

Legal & Policy

CSI New Leader Orientation
July 29th & 30th, 2019



Legal & Policy Department

The Legal and Policy department provides general legal and policy support to CSI Schools, manages the charter contract process, monitors compliance of CSI Schools, develops guidance documents and sample policies/templates for CSI schools, and develops and revises CSI policies.

Unit Organizational Structure & Staff



- General Legal and Policy Support
- Compliance monitoring
- Charter contracts

Legal and Policy

- General Legal and Policy Support
- Write guidance on key legal issues for CSI schools
- Draft sample policies for CSI schools
- Respond to general legal questions from CSI Schools
- Assist on legal matters involving CSI (e.g., State Board appeals, lawsuits, OCR investigations)
- Provide legal support to CSI staff
- Compliance Monitoring
- Annual organizational submissions and audits
- Implement Compliance Monitoring protocols (e.g., Notices of Concern)
- Oversee school closure process
- Respond to Parent/Employee Complaints against CSI Schools
- Charter Contracts
- Oversee charter contracting and waiver request process

School Staff



Suggested school contact person:

School Roles & Responsibilities

School Leader and Board: Charter contract; compliance; school policies

School Leader/Operations Manager: Organizational submissions



Key Dates & Trainings

- ▷ Regional Meetings/School Leader Meetings
- ▷ Guidance Documents
- ▷ Webinars
- ▷ [2019-20 Organizational Submissions and Audits schedule](#)

DATE	DESCRIPTION	TYPE
July 2019	Audit: Posting of Form 990s and Automatic Waiver Description	Audit
7/9/19	Organizational Submissions and Audits Webinar	Webinar
8/14/19	Proof of Insurance	Deadline
8/14/19	Assurance of Compliance	Deadline
8/14/19	Parent/Student Handbook and Related Policies	Deadline
8/14/19	Employee Handbook	Deadline
9/12/19	Emergency Readiness Plan	Deadline
9/12/19	School Safety Survey	Deadline
9/12/19	Four Week Notification Letter (Title I, Part A Schools Only)	Deadline
November 2019	Board Agenda, Minutes, Contact Information Posted	Audit



Guidance and Resources

Legal and Policy » Colorado Char x +

https://resources.csi.state.co.us/legal-and-policy-library/

Apps Colorado General A... Colorado Legal Res... Dossier | State Bill C... Watch Live: Colorad... Colorado State Boa... Home - Colorado C...

Calendar Main Site

Library Accountability Assessments Data Submissions Finance Legal and Policy Student Services Board Governance School Leadership

Guidance & Resources

Homeschooling

Webinar

Full Day Kindergarten

Webinar

PK-2 Discipline Advisory Bulletin

Open

Title VII

Slides

Webinar

CSI Student Fee Policy

Open

Overview Public vs. Private Preschool

Open

Title VI

Slides

Webinar

Americans with Disabilities Act (ADA)

Slides

Webinar

Age Discrimination

Slides

Webinar





Guidance and Resources

← → ↻ www.lexisnexis.com/hottopics/michie/ ★ ○ ⋮

LexisNexis® Legal Resources

Arkansas
[Arkansas Code](#)
[Arkansas Criminal Jury Instructions](#)

California
[California Contractors License Law & Reference Book](#)
[California Official Reports](#)
[California Public Employees' Retirement Law](#)

Colorado
[Colorado Revised Statutes](#)

Georgia
[Code of Georgia](#)

Maryland
[Code of Maryland and Rules](#)

Massachusetts
[Massachusetts Courts](#)

Mississippi
[Mississippi Code of 1972](#)

New Jersey



Contact Information

Anastasia Hawkins, Director of Legal & Policy Initiatives

- E: anastasiahawkins@csi.state.co.us
- O: 303.866.6960
- C: 720.413.9535

Marisa Bayless, Legal & Policy Associate

- E: marisabayless@csi.state.co.us
- O: 303.866.6714



Compliance Monitoring



Compliance Monitoring

Role of Authorizer	Role of School (Board and SL)
Broad oversight responsibilities – ensure compliance with applicable laws, rules, regulations, CSI contract/policies	Compliance with applicable laws, rules, regulations, CSI contract/policies
*Communicate with schools when issues of non-compliance arise	*Communicate with CSI when issues of non-compliance arise
When available, provide support in remedying areas of noncompliance	Remedy areas of noncompliance



