

## Federal Law Section 5210 of the Elementary and Secondary Education Act

### SEC. 5210. DEFINITIONS.

(1) CHARTER SCHOOL- The term charter school' means a public school that —

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

The federal law does not define specifics of charter enrollment preferences nor does it outline many other areas of charter operation. That is left for states to determine in their individual charter law.

# TITLE 14

## Education

### Free Public Schools

#### CHAPTER 5. CHARTER SCHOOLS

§ 506. Restrictions.

(a) A charter school shall not:

(1) Charge tuition, except in accordance with Chapter 6 of this title, or collect fees not permitted to be assessed by other school districts;

(2) Be home-based nor engage in any sectarian or religious practices in its educational program, admissions policies, employment policies or operations;

(3) Restrict student admissions except:

a. By age and grade;

b. By lottery in the case of over-enrollment;

c. By gender in the case of a same-gender school.

Notwithstanding any provisions to the contrary, the Department of Education, with approval of the State Board of Education, shall be considered the approving authorizer of Prestige Academy, a same-gender school, and shall provide oversight to such school. The Department of Education, with the approval of the State Board, may waive any provisions in this Chapter that would limit the school from opening for the 2008-2009 school year. Any subsequent same-gender charter school shall make its application to the Department of Education and the State Board of Education.

d. Within a reasonable amount of time as determined by the Department of Education, but no longer than 2 years after commencement of operations of any same-gender charter school in the State, there shall be approved and operating a same-gender charter school of the opposite gender, substantially equal to the prior-approved, same-gender charter school, matching in grade level and marketed towards similar demographics of the prior-approved, same-gender charter school. The Department of Education shall work with the education community on a plan for recruitment and technical assistance for applicants of a same-gender charter school of the opposite gender. The Department of Education shall provide such report regarding the recruitment plan to the General Assembly on an annual basis.

e. The same-gender charter school provisions shall sunset, for any new charter applications, on June 30, 2013, unless the General Assembly has otherwise acted to extend such date prior to its expiration.

f. The Department of Education shall provide a written report to the Governor and the respective Education Committees of the state House of Representatives and Senate with a proposal for an experienced research and evaluation entity to conduct an evaluation of single-gender charter schools in the State. The study proposal shall cause to be examined factors including, but not limited to, academic results, social factors, and psychological factors. The cost of the evaluation shall be included in the Department of Education's proposal and provided to the Governor for consideration for inclusion in the

FY 2010 state budget. The Department of Education is encouraged also to seek grant funding for the evaluation.

g. A single-gender charter school shall report on an annual basis, with the first report to be provided to the Department of Education and the respective Education Committee of the state House of Representatives and the Senate within 1 calendar year after commencement of operations by the charter school, and such report shall include, among other things, the efforts made by the charter school to further advancement of its students' education, as well as quantitative analysis of its efforts and results in recruiting and retaining economically-disadvantaged students, regardless of race.

(4) Discriminate against any student in the admissions process because of race, creed, color, sex (except in the case of a same-gender school), handicap, or national origin, or because the student's school district of residence has a per student local expenditure lower than another student seeking admission; or

(5) Be formed to circumvent a court-ordered desegregation plan.

(b) Preferences in student admissions may be given to:

(1) Siblings of students currently enrolled at the school;

(2) Students attending an existing public school converted to charter status. Parents of students at a school converted to charter status shall be provided with a plan the district will use to address the educational needs of students who will not be attending the charter school;

(3) Students enrolling in a new (nonconverted) charter school may be given preference under the following circumstances as long as the school has described its preferences in the school's charter:

a. Students residing within a 5-mile radius of the school;

b. Students residing within the regular school district in which the school is located;

c. Students who have a specific interest in the school's teaching methods, philosophy, or educational focus;

d. Students who are at risk of academic failure;

e. Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.

(3) Children of a school's founders, so long as they constitute no more than 5% of the school's total student population. For the purposes of this paragraph "founder" shall not include anyone whose sole significant contribution to the school was monetary, but otherwise shall be determined by the founding Board of Directors subject to Department of Education regulations.

(c)(1) On or before April 1 of each school year, a charter school shall have enrolled, at a minimum, 80% of its total authorized number of students, and the administrator of each charter school shall, pursuant to the requirements below, provide a written certification of that enrollment to the Department of Education and to the superintendent of each public school district in which 1 or more of the charter school's students reside.

(2) The certification from the charter school's administrator shall contain an updated roster of students who are enrolled at the charter school, together with their home address and district of residence.

(3) A charter school shall obtain a written confirmation, signed by a parent or guardian of each student in that student's initial year of attendance at the charter school, that the student will remain in the charter school for at least 1 school year. That confirmation shall include a statement reading:

"I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least 1 school year"

and shall be kept on file at the school and made available for inspection to Department of Education officials or representatives from the public school district in which the student resides. After a student's initial year of enrollment, it shall be presumed for school district planning purposes only that the student will continue to attend the charter school until completion of the school's highest grade level and no further written confirmation need be obtained by the charter school.

(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in the marital status of the child's parents, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health treatment program, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of "good cause."

(e) If at any time during any fiscal year of its existence, a charter school knows or reasonably should know that it has or will become unable to pay in full its projected expenses as they fall due, the school shall immediately so advise the Department of Education, and shall provide the Department with all financial information relating to revenues and expenses of the school necessary for the Department to determine the extent and cause of any potential operating deficit. If a charter school should fail to provide the notice to the Department of Education required by this subsection or shall fail to cooperate with the Department in the production of financial information pursuant to this subsection, the Department shall subject the school's charter to formal review pursuant to the provisions of § 515 of this title in order to determine whether grounds exist to take remedial measures.

(f) If a child would qualify for a no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program, beginning in the 2014-2015 school year, the charter school shall provide breakfast and lunch to the child at no or low cost to the child's family. Charter schools shall not consider whether a child would qualify for no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program when making enrollment decisions.

## **State Code, Title 14, Chapter 2, Section 205 and Chapter 10 Section 1029**

§ 205. Vocational-technical centers or schools.

The Department of Education with the approval of the State Board of Education may establish such vocational-technical centers, or schools as in its judgment will promote the educational interests of the State. 14 Del. C. 1953, § 205; [56 Del. Laws, c. 292, § 4](#); [71 Del. Laws, c. 180, § 18](#);

§ 1029. Vocational-technical school districts; school boards.

(a) Vocational-technical school districts superimposed on other reorganized school districts shall be operated and maintained as other reorganized school districts under the control of the State through its Department of Education as provided in this Code.

(b) In each reorganized vocational-technical school district there shall be a vocational-technical school board which shall have the authority to administer and to supervise all the vocational-technical centers or schools of the vocational-technical school district and which shall have the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vocational-technical centers or schools of the reorganized vocational-technical school district. Such administration, supervision and policy shall be conducted and formulated in accordance with Delaware law and the policies, rules and regulations of the State through its Department of Education as provided in this Code. All vocational-technical centers or schools shall come within the authority of the vocational-technical school board in the county in which they are located.

TITLE 14

Education

Free Public Schools

CHAPTER 10. REORGANIZATION OF SCHOOL DISTRICTS

Subchapter III. School Boards of Reorganized School Districts

**Magnet Schools**

**§ 1049- Policy Making**

(4) Grade and standardize all the public schools under its jurisdiction and may establish kindergartens and playgrounds and such other types of schools, as in its judgment will promote the educational interest of the reorganized school district;