

Schools Choosing Students

How Arizona Charter Schools Engage in Illegal and Exclusionary
Student Enrollment Practices and How It Should Be Fixed



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La versión íntegra de este reporte, y todos los datos de apoyo está disponible en [**www.acluaz.org/EscuelasEscogiendoEstudiantes**](http://www.acluaz.org/EscuelasEscogiendoEstudiantes).

When “School Choice” Means that Schools Choose Their Students

In the 1990s, Arizona became one of the nation’s first adopters of charter schools. The vision was to give parents more academic choices for their children and to provide learning environments more tailored to students’ individual needs. In many cases, however, Arizona’s charter school program has had the opposite result: Charter schools are choosing students who fit their mold.

Indeed, more than two decades after charter schools emerged in Arizona, admission policies and procedures at many of the state’s charter schools unlawfully exclude some students or create barriers to their enrollment. Many schools have been able to get away with exclusionary practices for years without accountability.

Though charter schools operate independently, they are part of Arizona’s public education system and use taxpayer funds. As such, they are required to “enroll all eligible pupils who submit a timely application.”¹ If more students apply than can be accommodated, schools can randomly select students through a lottery system.² Arizona charter schools are also forbidden from discriminating against students on the basis of “ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language or athletic ability.”³

But an analysis of Arizona charter schools’ enrollment materials shows many schools have policies and procedures that are clearly illegal or exclusionary. Specifically, out of the 471 Arizona charter schools that were analyzed, at least 262, or 56 percent, have policies that are clear violations of the law or that may discourage the enrollment of certain students.

There are currently 543 charter schools in Arizona (this total may vary slightly depending on factors such as whether a joint middle-high school is counted as one school or two). However, 72 schools do not make their enrollment materials available on the Internet and did not respond to requests for those public records, violating their obligations under Arizona’s public records law and making it impossible to analyze these schools on most or all enrollment metrics. The analysis focused on whether charter schools:

- Discourage the enrollment of students who don’t have strong grades or test scores
- Set an enrollment limit on students with special education needs or have questions in their enrollment documents that may suppress the enrollment of these students
- Discourage or preclude the enrollment of students with disciplinary records
- Have questions in their enrollment documents that may have a chilling effect on non-English speaking parents and students
- Discourage or preclude immigrant students from enrolling by requiring them to provide Social Security numbers or other citizenship information
- Require students and parents to complete pre-enrollment requirements, such as essays, interviews or school tours
- Refuse to enroll students until their parents commit to volunteer at the school or donate money to the school
- Require parents to pay impermissible fees that create barriers to enrollment
- Present other barriers for enrollment or continued enrollment

Some of these exclusionary policies violate state and/or federal laws. The fact that so many Arizona charter schools’ enrollment policies and procedures contain plain legal violations demonstrates a clear failure of accountability. The Arizona State Board for Charter Schools authorizes and governs the vast majority of charter schools. The agency is responsible for ensuring that charter schools follow all laws and abide by the terms of their charter contracts. It is concerning that they have missed these violations of the law, most of which are publicly posted on schools’ websites or written into other widely available documents like student handbooks.

Though similar issues may be occurring within district schools, the ACLU of Arizona chose to focus its research on charter schools after hearing from several parents whose children were denied enrollment or faced barriers to enrollment at charter schools across Arizona.

1 A.R.S. § 15-184(A)

2 A.R.S. § 15-184(E)

3 A.R.S. § 15-184(F)

Analysis of Exclusionary Charter School Policies

Academic Requirements

Arizona law only allows for a handful of exceptions to the general rule that charter schools must be open to all students. Charter schools may give enrollment preference to returning students and to siblings of students already attending the school.⁴ In addition, charter schools may give enrollment preference to the children of school employees, charter holder employees and governing board members.⁵

Arizona charter schools, however, may not give enrollment preferences to students based on their academic performance. This means schools may not choose to enroll students with higher grades or test scores over students who are struggling academically. Charter schools in Arizona also may not deny enrollment to

students who do not meet certain academic standards, such as a minimum grade point average or a minimum score on a standardized test.

Most charter schools in Arizona appear to accept all students, regardless of academic achievement. What’s troubling is that close to half of charter schools we analyzed request academic records as part of the enrollment process without making it clear that those records will only be used for post-enrollment placement, such as determining what level of math, reading or writing classes are appropriate for a student. Documents detailing academic progress should be requested during the registration process, after the student has been enrolled, to ensure the documents will not be used to determine a student’s chances for enrollment.

Even more troubling is the fact that at least 19 Arizona charter schools have policies or language in their enrollment documents that may prevent or discourage the enrollment of low-academic performers:

Southern Arizona Community Academy (Tucson): “I understand that I will be placed on probation during the first two weeks after my orientation session. At the end of the probation period, attendance and academic progress will be evaluated. Final acceptance into the Academy will be determined at that time. I understand that continued enrollment in the Academy will be evaluated every week from then on.”

BASIS Schools (schools throughout Arizona): Courses taken during grades K-8 at other schools are treated as elective credits. To gain core course credit, students must get approval from the director of student affairs and, in some cases, pass an exam.

Metropolitan Arts Institute (Phoenix): “Due to scheduling limitations and high admissions numbers Metro is usually unable to place students in courses below those appropriate for their correct cohort year. Please note: We are not usually able to create a schedule for students who have failed core academic classes and are therefore not part of their cohort year.”

Nosotros Academy (Tucson): At the bottom of the school’s enrollment form, a box labeled “for official use” asks if the student who is seeking enrollment has a documented history of disruptive behavior, has dropped out of school or has poor academic standing. This could give parents and prospective students the impression that these factors may be considered when determining enrollment.

YouthWorks Charter High School (Tucson): Returning students who previously attended a school within the same charter network “must show verification of a successful semester at another school. Successful semester requires the student to receive passing grades in all scheduled courses of their last semester.”

Salt River High School (Scottsdale): “Students who transfer from another school into Salt River High School after the first 10 days of school must be academically & behaviorally in good standing and meet SRHS attendance standards in order to enroll.”

RECOMMENDATIONS

- When schools ask for academic records, they need to be clear that it is for post-enrollment placement, not to make an enrollment determination. Better yet, schools should only request academic records after enrollment is complete.
- Schools should eliminate academic “probationary periods” before enrollment is finalized.
- Schools should be prepared to accommodate students of all academic abilities.
- Schools should eliminate all questions about academic performance from enrollment documentation.
- Schools should eliminate pre-enrollment testing.

⁴ A.R.S. § 15-184(B)
⁵ A.R.S. § 15-184(D)(1)

Special Education and Disability Requirements

Charter schools in Arizona “may limit admission to pupils within a given age group or grade level” and “may provide instruction to pupils of a single gender.”⁶ But they cannot limit the number of special education students they enroll or turn away students with disabilities or special needs because they don’t offer special education programming or accommodations.

Federal law makes clear that charter schools must provide students with learning and/or physical disabilities “a free appropriate public education that emphasizes special education and related services designed to meet their unique needs...”⁷ In Arizona, there’s also a state law that mandates charter and district schools “develop policies and procedures for providing special education to all children with disabilities within the district or charter school.”⁸

In addition, charter schools generally may not ask during the enrollment process if a prospective student has a learning or physical disability. Nor can they ask if a student has an Individualized Education Program (IEP) or a Section 504 plan, both of which spell out a student’s learning needs and the services or accommodations the school will provide. These questions may be asked but only after enrollment so that schools don’t give an impression that the IEP or 504 plan will be used to determine a student’s chances for enrollment. An exception to this rule arises if a school is “chartered to serve students with a specific disability,” such as the Arizona Autism Charter School, which focuses on the educational needs of children with autism.⁹ In cases like this, schools may ask about disabilities during the enrollment process and focus on educating students with a particular disability but must remain open to all students.

Still, close to half of charter schools in Arizona we analyzed ask during the enrollment process if a student has a disability and needs special education services. Only a few make it clear that it is for the purpose of continuing the services. At least six charter schools also place an enrollment cap on the number of students with special education needs, which violates the federal Individuals with Disabilities Education Act in multiple ways and an Arizona statute that states a charter school shall not limit admission based on a student’s disability.¹⁰ Furthermore, some schools have tried to convince parents during the enrollment process that the school is not a good fit for their children with disabilities or special needs, a problematic and potentially unlawful practice often called “counseling out.”

The Rising School (Tucson): The school’s special education and resources department “is currently full, per guidelines set by the Arizona Department of Education. Thus, any student with an IEP will be put on our waiting list.” A spokesperson for the Arizona Department of Education said the agency has no such guidelines. He added that the school’s policy is not only unethical, but also conflicts with state and federal laws.

AmeriSchools Academy (Phoenix, Tucson, Yuma): “Special Education placements are limited to a capacity of ten (10) students for each school site. Students in excess of this number are to be wait listed with provisional registration.” According to the school handbook, the governing board is the entity that approves the capacity guidelines for admission.