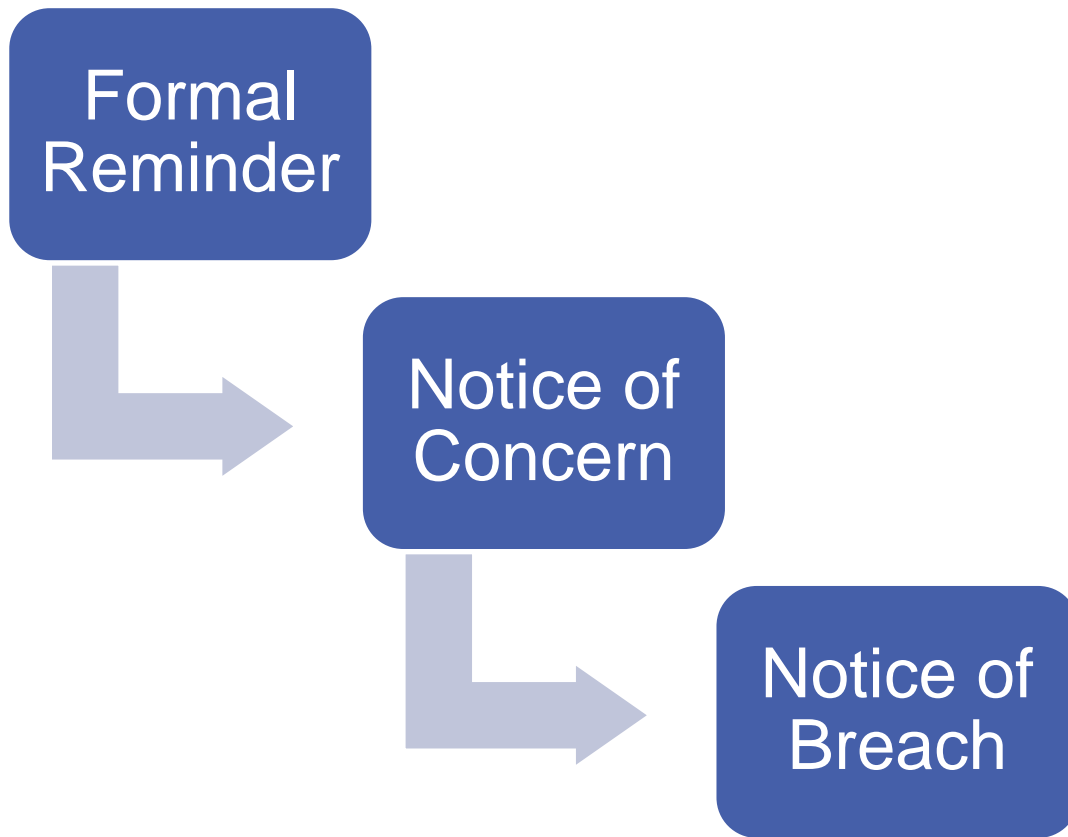
Compliance Monitoring

CSI School Compliance Policy

- ▷ Outlines the process for addressing compliance issues
 - ▷ Includes a system for Notices
 - ▷ Explains remedies



Compliance Monitoring: Notices





Compliance Monitoring: Notices

Formal Reminder

- Least Severe
- Immaterial violations
- Generally not material to renewal or other high-stakes decisions but may contribute to larger body of evidence re: performance



Example

Dear School Leader,

You are receiving this Formal Reminder because I have not yet received your 2017-18 Student Handbook and related policies. As communicated in the 2017-18 Organizational Submissions and Audits Calendar sent on June 9, 2017, the Student Handbook was to be uploaded to Totara by August 15, 2017. A reminder email was also sent on August 10, 2017.

To remedy this deficiency, please submit your 2017-18 Student Handbook by August 21, 2017. Failure to do so may result in escalation pursuant to the CSI School Compliance Policy.

