GEORGIA SPECIAL EDUCATION PRIMER

FOR CHARTER SCHOOLS AND CHARTER AUTHORIZERS

SPECIAL EDUCATION PRIMERS FOR CHARTER SCHOOLS

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SPECIAL EDUCATION PRIMERS FOR CHARTER SCHOOLS

I. BACKGROUND

The content of this section is intended for those readers who may not fully understand the critical importance of a charter school's legal status within a state's public education system, or may need a brief update on federal special education laws and regulations.

A. Charter School Legal Status and Linkage to an LEA

Charter schools must abide by federal special education laws and regulations because they are part of the public education system.

Why is charter school legal identity for special education important?

The exact nature of a charter school's identity for purposes of special education is important because, under federal requirements, an LEA has many more programmatic and financial responsibilities than a school that is only a part of an LEA.

Under the Individuals with Disabilities Education Act (IDEA), states delegate responsibilities to LEAs, e.g., states typically assign the responsibility to their LEAs for providing a free appropriate public education (FAPE) to all students eligible for special education under the law. In addition, LEA status determines how funds for special education will flow to the charter school.

How does a charter school's LEA status impact its operations?

The major effect of a charter school's LEA status is the type of ***linkage*** that is mandated or voluntarily established between that charter school and a traditional LEA. In other words, a charter school's legal status is reflected in the way it relates to other LEAs. There are three types of linkage:

- **NO LINK:** a charter school that is its own LEA has full responsibility for special education and has no requirement to be part of another LEA (although a charter could negotiate some working relationship with an LEA if it chooses to do so);

- **TOTAL LINK:** the charter is considered a part of an LEA and the LEA is responsible for the students with disabilities; or

- **PARTIAL LINK:** the connection between a charter school and an LEA when there is a required or negotiated connection, e.g., the charter school has responsibility for services, but the child's home LEA carries out evaluation team tasks, or the charter school is responsible for only those services that can be delivered in the school and the LEA resumes responsibility when the child needs more specialized day or residential placement.

For specific indicators of linkage, see "Appendix A."

Why is linkage important?

Linkage is important because it determines the way in which responsibilities for special education evaluation and services will be carried out. Because the widest degree of variability occurs in partial-link situations, such as Georgia, assignment of responsibility must be defined. State law is never completely clear about all the details of accountability for special education in charter schools, so the specifics have to be negotiated between the charter school and the authorizer. It is critical for a charter school to arrange in advance and commit to writing as clearly as possible an understanding with the LEA and/or the state to avoid future problems.

B. Federal Laws Relevant to Special Education in Charter Schools

Which federal laws are most relevant to special education in charter schools?

The federal laws (and their regulations) that have most relevance for implementing special education in charter schools are:

- the Individuals with Disabilities Education Act (IDEA)[1];
- the Elementary and Secondary Education Act (ESEA), recently reauthorized as the No Child Left Behind Act (NCLB)[2];
- Section 504 of the Rehabilitation Act of 1973 (504)[3];
- the Americans with Disabilities Act (ADA)[4]; and
- the Family Educational Rights and Privacy Act (FERPA)[5]

Do students with disabilities have a federally protected right to attend charter schools?

Yes. Section 504 specifically prohibits discrimination solely on the basis of disability by public and private programs and activities that receive federal financial assistance.

What is the Individuals with Disabilities Education Act (IDEA)?

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[1] IDEA: Revisions to the IDEA were enacted in December 2004. A copy of the law (P. L. 108-446) can be downloaded as a PDF here: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ446.108.pdf . The regulations related to IDEA can be accessed in the Code of Federal Regulations online at http://www.access.gpo.gov/nara/cfr/waisidx_99/34cfr300_99.html. **Note**: This link is for the 1999 version of the IDEA regulations that will be revised during 2005-6. They remain in effect except for any item that has been changed by the IDEA amendments of 2004. Georgia special education rules can be found at http://public.doe.k12.ga.us/pea_board.aspx?PageReq=PEABoardRules, then scroll down to 160-4-7-.01. Special education rules run through 160-4-7-.27.

[2] NCLB: Links to the law, regulations and policy guidance are available online at http://www.ed.gov/about/offices/list/oese/legislation.html#leg

[3] 504: Regulations can be found online at http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html#D

[4] ADA: Regulations and technical assistance are available online at http://www.usdoj.gov/crt/ada/publicat.htm

[5] FERPA: An explanation is available online at http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html

The IDEA provides federal financial assistance to state education agencies (SEAs) and local education agencies (LEAs) to guarantee special education and related services to eligible children with disabilities. Every state receives these funds and must follow all of IDEA's specific procedures.

What are the basic requirements of IDEA?

The IDEA's basic requirements (often discussed using a set of acronyms) include[6]:

- **IEP**: A team of professionals and parents arranges for the child's evaluation, determines eligibility, decides on the individualized special education and related services for the child and prepares an individualized education program (IEP) that contains specific content that must be reviewed at least annually. An IEP includes measurable annual goals, how the child will be included in state and district assessments and how the child will access the general education curriculum in order to meet state standards.
- **FAPE**: Students with disabilities are entitled to a free appropriate public education (FAPE) provided at no charge to parents.
- **LRE**: The least restrictive environment (LRE) refers to placement in a setting that is the closest to the regular classroom. Students with disabilities must have available to them a continuum of placements that range from full time in a regular classroom to full time in a special setting.

What does the IDEA say about charter schools?

The 2004 amendments to IDEA continued to affirm that students who attend charter schools are covered under this law. For specific references to charter schools in the 2004 amendment, see "Appendix B."

What happens if a parent disagrees with the school about special education?

The IDEA contains procedural safeguards and due process rights for parents in the identification, evaluation and placement of their child. The law put various procedures in place for resolving conflicts between parents and schools. A copy of the procedures must be given to parents at least once a year *and* at the time they request a due process hearing. Every state must have a formal complaint system and must provide for mediation and due process hearings to settle conflicts.

Are there children with disabilities who may not be covered by IDEA?

Yes. To be eligible under IDEA, children must meet the criteria of one of the specific disability categories as defined in the law. However, children who are not eligible under IDEA may qualify

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[6] The OSEP website at http://www.ed.gov/policy/speced/guid/idea/omip.html provides some information concerning specific requirements of the IDEA.

as students with disabilities under Section 504. For specific differences between the IDEA and Section 504, please see "Appendix C."

What are some examples of disabilities that may be covered under Section 504 but not by the IDEA?

Children who have chronic illnesses such as diabetes, or a physical impairment, such as those connected with cerebral palsy, may require specific accommodations or services, but do not meet the criteria of the IDEA definitions or additional specifications applied through state law.

Such children are entitled to an evaluation and to FAPE if they are found to meet the definition of "handicapped person" as specified in the law. A 504 plan is usually written in these cases.[7]

Are funds available under Section 504?

No, there are no funds available as part of Section 504. Moreover, IDEA funds may not be used to serve children who are eligible only under Section 504.

What requirements about accessibility of facilities do charter schools have to follow?

The state and federal requirements for accessibility of facilities are complex. It is important that authorizers and operators of charter schools have appropriate legal and technical assistance on this topic.[8]

What NCLB assessment requirements pertain to students with disabilities?

Charter schools are subject to the same Title I accountability requirements as other public schools in a state and all state charter laws currently require charter schools to participate in their state's assessment system for public schools. Policy guidance for NCLB says a state's assessment system must be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities and students covered under Section 504. The participation of students with disabilities in such assessments is covered in the IDEA and requires the following:

- Students with disabilities must be included in state and district-wide assessment programs with appropriate accommodations if necessary.
- Alternate assessments must be provided for those children who cannot participate in state and district wide assessment programs even with accommodations.
- The IEP for all students with disabilities will specify how they will participate in state assessments.[9]

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[7] Further details are available in the document *Frequently Asked Questions about Section 504 and the Education of Children with Disabilities* available online at http://www.ed.gov/about/offices/list/ocr/504faq.html?exp=0

[8] Federal regulations can be found online at http://www.usdoj.gov/crt/ada/adastd94.pdf; The Georgia Department of Education website contains a section entitled the Facilities Services Unit (http://public.doe.k12.ga.us/fbo_facilities.aspx) that provides assistance and resources related to school facilities plus a set of links to other internet resources on this topic.

Are students with disabilities included in their state's adequate yearly progress (AYP) requirements?

Yes. As stated in NCLB, AYP applies the same high standards of academic achievement to all public elementary and secondary school students in the state. The law also requires selected subgroups, one of which is students with disabilities, to be considered separately under certain conditions in determining whether a school has met AYP targets. An important part of the NCLB regulations, known as "the one percent rule" that applies to students with significant disabilities, was added to the NCLB regulations in December 2003.[10]

How must students with disabilities be included in NCLB accountability reports?

