

Challenges of Charter Schools with Special Education: Issues of Concern for Charter School Authorizers and Service Providers

Mid-Atlantic Education Review
Vol. 1, No. 1 (36 – 45)
© The Author, 2013
<http://maereview.org>

Leman Kaniturk Kose
University of Rochester

Abstract

Charter schools, as one type of school choice, have been attracting a growing number of students since first inception in Minnesota in 1991. Although charter schools are a fledgling reform, they are already a significant part of the federal and state efforts to improve schools and have a growing number of students. Like traditional public schools, charter schools accept all students equally. As a result, they are also obligated to support and serve students with disabilities and meet the requirements of constitutional provisions and federal laws enacted for students with disabilities. This article intends to provide a succinct literature review examining the operational and organizational challenges regarding the design and delivery of special education in the young charter school movement so that charter school authorizers and service providers are cognizant of the issues of concern when serving students with disabilities at charter schools. The literature was located through searching through the Educational Resources Information Center (ERIC), Google Scholar, and the Dissertation Abstracts International. Other information is gleaned from the U.S. Department of Education, Center for Education Reform, and the federal and state statutes regarding students with disabilities.

Keywords: charter schools, special education, students with disabilities, operational challenges, organizational challenges, operational system



Author retains copyright and grants license of first publication to the Mid-Atlantic Education Review. Article published under a Creative Commons BY-NC license. Readers may copy and distribute for non-commercial purposes provided they indicate original authorship and original publication. For more information, see <http://creativecommons.org/licenses/by-nc/3.0/us/>

Estes (2001) defines a charter school as “a publicly sponsored school, one that is organized by groups of parents, teachers, or entrepreneurs, that is essentially free of direct administrative control by the government, yet is held accountable for achieving certain levels of student performance” (p. 17). As the definition hints, there are three core principles that are peculiar to the operational system of charter schools: accountability for student achievement, parent/student choice, and autonomy, or freedom from traditional public school bureaucracy and regulations (Center for Education Reform, 2002).

Charter schools are open to all students who wish to apply, regardless of race, income-level, and academic ability (Manno, Finn, & Vanourek, 2000). As a result, they are also obligated to serve and support students with disabilities, and meet the requirements of constitutional provisions and federal and state laws enacted for them. Exempt from most state codes and district rules regarding curriculum, instruction, budget, and personnel, charter schools allow for autonomy and innovation in exchange for accountability (Bulkley & Fisler, 2002; Gill, Timpane, Ross, & Brewer, 2001). In other words, the autonomy and innovation charter schools have sought and obtained in many states does not allow them to avoid accountability measures. As with traditional public schools, charter schools must adhere to specified federal and state laws. In addition to complying with health and safety laws and ensuring that students have an equal opportunity to enroll in their non-sectarian and tuition free programs (Johnson & Medler, 2000), charter schools must meet accountability requirements for all students, including students with disabilities, which includes demonstrating student achievement and participating in state testing programs (Ahearn, Lange, Rhim, & McLaughlin, 2001). Failure to meet specific requirements of student performance may result in severe consequences, such as school closure and charter revocation (Bulkley & Fisler, 2002).

In terms of serving students with disabilities, charter schools face unique challenges that impact the flow of special education operations. Charter school operations, including finances, governance, regulations, facilities, enrollment, and personnel, are interrupted by operational and organizational challenges that may lead to inefficiency (Manno, Finn, & Bierlein, 1998; Manno et al., 2000). Operational challenges are related to the implementation of the special education program and can affect finances, governance, and regulations; organizational challenges are related to the structure of the special education program and affect setting, facilities, and personnel (Manno et al., 1998; Manno et al., 2000). The operational and organizational challenges that charter schools face lead to debates regarding the success of the charter sector in serving the students with disabilities as compared to traditional public schools. There is limited data to resolve these debates due to inconclusive research findings and little evidence to compare the differences in academic achievement of students with disabilities between charter and traditional public schools (Estes, 2001). Yet, it is apparent that charter schools are challenged in providing services to support and serve students with disabilities (Bulkley & Fisler, 2002; Ramanathan & Zollers, 1999).

This article addresses those challenges, both operational and organizational, that are inherent in the operation of charter schools in regard to serving special education students. The operational challenges focused on in this paper include philosophical conflict, poor relationships with the local district, and inadequate funding;

organizational challenges focused on in this paper include structural issues, lack of expertise to provide services, and the ineffective role of the administrators. It is important to analyze and find ways to deal with these challenges in order to secure successful charter school operations. In the following sections, each of these operational and organizational challenges is further outlined.