Thank you for your assistance and cooperation in meeting these requirements. If you feel this to be in error or have any questions, please do not hesitate to contact me.

Thank you,

Trish

Trish Krajniak | Director of Legal and Policy Initiatives



trishkrajniak@csi.state.co.us

O:(303) 866-6960

M:(720) 413-9535

F: (303) 866-2530

Colorado Charter School Institute

1580 Logan Street, Suite 210, Denver, CO 80203

www.csi.state.co.us



Compliance Monitoring: Notices

Notice of Concern

- More Severe
- Generally Issued Where the Issue/Concern:
 - a. Hinders, disrupts, or infringes on a student's ability to access his/her education;
 - b. Impacts the ability of CSI to fulfill its obligations to various stakeholders (including other schools in the portfolio and CDE);
 - c. Represents a pattern of noncompliance or indicates larger systemic issues within the school;
 - d. Seriously jeopardizes the continued operation of the school;
 - e. The school fails to remedy identified issues of noncompliance from a previous Formal Reminder; and/or
 - f. Jeopardizes student and/or staff safety or represents a serious threat to the school or community.
- Considered in renewal/high-stakes decisions
- May affect accreditation



CHARTER SCHOOL INSTITUTE

November 1, 2017

ABC School
123 School Drive
Colorado City, CO 80222

RE: Notice of Concern regarding Special Education Licensing Requirements

Dear School Leader,

Per Section 300.18 of the IDEA, charter schools are responsible for hiring their own qualified and licensed special education teachers with appropriate endorsements. Although charter schools may obtain state waivers for the licensure of regular education personnel, this is not the case for special education teachers.

As indicated in the CSI Guidebook, all CSI schools are required to submit a list of all special education staff as well as all required HR information needed to complete state data collection, and that any changes in staff must be immediately communicated to CSI (see Page 70-75 of the [CSI Guidebook](#)).

It has come to our attention that the ABC School social worker, Mr. Worker, has been servicing hours on students' IEPs without the requisite special education provider licensure.

This letter serves as a Notice of Concern due to noncompliance with state and federal law for the period of time this school year that Mr. Worker was providing special education services without the requisite license. **To remedy this deficiency, please ensure that Mr. Worker submits the application for licensure as soon as possible, and provide evidence that the special education provider license has been awarded by December 15, 2017. Additionally, by December 15, 2017, please submit a plan describing how ABC School will monitor licensing requirements for special education staff moving forward in order to ensure that staff appropriately obtain and maintain required licenses.** Both of these items can be sent to me (trishkrajniak@csi.state.co.us). Failure to submit the requisite information by the date specified will require escalation per the CSI School Compliance Policy.

Thank you for your assistance and cooperation in meeting these requirements. If you have any questions, please do not hesitate to contact me.

Very truly,

Trish M. Krajniak
Director of Legal and Policy Initiatives

Cc: Mrs. Chair, ABC School Board Chair
Terry Croy Lewis, Colorado Charter School Institute Executive Director
Clare Vickland, Director of Student Services
Matt Hudson, Director of Special Education



Compliance Monitoring: Notices

Notice of
Breach

- Most Severe
- Generally Issued Where:
 - a. Didn't satisfy NOC
 - b. 3+ NOCs in 1 year
 - c. Serious violation
 - d. Other grounds for non-renewal/revocation
- Considered in renewal/high-stakes decisions
- Will affect accreditation



Remedies

CSI may revoke or deny renewal of the Contract for any of the grounds set forth in C.R.S. § 22-30.5-511 and 1 C.C.R. 302-1, Rule 10.00. Prior to revocation, CSI may, at its discretion, implement other remedies such as:

1. Withholding of funds
2. Seeking or requiring technical assistance
3. Requesting the Commissioner issue a temporary or preliminary order
4. Taking immediate control of school or a portion thereof
5. Submission of remedial plan
6. Intensive monitoring
7. Charter review
8. Revocation
9. Any other remedies allowed by law



Examples of Compliance Monitoring Activities

2019-20 Organizational Submissions and Audits

Submissions

- Proof of Insurance
- Assurance of Compliance
- Parent/Student Handbooks & Related Policies
- Employee Handbook
- Emergency Readiness Plan
- School Safety Survey
- Four Week Notification Letter

Audits

- Posting of Waiver Descriptions and 990s
- Board Notices, Agendas, Minutes, Calendar, and Contact Information

Organizational Submissions and Audits

2019-2020 Key Organizational Submissions and Audits

Below is a listing of the key submissions and audits for the 2019-2020 school year.