Students with disabilities are one of the subgroups for which NCLB requires disaggregated reports of assessment results. However, NCLB provides that a district or state may not use disaggregated data for one or more subgroups to report achievement results if the number of students in those subgroups is insufficient to yield statistically reliable information or if the results would reveal personally identifiable information about an individual student.

Which NCLB teacher qualification requirements pertain to students with disabilities?

It is important to note that the NCLB law does not specifically refer to the teachers who provide special education services - that issue is covered in IDEA. State laws and policies that cover teacher certification for charter schools must be carefully reviewed by everyone involved with charter schools. The 2004 amendments to IDEA make specific reference to special education teacher certification requirements reprinted in "Appendix D."

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[9] It is important to note that procedures for the inclusion of all students with disabilities in large scale assessments are a developing area of knowledge and practice. Extensive resources on this topic are available at the website of the National Center on Educational Outcomes at http://www.education.umn.edu/nceo/

[10] The Department of Education has issued a summary of that rule that is available at http://www.usu.edu/mprrc/workgroups/ci/011404Material1.pdf

APPENDIX A

LINKAGE BETWEEN LEA AND CHARTER SCHOOL

Since there may be a considerable amount of variability in the way linkage is enacted in a specific charter school, the types of linkage can be said to fall along a continuum. Often, the specifics of how a linkage will work are described in a contract between a charter school and an LEA. The box below provides one way to determine the type of linkage a particular charter school has with a traditional LEA.

	Indicators of a State's Linkage
N	The term "LEA" in these items refe traditional school district and does charter school that is its own LEA.
Yes No	
❑	Does the LEA retain responsibility evaluations for special education el
❑	Does the LEA maintain or supervis team to develop, revise and implem student's IEP and make placement
❑	Is the LEA responsible for hiring (c delegating the responsibility for hir qualified special education personn
❑	Is the LEA responsible for providin delegating responsibility for provid continuum of placements?
❑	Do all federal, state and local speci education dollars designated for ch schools flow through the LEA?
	If in describing Georgia you answe to most of these statements, your si most likely a total-link. Conversely answered "no" to most of these stat your situation is most likely a no-li mixture of "yes" and "no" response that your situation is most likely a link.

APPENDIX B
SPECIFIC REFERENCES TO "CHARTER SCHOOLS" IN THE 2004 AMENDMENT TO THE IDEA

- Children with disabilities who attend public charter schools and their parents retain all rights under IDEA.
- Charter schools are included in the definition of an LEA when they are established as LEAs by state law.
- Students with disabilities in charter schools that are part of an LEA must be served in the same manner as that LEA serves children with disabilities in its other schools including that the LEA must provide supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools. The LEA must also provide funds under this part to those charter schools on the same basis as that LEA provides funds to the its other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as the agency distributes other federal funds to the agency's other public schools.
- A charter school that is its own LEA is responsible for ensuring that the requirements of IDEA are met.
- If a charter school is a school of an LEA that receives IDEA funding, the LEA is responsible for ensuring that the requirements are met.
- Charter schools that are LEAs cannot be required to join with other LEAs to establish joint eligibility for funds. (States can require traditional LEAs to join together for funding purposes if they would not be able to establish and maintain programs of sufficient size and scope individually).
- The state special education advisory panel must include a representative of charter schools.
- Special education teachers in charter schools do not have to meet certification requirements in IDEA because the Georgia charter school law does not require that teachers in charter schools be certified. However, such teachers would have to meet the other components of the "highly qualified teacher" requirement.
- Charter schools that are their own LEAs are specifically included in eligibility to access the resources of an LEA risk pool for high need children with disabilities if Georgia establishes such a fund in the future.

APPENDIX C

DIFFERENCE BETWEEN THE IDEA AND SECTION 504

Section 504 and the ADA define disability much more broadly than the IDEA. They include any individual who: (1) has a physical or mental impairment that substantially limits one or more life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment. Reasonable accommodations are required by both of these laws, but Section 504 goes further by specifically requiring the provision of educational and related aids and services that are designed to meet the individual educational needs of the child.

IDEA REGULATIONS

34 CFR Sec. 300.7 Child with a disability
(A) In general - The term 'child with a disability' means a child --
(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
(ii) who, by reason thereof, needs special education and related services.
(B) Child aged 3 through 9 - The term 'child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child --
(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and
(ii) who, by reason thereof, needs special education and related services.

SECTION 504 OF THE REHABILITATION ACT OF 1973—REGULATIONS:

34 CFR 104.3
(j) Handicapped persons (1) *Handicapped persons means* any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.
(2) As used in paragraph (j)(1) of this section, the phrase:
(i) *Physical or mental impairment* means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, and/or genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
(ii) *Major life activities* mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

APPENDIX D
SPECIAL EDUCATION TEACHER QUALIFICATION REQUIREMENTS

The IDEA special education teacher qualification requirements are complex and are quoted in full as follows:

HIGHLY QUALIFIED:

- (A) IN GENERAL - For any special education teacher, the term `highly qualified' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also --
  (i) includes the requirements described in subparagraph (B); and
  (ii) includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).

- (B) REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS - When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that --
  (i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school (emphasis added), the term means that the teacher meets the requirements set forth in the State's public charter school law;
  (ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
  (iii) the teacher holds at least a bachelor's degree.

- (C) SPECIAL EDUCATION TEACHERS TEACHING TO ALTERNATE ACHIEVEMENT STANDARDS - When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, such term means the teacher, whether new or not new to the profession, may either --
  (i) meet the applicable requirements of section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
  (ii) meet the requirements of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

- (D) SPECIAL EDUCATION TEACHERS TEACHING MULTIPLE SUBJECTS - When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either --
  (i) meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is

new or not new to the profession;
(ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or
(iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.

- (E) RULE OF CONSTRUCTION - Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.

(F) DEFINITION FOR PURPOSES OF THE ESEA - A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965.

C. DEFINITIONS AND GLOSSARY

Part 1: Acronyms

- **ADA** Americans with Disabilities Act
- **AYP** Adequate Yearly Progress
- **ADHD** Attention Deficit Hyperactivity Disorder
- **CBA:** Curriculum-Based Assessment
- **CEC** Council for Exceptional Children
- **CRCTs:** Criterion Referenced Competency Tests
- **ED** U. S. Department of Education
- **EIP** Early Intervention Plan
- **ELL** English language learner
- **EMO** Educational management organization
- **ESL:** English as a Second Language
- **ESOL:** English to Speakers of Other Languages
- **FAPE** Free appropriate public education
- **FERPA** Family Educational Rights and Privacy Act
- **FRC** Federal Resource Center
- **GADOE**: Georgia Department of Education
- **GBOE:** Georgia Board of Education
- **GLRS** Georgia Learning Resource System
- **504** Section 504 of the Rehabilitation Act of 1974
- **IDEA** Individuals with Disabilities Education Act
- **IEP** Individualized education program
- **IFSP** Individualized Family Service Plan
- **LEA** Local education agency (school district)
- **LEP:** Limited English Proficient
- **LRE** Least restrictive environment
- **NACSA** National Association of Charter School Authorizers
- **NAEP** National Assessment of Education Progress
- **NAPCS** National Alliance for Public Charter Schools
- **NASDSE** National Association of State Directors of Special Education
- **NCLB** No Child Left Behind Act - the most recent reauthorization of the Elementary and Secondary Education Act (ESEA)
- **NICHY** National Information Center for Children and Youth with Disabilities
- **NRT:** Norm Referenced Test
- **OCR** Office for Civil Rights
- **OSEP** Office of Special Education Programs
- **PACER** Parent Advocacy Coalition for Educational Rights
- **RESA** Regional Education Service Agency
- **RRC** Regional Resource Center
- **SEA** State education agency
- **SLD:** Specific Learning Disability

Part 2: Definitions

ACCOMMODATIONS Changes in the administration of an assessment, such as setting, scheduling, timing, presentation format, response mode, or others, including any combination of these, that do not change the construct intended to be measured by the assessment or the meaning of the resulting scores. Accommodations are used for equity, not advantage, and serve to level the playing field. To be appropriate, assessment accommodations must be identified in the student's Individualized Education Program (IEP) or Section 504 plan and used regularly during instruction and classroom assessment.

ACHIEVEMENT TEST
An instrument designed to efficiently measure the amount of academic knowledge and/or skill a student has acquired from instruction. Such tests provide information that can be compared to either a norm group or a measure of performance.

ADEQUATE YEARLY PROGRESS
Adequate Yearly Progress (AYP) is the minimum level of improvement that states, school districts and schools must achieve each year. It is an individual state's measure of yearly progress toward achieving state academic standards required by NCLB.

AGGREGATION
The total or combined performance of all students for reporting purposes.

ALIGNMENT
The similarity or match between or among content standards, performance standards, curriculum, instruction, and assessments in terms of knowledge and skill expectations.