Children First Leadership Academy (Phoenix): “If your child receives Special Education, please make sure to have the most recent IEP and MET with you. All documents need to be reviewed by the SPED department before the final decision is made for enrollment.”

Sequoia Pathfinder at Eastmark (Mesa): “If your child has an IEP or 504 Plan, you will need to send special education paperwork to our SPED department before enrollment...They will contact you to discuss your child’s needs before enrollment. Unfortunately, we cannot accept enrollment paperwork until SPED has reviewed the student’s paperwork.”

Parent Complaints to the U.S. Department of Education Office for Civil Rights

Parents who feel a school committed a civil rights violation can file a complaint with the U.S. Department of Education’s Office for Civil Rights (OCR). The office’s duty is to enforce federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the U.S. Department of Education. Here are several Arizona charter schools that have been reprimanded for their treatment of students with disabilities and ELL students in recent years:

[Filed in February 2016 against the BASIS schools](#) “Specifically, the complainant alleged that BASIS’ websites contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in BASIS’s programs, services, and activities and denying them effective communication necessary for full participation in BASIS’s programs, services, and activities ...” In response, BASIS submitted a signed resolution agreement and committed to take actions to reach compliance. Those actions included making all new website content and functionality accessible to people with disabilities. The OCR said it would monitor BASIS’ implementation of the agreement.

[Filed in November 2014 against the BASIS schools](#) The complainant alleged BASIS discriminated on the basis of disability “by having a policy of not modifying curriculum for students with disabilities.” BASIS voluntarily entered into an agreement to resolve the allegation. The agreement included submitting its special education policies and procedures to the OCR for review. The OCR said it would monitor BASIS’ implementation of the agreement.

[Filed in February 2016 against Imagine Prep Coolidge](#) The complainant alleged Imagine Prep Coolidge refused to enroll her son, who has Down syndrome, at Imagine Prep Coolidge despite enrolling her other son who does not have a disability. She said school officials told her they lost her son’s enrollment paperwork and later said they never received it. The school told OCR that it wished to resolve the complainant’s allegations and submitted a resolution agreement. It included providing the school’s updated enrollment application and the school’s enrollment procedures for review and approval by the OCR.

[Filed in February 2016 against Imagine Elementary at Coolidge](#) The complainant alleged Imagine Elementary at Coolidge “repeatedly failed to communicate with her in the language that she could understand.” The mother, a Spanish speaker, said the school’s registration and enrollment forms provided to her while trying to enroll her son in kindergarten for the 2015-16 school year were only in English. To resolve the allegations, the school voluntarily entered into an agreement that included developing and fully implementing a plan for how to communicate with limited English proficient parents and students. The OCR said it would monitor the school’s implementation of the agreement.

RECOMMENDATIONS

- Schools must make clear that there is not a cap on the number of students with disabilities who can enroll.
- Enrollment documents should make clear that the school will provide special education services as required by state and federal law. Every school that receives state and/or federal funding must provide special education services.
- Schools cannot condition enrollment upon the receipt of special education materials. Special education paperwork should not be required prior to enrollment.
- Enrollment paperwork should be accessible to students and/or parents with disabilities.

6 A.R.S. § 15-184(G)(H)
7 20 U.S.C. § 1400(d)(1)(A)
8 A.R.S. § 15-763(A)

9 Know Your Rights: Students with Disabilities in Charter Schools, U.S. Department of Education Office’s for Civil Rights (2016)
10 A.R.S. § 15-184(F)



Jacque Salomon was told by a charter school that she could not enroll her sons because the school “no longer had room” for students with special education needs. (Photo by José L. Muñoz)

Discriminating Against Students With Disabilities

By Jacque Salomon

I was thrilled when I got a call from ASU Preparatory Academy’s Polytechnic campus, notifying me that my sons had been selected from the lottery and were now invited to enroll. I immediately withdrew them from the charter school they were attending and went to ASU Preparatory Academy to begin the enrollment process.

While there, I dropped off my sons’ Individualized Education Program, which detailed their special education needs and the services the school was required to provide. When I got home, there was a message on my answering machine. It was someone from ASU Preparatory Academy calling to let me know I couldn’t enroll my sons after all because the school no longer had room for students with special education needs.

I called the school back, thinking there must be some sort of misunderstanding. But they kept telling me the same thing. Their only solution was to place my sons back on the waiting list and to call me when the school had room for my sons. I felt the school discriminated against my sons because of their special education needs, so I filed a complaint with the U.S. Department of Education Office for Civil Rights (OCR) in January 2012.

I argued in my complaint that ASU Preparatory Academy discriminated against my sons on the basis of disability. A few weeks later, I got a letter from the OCR notifying me they would investigate whether the school violated Section 504 of the federal Rehabilitation Act of 1973, which protects the rights of students with disabilities in programs and activities that receive federal financial aid from the U.S. Department of Education.

It wasn’t until about eight months later that the school voluntarily entered into a resolution agreement. By then, I had already enrolled my children at their old school. Though ASU Preparatory Academy didn’t admit fault, it agreed to make changes recommended by the OCR to correct the issue.

The school agreed to keep track of students who leave halfway through the school year and to document whether they have disabilities and received special education and services. The school also agreed to document the academic needs of prospective students who are on the waiting list for mid-year admission and whether they ultimately attended the school. If the prospective students did not ultimately attend, the school was asked to explain why. This allows the OCR to monitor the school’s practices to ensure the school isn’t discriminating against students with disabilities.

As a parent of students with disabilities, I felt I had a duty to speak up for my children—and I’m glad I did.

Behavior Requirements

Charter schools may refuse to enroll students who have been expelled or who are in the process of being expelled from another school.¹¹ They may not, however, deny enrollment to students who have been or are in the process of being suspended or long-term suspended. Still, at least 59 charter schools in Arizona either refuse to admit students with prior suspensions or imply that prior suspensions could affect their admission.

Some charter schools go even further. They ask for discipline records, including whether the student has been arrested, been under the supervision of a probation officer, been involved with the juvenile court system, or exhibited aggressive behaviors. Oftentimes, the schools requesting these records don't make it clear that it won't affect a student's enrollment eligibility. As a result, it may suppress the enrollment of some students and send them a message that they are not welcome.

According to an Arizona Department of Education spokesperson, alternative schools may ask about a student's disciplinary history or records during the enrollment process "to better assist how the school operates." That's because to get alternative school status, schools must make it their mission to serve specific populations of at-risk students, including students with disruptive behavioral issues. Alternative schools must be able to show proof that they meet a required threshold of students who fall into one of several categories, such as students who are pregnant or parenting, students who have previously dropped out, and students who are far behind on credits.

Bright Beginnings School (Chandler): "If your student has been suspended or expelled from another education institution, enrollment is prohibited by Board Policy."

Desert Sky Community School (Tucson): A student who "is not in compliance with a

condition of disciplinary action imposed by any other school or school district or with a condition imposed by the juvenile court shall not be admitted."

Freedom Academy (Phoenix, Scottsdale): The school states it will "not enroll a student who is on suspension from another school, nor will we accept a student who has experienced behavior difficulties at another school and is in the process of assignment, or has been assigned to an Alternative School."

Imagine Avondale (Avondale elementary and middle school campuses): "Students who have been placed on long-term suspension by another school or district are required to have a parent/guardian/student conference with administration as a mandatory part of the admission process."

Learning Foundation Performing Arts (Gilbert, Mesa): "If student [sic] has ever been suspended, expelled, or recommended for expulsion or withdrawal, then both parent/guardian and student must interview with the school principal before being considered for admission."

Leading Edge Academy (Gilbert, Queen Creek): The school "may elect not to admit students who have been or are currently under disciplinary action or who have withdrawn pending such action from another school. If it is discovered that a student has been previously expelled or long-term suspended, the student's enrollment may be terminated."

Tucson International Academy (three campuses in Tucson): "Students that are suspended may not be enrolled at TIA schools and students that have been excluded or expelled will not be enrolled at TIA schools."

The Paideia Academy of South Phoenix (Phoenix): "A review of the disciplinary records of a child may indicate that the student

manifested an on-going and reckless disregard of other individual students resulting in numerous suspensions on a continuous basis causing an interference with or disruption of an educational institution. Such a behavioral record is grounds to refuse to enroll or administratively disqualify a student's registration."

Northpoint Expeditionary Learning Academy (Prescott): "Northpoint Expeditionary Learning Academy does not encourage students with academic or behavior problems to apply."

Rose Academies (five campuses in Tucson): Parents are told they may request a special meeting with the principal if their student has been suspended or expelled "in order to determine enrollment eligibility."

Valley Preparatory Academy (Tempe): The school states that prior to acceptance, students must be "free of disciplinary or behavioral problems that may disrupt the work of VPA."