Please note: this is not a comprehensive list of organizational submissions and audits across CSI departments, but rather a list of organizational compliance monitoring activities related to contract requirements and policies. CSI reserves the right to request additional submissions or conduct additional audits as needed to ensure compliance with requirements.

School Submissions to CSI		
Submit items to Totara using the login information provided. If you have questions about your login, please contact Marisa Bayless at MarisaBayless@csi.state.co.us.		
Due Date	Action	Details
8/14/2019	Proof of Insurance	<p>Per the charter contract, minimum coverage requirements are as follows:</p> <ul style="list-style-type: none"> • Comprehensive general liability - \$2,000,000 • Officers, directors and employees errors and omissions - \$1,000,000 • Property insurance - As required by landlord • Motor vehicle liability (if appropriate) - \$1,000,000 • Bonding (if appropriate) <ul style="list-style-type: none"> ▪ Minimum amounts: \$25,000 ▪ Maximum amounts: \$100,000 • Workers' compensation - (as required by state law) <p>Any material changes (reduction, addition of other coverage) or lapses in insurance must be communicated to CSI.</p>
8/14/2019	Assurance of Compliance	<p>By signing the Assurance of Compliance, both the School Board Chair and School Leader demonstrate awareness of- and confirm compliance with applicable federal, state, and local laws and regulations, as well as application and contract requirements.</p> <p>Please note that the Assurance of Compliance is not fully comprehensive, and compliance is not limited to the laws, rules, and policies set forth therein. Schools are required to adhere to any and</p>

2019-20 Charter School Assurance of Compliance

By signing below the School indicates it is aware of the statutes, rules, and policies set forth below and certain information from governing documents, including the applicable charter school application (new school, renewal, or transfer) and contract and further acknowledges and confirms that it is in compliance with such statutes, rules, policies and other applicable documents.

In some cases, CSI will require additional documentation in order to further substantiate fulfillment of the law (i.e., board minutes, financial transparency documentation, etc.). **All documentation of a public nature should be gathered and made available on-site for authorizer and public access.**

Please read through each item below, and then sign to assure CSI that you are in compliance. **This document must be signed by the school's leader and board chair and submitted to Anastasia Hawkins by August 14, 2019.** If you have questions about any items below please contact Anastasia Hawkins (anastasiahawkins@csi.state.co.us, or 303-866-6960).

I. Modification of Governing Documents

Opportunities for schools to grow and change do not always conveniently align with the contract renewal timeline. As a result, the Institute has developed a form that provides Institute charter schools with guidance and a format to propose and notify the Institute of changes to the School's governing documents. Applicable modifications include any material change to a school's governing documents, including but not limited to the charter contract, bylaws, and application.

The Institute has developed a Charter Modification Request Process that provides Institute charter schools with a format to propose changes to the Institute School's charter contract. Depending on the type of change, the Institute school may either need to notify the Institute or request and obtain advanced approval pursuant to the following. Where necessary, a contract amendment will be developed and executed.

Material Modifications

Changes to the following items are considered material to the charter and required advance approval by the Institute. An Institute School seeking to amend one of the following must submit a [Charter Modification Form](#) (see below). Changes to these items should not be made by the School until approval from the Institute is received.

- Education Program (overall school model – e.g., Montessori, Classical, Language Immersion, etc.)
- Education Service Provide (addition of a material change in services provided by an education service provider, including revisions to the management contract)
- Addition of regular school-to-home, home-to-school transportation or purchase of transportation vehicle
- Addition of an online program
- Expansion (depending on type of expansion; for additional information, see CSI's School Expansion Policy)

Immaterial Changes*

The following items require advanced notification to the Institute but do not require formal Institute approval. For changes listed below, please email the updated document(s) to Anastasia Hawkins at anastasiahawkins@csi.state.co.us unless otherwise noted. You do not need to complete the Charter Modification Request Form.