ALTERNATE ASSESSMENT
An instrument used in gathering information on the standards-based performance and progress of students whose disabilities preclude their valid and reliable participation in general assessments. Alternate assessments measure the performance of a relatively small population of students who are unable to participate in the general assessment system, with or without accommodations as determined by the IEP Team.

ASSESSMENT
The process of collecting information about individuals, groups, or systems that relies upon a number of instruments, one of which may be a test. Therefore, assessment is a more comprehensive term than *test.*

ASSISTIVE TECHNOLOGY
The term `assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. The term `assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. It includes evaluation of the

child's needs, purchase of the device, training and other aspects of the use of the device. [IDEA 2004 §602(1)& (2)].

ATTENTION DEFICIT HYPERACTIVE DISORDER (ADHD)
Attention Deficit Hyperactivity Disorder (also called Attention Deficit Disorder or ADD) is a condition with the principal characteristics of inattention, hyperactivity, and impulsivity. It becomes apparent in some children in the preschool and early school years and can continue into adulthood. These symptoms appear early in a child's life. Because many normal children may have these symptoms, but at a low level, or the symptoms may be caused by another disorder, it is important that the child receive a thorough examination and appropriate diagnosis by a well-qualified professional.

AUTHORIZER
The office or organization that accepts applications, approves, exercises oversight and, after the period of approval, decides on renewal or revocation of a charter school.

AUTISM
Autism is a developmental disability, generally evident before age three, that adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines. Students with autism vary widely in their abilities and behavior. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional and behavioral disorder. [refer to 34 CFR 300.7(c)(1)(i)]
The term of autism may also include students who have been diagnosed with Pervasive Developmental Disorder, Asperger's Disorder, Rett's Disorder, or Childhood Disintegrative Disorder provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements. Autism may exist concurrently with other areas of disability.

BIAS (test bias)
In a statistical context, bias is a systematic error in a test score. In discussing test fairness, bias is created by not allowing certain groups into the sample, not designing the test to allow all groups to participate equitably, selecting discriminatory material, testing content that has not been taught, etc. Bias usually favors one group of test takers over another, resulting in discrimination.

BILINGUAL EDUCATION:
An educational program in which two languages are used to provide content matter instruction.

CHARTER
According to Georgia state law, 'charter' means an academic or vocational performance-based contract or an academic and vocational performance-based contract between the state board, a local board of education, and a charter petitioner, the terms of which are approved by the local board of education and by the state board.

CHARTER SCHOOL
Georgia law states that a “charter school means a school that is operating under the terms of a charter granted by the state board.” In general, charter schools are independent public schools designed and operated by educators, parents, community leaders, educational entrepreneurs and others. They are authorized/sponsored by designated local or state educational organizations, who monitor their quality and effectiveness but allow them to operate outside of the traditional system of public schools. Most states use the term "charter school," although there are other terms in use for this type of school, such as "community school" used in Ohio and "public school academies" in Michigan.

CHILD WITH A DISABILITY
A child with a disability means a child evaluated in accordance with IDEA as having an intellectual disability, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional/behavioral disorder, an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, and who, by reason thereof, needs special education and related services. (See also STUDENT WITH A DISABILITY)

CRITERION-REFERENCED COMPETENCY TESTS (CRCT)
A test that measures specific skill development as compared to a predefined absolute level of mastery of that skill.

CURRICULUM-BASED ASSESSMENTS
Assessments that mirror instructional materials and procedures related to the curriculum resulting in an ongoing process of monitoring progress in the curriculum and guiding adjustments in instruction, remediation, accommodations, or modifications provided to the student.

DEAFBLIND
Deafblind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

DEAF/HARD OF HEARING
A student who is deaf or hard of hearing is one who exhibits a hearing loss, whether permanent or fluctuating, that interferes with the acquisition or maintenance of auditory skills necessary for the normal development of speech, language, and academic achievement. [Refer to 34 CFR 300.7 (3), (5)]
1. A student who is deaf can be characterized by the absence of enough measurable hearing (usually a pure tone average of 66-90+ decibels American National Standards Institute without amplification) such that the primary sensory input for communication may be other than the auditory channel.
2. A student who is hard of hearing can be characterized by the absence of

enough measurable hearing (usually a pure tone average range of 30-65 decibels American National Standards Institute without amplification) such that the ability to communicate is adversely affected; however, the student who is hard of hearing typically relies upon the auditory channel as the primary sensory input for communication.

DISAGGREGATED
"Disaggregate" means to separate a whole into its parts. Under NCLB, this term means that test results are sorted into groups of students who are economically disadvantaged, from racial and ethnic minority groups, have disabilities, or have limited English fluency.

DYSLEXIA
A specific learning disability that is neurological in origin; a language-based disorder characterized by difficulties with accurate and fluent word recognition and by poor spelling and decoding abilities, usually associated with insufficient phonological processing abilities.

EMOTIONAL BEHAVIORAL DISORDER
The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that affects a child's educational performance: (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors. (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers. (C) Inappropriate types of behavior or feelings under normal circumstances. (D) A general pervasive mood of unhappiness or depression. (E) A tendency to develop physical symptoms or fears associated with personal or school problems. The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance. [34 CFR §300.7(c)(1)]

ERRORS OF MEASUREMENT
The differences between observed scores and the theoretical true score; the amount of uncertainty in reporting scores; the degree of inherent imprecision based on test content, administration, scoring, or examinee conditions within the measurement process that produce errors in the interpretation of student achievement.

EXTENDED STANDARDS
A content standard that has been expanded while maintaining the essence of that standard, thereby ensuring that all students with significant cognitive disabilities have access to, and make progress in, the general curriculum.

FREE APPROPRIATE PUBLIC EDUCATION
Free appropriate public education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state; include preschool, elementary school, or secondary school education and are provided in conformity with an individualized education program (IEP).

HIGH STAKES TESTING
A test for which important consequences are attached to the results for students, teachers, schools, districts, and/or states. Consequences may include promotion, graduation, rewards, or sanctions.

HIGHLY QUALIFIED TEACHER [IDEA 2004 §602(10)]
(A) IN GENERAL- For any special education teacher, the term `highly qualified' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also--

(i) includes the requirements described in subparagraph (B); and

(ii) includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).

(B) REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS- When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that--

(i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law;

(ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) the teacher holds at least a bachelor's degree.

(C) SPECIAL EDUCATION TEACHERS TEACHING TO ALTERNATE ACHIEVEMENT STANDARDS- When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, such term means the teacher, whether new or not new to the profession, may either--

(i) meet the applicable requirements of section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

(ii) meet the requirements of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

(D) SPECIAL EDUCATION TEACHERS TEACHING MULTIPLE SUBJECTS- When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either--

(i) meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is new or not new to the profession;

(ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or

(iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.
(E) RULE OF CONSTRUCTION- Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.
(F) DEFINITION FOR PURPOSES OF THE ESEA- A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965.

IMMERSION PROGRAM A program where non-native English speaking students are given instruction only in a non-native language.

INCLUSION or LEAST RESTRICTIVE ENVIRONMENT (LRE)
Inclusion is a special education approach that stresses education students with disabilities, regardless of the type of severity of that disability, in the regular classrooms of their neighborhood schools.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)
An individualized education program (IEP) is a written statement for a child with a disability that is developed, reviewed and revised in a meeting in accordance with IDEA regulations.

INDIVIDUALIZED FAMILY SERVICE PLAN
The Individualized Family Service Plan (IFSP) is a written plan for providing early intervention services to infants and toddlers eligible under Part C of IDEA.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT
The Individuals with Disabilities Education Act (IDEA) is the major federal law related to special education that provides funding to states and sets specific procedural requirements for the identification and education of students with disabilities.

INTELLECTUAL DISABILITIES (MENTAL RETARDATION)
Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance. [34 CFR §300.7(c)(6)]

LEAST RESTRICTIVE ENVIRONMENT
The IDEA requires that, to the maximum extent appropriate, school districts must educate students with disabilities in the least restrictive environment (LRE), i.e., in the regular classroom with appropriate aids and supports (referred to as "supplementary aids and services") along with their non-disabled peers in the school they would attend if not disabled, unless a student's

individualized education program (IEP) requires some other arrangement.

LINKAGE
The type of connection that is mandated or voluntarily established between a charter school and a traditional LEA.

LOCAL EDUCATION AGENCY (LEA)
A local education agency (LEA) is a public institution (often referred to as a school district) that has administrative control and direction of one or more public elementary or secondary schools, and the term includes a public charter school that is established as an LEA under state law.

MATRIX SAMPLING
A measurement technique organizing a large set of test items into a number of relatively short item subsets, each of which then is administered to a subsample of test takers, thereby avoiding the need to administer all items to all examinees.