RECOMMENDATIONS

- Enrollment documents should not ask for information about prior suspensions, arrest records, or disciplinary history other than expulsion.
- Schools must eliminate interview requirements, including those related to ascertaining behavioral history.

English Language Proficiency Requirements

Arizona charter law states charter schools cannot exclude students on the basis of "proficiency in the English language."¹² Therefore, they may not create barriers to enrollment for students who are learning English or whose families speak another language at home. Charter schools must also provide students who lack English proficiency access to an English language-learning program.

While charter schools are required by Arizona law to determine whether English is the primary language spoken in the home,¹³ they should do so in a manner that lets parents know that English proficiency is not a prerequisite to enrollment. To help schools meet their legal obligations without intimidating parents or students who are not fluent English speakers, the Arizona Department of Education created a home language survey known as the Primary Home Language Other Than English, or PHLOTE, form.

The PHLOTE form lets parents know that their responses will be used to determine whether their children will be assessed for English language proficiency. But at least 49 charter schools ask language questions – such as "What's the primary language spoken by the student?" – and do not provide the PHLOTE form. Unexplained language questions do not make it clear that the responses will not affect a student's chances for enrollment and may discourage a parent from applying for enrollment.

In addition, consistent with the federal Equal Educational Opportunities Act of 1974, charter schools should provide enrollment and admission information in the language spoken by the parents and students. The most commonly spoken language in Arizona other than English is Spanish,¹⁴ yet only 26 percent of the Arizona charter schools reviewed, or 123 schools, provide their enrollment documents in both English and Spanish.

RECOMMENDATIONS

- Schools should provide enrollment documents in English and Spanish and other languages as appropriate to the surrounding population.
- All charter schools should adopt the PHLOTE form.
- The Arizona Department of Education should revise the PHLOTE form to make explicit the information it collects will not be used to decide whether a student can enroll at a school.
- Schools should make clear that they have ELL programs.

11 A.R.S. § 15-184(I)

12 A.R.S. § 15-184(F)

13 A.R.S. § 15-756(A)

14 U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates

Social Security and Birth Certificate Requirements

Arizona law requires parents to prove their children’s age and identity each time they enroll them in a new school.¹⁵ Parents may provide a birth certificate, but it is not the only document that can be used to establish a child’s age and identity. Other reliable documents include a passport, a baptismal certificate or an affidavit explaining the inability to provide a copy of the birth certificate submitted with original school registration records.¹⁶

Most charter schools in Arizona ask for a child’s birth certificate and don’t give parents alternatives. In fact, only 46 of the charter schools analyzed offer parents an open list of alternatives. Some parents may be reluctant to provide their children’s foreign birth certificate, fearing that doing so could lead to questions about their children’s, or their own, immigration status. Parents should be made aware that all students, regardless of their children’s or their own immigration status, are guaranteed equal access to public education under the 14th Amendment of the U.S. Constitution.¹⁷

In addition, at least 56 Arizona charter schools ask for students’ Social Security numbers as a way to prove their identity. At least 25 charter schools also ask either for the parents’ Social Security numbers or government-issued ID in order to enroll their children. Parents are not legally obligated to provide Social Security numbers for themselves or their children, nor do they have to provide information or documentation related to their citizenship or immigration status in order to enroll their children.¹⁸ Such requests are illegal and may discourage the enrollment of students who are undocumented or whose parents are undocumented.

Most charter schools also ask in their enrollment forms for the country or state where students were born. The Arizona Department of Education asks schools to provide this information through the state’s student data system, called AzEDS. The purpose of this question, according to a department spokesperson, is to determine which students are foreign exchange students since they are not eligible for state funding. However, the department does not mandate schools collect and report where students were born, which is not made clear to schools. Asking for a student’s place of birth could create fear that the information will be used by immigration enforcement officers to go after undocumented students and their families.

Scottsdale Country Day School (Scottsdale): In its handbook, the school states, “According to the 1999 Education Code Title XV we require a copy of your child’s birth certificate before student may begin classes.” However, it does not note that under Arizona law, parents can provide other documents, such as a baptismal certificate, to prove their children’s age and identity.

Incito Schools (Goodyear): “You must provide a government issued photo identification to enroll your student.”

Montessori Education Centre Charter School (Mesa): The school’s enrollment form asks for the Social Security number of both parents.

Berean Academy (Sierra Vista): The school asks if the student is a U.S. citizen.

North Pointe Preparatory (Phoenix): The student’s Social Security number is requested in the enrollment form.

PLC Arts Academy at Scottsdale (Scottsdale): For students born outside the U.S., the school asks (through its online enrollment form) when the students entered the country and started attending school here.

Some charter schools also ask questions to determine if a student is eligible for a program. For example, some ask if students and their families have moved in the last three years to seek farm work. The school may be asking this question to determine if the student is eligible for the Migrant Education Program, which is a federally funded and state-operated program that provides supplemental services to the children of seasonal or temporary agricultural workers.

These questions may be asked, but schools should indicate it is for the purpose of providing services and it will not influence enrollment. The same applies to charter schools that ask if students are refugees, which is a question schools may ask to determine if students are eligible for the Refugee School Impact Program that provides schools with services to address the educational needs of refugee children.

RECOMMENDATIONS

- In order to comply with A.R.S. § 15-828, charter schools should accept any documentation recognized under Arizona law that verifies the student’s identity and age, not only a birth certificate.
- Enrollment forms should not ask for Social Security numbers of students or parents.
- Enrollment forms should not ask for citizenship information about students or parents.
- Schools should only ask for the place of birth of foreign exchange students, and the Department of Education should make clear to schools this is the only time place of birth information is needed from enrollees.
- When asking if a student is the child of migrant workers or is a refugee, the school should make clear responses will only be used to provide services and will not influence enrollment.

15 A.R.S. § 15-828

16 A.R.S. § 15-828(A)(2)

17 Plyler v. Doe, 457 U.S. 202, 229-30 (1982)

18 Fact Sheet: Information on the Rights of All Children to Enroll in School, U.S. Department of Justice and U.S. Department of Education (2014)

Turning Away Students Seeking Special Education Services

By Laura Mason

When I found out a Great Hearts school was opening in our neighborhood, I jumped at the opportunity to enroll my twin sons, who were about to enter kindergarten. I wanted them to get a good education, and I was aware that these schools were high-performing.

The Great Hearts Archway Arete school opened near our Gilbert neighborhood in August 2015. I tried enrolling my sons and was placed in the school's lottery system. In January, we were selected from the lottery and were invited to enroll. I called the school and asked to speak to whoever was in charge of special education services. I wanted to make sure my son who had been diagnosed with autism would get the services he needed. At the time, he had an Individualized Education Program (IEP), which spelled out his learning needs and the services the school was to provide.

The school's response, however, was disappointing. I was told the school could not accommodate my son and that they didn't have the resources to serve my sons' needs. At the time, I didn't know much about charter schools. I thought they operated similar to private schools and, therefore, weren't required by state and federal law to provide the same special education services as district schools.

I ended up not enrolling my sons at Great Hearts Archway Arete. Instead, I took them to the nearby district school. One of my sons did well here. But for my other son, I felt the school was not meeting his needs. I withdrew him a few months into his first grade and considered moving him to San Tan Charter School. The school told me to send in copies of his IEP and to take a tour. Not one word was mentioned on the tour about special education services, but there sure was a lot of talk about their program for gifted students. I tried to follow up with repeated emails and phone calls but was completely ignored.

I then applied for an Empowerment Scholarship Account, thinking it would help me find a school that was the right fit for my son. One of the schools we looked at after being granted an ESA scholarship was Pieceful Solutions Charter School in Chandler. I had heard the school welcomed students with autism.

I turned in the enrollment form and weeks passed. When I finally heard back, I scheduled a tour. It became clear I wasn't welcomed there. I was told my son was too high functioning for their autism program and that there were other kids lined up behind me for whom the school was a better fit. I left Pieceful Solutions feeling rejected. The school closed a few years later.

I tried looking at other schools, including some private schools, that would accept the ESA scholarship. But I couldn't find a school where I felt my son would thrive.

After feeling like there were no options for my son in Arizona, I considered moving to the East Coast, where I heard about several schools designed for children with autism. It wasn't until I met with the Gilbert Public Schools' director of special education that I finally found a good school. I told her what I had experienced, and she suggested I try another district school. Heeding her advice, I enrolled my son at a district school she recommended. He's now in second grade and is flourishing.

