



Governor's Advisory Council for Exceptional Citizens (GACEC)
516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

MEMORANDUM

DATE: April 27, 2017

TO: The Honorable Members of the Delaware General Assembly

FROM: Dafne A. Carnright, Chairperson
GACEC

RE: **House Substitute 1 for House Bill No. 85 (Charter School Enrollment Preference)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Substitute 1 for House Bill No. 85 which eliminates the use of an enrollment preference for students living within a 5-mile radius of a charter school. Council **endorses** House Substitute No. 1 for House Bill No. 85 **if it is amended by House Amendment No. 1**, which has been placed with the bill for consideration.

Background on the bill is contained in the March 29, 2017 News Journal article. Existing law allows charter schools to adopt a preference for "students residing within a 5-mile radius of the school". See Title 14 Del.C. §506(b)(3)a. Only two charter schools have adopted the preference, i.e., the Newark Charter School and the First State Montessori School. The main focus of the legislation is the Newark Charter School. Consistent with the article, proponents of the preference posit that the preference is justified "so schools could create a neighborhood atmosphere". Critics counter that the preference "has allowed charters to screen out at-risk kids - including those in poverty - and exacerbated racial and economic segregation".

The current legislation represents a compromise which substitutes an undefined "contiguous area" for the "5 mile radius". According to the March 29 article, the effect of the substitution is to allow Newark Charter to give a preference only to the Newark part of the Christina School District and exclude students from Wilmington. However, House Amendment No. 1 would strike the proposed "contiguous area" preference.

Similar legislation (House Bill No. 83) was introduced in 2015. It is described in a May 4, 2015 News Journal article. However, that bill proposed to both eliminate the 5-mile preference and ban discrimination "against any student in the admissions process because of the student's residence's proximity to the school". The May 4 article included the concern that low-income Wilmington students could not gain admission to Newark Charter:

Rep. John Kowalko, D-Newark, said Newark Charter's five-mile radius preference leads to de-

facto segregation because it is situated in a mostly white, more affluent area of town. Demand for seats in the school is so high - its test scores among the best in the state - that it routinely has lengthy wait-lists which, Kowalko argues, makes it all but impossible for a black, low-income student from Wilmington to get in.

The charter school law already allows a preference for “students residing within the regular school district in which the school is located”. See line 10 of the bill. Therefore, if the 5-mile radius preference were stricken, Newark Charter could still have a preference for students of the Christina School District.

Statistics corroborate concerns that enrollment at Newark Charter does not contain the expected percentage of special education, low income, or minority students. Consistent with Department of Education statistics, the following table highlights the discrepancy:

	Newark Charter	Christina School District	State
Special Education Students	5.6%	18.6%	14.4%
White Students	64.9%	28.7%	45%
Low Income Students	7.9%	43.8%	36%

The Christina School District has more than three times the percentage of special education students and more than five times the percentage of low-income students as the Newark Charter School within its borders. Charter schools are public schools which should not ostensibly be operating as exclusive private schools.

Parenthetically, the exclusionary effect of the “five mile radius” preference is exacerbated by another preference in existing law: “students who have a specific interest in the school’s teaching methods, philosophy, or educational focus”. See Title 14 Del.C. §506(b)(3)c. Consistent with the attached articles and Attorney General’s opinion, the Wilmington Charter School was allowed to exclude students based on scores on a “placement” test and lack of enrollment in honors classes prior to application. Consistent with the Delaware Department of Education statistics, the following table highlights the impact on special education, minority, and low income students:

	Wilmington Charter	Red Clay Consolidated School District	State
Special Education	0.5%	12.1%	14.4%
White Students	57.5%	43.6%	45%
Low Income Students	3.7%	35%	36%

A public school’s enrolling only a half of 1% of special education students is difficult to defend when

the statutory norm is that students are admitted “by lottery in the case of over-enrollment”. See Title 14 Del.C. §506(a)(3)b. Moreover, the percentage of low income students in the host district (Red Clay) is almost 10 times the percentage of low income students in Wilmington Charter.

Thank you for your time and consideration of our observations and endorsement of the proposed legislation, if amended. Please feel free to contact me or Wendy Strauss at the GACEC office should you have any questions.

CC: The honorable Matthew L. Denn, Attorney General
The honorable Susan L. Bunting, Secretary of Education
Frederika Jenner, Delaware State Education Association
Kathleen MacRae, American Civil Liberties Union of Delaware

Attachments