- Name
- Mission/Vision
- Enrollment Policy
- Food Services
- Changes to Interim Assessments
- Program Plans (IEP, 504, GT, ELL)
- Location Modification (additional facility or change of facility)
- Insurance Coverage (reduction of coverage)
- Bylaws or Articles of Incorporation
- Board-Approved Budget (as updates are made, send to cassandra.walgren@csi.state.co.us and DavidSever@csi.state.co.us)
- Family Handbook
- School Calendar, Hours
- Addition of Special programs (homeschool, before-and-after-school care, etc.)
- Significant Changes to Organizational Structure (including changes in school board membership)

Note: Although the above changes typically do not require advanced Institute approval, should a change materially affect the charter contract, pose a safety threat to the school community, or otherwise materially impact the academics, finances, or operations of the Institute School, the Institute reserves the right to require the Institute School to seek formal approval for the change. All modification to any of these policies or documents must still be in accordance with both federal and state law.

I. Federal, State, Rule, and Policy

The following checklist is provided by CSI as a guide to assist Schools in complying with applicable federal and state laws, administrative rules, and CSI policies. **This checklist is not exhaustive and compliance is not limited to the following. Schools are required to adhere to any and all applicable federal, state, and local laws and rules and all relevant CSI policies, regardless of whether they are listed below.**

- | | |
|--|--|
| <p>Governance, Records, and Charter Schools</p> <ul style="list-style-type: none"> <input type="checkbox"/> Charter Schools Act (C.R.S. Title 22, Article 30.5) and Institute Charter Schools (22-30.5-501 et seq.) <input type="checkbox"/> Colorado Open Meetings Law: 24-6-401 et seq. <input type="checkbox"/> Colorado Open Records Act: 24-72-201 et seq. <input type="checkbox"/> Family Educational Rights and Privacy Act of 1974: 20 U.S.C 1232g <input type="checkbox"/> Colorado Code of Ethics: 24-18-101 et seq. <p>(and 201 et seq.)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Non-Profit Corporation Act: Title 7, Articles 121-137 | <p>Safety and Discipline</p> <ul style="list-style-type: none"> <input type="checkbox"/> Certificate of occupancy for the school facility: 22-32-124 <input type="checkbox"/> Safe School Plan: 22-32-109.1 (2) <input type="checkbox"/> Student transportation safety requirements, if applicable: 1 CCR 301-25, 1 CCR 301-14, 1 CCR 301-26, 1 CCR 301-29 <input type="checkbox"/> Nursing Services: 1 CCR 301-68 <input type="checkbox"/> Jack's Law (H.B. 16-1373, 18-1286) <input type="checkbox"/> Fire inspections and related records; CRS 22-32-124, 8 CCR 1507-30 <input type="checkbox"/> Grounds for suspension, expulsion, and denial of admission of students: 22-33-106 <input type="checkbox"/> Procedures for suspension, expulsion, and denial of admission of students: 22-33-105 <input type="checkbox"/> Services for expelled students: 22-33-203 |
|--|--|

Assurance of Compliance

Colorado Charter School Institute

Statute and Regulation

Please note: the resources below may not be comprehensive of the all requirements listed in statute. It is a school's responsibility to review and understand statute before signing the Assurance of Compliance.