MINIMUM *n*
The smallest number of students a state has determined can produce statistically reliable results for a group while protecting the confidentiality of the student within the group.

MODIFICATION
A change to the testing conditions, procedures, and/or formatting so that measurement of the intended construct is no longer valid.

NATIONAL ASSESSMENT OF EDUCATION PROGRESS
The National Assessment of Education Progress (NAEP), conducted since 1969, is the only nationally representative and continuing assessment of what American students know and can do in various subject areas. Students with disabilities participate according to NAEP criteria. (For a copy of the criteria, see http://nces.ed.gov/nationsreportcard/about/criteria.asp).

NORM
Norms represent average or typical performance of students on a test based upon the actual performance of students of various grades or ages in the standardization group for the test.

NORM-REFERENCED TESTS (NRT)
A standardized test designed, validated, and implemented to rank a students' performance by comparing that performance to the performance of that student's peers.

OFFICE OF SPECIAL EDUCATION PROGRAMS
The Office of Special Education Programs (OSEP) is that section of the U. S. Department of Education that is responsible for the implementation of the IDEA. It carries out activities related to state eligibility for IDEA funds and monitoring state compliance with IDEA requirements.

ORTHOPEDIC IMPAIRMENT
A severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). [34 CFR §300.7(c)(8)]

OTHER HEALTH IMPAIRMENT (OHI)
Having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that – (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and (ii) Adversely affects a child's educational performance. [34 CFR 300.7(c)(9)] Some states include special mention of eligibility criteria for children with ADHD under this category.

PETITION
Under Georgia charter school law, a petition means a proposal to enter into a charter.

PETITIONER
Under Georgia law, a petitioner means a local school, private individual, private organization, or state or local public entity which submits a petition for a charter. The term 'charter petitioner' does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools.

PHONEME
The smallest units of sound in spoken language that makes a difference in the meaning of words. When added together, phonemes create syllables, which allows the creation of words

PHONICS
The understanding that there is a predictable relationship between **phonemes** (the sounds of *spoken* language) and **graphemes** (the letters and spellings that represent those sounds in *written* language). Also known as letter-sound or sound-symbol correspondences.

PORTFOLIO ASSESSMENT
An organized collection or documentation of student-generated or student-focused work typically depicting the range of individual student skills.

PULL-OUT
A program model in which the resource teacher pulls students from their classes for small-group instruction or individual work.

QUALIFIED PERSONNEL
Under IDEA, qualified personnel means personnel who have met SEA-approved or SEA-

recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education or related services.

RELATED SERVICES
Related services means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools and parent counseling and training.

RELIABILITY
The consistency of the test instrument; the extent to which it is possible to generalize a specific behavior observed at a specific time by a specific person to observations of similar behavior at different times or by different behaviors.

SIGNIFICANT DEVELOPMENTAL DELAY
The term significant developmental delay refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or social development to the extent that, if not provided with special intervention, it may adversely affect his/her educational performance in age-appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage or lack of experience in age appropriate activities. The SDD eligibility may be used for children from ages three through five, and in no instance later than the end of the school year in which the child turns six. (refer to 34 CFR 300.7(b)(1) and (2))

SPECIAL EDUCATION
Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals, in institutions and in other settings; related services; travel training; vocational education and instruction in physical education.

SPECIFIC LEARNING DISABILITY (SLD)
The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage. [34 CFR §300.7(c)(10)]

SPEECH OR LANGUAGE IMPAIRMENT
A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. [34 CFR §300.7(c)(11)]

STANDARDIZED TEST
An established procedure that assures that a test is administered with the same directions and under the same conditions (time limits, etc.) and is scored in the same manner for all students to ensure the comparability of scores. Standardization allows reliable and valid comparison to be made among students taking the test. The two major types of standardized tests are norm-referenced and criterion-referenced.

STANDARDS
There are two types of standards, *content* and *performance. Content standards* are statements of the subject-specific knowledge and skills that schools are expected to teach students, indicating what students should know and be able to do. *Performance standards* are indices of qualities that specify how adept or competent a student demonstration must be and that consist of the following four components: 1. levels that provide descriptive labels or narratives for student performance (i.e., advanced, proficient, etc); 2. descriptions of what students at each particular level must demonstrate relative to the task; 3. examples of student work at each level illustrating the range of performance within each level; and 4. cut scores clearly separating each performance level.

STANDARDS-BASED ASSESSMENTS
Assessments constructed to measure how well students have mastered specific content standards or skills.

STATE EDUCATION AGENCY (SEA)
A state education agency (SEA) is the component of state government that is primarily responsible for the state supervision of public elementary and secondary schools.

STUDENT WITH A DISABILITY
In the Individuals with Disabilities Education Act, a student with disabilities is defined as "a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services."
Section 504 of the Rehabilitation Act of 1973 defines a "handicapped person" (outdated terminology) as "any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment."

TRANSITION SERVICES
For each student with a disability beginning at age 14 (or younger, if determined appropriate by

the IEP team), and updated annually, the IEP must contain a statement of the transition service needs of the student that focuses on the student's courses of study and, beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. IDEA describes the components as services that promote movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. (See also (See also CHILD WITH A DISABILITY)

TRAUMATIC BRAIN INJURY
An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. [34 CFR §300.7(c)(12)].

VALIDITY
The extent to which a test measures what it was designed to measure. Multiple types of validity exist. Common types of validity include the following:
Construct validity: The extent to which the characteristic to be measured relates to test scores measuring the behavior in situations in which the construct is thought to be an important variable.
Content validity: The extent to which the stimulus materials or situations composing the test call for a range of responses that represent the entire domain of skills, understandings, or behaviors that the test is intended to measure.
Convergent validity: The extent to which the assessment results positively correlate with the results of other measures designed to assess the same or similar constructs.
Criterion-related validity: The extent to which test scores of a group or subgroup are compared to other criterion measures (ratings, classifications, other tests) assigned to the examinees.
Face validity: Concept based on a judgment concerning how relevant the test items appear to be, it relates more to what a test appears to measure than to what the test actually measures.

VISUAL IMPAIRMENT INCLUDING BLINDNESS
Impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. [34 CFR §300.7(c)(12)]

Acknowledgements:
The Primer definitions were compiled by the authors from many sources. Details about the disability categories under IDEA are available in the document *Disability Categories: State Terminology, Definitions & Eligibility Criteria* available on the NASDSE Project Forum website at *(http://www.nasdse.org/publications/disability_categories.pdf)* .

Some of the assessment terms were quoted with permission from a publication of the Council of Chief State School Officers' ASES SCASS Project.

II. GEORGIA OPERATOR PRIMER

This document contains information about special education specifically for charter school developers and operators who are at any point in the planning or operation of a charter school. It is essential that the information in the ***Background*** section be reviewed first to ensure that the implications of a charter school's legal status and the provisions of federal special education laws are understood.

A. PRE-AUTHORIZATION STAGE

The pre-authorization phase provides you with a valuable opportunity to explore different aspects of your future charter school. Although Georgia charter school law requires you to provide only a general assurance that you won't discriminate or just an assurance to abide by IDEA, you and your colleagues should have a clear understanding of what these assurances entail. In an effort to preempt potential problems associated with not complying with special education requirements, you should use the pre-authorization phase to educate yourself and other critical players (e.g., board members) about special education. By educating yourself on this issue, you will be able to include special education and children with disabilities into your school's vision rather than leaving it to become an add-on component. Once your charter school is authorized and operating, the pressures associated with start-up and day-to-day operations may limit your ability to "think outside the box." Use the time you have available to design your school, making sure you include special education at every decision point.

As a charter school operator, what is my role related to special education as I work with our planning team before authorization?

The pre-authorization planning phase – the time before you submit your petition for a charter – is the ideal time to begin planning for all children who may become students in your charter, including students with disabilities. As the charter school operator, you are assuming the role of administrator and operator as well as the instructional leader for your future faculty, parents and students. Although you obviously cannot plan for each child before you begin to enroll students, you can give consideration to children with disabilities as you are developing the initial plans for your school. Doing this now will not only avoid future problems, but will also result in more effective educational opportunities for all of your students.

Is it important to include students with disabilities as part of the discussion when we are developing the mission and vision of our school?

It is critically important to consider children with disabilities when you are developing the mission and vision of your charter school. Since your school will be a public school that ***must accept*** all students who apply (or who are selected in a random selection process if there are more applications than seats available), you should expect that you will enroll students with many different kinds of needs including students with disabilities.

What is our obligation to make sure that student applicants with disabilities are treated in a nondiscriminatory manner in admissions?

Under Section 504 (of the Vocational Rehabilitation Act) and Title II (of the Americans with Disabilities Act), you ***may not categorically deny admission*** to students on the basis of disability. For example, you many not deny admission to a student with a disability solely because of that student's need for special education or related aids and services or because you feel you lack the expertise necessary to serve that student.