Laura Mason sought special education services for her son, who has autism, but multiple charter schools failed to meet their needs. (Photo by José L. Muñoz)



Pre-Enrollment Interview and Essay Requirements

Arizona charter schools may not require students or their parents to complete pre-enrollment activities, such as essays, interviews or school tours. Nor can charter schools use students’ performance on interviews or essays, or the student’s decision not to complete requested pre-enrollment activities, to determine which students to enroll. Doing so undermines the principle that charter schools must be open to all students, not only a select few, and it violates state law that mandates charter schools admit all students who wish to enroll.¹⁹

Even when charter schools request essays or interviews but state that these materials will not be used to determine enrollment outcomes, it gives the appearance of selectivity, which may suppress the enrollment of students from less-privileged backgrounds or students who lack confidence in their abilities. Such policies may violate additional state and federal civil rights laws if they have a disparate impact on protected groups of students, such as students with disabilities, English language learners or low academic performers.

At least 88 Arizona charter schools require essays or interviews as part of the enrollment process and do not state that a student’s performance on these activities will not impact their admission. Additionally, 20 schools require students and/or parents to complete a school tour, visit or meeting as a condition of enrollment. And 26 schools require parents and/or students to attend a mandatory orientation or registration event.

Academy With Community Partners (Mesa): “Enrollment includes completion of the application and an interview with the administrator, the student, and parent/guardian. You are to bring a copy of your transcript to the interview.”

Berean Academy (Sierra Vista): “Scholars starting in grades 7-12 are required to meet with the principle [sic] before enrolling. These scholars should bring a copy of their transcript (or current grades for middle school).”

Flagstaff Arts and Leadership Academy (Flagstaff): Students must write a one-page essay as part of their enrollment application. “Once the application has been submitted, applicants will be required to schedule an informational tour of the FALA Campus. Finally, when the applicant moves to the top of the list they will schedule an interview with the Dean of Academy, Deidre Crawley.”

New School for the Arts (Tempe): All students must submit an essay explaining “the importance of your art(s) to your development as a scholar.” All high school students must attend portfolio/auditions and registration. Also, new students must present two letters of recommendation from unrelated adults who can speak to the students’ academic or artistic abilities and character, before the application will be considered complete.

New World Educational Center (Phoenix): An interview with the parent or guardian and the student will be scheduled with a school administrator. The school will notify the parent or guardian if the student has been accepted or rejected no later than two school days after the interview. If accepted, the parent must fill out an enrollment packet and return it to the school.

Satori Charter School (Tucson): As part of the enrollment process, parents and students must meet with a school administrator, and students must schedule a time to visit several classes. Also, parents, students and a teacher must fill out a survey and write responses to questions about the student.

Vista Grove Preparatory Academy (Mesa): Enrollment of new students “is conditional upon a student/parent interview by an administrator” and completion of a student file that includes a student enrollment form, birth certificate copy, and unofficial transcripts.

RECOMMENDATIONS

- Schools should not ask for pre-enrollment interviews or essays, even on a voluntary basis.
- Schools should make clear that tours, orientations, and registration events are optional and not a condition that must be met prior to enrollment.

Parental Requirements

Many educators believe parental involvement is a critical part of a student’s educational success. Therefore, many schools encourage parents to be engaged in their children’s education. However, charter schools may not require parental involvement as a condition of enrollment or continued enrollment.

Still, some charter schools mandate parents commit to a certain number of volunteer hours before their children can be enrolled. At least 46 charter schools require parents to commit to volunteer a certain number of hours, with at least six schools allowing “buyouts” for parents to pay their way out of these volunteer commitments. Volunteer demands, even those that offer a “buyout” option, are likely to lead to the exclusion of certain groups of students. For example, students whose parents work multiple jobs, students in foster care or group homes, and students raised by elderly grandparents may be unable to meet requested volunteer obligations.

Some charter schools also ask parents to donate money. While schools are allowed to request donations from parents, they should do so in a manner that makes clear that any donations to the school are voluntary and not a prerequisite for student admission or continued enrollment. Mandatory donations violate the Arizona constitutional requirement that public schools provide instruction free of charge.²⁰

In addition, charter schools should avoid pressuring parents into donating money. The BASIS schools, for example, ask parents to make an annual contribution of at least \$1,500 per student, or a monthly pledge of \$150. According to a BASIS spokesperson, 10 percent of families donate that amount and 61 percent do not make a donation. Families who donate \$1,500 are recognized in an annual brochure and families who donate \$2,500 or more have their names placed on a plaque, a BASIS spokesperson said, making it known which parents donated and which ones did not. This manner of public notice may lead some parents and students to feel ashamed of their inability or unwillingness to pay for a public school education.

Great Hearts schools (schools across the Phoenix metro area): Each family is asked to contribute \$1,500 per student per year to help cover the gap “between what we need to deliver the top-tier education that your children deserve and what we receive from public funding.” The school also notes, “Knowing that the situation is different for every family, we encourage families to give as they are able.”

Scottsdale Country Day School (Scottsdale): Parents are encouraged to donate anywhere from \$200 to \$2,000 to the school. Parents who donate \$1,000 are given a bracelet, water bottle, alarm clock, and a plush lion. They also get their family’s name on the “giving tree.” Parents who donate \$2,000 get all that plus a backpack. The school notes their contribution can be tax deductible.

19 A.R.S. § 15-184(A)

20 A.R.S. § 15-184(A); Ariz. Const. art. XI, § 6

Eduprize School (Queen Creek, Gilbert): “Parents are required to volunteer a minimum of 80 hours per family each year.”

Mission Montessori Academy (Scottsdale): Parents are asked to volunteer 15 hours every year per child enrolled, or make a contribution of \$150 to the school in lieu of volunteer hours. Parents are also expected to attend parent education seminars designed to enhance their understanding of their child’s Montessori education. In addition, the school requests a “gift” of \$1,500 per child “to maintain the excellence in our present educational model and to meet the continued state reductions.”

Montessori Day Public Schools Chartered (Chandler, Phoenix): “All parents are expected to contribute 40 hours of volunteer time per family, per year.”

StarShine Academy (Phoenix): The entity that operates StarShine Academy in Phoenix also operates a private school that is not associated with the charter school, but that’s not made clear in the enrollment forms. One form for high school students mentions a tuition cost and a 30-hour volunteer commitment per year.

RECOMMENDATIONS

- At the very least, schools should make clear that donations are optional and will not influence enrollment. Ideally, charter schools should not solicit donations from parents or students.
- Charter schools should make clear that volunteerism is not a condition of enrollment or continued enrollment.

Fees and Deposits

Under the Arizona Constitution, students have a right to a free public education.²¹ That means neither charter schools nor district schools may charge fees that create barriers to enrollment. Schools are required to waive fees if it creates economic hardship to students and their families. Arizona law states the “nonpayment of fees charged by a public school may not prevent a pupil from enrolling in, applying to or remaining enrolled in a public school.”²²

Despite this clear prohibition, at least 35 charter schools in Arizona charge fees for a range of items, including essential course materials like textbooks, without giving parents a waiver option. Ten charter schools require parents to pay fees tied to enrollment. In addition, at least 41 charter schools charge anywhere from \$50 to \$1,000 in fees for activities, such as field trips, and supplies. These fees may keep students from low-income families from applying, especially when the school doesn’t allow families to waive the fees, and make it so that an education that’s supposed to be free is only available to those who can afford it.

Charter schools can charge extracurricular fees, such as a fee to participate in an after-school sports team. But they cannot charge fees for activities or items that are an integral component of a student’s education. Doing so violates Arizona law.²³

Fountain Hills Charter School (Fountain Hills): “A \$100 non-refundable fee per student is due upon registration and will be used to sustain programs such as band, orchestra, choir, science laboratory, art and reading.”

Freedom Academy (Phoenix, Scottsdale): A non-refundable \$300 “Extracurricular Arts Fee” is due once the parent receives confirmation from the school of their child’s enrollment. Parents enrolling two children will be charged \$250 for the second child. Parents enrolling three or more children will be charged \$200 per child. The school also notes, “Other nominal fees will occur during the year” for field trips and other activities.

Foothills Academy (Cave Creek, Scottsdale): “The annual Foothills Academy Support Fee (FASF) is \$575 for each student who attends Foothills Academy. Families with two or more students enrolled or enrolling receive a discounted FASF of \$500 per student. If enrolling after the first semester, this fee is prorated to one half (1/2) these amounts, i.e. \$287.50 per student or \$225.00 (with sibling discount). Top-notch faculty, innovative programs and small class sizes are some of the reasons you may have chosen Foothills Academy for your student. These critical components require funding beyond that which is provided by the State of Arizona.”

Gem Charter School (Mesa): “There is a School Supply and Activity Fee for every student. This will pay for snacks, cook a lunch day once a month and other consumable classroom supplies, some field trips, the Montessori Magazine ‘Tomorrow’s Child’ and other extra curricular activities. It is \$150 if paid entirely in first month of school, \$160 if paid in two \$80 payments or \$17.50 if paid monthly for 10 months, due on the 1st of the month.”