Operational Challenges

Philosophical conflict

There is an inherent conflict between the charter school's goals of autonomy and the special education realities of regulation (Decker, 2010; Rhim, Ahearn, & Lange, 2007). "Federal, state, and local special education rules and regulations are generally perceived to be somewhat counter-intuitive in charter schools striving to reduce bureaucracy" (Rhim et al., 2007, p. 52). This leads to one of three key policy tensions that Rhim et al. (2007) refer to as "compliance versus autonomy" (p. 57): that charter schools must comply with the intricacies of laws runs counter to their anti-bureaucratic and autonomous structure (see also Estes, 2001). Charter operators who are intentionally avoiding bureaucracy may find it hard to understand that failing to follow procedural rules could amount to failing to provide an appropriate education for students with disabilities (Decker, 2010; Finn, Manno, & Bierlein, 1996). For instance, the Individuals with Disabilities Education Act (IDEA) requires all public schools to provide parents with a number of notices within certain time-frames for several situations, including modification of an Individualized Education Plan (IEP), change of placement, initiation of a new service, etc. (Estes, 2001). Failure to follow such procedural rules could result in a court decision that the school has failed to provide Free and Appropriate Public Education (FAPE), one of the key notions of IDEA, which could result in charter closure or charter revocation (Bulkley & Fisler, 2002; Finn et al., 1996). Charter operators must be mindful of the fact that they may be excused from some or all of the state laws and regulations regarding curriculum, instruction, budget, and personnel, but they cannot be excused from the federal laws and rules governing the education of students with disabilities in public schools.

Poor relationships with the local district

A charter school's status as a Local Education Agency (LEA) or as part of an LEA shapes the school's roles and responsibilities related to special education (Booker, 2002; Heubert, 2002). A charter school as an LEA is solely responsible for providing special education services, while a charter school as part of an LEA receives special education services from its chartering LEA (Booker, 2002; Rhim et al., 2007). For charter schools as part of an LEA, building and maintaining a cooperative relationship with the local district is another operational challenge that affects the delivery of special education services. Charter schools affiliated with local school districts may experience tense or uncooperative relationships, which could lead to ineffective charter school operations (Rofes, 1998). Fiore, Harwell, Blackorby, and Finnigan (2000) noted that administrators

and teachers rated poor relationship with the local district as an external factor that results in delays in coordinated services, especially for students with disabilities. This poor relationship was cited as an impediment to success at approximately a third of the sampled schools as students with disabilities could not receive the appropriate services timely and adequately (Fiore et al., 2000).

Based on reviews of charter proposals, accountability systems, instructional programs, and financial relationships with sponsoring districts, the General Accounting Office (GAO) presented a report to Congress (Morra, 1995). The report found that the lack of connection between some charter schools and their school districts presented significant barriers to effective implementation of special education since school districts acted as a conduit between charter schools and state and federal agencies (Morra, 1995). The lack of clear communication and accountability channels were found to be contributing to the insufficient expertise of charter school operators. The report recommended that the U.S. Department of Education clearly define charter schools' legal responsibility for providing special education services as it may be difficult to distinguish which institution (the charter school or sponsoring district) is legally responsible for meeting the federal special education mandates and securing adequate funding to provide services (Morra, 1995).

Based on multiple state-level case studies of special education in charter schools, Ahearn et al. (2001) found that the type of relationship mandated or negotiated between a charter school and its LEA had a significant influence on the manner in which special education was implemented in the charter schools. They also pointed out that improved relationships between charter schools and their LEAs can help make appropriate referrals for students with disabilities to charter schools and result in effective special education services (Ahearn et al., 2001). For charter schools, it is of great importance to maintain strong communication with their LEAs. As literature reviewed for this article suggests, lack of communication or poor communication with local districts may serve as a barrier in attaining student success, capitalizing on the expertise of charter school operators, and providing effective special education services. Charter schools, therefore, need to be proactive, rather than reactive, regarding building and sustaining strong communication with their LEAs.

Inadequate funding

The research clearly indicates that the challenges associated with the fair treatment of students with disabilities in charter schools are partially attributed to the inadequate funding and the lack of guidance regarding how much funding they are supposed to receive. A national survey of charter schools (Nelson et al., 2000) revealed that funding was rated by the majority of the charter schools as the greatest challenge as well as the most important resource for the establishment and operation of their schools. Another survey of charter schools (Center for Education Reform, 2002) highlighted that the respondents perceived inadequate funding as the biggest obstacle to the success of their schools. Charter schools received only 61% of the funding received by traditional public schools, and an average of \$6,585 per student was allocated for charter schools as

compared to \$10,771 per student at their traditional school counterparts (Center for Education Reform, 2002). Although these findings display the monetary challenges charter schools face in general, they have a direct effect on the provision of special education operations.