Do we have any responsibility regarding the recruitment of students in order to be in compliance with federal civil rights laws?

Yes. When announcing your charter school or conducting outreach, you may not discriminate against students with disabilities. You should recruit students from all segments of the community served by your school using strategies that will not exclude students with disabilities.[11]

What steps should we take when providing outreach information to parents?

You must make sure that a parent who might have a disability and/or who does not understand English has a meaningful opportunity to understand the outreach information given about your charter school as effectively as other parents. Appropriate auxiliary aids and services must be made available whenever they are necessary to ensure effective communication with parents with disabilities. For example, if outreach materials are made available to parents, you could help to ensure appropriate access to the content of the materials by offering the materials in Braille or on a tape. If you conduct public informational meetings with parents or community groups, those meetings must be physically accessible to individuals with disabilities. Qualified interpreters, translations, or another effective means of communication must be provided if requested. Contact your LEA or state charter school office for assistance in providing accessible outreach to parents.

What issues need to be considered as we plan to provide effective special education services?

There are many issues to consider in developing and implementing your special education program. While they will vary from school to school, several are common to all schools, including funding, space and facilities, human resources, curriculum, service provision (including continuum of placement and least restrictive environment), professional development, administration, transportation and special considerations. The checklist reprinted in "Appendix A" poses questions designed to help you consider these important areas. Included in this checklist is the appropriate Georgia DOE office to provide assistance. Contact the Georgia DOE Exceptional Students for additional specific assistance in this area. It is critically important that a member of your team have expertise in this area. If not, you should strongly consider securing a consultant with special education expertise to support you.

If our charter school is a school of an LEA, what are our responsibilities for hiring or contracting related service providers?

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[11] More details are available in the publication from the U.S. Department of Education Office for Civil Rights online at www.uscharterschools.org/pdf/fr/civil_rights.pdf

In collaboration with your LEA, you must determine who will be responsible for each of the related services your specific students with disabilities will need. Addressing this issue during the petition stage will clarify roles during planning for start-up and actual operation.

The charter school law in Georgia only requires charter school petitions to include an assurance that school personnel will abide by federal statutes related to special education. Is there any need for me to expand upon this assurance?

The petitioning school should address areas about the education of students with disabilities that are connected to your legal responsibility for special education in accordance with your state charter school law.

What should we consider in preparing our application?

A few critical areas for you to consider include:

- describing how you are aware of the responsibilities entailed in the general assurance;
- articulating your plan regarding governance, service delivery and finance of special education;
- explaining how you will plan to: identify, evaluate and serve children with disabilities; develop, review and revise IEPs; integrate special education into the general education program; and deliver special education and related services, and
- projecting the cost of special education in your school including costs for: child find, student identification, evaluation and planning; and providing special education services.

Depending on your LEA status, your responsibilities in these areas will vary. It is important that you describe your plan for linking with your LEA or state as applicable. Even if you are not required to address these in the content of your charter petition, considering these in detail during the planning process will prepare you to be ready when a child with a disability applies to your school and you open your doors on the first day of school.

B. PREPARING FOR START-UP

We have concerns about our ability to deliver instruction to students with disabilities that will be in keeping with our curriculum. What should we do?

Hopefully, this is an issue you addressed during your pre-authorization activities as you developed your school's mission and considered potential accommodations that will help you to include students with disabilities in your school.

As you prepare for students, remember that concerns about instruction should be discussed at the time of the child's individualized education program (IEP) meeting and described in the child's IEP so that all members of the team can contribute to, and understand, how the student will have equal access to the Georgia Performance Standards (GPS) general curriculum and accommodations to support this access. If your school's faculty needs help in accommodating the needs of a student who has a disability, you need to make provisions for professional

development. One strategy that charter schools have found effective is incorporating into the IEP a provision for close tracking of the student's adjustment in the first 30 days at the charter school with a set date for the full IEP team to review progress and make any necessary revisions.

Due to my charter school's status, we are responsible for hiring our staff and faculty. How much flexibility do we have in special education?

First, your charter school must follow Georgia's charter school law and regulations regarding faculty certification.[12] Changes to IDEA in 2004 require that special education teachers meet the "highly qualified" standards of NCLB. However, although IDEA provides that special education teachers must have full certification in the state to teach as a special education teacher, the law also states "except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law" [H.R. 1350 § 602(10)(B)(i)].

It is essential that charter school operators who hire special education personnel understand the requirements that Georgia has established. It is also important to note that a charter school must abide by the decisions of the IEP Team that has identified the type of services the child will need and consider the staffing implications for delivering those services.

Do we have to hire full-time special educators in our charter school?

Depending on the needs of your students and staffing identified in their IEPs, it is highly unlikely that your charter school will have sufficient need to warrant hiring a complete complement of special educators. However, you will have to be creative and flexible in designing staffing loads. A few of the options include hiring faculty with dual licensure (in special and general education), hiring consultants on an hourly basis, or contracting for special educators via a collaborative agreement with the local school district or other (private or charter) schools.

Is there a difference between certified educators and highly qualified educators?

Yes. Being "certified/ licensed" is only one part of the requirements in the No Child Left Behind Act (NCLB) designed to ensure that teachers of core academic subjects be highly qualified. The IDEA applies this NCLB requirement to special education teachers who teach core subjects. There is a partial exemption from the highly qualified requirements for teachers in charter schools where Georgia law grants them a waiver from certification requirements.[13]

Where can I obtain specific information on my state's licensure requirements pertaining to special education in charter schools?

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[12] All matters pertaining to teacher certification in Georgia are handled by the Georgia Professional Standards Commission (for details, see http://www.gapsc.com/TeacherCertification.asp).

[13] The Georgia Professional Standards Commission can provide clarification for specific requirements in your state (http://www.GAPSC.org).

In addition to Georgia's Charter School Office, you should become very familiar with the Georgia Professional Standards Commission. The staff in this office will be able to interpret federal and state certification requirements as they pertain to charter schools. Particularly during the early days of your school, do not assume you understand licensure requirements because you talked with a colleague in a neighboring state. There is extreme variability in certification requirements across states.

What forms do we need for special education services?

If you are part of an LEA, you should use their forms. Otherwise, you may use/adapt the forms developed by the Georgia Department of Education. You may need to request technical assistance from the state Division for Exceptional Students.[14] Be sure to have your LEA or the state review your forms to ensure compliance with federal and state laws and rules.

What should we do when a child with a disability applies to our school?

Since charter schools may not discriminate on the basis of a disability in determining eligibility for admission, your considerations for students with disabilities are to be the same as for students without disabilities.

It is critical that your charter school receives the records for a child who applies for admission from the child's previous school to ensure the IEP requirements are implemented. *If you do not automatically receive the records, initiate a request both to the previous school and to the special education office of the LEA.*[15] The Georgia special education office can also help if you are not able to obtain a response from the previous school or LEA.

If we have concerns about our ability to meet the needs of a specific student with a disability, can we recommend other programs or schools?

Charter schools, like all schools, should recognize the necessity of meeting the needs of all students. It is typically not appropriate for you to suggest that the needs of a student with a disability may be better met in another school. During the course of student recruitment, it is expected that your school staff and representatives will share information with prospective students and families on the school's curriculum and services. It would also be appropriate to discuss the services and supports currently provided to students with disabilities and to explore potential strategies for meeting the needs of the prospective student. The initial focus should be on understanding the needed supports and services and identifying strategies for delivering them within the context of your school's framework. All issues about the appropriateness of the child's

[14] Most are available at on the website for the Division for Exception Students (http://www.doe.k12.ga.us/curriculum/exceptional/index.asp).

[15] It is important to note, that transfer of records from one public school to another does not require a signed consent for release form [GA Regulations §160-4-7-1.2(1)(e)(2)(ii and 9x)]. (Georgia Special Education Regulations are available online at http://www.doe.k12.ga.us/curriculum/exceptional/rules.asp)

placement should be taken up with the child's IEP team which should include an LEA or SEA representative.[16]

Are there requirements for physical access and space that apply when I select the facilities that will house our charter school?

Yes. An LEA (including your charter school if it is its own LEA) may not deny persons with disabilities, including parents and students, the benefits of programs and activities offered at its schools because of inaccessible facilities. The selection of the facility for your charter school may not result in excluding or limiting enrollment of people with disabilities from any school program or activity.[17]

We rent our school building. Whose responsibility is it to make our school accessible?

Responsibility to modify a facility should be articulated in the lease between your school and the owner of the facility. It is very important you seek legal counsel prior to signing any contracts to lease or purchase your facility.

Are there different legal requirements that apply to charter schools located in existing facilities as compared to newer facilities?