Great Hearts schools (schools across the Phoenix metro area): These schools charge parents a “one-time book deposit” of \$100 to \$175, depending on the school. Parents are required to pay it upon enrollment to the school. The school notes the book deposit fee “is refunded when the student graduates or withdraws from the school as long as all textbooks have been returned in good condition each year.”

Montessori Academy (Paradise Valley): A \$25 non-refundable paperwork fee is due at time of enrollment. The school also charges a non-refundable Extracurricular Activity Fee of \$1,000 to maintain a low student-teacher ratio, as well as to cover art, music, and physical education costs. “The State continues to cut education funding,” the school states. Parents can apply for financial assistance to help pay for the \$1,000 fee, but they must still pay \$150 at time of enrollment.

Mountain Oak Charter School (Prescott): The school charges parents a \$170 fee to cover the costs of materials, including pigment paints and crayons, colored pencils, painting paper, main lesson books, and clay. In addition, the school also charges a \$60 classroom fee that covers the cost of snacks, field trips, costume fabric and gardening equipment and other items. There’s also an optional \$25 charge to rent recorders, which the school states “are an important part of the curriculum and are used often.” Though the school states parents for whom the fees are a hardship can pay what they can, it doesn’t give them an option to waive the fees completely.

21 Ariz. Const. art. XI, § 6

22 A.R.S. § 15-116(A-B)

23 A.R.S. § 15-116(A-B)



Onida Perkel sought extra math help from BASIS Scottsdale Primary School for her daughter, but the school failed to fully explain a consent form and the academic assistance was never offered. (Photo by José L. Muñoz)

Failing To Offer Academic Assistance

By Onida Perkel

I had heard so many great things about the BASIS schools, such as them having a high-achieving curriculum and being some of the best schools in the nation. I wanted my daughter to get the best education possible, so I enrolled her first at BASIS Central Phoenix and then BASIS Scottsdale Primary School.

She started the 2015-2016 school year as a fourth grader. Within a few weeks, she began struggling with math. She had a 504 plan, which outlines how the school will address the individual needs of my child. Under the plan, my daughter's teacher was supposed to give her extra time and assistance with her math assignments. By December, she was far behind and was failing math. I talked to the school about developing an Individualized Education Program (IEP), which is a plan that describes the programs and special services that a student requires to be successful in school. A meeting was set for March 3.

During the meeting, we came up with a plan to meet my daughter's needs. The school brought an attorney to the meeting, which I found to be intimidating. We decided that a special education teacher would help her with math. We also agreed she would get help developing her organizational skills. However, the school never informed me that I needed to sign a consent form so that my daughter could begin receiving these services. It wasn't until May 13, which was the last day of instruction, that the school finally informed me about the consent form. By then, it was too late into the school year for my daughter to begin getting her IEP services.

That same day, I filed a complaint with the Arizona Department of Education. The complaint investigator concluded that although the school tried to get me to sign the consent form on multiple occasions, the school failed to fully inform me of the activity for which the consent was being sought. I agreed with this conclusion. School staff members approached me several times, but they were never clear about why they needed my signature. As a result, my daughter missed out on 900 minutes of math instruction and 450 minutes of organization skills instruction.

The next school year, I enrolled my daughter at a district school, which provided my daughter the services that BASIS Scottsdale Primary School failed to provide. I walked away from the BASIS school feeling disappointed. I thought my daughter was going to get a great education given how prestigious BASIS schools are said to be. Instead, the school managed us out by not providing her the services she needed, and I feel it's all because my daughter didn't meet their standards.

San Tan Charter School (Gilbert): Parents are asked to provide a credit card the school can keep on file. The school says it will keep the card on file at its finance office and will use it to pay several fees, including a \$250 technology rental fee for grades 9-12. The school also asks parents with children in K-8 to make a \$50 Credit for Kids Donation without making it clear it is voluntary.

Tempe Preparatory Academy (Tempe): The school charges a \$180 book deposit fee for all grades. There’s also a class fee students have to pay at enrollment. The class fee ranges from \$60 to \$287, depending on the student’s grade level. The school says it “does not want to exclude any student from participation due to financial hardship,” and tells parents they can apply for financial assistance. However, families must pay a fee for the financial aid application, which is used to determine how much financial assistance the school will provide them.

RECOMMENDATIONS

- Schools should make it explicit that enrollment is not conditioned upon the payment of any fees, including book deposits, lab fees, or activity fees.
- Schools should make clear that complete waivers are available for fees related to the student’s educational experience.

Other Findings

Barriers to enrollment at Arizona charter schools are not limited to first-time enrollment. Some parents report that their children encounter barriers to re-enrollment as they advance from one grade to the next. Often these barriers are couched in vague language contained in a charter school’s student handbook or other school documents, advising parents that their children should enroll elsewhere if the “environment” is not “appropriate” for a particular student. These ill-defined statements may mislead parents into believing that charter schools have the right to engage in an unlawful process of picking and choosing students the school wants to serve.

PPEP TEC High Schools (six campuses in southern Arizona): All students are enrolled on a two-week probationary period. If, during that period, it is determined that the enrolled student has failed to follow the school’s discipline matrix, or if the school feels it “is not the appropriate placement for the student, the student may be withdrawn.”

Leading Edge Academy (seven campuses in the East Valley): During an enrollment interview, “you and your student will meet with the Principal to discuss your education goals, to determine if the learning environment at Leading Edge Academy will best benefit your student.”

Metropolitan Arts Institute (Phoenix): “Metro Arts is a college prep school and is designed for students who are serious about both academics and the arts. A demonstrated capacity for serious academics, arts, and good character are basic to Metro’s mission and essential for success. Students uninterested in living up to these requirements should seek enrollment elsewhere.”

Pine Forest School (Flagstaff): The school states that when it receives more applications to enroll than it has space for, it asks parents to complete a form that places them on a waiting list. “When space has become available in the classroom, parents/guardians will be contacted for an interview with the Executive Director and Class Teacher to ensure our specialized curriculum and program are suitable for the student.”

PLC Arts Academy at Scottsdale (Scottsdale): The school says it “may at its discretion disenroll any student, if in the opinion of the Board, the student or student’s family members engage in activities which could result in complaints against the school, and endanger the future of the school from any public body, i.e. City of Scottsdale (traffic stipulations and contract), Police Department, State of Arizona.”

Great Hearts schools (schools across the Phoenix metro area): In June 2016, Great Hearts schools adopted a policy that discriminates against transgender students, thereby suppressing their enrollment.

Indeed, charter schools should be open to all students and should not screen out students, including academically struggling students. That means schools should not set minimum grade point average requirements, requirements that students cannot fail classes, requirements that students meet a minimum score on a test, or any other requirements that condition continued enrollment on academic performance. Students, once enrolled in a school, must be given priority for continued enrollment and should not be disenrolled, placed on a waitlist or placed in the lottery because of academic performance. Yet, at least 16 charter schools in Arizona withdraw or encourage students to leave for struggling academically.

Copper Point High School (Tucson): Student must receive a “C” grade or better in a course to receive credit. If students consistently demonstrate poor character or academic progress, a request will be made for a “re-interview” to determine if the school “continues to be the right fit for them.”

Nosotros Academy (Tucson): “For all new and returning students, the first two weeks of attendance is considered probation. During this time period, attendance, academic work, and behavior will be considered before enrolling the student. At the end of the probation period, if the student has complied with policy requirements, the student will be enrolled in Nosotros Academy. Students who do not successfully complete the probation period have to reapply.”

Northpoint Expeditionary Learning Academy (Prescott): The school states in its handbook that it “does not encourage students with academic or behavior problems to apply.” It goes on to say a request for a re-interview of the student will be made whenever the student demonstrates poor academic progress, behavioral concerns or other issues that “indicate the support of the school expectations is waning.” According to the school, “This process is designed to help a student determine whether NELA continues to be the right fit for them.”

Charter schools also may not push out students based on extraneous attendance requirements. In Arizona, the number of absences may be considered “excessive” when it exceeds 10 percent of the school year.²⁴ If a student becomes habitually truant, meaning the student misses at least five days within a school year, an attendance officer may contact local law enforcement and issue a citation to the student or parent, requiring them to attend a court hearing.²⁵

24 A.R.S. § 15-803(B)

25 A.R.S. § 15-805(B); A.R.S. § 15-803(C)(1); A.R.S. § 15-803(B)

In addition, a school may withdraw a student who is “absent for ten consecutive school days, except for excused absences identified by the department of education.”²⁶ Some charter schools have stricter attendance requirements. At least 30 schools say a student may be withdrawn or lose credit for a class if the student has fewer absences than what Arizona law allows.

PPEP TEC High Schools (six locations in southern Arizona): “...students who have four or more unexcused absences in one school year and/or do not complete at least two and one half (2.75) academic credits in one semester may be dropped from the PPEP TEC High School program.”