The issue of inadequate funding is closely related to the structural issues that will be further discussed in the following section. The LEA status of charter schools is a significant factor in determining how much funding the schools are supposed to receive since LEAs are held responsible for paying the cost of special education using federal, state, and local funds. IDEA requires charter schools to receive a proportionate amount of special education funds; however, it does not provide a formula indicating what would be proportionate (Decker, 2010). As a result, how charter schools are funded varies from state to state. Rhim et al. (2007) found that 10 of 41 states studied did not mention funding regarding charter schools in their charter statutes. Their findings further indicate that “some state funding systems provide incentives to both over-identify and under-identify students with disabilities” (Rhim et al., 2007, p. 53). The funding provided to the states through IDEA provisions is essentially based upon a per pupil count multiplied by the average cost of educating the student with a disability (Estes, 2001). This means that one child with a severe disability can actually “bankrupt a small charter school” (Miron & Nelson, 2000, p. 85), which explains in part why charter schools tend to enroll students specifically with low-to-moderate disabilities that require fewer services (Horn & Miron, 2000). To handle this operational challenge, special education funds would need to be allocated proportionately to all traditional public schools and charter schools, and consistently to all states.

Organizational Challenges

Structural issues

The unique and inconsistent structures of charter schools symbolize one of the reasons why charter schools are struggling to support and serve students with disabilities. As a result of analyzing 41 charter school statutes, Rhim et al. (2007) found that the underlying structures determining the delivery of special education services are inconsistent. Currently, the charter school statute of each state defines the structure of the charter schools. Each state outlines the parameters governing the charter schools in their state, resulting in a great deal of variability in the state charter statutes. Some states require charter schools to operate as part of a Local Education Agency (LEA) while others allow charter schools to operate as their own LEAs (Decker, 2010). This inconsistency can be problematic since it brings about the issue of uncertainty regarding who is the authority. Rhim et al. (2007) indicated that state charter school laws are ambiguous about the charter school operators' roles and responsibilities in terms of the provision of special education services. Operators may not find any guidance in the state charter school laws when they need to pose practical questions, such as how to handle the transportation for and/or testing of students with disabilities. Without a clear-cut operational system, it is likely that charter schools experience difficulties in determining the “joint responsibilities” (Decker, 2010, p. 40) with their authorizers in serving students

with disabilities. Weber (2010) found that charter schools operating as their own LEAs had difficulty understanding and sharing responsibilities with state and district leaders. As a result, charter operators failed to report the required compliance and monitoring activities (Weber, 2010). It is essential to make sure that the charter school statutes are consistent throughout states and have enough clarity and specificity regarding the charter operators' roles and responsibilities in terms of running the special education program.

Lack of expertise to provide services

In theory, state requirements are consistent for all public school teachers. This means equally qualified teachers are teaching in both traditional and charter schools. However, in practice, special education teachers are not obligated, under IDEA, to meet certification requirements since many states' charter school laws do not identify that charter school teachers need to be certified (Rhim et al., 2007). As a result, Rhim et al. (2007) found that some operators of charter schools did not pay attention to employing special education teachers possessing the highly qualified credential. In the study conducted by Ahearn et al. (2001), all of the seven states in the sample reported a shortage of appropriately certified staff to deliver special education services. Many of the charter schools addressed the shortage by means of certain strategies such as: a) employing teachers as itinerants for inclusive classrooms; b) employing retired teachers to work part-time; c) contracting with private providers; d) sharing staff with several charter schools; e) increasing teachers' salaries; and f) offering more appealing work environments (Ahearn et al., 2001). In addition, Finn, Manno, and Vanourek's (2000) analysis of the charter movement in a number of states revealed that some charter schools did not meet all their students' special needs, and they attributed the shortcoming to "lack of experience, expertise, or resources" (p. 159). This issue should be addressed in the states' charter school laws so that charter schools would no longer have to face this organizational challenge which adversely affects their operational system.