Statute, Rule, or Policy	Summary	Example of Evidence AND/OR Regular Monitoring if applicable
Governance, Records, and Charter Schools		
Colorado Charter Schools Act (22-30.5) and Institute Charter Schools (22-30.5-501 et seq.)	Includes the general laws governing charter schools are found in Title 22, Article 30.5, with statutes pertaining to Institute Charter Schools in particular in section 501 et seq.	
Colorado Open Meetings Law: 24-6-401 et seq.	Colorado law establishes the formation of public policy as public business and may not be conducted in secret: http://www.cde.state.co.us/sites/default/files/documents/cdechart/guidebook/gov/pdf/openmtgsrecordsmemo.pdf	<u>Example of Evidence:</u> <ul style="list-style-type: none"> ▪ At least 24 hours of public notice before meeting CSI Audit of School's website and meeting minutes
Colorado Open Records Act: 24-72-201 et seq.	Requires tht all public records shall be open for inspection by any person at reasonable times. https://www.sos.state.co.us/pubs/info_center/files/CORA_Act.pdf CSI Sample CORA Policy and Guidance	<u>Example of Evidence:</u> <ul style="list-style-type: none"> ▪ CORA Policy
Family Educational Rights and Privacy Act of 1974: 20 U.S.C 1232g; 34 CFR Part 99	FERPA provides that educational agencies and institutions that receive U.S. Department of Education funds may not have a policy or practice of denying parents and eligible students of the right to: <ul style="list-style-type: none"> • Inspect and review education records within 45 days of a request • Seek to amend education records believed to be inaccurate; and 	<u>Annual submissions to CSI:</u> <ul style="list-style-type: none"> ▪ Annual notification of rights ▪ Directory information



Enrollment Do's and Don'ts



Anti-Discrimination

An institute charter school cannot discriminate on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services.

- Nondiscrimination extends to recruiting and marketing practices

C.R.S. 22-30.5-507(3)



Enrollment Eligibility

- ▷ Enrollment in an institute charter school shall be open to any child who resides within the state
- ▷ Age Eligibility
 - School should have a clear age eligibility date for K and 1st grade (except for Early Access)
 - Free public education is available to students age 5-21 who have not yet graduated the 12th grade



Grounds for Denial of Admission

Grounds for denial of admission:

- Having graduated from 12th grade
- Having been expelled from school in the preceding 12 months
- Not meeting age eligibility (mostly for K or 1st grade enrollment)

CRS 22-33-106



No Undue Barriers to Enrollment

Nondiscrimination + Cannot establish undue barriers to enrollment that have the effect of excluding students based on:

- Socioeconomic, family, or language background;
- Prior academic performance;
- Special education status; or
- Parental involvement.

Question to ask: *Would the practice have the effect of excluding students based on socioeconomic, family, or language background, prior academic performance, special education status, or parental involvement?*

1 CCR 301-88



Registration Materials

- *Plyler v. Doe (1982)*: Public schools must enroll and educate students regardless of immigration status/citizenship. You cannot deny admission to a student based on lack of records.
- *McKinney-Vento Act*: Qualifying students must be immediately enrolled in school even if they lack typically-required documentation (birth certificate, immunization records).
- **Moral of Story**: Ensure that the registration materials do not have a “chilling effect” on the enrollment of individuals who identified with a particular protected class or classes



Registration Materials

Proof of Residency (typically N/A):

- Can request phone or water bill, lease agreement, affidavit in lieu of other formal documentation
- Cannot ask about citizenship or immigration status
- Cannot require a parent's state ID or driver's license

Proof of Age/Identity

- Can request religious, hospital, or physician's certificates; adoption record; parent affidavit; birth certificate; previously verified school records
- Cannot prohibit enrollment due to lack of birth certificate or due to a foreign birth certificate



Registration Materials

Social Security Numbers

- If requesting, must (1) inform the family that the SSN is provided voluntarily and refusal to provide one does not bar enrollment; and, (2) explain why the SSN is needed and how it is used
- Cannot require SSN for either the student or the parent

Race/Ethnicity Data

- Can request race/ethnicity data for purposes of state/federal reporting
- Cannot be a bar to enrollment

Disability Status

- Cannot ask about disability status prior to admissions unless it is used for purposes of a weighted lottery or if the school is chartered to serve the needs of students with a particular disability
- After student is admitted, can ask for prior IEPs and 504 Plans but failure to provide them is not a bar to enrollment



Registration Materials

Cannot charge a registration fee

Commonly-requested documents:

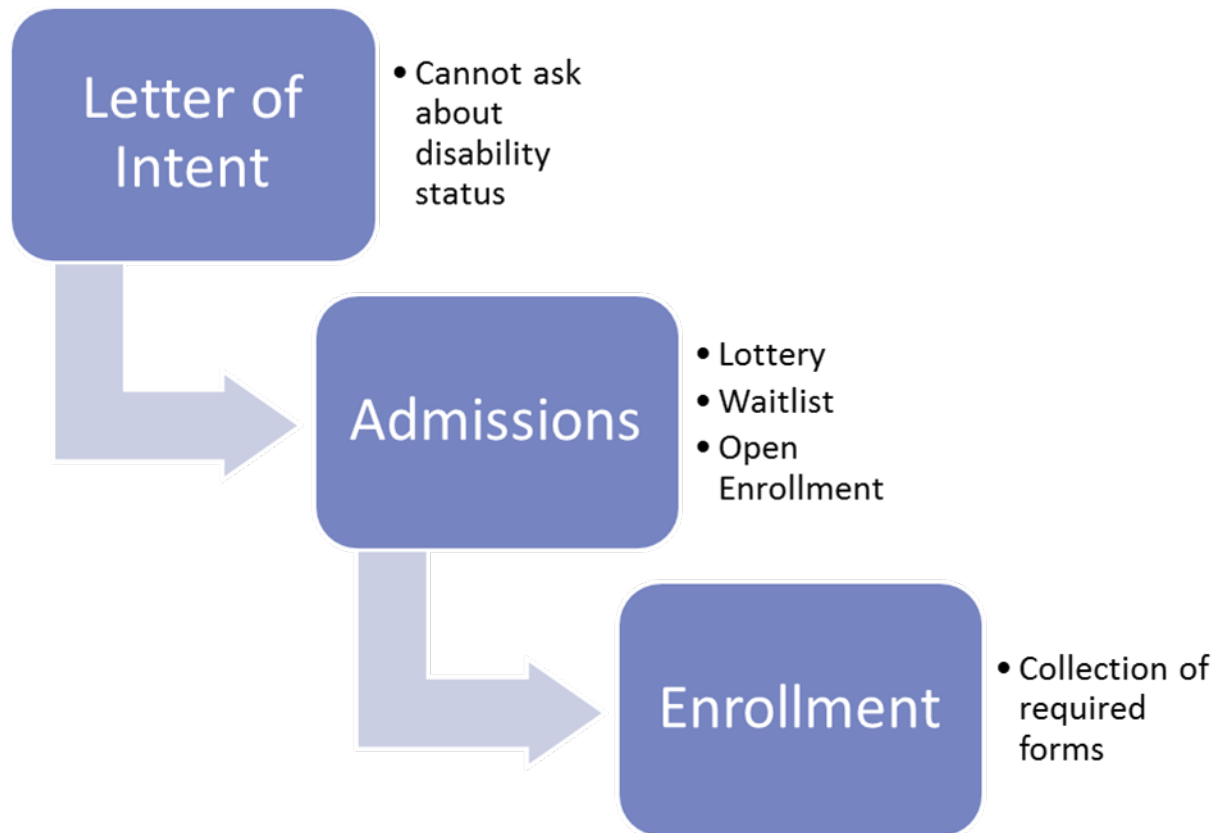
- Proof of Age and Identity
- Immunizations
- Home language survey
- Prior transcripts/records
- FRL/FEDS Form



Enrollment of Special Populations

▷ SPED Enrollment:

- CSI Schools must use the CSI Enrollment of Students with Disabilities Policy





Key Take-Away's

1. Review your policy and process

- a. Anti-Discrimination + no undue barriers
- b. Inclusive of special populations
- c. Clear on process and timelines

2. Train Front Office Staff!

- a. Process for notifying of potential ELL or homeless student
- b. Registration materials
- c. SPED Enrollment
- d. FRL/FEDS Form



Additional Resources

http://www.csi.state.co.us/school_resources/legal_policy/guidance_and_resources



Thank You!

Any questions?

Contact me at:

anastasiahawkins@csi.state.co.us

303.866.6960

720.413.9535



Credits

▷ Presentation template by [SlidesCarnival](#)