Self Development Academy (Mesa, Phoenix): “If my child is absent for more than 2 consecutive days, he/she must have a doctor’s note in order to return to school.” Prolonged out-of-town events must be approved by the school administration.

American Heritage Academy (Camp Verde, Cottonwood): “Students with an excess of six unexcused absences per semester, may be considered candidates for indefinite suspension or expulsion from the Academy, and/or loss of credits or retention.”

Harvest Preparatory Academy (Yuma, Goodyear, San Luis): “Students are only allowed 5 excused absences throughout the year. Tardies and early departures are included. If a student exceeds the limit, a meeting will be arranged with the parent and school administrator.”

Metropolitan Arts Institute (Phoenix): The school states that “any unexcused absence in any class will result in an immediate loss of 10% of the quarter grade in the course that was skipped.” If a student misses six or more classes in a course per semester, they won’t receive credit for the course and will get an F on their transcript. They also won’t be eligible for credit recovery and will not be allowed to register for the following semester.

The Paideia Academy of South Phoenix (Phoenix): “Arizona State Law requires scholars to attend classes a minimum of 95% of the school year.”

Vision Charter School (Tucson): “A student may not miss more than six (6) days a semester... All absences exceeding six (6) days in a semester will result in a 2% grade reduction for the applicable class(es) missed... Students not meeting the attendance requirement may not receive credit even though their grades are passing.”

Furthermore, charter schools can apply for federal funding to cover costs of providing nutritious food to students. However, some charter schools choose not to apply for the federal funds, creating a barrier to enrollment for students who come from low-income families.

Bennett Academy in Phoenix is one example of a school that doesn’t offer free or reduced-price food programs. The school states on its website that it chooses not to because it does not want to be “part of a movement in this country that is turning families into ‘dependents’ of the federal government.” It goes on to say, “We think better of our families than that. Our families pay for their own children’s lunch and breakfast. If they cannot, we are certain that they can get food stamps for a limited period of time, and visit food banks. If they still have trouble buying food for their family, they can alert us to this problem and we can help for a while.”

RECOMMENDATIONS

- Schools should eliminate tactics for encouraging voluntary withdrawal based on academic performance, disability, behavioral issues, or personal characteristics such as sexual orientation, language proficiency, country of origin, gender identity, religion, or race.
- Schools should eliminate pre-enrollment interviews with students and probationary periods.
- Schools should eliminate attendance requirements that are stricter than required by law.
- Schools should apply for federal funding for meal programs so that a lack of food during the school day is not a barrier to enrollment for low-income families.

²⁶ A.R.S. § 15-901(A)(1)

Snubbing Students Who Don't Fit The Mold

By Danielle Kayfesh

When my family and I first moved to Arizona in 2008, I enrolled my son at a district school. He was doing well there. At one point, he made the honor roll for earning good grades. After hearing that charter schools were much better than district schools, I decided to enroll him at Legacy Traditional School in Queen Creek. He started out as a fifth grader in August 2010.

Once my son was in 7th grade, I had a meeting with the school vice principal. She told me she was concerned about my son's low grades and said the school might not be a good fit for my son. But I ignored her suggestion to look for another school.

My son continued on to 8th grade at Legacy Traditional School, but his grades didn't improve much. I was again called in for a meeting with the vice principal. Although this was a new vice principal, he told me the same thing as the previous one—that Legacy Traditional School wasn't the right school for my son. Hearing the same message from two different vice principals made it clear that my son wasn't welcome there, so I looked for a new charter school.

I found American Leadership Academy in Queen Creek. The school required a meeting with my husband and me to complete the enrollment process. During the meeting, a school staff member reviewed our son's transcripts. After seeing he had two F's and several missing assignments, we were told the school wasn't a good fit for him. They were essentially refusing to enroll him because of his low grades. I was shocked that they weren't willing to give him a chance. They were turning him away because, in their eyes, he wasn't good enough for that school. We got up and walked away.

Feeling that no other charter school would take him, I enrolled him at an online school. He has been taking online classes for about three years now.

This whole experience tainted my view of charter schools. I used to think charter schools accepted all students, regardless of their academic background, and provided them an exceptional education. Now, I see them as schools that pick and choose which students they want in their classrooms.

In a statement, Matthew Benson, a spokesperson for Legacy Traditional School, said, “While student-privacy laws prohibit disclosure of personal information regarding current and former students, Legacy Traditional School is and always has been dedicated to providing a culture of inclusion and respect for all of our students and teachers. We believe all children deserve the benefit of a quality education—and that’s why every student is welcome at Legacy Traditional School.”

In a statement, American Leadership Academy said it has no knowledge of the alleged incident. It also said the school has always been “an open enrollment public charter school and complies with all state and federal guidelines pertaining to the admittance of students.” The school added that it “does not limit admission based on race, ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, academic, artistic or athletic ability.”



Danielle Kayfesh's view of charter schools changed dramatically after her son was made to feel unwelcome by school administrators who said he was not a “good fit” for their schools. (Photo by José L. Muñoz)

Accountability

Sponsoring about 540 charter schools, the Arizona State Board for Charter Schools is the largest entity that authorizes and oversees charter schools in the state. As a component of its authorizing practices, it has developed safeguards to ensure charter schools’ enrollment policies and procedures comply with state and federal laws.

For example, applicants interested in opening a new charter school through the charter application process must “describe the proposed fair and equitable admission requirements and documents required in the enrollment packet.” Additionally, in February 2017, the board improved the Marketing and Student Enrollment section of the application instructions to require applicants to “identify the documentation collected separately as part of the enrollment and registration processes.”

A charter board spokesperson said the “rationale for this requirement is to ascertain during the evaluation process of a new charter application, that the applicant has thought through what documents are appropriate and within statute to ask for during the enrollment process versus the registration process.” If an applicant, for example, were to say documents pertaining to a student’s special education needs are collected at other times than the registration process, then “the Technical Review Panel reviewing the application would indicate that the applicant has not met the criteria for this section,” according to the charter board spokesperson.

Once approved, new charter schools get an unannounced, first-year site visit by their assigned education program managers, during which enrollment policies and forms are reviewed pursuant to A.R.S. § 15-184.

Schools that are found to be noncompliant with statutory and contractual (per the contract between the charter authorizer and the charter holder) requirements, such as aligning their curriculum with Arizona’s academic standards, are required to take corrective action. Site reviews are also conducted every five years and whenever concerns are raised about a school. However, in spite of these accountability measures, many unlawful enrollment practices slip through the cracks.

Even with its established safeguards, the Arizona State Board for Charter Schools has failed to effectively oversee its charter schools given that the enrollment materials, handbooks, websites and other public materials of so many Arizona charter schools contain violations and exclusionary language related to student enrollment. Regardless of whether this failure is caused by a lack of resources or inadequate procedures for reviewing charter schools, it is troubling that the board has missed these illegal or exclusionary enrollment policies.

Parent Complaints to the Charter Board

Parents are able to file complaints with the Arizona State Board for Charter Schools through an online system launched in 2015. According to a Board spokesperson, “All complaints received are reviewed to determine whether the complaint is within the Board’s jurisdiction.” If so, it forwards the information to the charter holder and gives the charter holder a small timeframe to respond. The board staff then reviews the response and decides if it warrants further action from the Board. As of March 2017, nearly 120 complaints had been filed and processed. Here are a few that dealt with enrollment issues:

Bright Beginnings School

A parent filed a complaint with the Arizona State Board for Charter Schools in June 2016. In his complaint, the parent said he and his wife received an email in January 2016 notifying them that their son was selected from the lottery to attend Bright Beginnings School’s all-day kindergarten program for the 2016-17 school year.

The parent said they “promptly” accepted the offer and paid the school \$400, which covered a student activity fee and the first month of tuition. The school charges tuition for the second half of its full-day kindergarten program, which it is allowed to do since the Arizona State Legislature only provides funding for the first half of full-day kindergarten in public schools.

The parent said he and his wife were also told their son had to take a mandatory “Kindergarten Readiness” test to determine what the child could work on over the summer. But he said they were never told the test would “hinder acceptance.” He said the school “reneged” on its acceptance of their son into the kindergarten program and kept the \$400. The family filed a lawsuit, alleging that the school kept the money for a service it promised without delivering that service.

Responding to the complaint, Bright Beginnings School said even though the school had a non-refundable policy in place, it refunded the parent the full \$400. However, the school didn’t admit to any wrongdoing.

Heritage Academy Gateway

A parent filed a complaint with the Arizona State Board for Charter Schools in June 2016. The parent tried to enroll her daughter, who was entering 7th grade, for the 2016-17 school year. The school required her to take a placement test as part of the enrollment process.

A few days after her daughter completed the placement test, the parent said she received a call from the school’s registrar. “She called to let me know that the school wouldn’t be a good fit for [my daughter] because she didn’t score high enough,” the parent wrote in her complaint.