Ineffective role of the administrators

There is a preponderance of research suggesting that administrators are the key agents of change in their schools (Bass & Riggio, 2006; Portin & Shen, 1999). These researchers have emphasized the need for transformational leaders to attain successful change. Transformational leaders are those who provide incentives and resources for people to improve (Bass & Riggio, 2006). For change to take place, administrators must be knowledgeable as well (Evans & Mohr, 1999; Fink & Resnick, 2001). However, a number of researchers assert that charter school personnel, especially principals, lack sufficient knowledge of federal and state special education laws and procedures (McKinney, 1996; Rhim et al., 2007).

Lack of knowledge is attributed to lack of training, either in graduate study or in other principal preparation programs. The U.S. Department of Education (1998) reports that relatively few charter school administrators are trained in special education. Christensen (2009) found that the principal preparation programs neglected to provide administrators with the knowledge and skills necessary to enable them to adequately

serve students with disabilities. As a result of this neglect, administrators who spend an average of 15% to 20% of their day dealing with special education related issues are challenged in providing incentives and resources for special education (Christensen, 2009). The lack of special education training causes problems since few charter school administrators are “conversant with the requirements of IDEA or other federal disability law” (Vernal, 1995, p. 2) and may have to hire professionals to teach them about the intricacies of IDEA. Christensen (2009) found that charter school administrators thought principal preparation programs and/or graduate training should prioritize instruction on: a) how to modify curriculum; b) IDEA discipline guidelines; c) state testing accommodations; d) mentoring new special education teachers; and e) special education law. For charter school administrators, knowledge on these areas is essential to provide transformational leadership.

Summary

Over the past two decades, charter schools have faced a myriad of challenges while serving students with disabilities. This article has addressed these challenges in two subsections: operational and organizational challenges. Operational challenges concern the implementation of the special education program and include philosophical conflict, poor relationships with the local district, and inadequate funding, whereas organizational challenges concern the structure of the special education program and include structural issues, lack of expertise to provide services, and the ineffective role of the administrators. No matter whether these challenges are operational or organizational in nature, all of them adversely affect the operational system of charter schools. At the core of these challenges has been the lack of attention to the special education related issues at the application level. Based on interviews conducted in a national study of special education in charters, Fiore et al. (2000) found that special education is usually an afterthought in the development of charter schools. Charter school authorizers should address special education issues at the application level so that they do not have to struggle at the implementation level. It is critical that the charter authorizers and service providers be cognizant of and prepared for these challenges since these challenges might easily shatter the success of the charter sector in serving students with disabilities. Only with more attention to these issues of concern can charter schools prove to have a more effective operational system for students with disabilities.

References

- Ahearn, E. M., Lange, C.M., Rhim, L.M., & McLaughlin, M.J. (2001). *Project SEARCH: Special education as requirements in charter schools*. Alexandria, Virginia: National Association of State Directors of Special Education.
- Bass, B. M., & Riggio, R. E. (2006). *Transformational Leadership*. New York: Routledge.
- Booker, M. M. (2002). *California charter schools: Including students with disabilities* (Doctoral dissertation). Retrieved from Proquest Dissertations and Theses

- database. (UMI No. AAT 3094305).
- Bulkley, K., & Fidler, J. (2002). *A review of the research on charter schools*. Philadelphia, PA: University of Pennsylvania, Consortium for Policy Research in Education.
- Center for Education Reform. (2002). *Answers to frequently asked questions about charter schools* [On-line]. Retrieved from http://www.edreform.com/school_reform_faq/charter_schools.
- Christensen, J. (2009). Preparing future educational leaders to achieve success with special education students: A principal's perspective. (Unpublished master's thesis). University of Memphis, Memphis, TN.
- Decker, J. R. (2010). Reducing ABA litigation through autism-centric charter schools: Legally viable or vulnerable? *Dissertation Abstract International*, 71(11), 276A.
- Estes, M. B. (2001). Choice for all? Charter schools and students with disabilities. *Dissertation Abstract International*, 63(9), 3153A. ch
- Evans, P. M., & Mohr, N. (1999). Professional development for principals: Seven core beliefs. *Phi Delta Kappa*, 80(7), 530-532.
- Fink, E., & Resnick, L. B. (2001). Developing principals as instructional leaders. *Phi Delta Kappa*, 82(8), 598-606.
- Finn, C. E., Manno, B. V., & Bierlein, L. A. (1996). *Charter schools in action: What have we learned?* Washington, DC: Hudson Institute.
- Finn, C. E., Manno, B. V., & Vanourek, G. (2000). *Charter schools in action: Renewing public education*. Princeton, NJ: Princeton University Press.
- Fiore, T. A., Harwell, L. A., Blackorby, J., & Finnigan, L. A. (2000). *Charter schools and students with disabilities: A national study*. Washington, DC: U.S. Department of Education, Office of Educational Research and Improvement.
- Gill, B. P., Timpane, P. M., Ross, K. E., & Brewer, D. J. (2001). *Rhetoric versus reality: What we know and what we need to know about vouchers and charter schools*. Santa Monica, CA: Rand Corporation.
- Heubert, J. P. (2002). *Schools without rules? Charter schools, federal disability law, and the paradoxes of deregulation*. Wakefield, MA: National Center on Accessing the General Curriculum.
- Horn, J., & Miron, G. (2000). *An evaluation of the Michigan charter school initiative: Performance, accountability, and impact*. Kalamazoo, MI: The Evaluation Center, Western Michigan University. Individuals with Disabilities Education Act Amendments of 2008, Pub. L. No. 34 CFR §300.209, (2008).
- Johnson, J., & Medler, A. (2000). The conceptual and practical development of charter schools. *Stanford Law and Policy Review*, 11(2), 291.
- Manno, B., Finn, C., & Bierlein, L. (1998). Charter schools: Accomplishments and dilemmas. *Teachers College Record*, 3, 537-558.