Yes. Generally for existing facilities, a charter school's programs and activities, when viewed in their entirety, must be readily accessible to individuals with disabilities. Both the Section 504 and ADA Title II regulations permit considerable flexibility in meeting this legal standard. For example, structural changes are not required in existing facilities if nonstructural methods are effective in achieving program accessibility. For new construction and alterations (i.e., construction began since June 1977), Section 504 and ADA Title II require that a new or altered facility (or the part that is new or altered) must be readily accessible to, and usable by, individuals with disabilities.

What impact will these requirements have on our operations?

You must make sure that a child with a physical disability has access to every part of the new building or the parts that are newly altered. For example, if your charter school is in a new building, all parts of the building including a third-floor chemistry lab must be accessible for use by persons with disabilities. In contrast, if your charter school is in an existing facility, you might be able to meet the program accessibility requirement by locating at least one chemistry lab in an accessible location like the first floor. However, the specific federal, state and local requirements

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[16] Additional information and clarification on appropriate strategies for addressing this issue may be found in the U.S. Department of Education Office for Civil Rights (OCR) document, *Applying Civil Rights Laws to Public Charter Schools: Questions and Answers*, available online at http://www.uscharterschools.org/pdf/fr/civil_rights.pdf

[17] The Georgia Department of Education website contains a section entitled the Facilities Services Unit that provides assistance and resources related to school facilities plus a set of links to other internet resources on this topic (http://www.doe.k12.ga.us/schools/facilities/index.asp).

on this issue are very complicated and you should obtain legal counsel when acquiring a facility to house the charter school.[18]

C. OPERATING A CHARTER SCHOOL

As you move through the day-to-day operation of your school, you will find that often you have to focus on a "challenge of the moment" related to students with disabilities. If you have planned carefully to put strategies in place for handling special education issues, they will not reach the crisis stage. Occasionally, you should take the time to revisit your mission and vision and have specific discussions on how all of your students and staff are doing. Remember to consult with resources available in your local school district, state education office, or charter authorizer.

This section provides an overview of critical issues and activities related to serving students with disabilities that you and your colleagues should address during day-to-day operation of your charter school. These may include curriculum implementation, staff and faculty hiring, student enrollment, fiscal issues and school accessibility.

What special education services must a charter school provide?

The specific services that must be delivered by your charter school depend on the legal identity of your individual school and your linkage to an LEA. If your school is a locally approved charter school and thus a part of the LEA, special education services will either be coordinated out of the district office as is done for other schools in the district, or delivered in another way as specified in the charter or contract you negotiated with the LEA.

The expectations for a charter school that is considered to be a separate LEA and has no link with another LEA are quite different. Such an LEA charter school must ensure that each of its students with an IEP receives all special education supports identified in the student's IEP. The range of services and equipment may include related services, e.g., occupational and physical therapy, orientation and mobility training, adapted physical education, transportation, or assistive technology. This is not to say that the school must hire staff specifically to provide the services. Many charter schools have crafted creative solutions to providing services. Some of these include: contracting with a local school district to provide specific services, hiring a consultant or forming a cooperative with other charter schools.

Our curriculum was selected specifically for students with a particular disability (e.g., deafness). What should we do to make sure we can include students with other disabilities or those who do not have a disability?

If students who enroll have disabilities different from what your school expected, each one must be considered individually so that their needs can be met. In each case, the involvement of your

[18] Your state and/or local code dictate who is responsible for ensuring that public facilities are accessible. Check online at http://www.doe.k12.ga.us/schools/facilities/index.asp for technical assistance in determining what modifications need to be made and the appropriate approach to accomplish your desired goal.

charter school staff with the IEP team is critical. The need for prior planning to obtain special education capacity is obvious. Although it is impossible for a charter school to plan for every contingency prior to initial enrollment of students, general plans for a new charter school must include a grade-appropriate curriculum to be available for students without identified disabilities. Then, if a population with disabilities is targeted, adequate delivery strategies, personnel, tools and materials must be added for the expected needs.

A student with a significant disability has enrolled in our school. No one on our faculty has experience in this area. What should we do?

Just as any other public school is expected to do if a child moves in with an existing IEP, your charter school must try to implement the child's IEP. If that does not appear to be possible, you should review the child's special education records along with the IEP, and analyze your existing capacity to deliver the instruction and related services as described. You also need to convene the IEP team immediately (with LEA participation) to discuss appropriate options.[19] As mentioned previously, one strategy that charter schools have found effective is incorporating into the IEP a provision for close tracking of the student's adjustment in the first 30 days at the charter school with a set date for the full IEP team to review progress and make any necessary revisions.

May we limit the participation of students with disabilities to certain aspects of our school's program?

No. Consistent with civil rights laws, students with disabilities must be provided a range of choices in programs and activities that is comparable to that offered to students without disabilities. This includes an opportunity to participate in a range of nonacademic or extracurricular programs and activities offered at your charter school.

We plan to develop Individual Learning Plans for all of our students. Do we still have to develop IEPs for students with disabilities?

Yes. All students receiving special education services must have an IEP that is developed by a multidisciplinary team following the procedural requirements of IDEA and your state's special education law and regulations. The IEP may complement the plans your school will develop for all students; however, the IEP will be the legal, guiding document for all special education services provided to a child who has been found to be eligible for special education.

Are there special strategies we might use to attract and retain our personnel who work with children with disabilities?

In many parts of the country, demand for educators (particularly special educators) exceeds the supply. While there is no special "fix," several strategies have proved effective in reducing

[19] Remember to collaborate with your LEA and involve them in the process of planning for a student. Check with the Georgia Department of Education, the Georgia Charter Schools Association, and the Georgia Public Policy Foundation to determine if there is a cooperative that can provide support in this area. Many cooperatives have formed to provide technical support and resources to charter schools with children with significant or low-incidence disabilities. Some also provide direct services for these children.

turnover. These include creating a mentor system for new special educators, implementing a peer support program and implementing an open-door discussion practice. Increasingly, research shows that the primary reasons special educators leave their positions are paperwork responsibilities, feelings of isolation from colleagues, high caseloads and multiple responsibilities. Specific upfront discussions about their individual roles in fulfilling the school's mission will help them to understand your school and their ability to help you meet your goals. It is extremely important that you are in frequent contact with your special educators to gauge satisfaction and/or frustration and explore strategies to minimize areas of difficulties.

What types of special education professional development should we offer our staff?

Charter schools need to provide professional development opportunities to a variety of different types of individuals. Clearly your instructional staff (including paraprofessionals) need to have ongoing access to training specifically focused on linking instruction, curriculum, and the school's mission to the individual needs of students. Successful practices in personnel retention also stress the importance of involving the staff members in the planning of their own professional development programs.[20]

What type of professional development would benefit our board members and other volunteers?

Your charter school board members and other volunteers will benefit from very focused, ongoing training in the charter school's responsibilities for students with disabilities as well as educational management issues. Given the strong charter school focus on parental involvement, it is important to reach out to parents and family members of students with disabilities to ensure they are part of the activities that involve all parents and meet their needs for information. See "Appendix B" for a variety of networks that charter schools can tap into to learn more about special education in general and issues related to special education in charter schools.

What should we do when our special education program costs more than the funding we receive from our state and the federal government?

Lack of funds is not a legal reason for denying services to a child who is eligible for special education. The manner in which your charter school may seek additional support to pay for required special education services depends on a number of factors, such as the provisions of your charter and any contracts you have with an LEA, state funding policy and your school's LEA status and linkage to another LEA. Revisions to IDEA passed in 2004 permit states to establish risk pools to assist LEAs in addressing the needs of "high need children with disabilities." The law specifically includes charter schools that are LEAs as eligible to participate. Operators should know if such a resource exists in their state and obtain specific details about how the program works.

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[20] LEAs offer a full complement of professional development activities. If your charter school is part of an LEA, you are eligible to participate. The Georgia Learning Resource System (GLRS) provides a wide range of professional development opportunities to LEAs. Contact your LEA to learn more about these. Additional resources are available through the Georgia Charter Schools Association, GCASE (Georgia Council of Administration of Special Education), and GACEC (Georgia Council for Exceptional Children).

We don't provide transportation to students. Must we provide it for students in special education?

If your school provides transportation to and from school or financial support (e.g., tokens) for non-disabled students for that kind of transportation, then you need to do the same for students with disabilities. If you do not provide this support in general, then you typically do not need to provide it to students with disabilities. However, if an IEP team identifies transportation as a related service on a child's IEP, then your school will need to arrange for transportation services or see that the responsible entity does so. As your IEP team considers a student's need for transportation, it is critical that team members understand the difference between a student's need for transportation to get to school (common for all students) and a student's need as a result of a disability (which results in the need for a related service). If your charter school is responsible to provide this related service, you may contract for it or pay the family to transport the child to and from school or the location of the special services.

What are our responsibilities to conduct "Child Find" activities?