She said she asked if her daughter could participate in an organization and leadership class that the school offered to help students with the need for additional instruction. She said the registrar told her the class was only for students with an Individualized Education Program (IEP). The parent then asked if she could set up a meeting with the school to create an IEP for her daughter. The registrar, however, declined “and again said that she didn’t think the school was going to be a good fit,” according to the complaint.

Eventually, she said, the registrar told her that if she still wanted to enroll her daughter, she would need to attend summer school first.

The school responded to the complaint, saying it never denied admission to the student. The school stated it requires potential students to take a placement test and uses the test results to determine if students should attend summer school. The school said summer classes help students prepare for the school’s rigorous curriculum but is not mandatory.

In addition, the school denied that it told the parent her daughter couldn’t participate in the organization and leadership class. The school said students who wish to take part in the class must first be evaluated for special education eligibility. However, the school didn’t address the allegations that the registrar stated the school was not “a good fit” for the complainant’s daughter.

Veritas Preparatory Academy

In a complaint filed with the Arizona State Board for Charter Schools in September 2016, a parent states she enrolled her son at Veritas Preparatory Academy and paid the required fees, including a \$175 deposit for the use of books, \$130 to buy 19 books and \$45 for a camping trip.

She said that three weeks after enrolling her son, the school’s director of academics informed her that her son would be placed in 8th grade instead of 9th grade, where he belonged, because of his level of English proficiency. She said she was also told the school did not have a program for English language learners, which she said surprised her “because of the level of education that school indicates they have.”

She withdrew her son, whom she said felt like he was not well accepted at the school, and took him to another school. She added that she felt “discriminated” against because the school made its decision to move her son down a grade level before testing her son’s English skills.

In its response to the complaint, Veritas Preparatory Academy stated three teachers had told the school’s director of academics, at the end of the first week of the new school year, that the complainant’s son lacked academic preparation for 9th grade. As a result, the director of academics spoke to the mother about the possibility of moving him to 8th grade.

The school also noted it did have a program for English language learners and that the complainant’s son was scheduled to take a test on August 25, 2016, to see if he was eligible for it. But, according to the school, he never took the test because his mother withdrew him from the school a day before he was scheduled to take it. The school added, “The issue was not his English skills but rather he would be more likely to enjoy academic success in 8th grade.”

Methodology

To collect our data, we first put together a list of all the charter schools in Arizona. The Arizona State Board for Charter Schools, which authorizes the vast majority of the charter schools in the state, provided us its most up-to-date list of open charter schools. For charter schools not authorized by the Board, we used the data provided online by the Arizona Department of Education.

We visited the websites of each charter school and examined all available enrollment documents and policies. When these weren’t made available online, we reached out to the schools either through email or by phone to request them. We also searched school websites for student-parent handbooks and reviewed any that were available online for additional information about enrollment policies and practices. Some charter schools used the words enrollment and registration interchangeably,

making it difficult to know which documents were requested during the enrollment process and the registration process. We believe this could create confusion among parents and make them believe the documents being requested are part of the enrollment process. Therefore, we coded these schools as if the documents being requested were part of the enrollment process.

We were able to gather enrollment data for 471 of the 543 charter schools, or nearly 87 percent, that were open in Arizona as of August 15, 2017. In the schools’ enrollment materials, we searched for information to determine whether the schools:

1. Discourage the enrollment of students who don't have strong grades or test scores
2. Set an enrollment limit on students with special education needs or have questions in their enrollment documents that may suppress the enrollment of these students
3. Discourage or preclude the enrollment of students with disciplinary records
4. Have questions in their enrollment documents that may have a chilling effect on non-English speaking parents and students
5. Discourage or preclude immigrant students from enrolling by requiring them to provide Social Security numbers or other citizenship information
6. Require students and parents to complete pre-enrollment requirements, such as essays, interviews or school tours
7. Refuse to enroll students until their parents commit to volunteer at the school or donate money to the school
8. Require parents to pay impermissible fees that create barriers to enrollment
9. Present other barriers for enrollment or continued enrollment

First, we reviewed enrollment materials for academic requirements. We categorized schools as having a violation (V) if they denied enrollment to students who didn't meet certain academic requirements, such as a minimum grade point average. We also categorized schools as having a violation (V) if enrollment was conditioned upon a review of a student's academic records. We categorized schools as having a possible violation (P) if they stated it may be difficult to accommodate students with low grades or who are deficient in core credits. We categorized schools as having suppressive language (S) if they required students to provide academic documents, such as transcripts and report cards, without a disclaimer that it was for post-enrollment placement purposes.

Second, we examined policies relating to students with special education needs. We categorized schools as having a violation (V) if they had a cap on the number of students with special education needs they enrolled. We categorized schools as having suppressive language (S) if they requested special education records, such as 504 plans and Individualized Education Programs, without noting it was for continuation of services.

Third, we looked through enrollment applications and policies to see if they contained language related to a student's disciplinary history. We categorized schools as having a violation (V) if they denied enrollment to students who've been suspended, long-term suspended or who've attended alternative schools. We also categorized schools as having a violation (V) if enrollment was conditioned upon a review of a student's discipline records. We categorized schools, except alternative schools, as having suppressive language (S) if they asked about a student's disciplinary history or records and did not provide a disclaimer that this information would not affect enrollment. According to an Arizona Department of Education spokesperson, alternative schools "may ask those questions [about behavioral history] during the enrollment process to better assist how the school operates."

Fourth, we reviewed enrollment documents to see if they contained any language that could discourage non-English speaking parents and students, such as schools stating they will not accommodate limited English proficient parents and students. We did not find schools that used this type of language. We categorized schools as having suppressive language (S) if their enrollment forms asked generic language questions, such as what language the student speaks at home, without including the Primary Home Language Other Than English (PHLOTE) survey or a similar survey stating this information would be used only to determine whether the students would be assessed for English language proficiency.

Fifth, we looked through enrollment applications and lists of required enrollment materials to see whether they required a Social Security number or citizenship information. We made a note of all the schools that asked students to provide Social Security numbers. We categorized schools as having a violation (V) if they asked parents to provide their Social Security numbers or to provide information or documentation related to their children's citizenship or immigration status. We categorized schools as having a possible violation (P) if they asked parents to provide a photo ID or if they asked when students, if born in another country, entered and started attending school in the U.S. We categorized schools as having suppressive language (S) if they asked for a student's birth certificate without offering alternatives documents that can be used to prove a student's age and identity.

Sixth, we searched for any pre-enrollment requirements for parents or students. We categorized schools as having a violation (V) if enrollment was conditioned upon requirements such as essays, interviews, tours or school visits.

Seventh, we searched for policies requiring parents or family members to volunteer at the school or donate money to the school as a condition for enrollment. We categorized schools as having a violation (V) if they used words such as "expect" or "require" in relation to parent volunteering and donations. When schools asked parents to fill out volunteer commitment forms as part of the enrollment process, we categorized them as having a possible violation (P) because it wasn't made clear if it was a condition that must be met prior to enrollment.

Eighth, we examined enrollment forms and policies to see whether schools charged fees for activities or items that are an integral component of a student's education. Specifically, we looked for fees tied to essential course materials like textbooks (C), fees tied to enrollment (E), and fees for activities, like field trips, and school supplies (F). We made a note of all the schools that charged such fees and did not offer to waive fees for families who could not pay for them.

Ninth, we looked for other barriers for enrollment or continued enrollment. Schools were characterized as having a violation (V) if they advised parents that their children should enroll elsewhere if the "environment" was not "appropriate" for a particular student. We also categorized schools as having a violation (V) if they conditioned continued enrollment on academic performance. We categorized schools as having suppressive language (S) if they stated enrolled students have to meet strict academic requirements, such as take AP classes or get all C's, to move on to the next grade level. We categorized schools as having a violation (V) if they stated a student will be withdrawn if the student has fewer absences than what Arizona law allows. We categorized schools as having a possible violation (P) if they stated a student may be withdrawn, suspended or lose credit for having fewer absences than what Arizona law allows.

We noted when schools did not (N) have a violation. Data was unavailable (U) for 73 schools that do not make their enrollment materials available on the Internet and did not respond to requests for those public records.

To see how each charter school in Arizona was coded on the metrics described above for this report, visit www.acluaz.org/SchoolsChoosingStudents.

