

school is located shall hold a public hearing to solicit comments from the community in connection with the foregoing. Such hearing shall be held within the community potentially impacted by the proposed action or charter school. When a revision involves the relocation of a charter school to a different school district, the proposed new school district shall also hold a hearing within such 30-day period. The school district shall, at the time of its dissemination, provide the State Education Department with a copy of the public hearing notice. The school district shall, no later than the business day next following the hearing, provide written confirmation to both the charter school's charter entity and the State Education Department that the hearing was held, along with the date and time of the hearing. In addition, such school district shall submit copies of any and all written records or comments generated from the hearing to the charter school's charter entity and the State Education Department within 15 business days of the hearing.

Historical Note

Sec. filed: July 31, 2007 as emergency measure; Oct. 29, 2007 as emergency measure eff. Oct. 29, 2007; Oct. 29, 2007 eff. Nov. 15, 2007.

§ 119.5 Random selection process for charter school student applicants.

If the number of timely submitted applications of eligible students for admission to a charter school exceeds the capacity of the grade level of a charter school (or building if the school does not distinguish between grades), students shall be accepted for admission from among such applicants by a random selection process (lottery) pursuant to the requirements of this section.

(a) *Preferences.* (1) Notwithstanding the provisions of this section, a charter school shall provide an enrollment preference to:

(i) pupils returning to the charter school in the second or any subsequent year of operation;

(ii) pupils residing in the school district in which the charter school is located, or in the case of the City School District of the City of New York, pupils residing in the community school district in which the charter school is located; and

(iii) siblings of pupils already enrolled in the charter school.

(2) Establishment of specific school design. Consistent with the requirements of Federal law and with the school design described in the school's charter, a charter school may also establish a single-sex charter school and/or establish enrollment preferences for students at-risk of academic failure, students with disabilities and English language learners.

(b) *Notice.* The charter school shall provide public notice of the date, time and place of the lottery, consistent with Public Officers Law section 104.

(c) *Procedures for conducting lottery.* (1) The person(s) conducting the selection of lottery applicants or acting as an impartial observer of the selection of lottery applicants shall not be a board member or employee of the school, or a parent, person in parental relationship, grandparent, sibling, aunt, uncle or first cousin of any applicant to the school or of any pupil enrolled in the school.

(2) The lottery shall be held in a space that is open and accessible to the public and capable of accommodating the reasonably anticipated number of attendees. If the reasonably anticipated attendance exceeds capacity, separate grade level lotteries may be held in separate locations provided that each lottery is publicized in a manner consistent with the requirements of Public Officers Law section 104. Nothing herein shall be construed to require or exclude attendance at the lottery by parents, persons in parental relationships, guardians and/or students participating in the admissions process.

(3) A charter school may structure the actual lottery process in any manner consistent with its approved admissions policy and this section.

(4) The random process used in the lottery may be generated by any traditional lottery ball system, technology-based software, paper ticket process or other methodology which generates random results.

(d) *Records.* The charter school shall document the lottery process, and make such records available to the department and/or the charter authorizing entity upon request. Records shall be sufficiently detailed to enable the reviewer to identify the process used, compare the process used

to the lottery procedures contained in the charter school's charter, and determine that the procedures used were consistent with those set forth in the charter.

Historical Note

Sec. filed Dec. 20, 2011 eff. Jan. 4, 2012.

§ 119.6 Policies against discrimination and harassment.

Each charter school shall include in its disciplinary rules and procedures pursuant to Education Law section 2851(2)(h) or, if applicable, in its code of conduct:

(a) provisions, in an age-appropriate version and written in plain-language, prohibiting discrimination and harassment against any student, by employees or students on school property or at a school function, that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such a severe nature that:

(1) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or

(2) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

Such conduct shall include, but is not limited to, threats, intimidation, or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law section 11(6), or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law section 3201-a or 2854(2)(a) and title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, *et seq.*), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973;

(b) provisions for responding to acts of discrimination and harassment against students by employees or students on school property or at a school function as defined in Education Law section 11(1) and (2), pursuant to subdivision (a) of this section, including but not limited to disciplinary measures to be taken; and

(c) guidelines on promoting a safe and supportive school climate while discouraging, among other things, discrimination or harassment against students by students and/or school employees; and including safe and supportive school climate concepts in the curriculum and classroom management.

Historical Note

Sec. filed March 23, 2012 eff. April 11, 2012.