school year. Parents or legal custodians found to have misrepresented their displacement status shall be required to return to the school in which the student was previously enrolled or zoned to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008).

§2707. Application Period

A. Prior to each school year, a charter school shall establish a designated student application period.

B. A student application period shall not be less than one month nor more than three months.

C. Type 5 charter schools shall comply with any unified application period set by the recovery school district, as approved by BESE.

D. An application shall be considered timely if it is submitted during the charter school's designated application period.

E. In the event of a federally declared disaster, a charter school may accept applications for students displaced due to the disaster outside of the designated student application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012).

§2709. Enrollment of Students, Lottery, and Waitlist

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school. Additionally, students displaced as a result of a federally declared disaster who submit an application and the form specified in §2701.F of this Bulletin shall be considered eligible to enroll in a charter school.

B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

C. A charter school shall admit no pupil during the school's designated application period, but shall wait until the period has ended.

D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.

1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.

2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.

a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.

b. If a charter school's enrollment capacity is increased for the purpose of enrolling students displaced due to a federally declared disaster and the charter school's designated application period has passed, the charter school may enroll students displaced due to a federally declared disaster on a first come, first served basis until the enrollment capacity is reached.

E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.

F. A charter school's lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with all at-risk student population requirements. Nothing herein shall preclude the implementation of a weighted lottery to ensure all at-risk student population requirements are met.

G. Any charter school not participating in the recovery school district's unified enrollment system in Paragraph J of this Section shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.

2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.

H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.

I. The charter school shall repeat the student admission process described in this Section each year.

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.

1. Upon request of a charter operator, the department shall allow an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

2. In addition, the Department of Education shall manage a pilot program wherein the department shall allow an enrollment preference for those students matriculating or transferring into ninth grade or above between eligible BESE-authorized charter schools for a limited percentage of the seats in the charter school, to be determined by the department. The department shall develop an application process for participation in the pilot program which shall evaluate factors including the applying charter schools' past demonstration of success in preparing at-risk and low-performing students for college and/or career, and the submission of an innovative proposal to utilize the enrollment preference to further this success. The department shall collect relevant data on the pilot program in order to prepare a report to be presented by the state superintendent to BESE no later than January, at which time BESE shall consider the continuation of the pilot program based on the results of the report. The report shall include data and information including, but not limited to:

a. the demographic and academic backgrounds of students utilizing the preference;

b. the number and percentage of students who matriculated or transferred into participating schools;

c. the number and percentage of students who were admitted to the school utilizing the enrollment preference; and

d. the number and percentage of students attempting to enroll or transfer in the charter school who were ineligible to utilize the enrollment preference.

K. Beginning with the enrollment process to place students for the 2014-2015 school year, all BESE-authorized charter schools (type 2, type 4, and type 5 charter schools) and type 1b charter schools physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools. The department of education shall have discretion to determine on an individual basis whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools and type 1B charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain authority over the approval of amendments to charter contracts for such type 2 and type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015).