Recommendations

RECOMMENDATIONS FOR PARENTS AND STUDENTS

- Review your charter school’s enrollment forms, handbook, and other materials to ensure that the school does not have any illegal or exclusionary policies or practices that may discourage enrollment, including:
 - o G.P.A. or other academic requirements or minimums
 - o A minimum level of English proficiency
 - o Questions regarding citizenship, immigration status, or country of birth of students or parents/guardians
 - o Questions about prior suspensions, arrest records, or disciplinary history other than expulsion
 - o Mandatory submission of Social Security numbers or birth certificates
 - o Pre-enrollment essays, tours, orientations or interviews
 - o Parent/guardian donation, volunteer or buyout requirements

- If your charter school has an illegal or exclusionary policy, first contact the school’s administration or charter network and ask them to change their policy. If you speak to them over the phone or in person, ask for the individual’s name and be sure to follow up in writing. If they do not change the policy, you should file a complaint with the school’s authorizer, like the Arizona State Board for Charter Schools. Please also inform the ACLU of Arizona of the illegal or exclusionary policies by emailing [**demand2learn@acluaz.org**](mailto:demand2learn@acluaz.org).

RECOMMENDATIONS FOR CHARTER SCHOOL OPERATORS

- *Academic Performance.* When schools ask for academic records, they need to be clear that it is for post-enrollment placement, not to make an enrollment determination. Better yet, schools should only request academic records after enrollment is complete. Schools should eliminate academic “probationary periods”

before enrollment is finalized. Schools should be prepared to accommodate students of all academic abilities. Schools should eliminate all questions about academic performance from enrollment documentation. Schools should eliminate pre-enrollment testing.

- *Special Education.* Schools must make clear that there is not a cap on the number of students with disabilities who can enroll. Enrollment documents should make clear that the school will provide special education services as required by state and federal law. Every school that receives state and/or federal funding must provide special education services. Schools cannot condition enrollment upon the receipt of special education materials/paperwork. Enrollment paperwork should be accessible to students and/or parents with disabilities.
- *Student Disciplinary History.* Enrollment documents should not ask for information about prior suspensions, arrest records, or disciplinary history other than expulsion. Schools must eliminate interview requirements, including those related to ascertaining behavioral history.
- *Language Questions.* Schools should provide enrollment documents in English and Spanish and other languages as appropriate to the surrounding population. All charter schools should adopt the PHLOTE form. Schools should make clear that they have ELL programs.
- *Age and Identity Verification.* In order to comply with A.R.S. § 15-828, charter schools should accept any documentation recognized under Arizona law that verifies the student’s identity and age, not only a birth certificate. Enrollment forms should not ask for Social Security numbers of students or parents. Enrollment forms should not ask for citizenship information about students or parents. Schools should only ask for the place of birth of foreign exchange students.

When asking if a student is the child of migrant workers or is a refugee, the school should make clear responses will only be used to provide services and will not influence enrollment.

- *Pre-Enrollment Tasks.* Schools should not ask for pre-enrollment interviews or essays, even on a voluntary basis. Schools should make clear that tours, orientations, and registration events are optional and not a condition that must be met prior to enrollment.
- *Donations and Volunteering.* At the very least, schools should make clear that donations are optional and will not influence enrollment. Ideally, charter schools should not solicit donations from parents or students. Charter schools should make clear that volunteerism is not a condition of enrollment or continued enrollment.
- *Fees.* Schools should make it explicit that enrollment is not conditioned upon the payment of any fees, including book deposits, lab fees, or activity fees. Schools should make clear that complete waivers are available for fees related to the student’s educational experience.
- *Other Recommendations.* Schools should eliminate tactics for encouraging voluntary withdrawal based on academic performance, disability, behavioral issues, or personal characteristics such as sexual orientation, language proficiency, country of origin, gender identity, religion, or race. Schools should eliminate pre-enrollment interviews with students and probationary periods. Schools should eliminate attendance requirements that are stricter than required by law. Schools should apply for federal funding for meal programs so that a lack of food during the school day is not a barrier to enrollment for low-income families.

- *Transparency.* Schools should make their enrollment documents and policies easily available on their websites and in their handbooks and should promptly comply with public records requests about their enrollment materials (and all other public records) so that the public can ensure all Arizona charter schools are complying with the law. In addition, schools should post a message on their websites indicating all students are welcome to enroll, including English learners, non-U.S. citizens, students with disabilities, low-income students, and students who are struggling academically or require additional academic support. This message should make clear that students are only turned away if more students want to attend than there are seats available and that in these instances the school uses a random lottery process to select students.
- *Provide Notice of Changes.* Schools that had illegal or exclusionary enrollment requirements should:
 - o Make clear on all materials that the requirements have been rescinded.
 - o Send a letter to families notifying them that the requirements are no longer in effect.
 - o Post notices on school grounds informing families that no student will be removed or excluded for the rescinded admission or enrollment requirements.
 - o Notify administrators and teachers that rescinded admission or enrollment requirements are no longer grounds for student exclusion or removal.
- *Add Accountability Systems.* Conduct an annual internal compliance review to ensure that all enrollment policies and practices comply with state and federal laws. Ensure that parents and students are aware there is an easy way to file a complaint about unlawful/exclusionary enrollment policies or practices and that these complaints are investigated and resolved.

RECOMMENDATIONS FOR CHARTER SCHOOL AUTHORIZERS

- Charter School Authorizers like the Arizona State Board for Charter Schools should not approve or renew any charter school application that contains illegal or exclusionary admissions or enrollment requirements, including:
 - o G.P.A. or other academic requirements or minimums
 - o A minimum level of English proficiency
 - o Questions regarding citizenship, immigration status, or country of birth of students or parents/guardians
 - o Questions about prior suspensions, arrest records, or disciplinary history other than expulsion
 - o Mandatory submission of Social Security numbers or birth certificates
 - o Pre-enrollment essays, tours, orientations or interviews
 - o Parent/guardian donation, volunteer or buyout requirements
- Charter authorizers should audit, monitor, and otherwise investigate every charter school under their jurisdiction at least once a year to ensure that each school does not use any of the illegal admissions or enrollment requirements described in this report. If any schools are not in compliance, the authorizer should direct them to correct their policies. If schools do not make the appropriate corrections, the charter-revocation process should be initiated.
- Disseminate a directive to all authorized charter schools informing them that they are not allowed to deny admission or dismiss students based on any of the discussed exclusionary practices. Such guidance should include the legal obligation of charter schools to enroll and serve all students pursuant to federal and state law.
- Ensure parents and students have an easy way to file a complaint about unlawful or exclusionary enrollment policies or practices and that these complaints are investigated and resolved. The complaint process should be well publicized to students and parents.

RECOMMENDATIONS FOR THE ARIZONA DEPARTMENT OF EDUCATION

- Create standard enrollment paperwork for use by charter schools statewide that includes information about how parents can challenge enrollment decisions. This paperwork should comply with all state and federal laws and not contain exclusionary language, as outlined in this report.
- Revise the PHLOTE form to make explicit the information it collects will not be used to decide whether a student can enroll at a school.
- Educate charter school operators and authorizers of their obligations under Arizona’s public records and open meetings laws. Compliance with these laws allows for greater transparency, accountability, and oversight.
- The Department of Education should make clear to schools that the only time place of birth information is needed from an enrollee is when the enrollee is a foreign exchange student.
- Issue formal guidance informing all charter schools and authorizers in Arizona that charter schools may not: bar admission to students who do not meet academic minimums; exclude English learners; select students based on their performance on entrance essays or interviews; require students or parents to submit Social Security numbers, U.S. birth certificates, or other citizenship information to enroll; or require families to volunteer at or provide payment to the school.
- Take appropriate action, including immediate and effective steps, to ensure that the charter schools identified at www.acluaz.org/SchoolsChoosingStudents correct their illegal and exclusionary policies, including investigating the schools’ relevant policies, sending individualized notices to the schools providing guidance about the law and their obligations, providing technical assistance where appropriate, and following up to ensure that the schools have come into compliance with the law.

- Investigate the charter schools in Arizona that did not respond to the ACLU of Arizona’s requests for public information to determine if any are engaging in illegal or exclusionary policies.
- Revisit enrollment policies and practices annually to assess whether charter schools are complying with the law. If certain charter schools are not, take further steps with greater penalties at that time to abolish the practice.
- Ensure parents and students have an easy way to file a complaint about unlawful or exclusionary enrollment policies or practices and that these complaints are investigated and resolved.
- Require yearly training on civil rights laws and best practices for charter school board members and administrators.
- Make clear that charter school authorizers must review new applications for charter schools for compliance with all state and federal civil rights laws.
- Require authorizers to conduct regular reviews of charter schools for compliance with state and federal civil rights laws.
- Require authorizers and operators to collect data about applicants, including whether they were enrolled. If they were not enrolled, a record should be kept identifying the reason why they were not enrolled. These records should be regularly audited to determine if a particular authorizer or operator is engaging in unlawful or exclusionary enrollment practices.

The ACLU of Arizona is interested in hearing from schools and charter authorizers that make changes to their enrollment policies and practices in response to the findings in this report. Please contact the ACLU of Arizona at communications@acluaz.org. Parents or students who have faced enrollment difficulties at charter and district schools should email demand2learn@acluaz.org.