- Manno, B. V., Finn, C. E., & Vanourek, G. (2000). Charter school accountability: Problems and prospects. *Educational Policy*, 14(4), 473-493.
- McKinney, J. R. (1996). Charter schools: A new barrier for children with disabilities. *Educational Leadership*, 54(2), 22-25.
- Miron, G., & Nelson, C. (2000). *Autonomy in exchange for accountability: An initial study of Pennsylvania charter schools*. Kalamazoo, MI: The Evaluation Center, Western Michigan University.
- Morra, L. G. (1995). *Charter schools: New models for public schools provides opportunities and challenges*. Washington, DC: General Accounting Office.
- Nelson, B., Berman, P., Ericson, J., Kamprath, N., Perry, R., Silverman, D., & Solomon, D. (2000). *The state of charter schools, 2000: National Study of Charter Schools, Fourth-year report*. Washington, DC: U.S. Department of Education, Office of Educational Research and Improvement.
- Portin, B.S., & Shen, J. (1999). The changing principalship: Its current status, variability, and impact. *Journal of Leadership & Organizational Studies*, 5(3), 93-113.
- Ramanathan, A. K., & Zollers, N. J. (1999). For-profit schools continue to skimp on special education. *Phi Delta Kappa*, 81(4), 284-291.
- Rhim, L. M., Ahearn, E. & Lange, C. (2007). Charter school statutes and special education: Policy answers or policy ambiguity? *Journal of Special Education*, 41(1), 50-63.
- Rofes, E. (1998). *How are school districts responding to charter laws and charter schools? A study of eight states and the District of Columbia*. Berkeley, CA: Policy Analysis for California Education.
- U.S. Department of Education. (1998). *Charter schools and students with disabilities: Review of existing data* [Online report]. Retrieved from http://www.ed.gov/PDFDocs/chart_disab.pdf
- Vernal, S. (1995). Problems faced by existing charter schools. *Education Policy Analysis Archives*, 3(13), 1-9. Retrieved May 17, 2000 from <http://olam.ed.asu.edu/epaa/v3n13/problems.html>
- Weber, M.C. (2010). Special Education from the (Damp) Ground Up: Children with Disabilities in a Charter School-Dependent Educational System. *Loyola Journal of Public Interest Law*, 11(217), 229-30.

Author

LEMAN KANITURK KOSE received a B.A. degree in English language and literature from Bilkent University, Ankara, Turkey, in 2006, and an Ed.D. in Educational leadership from the University of Rochester, Rochester, NY, in 2012. Her current research interests include the design and delivery of special education services at charter schools, the improvement of special education operations at charter schools, and current issues with special education.

The Journal

The Mid-Atlantic Education Review is a peer-reviewed, online journal that provides a forum for studies pertaining to educational issues of interest to educators and researchers in the Mid-Atlantic region. The Review publishes articles that contribute to the knowledge base of researchers, policy-makers, teachers, and administrators. To appeal to a broad educational audience, articles cover a spectrum in their level of analysis, subject focus, and methodological approach. The journal is available at <http://maereview.org>.

The Mid-Atlantic Education Review is edited and published by the Rutgers Graduate School of Education, New Brunswick, New Jersey. Founded in 1923, the Rutgers Graduate School of Education (GSE) community creates new knowledge about educational processes and policies. The GSE is a national leader in the development of research-based instructional, professional, and outreach programs. Additional information is available by visiting <http://gse.rutgers.edu>.