Your charter school's responsibilities for Child Find depend on its LEA status. IDEA requires each state to "have in effect policies and procedures to ensure that all children with disabilities residing in the State who are in need of special education and related services are identified, located, and evaluated" (CFR Â§300.125(a)1(i)). States develop procedures that their LEAs must follow to carry out these responsibilities. If your charter school is its own LEA for special education, you must follow state procedures just like any other LEA. However, a charter school does not have jurisdiction over a geographical area as most traditional LEAs do, so the actual implementation of Child Find responsibilities by charter schools will differ. Charter schools are responsible for children only when they are actually enrolled in the charter school. It is clear that all charter schools must conduct Child Find activities for their full student population so that children who may need special education are appropriately identified and, if necessary, referred for evaluation. Georgia has developed specific instructions and practices (e.g., Student Support Team) for public schools (including charter schools) and LEAs with regard to Child Find that you as the school operator must learn, understand and follow.

What should we do if a teacher or parent suspects a child might benefit from special education?

Parents and teachers must be given clear information about the procedures that will be followed in your charter school concerning the rights of a child to an evaluation for special education. Parents and teachers must also be fully aware of other services your school provides (e.g., a student support team to provide help) prior to a formal special education evaluation referral. Federal and Georgia law and regulations contain numerous specific requirements related to procedural safeguards and your teachers, parents and board members should be made familiar with them. Georgia Rules require that each school must have a minimum of one student support team (SST) that must conduct an assessment before a referral is made for other supplemental or support services.[21]

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[21] An extensive guidance on student support teams is available from the Department of Education website (http://www.doe.k12.ga.us/support/sss/sst.asp). Every charter school should have clear procedures in place for attending to the

How do we determine a child's eligibility for special education?

Decisions about a child's placement are completed at the IEP meeting on the basis of an evaluation.[22]

Are there required special education forms and reports that we have to complete?

Your school's responsibility in this area will vary based on your contract, state rules and the legal identity of your charter school and its linkage to an LEA.

- If your charter school is required to have its own IEP team and carry out all the responsibilities for evaluation, the paperwork is the same as required for other LEAs.
- If your charter school does not have to carry out the IEP team process, your staff will, at a minimum, have to participate in the IEP process to represent the charter school and provide progress information to the child's LEA.

Regardless of your specific requirements, it is very important that you, as the charter operator, understand the nature of your school's responsibilities and ensure your entire charter school staff has a clear understanding of the reporting responsibilities to avoid violations that might make the school vulnerable to non-compliance charges. Depending on your legal identity and contract, your paperwork responsibilities may include financial/funding, staffing, child count, identification and evaluation, IEP development and monitoring, and student progress. Deciding who will be responsible for what paperwork (followed by training to do this) will help to ensure completion of all requirements by competent, qualified individuals. Since student-focused paperwork can be very time consuming, many charter schools alter a special educator's teaching load or provide additional compensation. Some states have recognized the need for charter schools to have access to the services provided by a special education administrator to assist in the management of the complex responsibilities required by federal and state law.[23]

Who is responsible for developing our students' IEPs?

Responsibility for IEP development depends largely on the specific arrangements for your school as reflected in your contract, Georgia law, and the linkage to an LEA. The procedures to be followed in your charter school should be clearly written in school policies. Generally, in charter

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needs of a child who is not progressing or is presenting other kinds of problems. The Georgia Department of Education Special Education Office provides technical assistance and mediation support if the parents refuse permission for an evaluation. Putting such procedures in place should be a part of planning before start-up so that they do not have to be developed in a crisis situation.

[22] The Georgia Department of Education provides detailed information about the IEP and the process for making decisions (http://www.doe.k12.ga.us/curriculum/exceptional/iep.asp)

[23] State recommended forms are available on the Department of Education website (www.doe.k12.ga.us/curriculum/exceptional/forms.asp), (www.doe.k12.ga.us/_documents/curriculum/exceptional/parents_rights_063005.doc) and (www.doe.k12.ga.us/_documents/curriculum/exceptional/IEPform.doc). Many LEAs in Georgia have adapted the state forms for local use.

schools that are part of an LEA, most IEP development will be coordinated by the school with support from the LEA. Charter schools that are their own LEA most likely have sole responsibility for developing IEPs for their students with disabilities.

Who should be involved in the development of a student IEP?

Current IDEA requirements provide that IEPs are to be developed by a team whose membership includes: (1) a parent of the child with a disability, (2) one regular education teacher of the child, (3) one special education teacher of the child, (4) an administrative representative of the LEA, (5) individuals who can interpret the instructional implications of evaluation results, (6) other individuals with knowledge and expertise regarding the child and (7) (as appropriate) the child.

The IDEA does allow that a member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree in writing that the attendance of such member is not necessary. The law also allows for participation in a meeting by conference call or other electronic means. However provisions need to be made to obtain written input from these members if their curriculum area will be discussed.

What does the IEP need to include?

According to the IDEA, an IEP for each child with a disability must include[24]:

- a statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in the general curriculum;
- a statement of measurable annual goals and, only if the student takes an alternate assessment, benchmarks or short-term objectives;
- a statement of the special education and related services and supplementary aids ad services to be provided to the child, or on behalf of the child and a statement of the program modifications or supports for school personnel that will be provided for the child;
- an explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class;
- a statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment and, if the IEP team determines that the child will not participate in a

[24] In addition, for children age 16 and above, there are requirements for addressing transition needs that must be addressed in the IEP process. The IEP is not to be a curriculum for the child. Rather it is to serve as a guide for how to "open the doors" to improve access to the general education curriculum and the necessary special education and related services that will allow the child to progress.

particular state or district-wide assessment, a statement of why that assessment is not appropriate for the child and how the child will be assessed;

- the projected date for the beginning of the services and modifications and the anticipated frequency, location and duration of those services and modifications; and
- a statement of how the child's progress toward the annual goals will be measured; how the child's parents will be regularly informed of their child's progress toward the annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

Do we have to develop an IEP for every child with a disability?

An IEP must be developed for every child found eligible under IDEA for special education services if the parents agree to placement. Some students with a disability will be eligible for a Section 504 plan. Whether you have full or partial responsibility for developing IEPs for students who attend your charter school, your staff must participate in IEP meetings to provide the necessary information about the child's school progress. It is also important that you develop appropriate procedures for the required progress reporting to parents and all necessary input from the charter school for other special education reporting.

What is our school's responsibility when a child with a disability transfers to another school?

As with any other child, when a student with a disability transfers to another school, you must ensure timely transfer of all records. At the point that the child is formally no longer enrolled in your charter school, your school no longer has a responsibility to provide services to the child. Special equipment and assistive technology may need to be transferred.

How should we transfer student records?

Student records, including special education records, should be returned to the LEA for retention and storage according to state law.[25]

[25] Perhaps the most important consideration in records transfer is ensuring the privacy of student information, The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students. (For details about the law, see http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html) Careful attention to sections pertaining to disclosure of information without the "written consent" of the parent or eligible student will help alleviate future problems.

D. ACCOUNTABILITY AND RENEWAL

Accountability refers to the policies and procedures that charter schools must abide by as required by federal and Georgia special education and state charter school rules and regulations. While Georgia charter laws may release charter schools from some state reporting requirements (e.g., teacher qualifications), charter schools are generally obligated to collect and report the same information that other public schools must report such as statistical information regarding students, standardized tests and budgets.

Accountability has become a cornerstone of school improvement efforts and it is a basic principle of the charter school movement. At a minimum, these include monitoring, files/data management, record keeping, procedural (special education) compliance, state charter law compliance and charter school contract compliance. Depending on your school's legal status, you will work directly with the LEA that authorized your school or Georgia Department of Education throughout this phase. At the heart of this is a school's ability to demonstrate student progress, maintain qualified personnel and document instructional and financial practices. As valued members of your school, students with disabilities and their programs and staff will be involved in each aspect of this phase. Explicitly preparing for their involvement in all aspects of your school will avoid problems and enhance the quality of your accountability plan.

What type of special education accountability provisions do we need to consider?

First and foremost, you need to address your authorizer's requirements and the Georgia charter school law. Stay in close contact with the Georgia Department of Education to learn of updates in IDEA and NCLB implementation and implications for your charter school. At a minimum, you will also need to be able to document specific outcomes of students with disabilities, fiscal practices related to special education, timelines related to development and implementation of special education services, qualifications of faculty and staff and resolution of parent complaints.

What types of data should we collect so we are able to complete required reports?

Most charter schools are required to submit essentially the same data and statistical reports as traditional school districts. Examples include enrollment accounting, program accounting, student performance data and financial reporting. Depending on state policies, there may be variability in the degree to which your school will be required to report data regarding special education. However, at a minimum you will need to be able to report data on all of your students disaggregated by the subgroups outlined in NCLB, one of which is students with disabilities. Keep these subgroups in mind as you are setting up your data collection and storage system, especially those related to assessments.

Even if your charter school has not begun enrolling students with disabilities, it is important to include provisions for special education in the development of state data collection and management information systems. This will strengthen your infrastructure and prepare you to provide effective special education services that meet the mandates of the laws.

Is there added accountability specifically for special education?

Yes. Operators must understand that charter schools have an added level of formal accountability related to special education. The U.S. Department of Education carries out an extensive monitoring of SEAs, and then SEAs must develop and carry out a formal monitoring process for each of its LEAs. Your charter school's involvement in the process of monitoring is dictated by your legal status as an LEA or part of an LEA.

How is special education monitoring carried out in Georgia?

If your charter school is an LEA, it will be monitored in the same way as all other LEAs in the state.[26] If your charter school is part of another LEA, you will be involved in your district's special education monitoring on the same basis as other schools of that LEA, and the LEA is responsible for seeing to it that any non-compliance found in your charter school is corrected. Also, when the U.S. Department of Education monitors the state, your school might be one of the schools randomly selected for visitation.

What resources are available to prepare my charter school to be successful in special education monitoring?

Technical assistance in this area may be obtained from the Georgia Department of Education, other LEAs, Southeast Regional Resource Center, other charter schools and national organizations. One strategy could include the use of monitoring mentors where an experienced special educator can assist your charter school prepare for monitoring. The Georgia Department of Education and GLRSs meet on a regular basis and include LEA special education directors for this purpose. Charter school directors should also participate in such meetings.

How do students with disabilities participate in the NCLB accountability system?

NCLB includes students with disabilities and special education programs in state assessment and accountability systems. Students receiving special education services, including those with the most significant disabilities who participate in an alternate assessment system, will "count" in the accountability formulas. Not only do they count—they can make a difference in your school's ability to meet criteria for "adequate yearly progress" and state-specific performance measures under the NCLB law.[27]

How will special education be included in the renewal of our school's charter?

Throughout your renewal process, most authorizers will include some evaluation of your special education practices. These will most likely focus on financial, academic, personnel, facilities and data systems. Having your special education infrastructure in place and operating smoothly will prepare you well for your renewal activities.

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[26] Georgia's Continuous Improvement Monitoring Process (GCIMP) is described on the Department's website (http://www.doe.k12.ga.us/curriculum/exceptional/gcimp.asp).

[27] For details on Georgia's alternate assessment see www.doe.k12.ga.us/curriculum/testing/gaa.asp. Talk with your colleagues, your authorizer, the Georgia Department of Education, and your GLRS to identify effective strategies in helping students with disabilities to demonstrate progress. The Department's website also contains the *Student Assessment Handbook* (www.doe.k12.ga.us/_documents/curriculum/testing/SAH_2005-06_Handbook1.pdf)

Could failure to meet special education requirements be cause for not renewing our charter?

Yes. Lack of compliance with federal statutes (including special education) can result in revocation or non-renewal of a charter.

How do we know if our authorizer has specific renewal policies and processes that address special education?

If you're not sure, ask your LEA or the Georgia Charter Schools Association. Hopefully this is an area you discussed with your authorizer during your planning, start-up and operational phases. However, if that did not happen, find out what requirements your authorizer will expect you to meet as a condition for renewal. Other charter schools that are authorized by the same entity may also be an invaluable source of information regarding renewal.

E. NON-RENEWAL, REVOCATION, AND RELINQUISHMENT

Hopefully your school will never be faced with non-renewal, revocation, or relinquishment of your charter. However, it is important to have a plan in place to be activated if your school closes so that you and your board members understand their responsibilities for the students with disabilities who are enrolled in your school at that time.

What do these terms mean?

- *Non-renewal* occurs when a charter school seeks renewal to operate after its approved period and the authorizer does not grant a new charter. As a result of not having its charter renewed, the school loses its authority to operate and exist as a public school.
- *Revocation* of a charter involves a proactive decision by a charter authorizer to remove a school's charter and its legal authority to operate as a public school. In general, revocations occur when a charter school does not meet the obligations articulated in the petitions or subsequent contracts with the authorizer.
- *Charter Relinquishment* is a voluntary release of an authorized charter by a charter school board.

If our school ceases to exist, what do we need to consider relative to our students with disabilities?

Your school will be required to facilitate the transfer of all funds, records (including student and financial) and equipment (instructional and adaptive) for all students, including those with disabilities. Check with your authorizer, LEA and SEA to obtain specific guidelines and policies. Federal guidelines also provide information on the disposition of equipment purchased with federal funds.

What is our legal obligation after our charter school has closed?

After the school closes, there will be requirements to conduct a final accounting of all funds spent by your school. Your state law, charter contract and authorizer will determine the specific

nature of these activities and the ultimate destination of reports. Be sure to be in touch with the appropriate authorities to avoid the possibility of legal ramifications.

We don't know where specific children are going. What do we do with their records?

Your responsibility is to send students' records to their new schools. After you have done everything you can to determine where a child is going and you still have no success, you should return all records to the child's LEA of residence or last known LEA. If you aren't able to determine this information, contact your authorizer or the SEA for assistance.

How should we transfer student records?

Student records, including special education records, should be returned to the LEA for retention and storage according to state law.[28]

How should we dispose of any special equipment that was purchased for our students with disabilities?

If equipment was purchased for one specific student, it should be forwarded to the student's new school. If this information is not known, or if the equipment was purchased for use in a special education program, it should be handled in the same manner as all other school equipment. Your state requirements for disposal/transferring of equipment purchased with federal or state funds will also provide guidance in this area.

[28] Perhaps the most important consideration in records transfer is ensuring the privacy of student information, The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students. (For details about the law, see http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html) Careful attention to requirements pertaining to disclosure of information without the "written consent" of the parent or eligible student will help alleviate future problems.

APPENDIX A
CHECKLIST OF SPECIAL EDUCATION CONSIDERATIONS FOR CHARTER SCHOOL OPERATORS

Collaboration with other entities

- What are the roles and responsibilities for our school and LEA to provide special education services?
- How will decisions be made about provision of related services?

Funding for special education

- Is there a formula for determining how much special education funding to include in our budget?
- What is the formula and how is it determined?
- When will funds be available?
- Who receives funds for related services?
- What funds will we receive for special education services?
  - federal
  - state
  - local funds
  - fundraising

Space and facilities

- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential student records?
- Where will we provide (pullout) services?
- Where can related services personnel meet with individual students?
- Where will we store supplies and equipment used by students with disabilities (e.g., educational, medical, mobility, assistive technology)?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals, including adults, with physical disabilities?
- Who will make repairs to ensure school remains accessible to students with disabilities?

Human resources

- How many students will the school enroll?
- How many teachers will I need to hire?
- How many special education teachers will I need to hire?
- What kind of certification will the teachers need?
- Can I hire dual-certified teachers?
- Can I hire part-time or retired special education teachers?
- Can we use student teachers from area universities?
- What type of related services personnel will we need?
- How will we obtain these services and contract with these individuals?
- What other types of services will our school need?
  - legal counsel with special education expertise
  - accountants/bookkeepers/number crunchers

Curriculum

- What curriculum will my school offer?
- How does our curriculum align with the state's suggested curriculum or standards for student learning?
- How will we modify the curriculum to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum for children with disabilities in inclusive classrooms?
- What types of assistive technology will be needed by our students?

Service Provision

- How will we address the wide continuum of students who will apply to our school?

- How will we obtain all records (including special education) for our students in a timely fashion?
- How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)? Who determines and hires related service providers?
- What should our Child Find activities look like?
- How will we implement Student Support Teams?
- How will we conduct student identification, evaluation and special education eligibility determination meetings?
- Who will participate in IEP development and implementation?
- What types of special staff or consultants will we need to implement our students' IEPs?
- How will we handle re-evaluations?
- How are we going to work with families?
- What strategies can we use to be proactive in avoiding conflicts?
- How will we collaborate with LEA and state staff?

Professional development

- How will we provide my teachers with professional development?
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- What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support children with disabilities?
- Does the LEA or the SEA operate a professional development program or network that I can utilize?

Administration

- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- What equipment/supplies/programs will be needed to collect and store data and records? How will we obtain these? What training will be needed to use these efficiently and appropriately?
- Can we create our own system to administer special education or do we need to adopt the policies/procedures dictated by my authorizer, local district, other administrative unit (e.g., a Intermediate Unit or a Cooperative)?
- Who is going to monitor us? How do we prepare for these activities?

Transportation

- Will we provide students with transportation?
- Can we access district or state transportation dollars to offset costs?
- How will we meet transportation needs of students who receive transportation as a related service that is required by their IEP?
- How will we arrange transportation for a student using a wheel chair?

For more information on these topics, see
http://www.doe.k12.ga.us/curriculum/exceptional/index.asp

APPENDIX B

Following is a partial list of resources that will be useful to you during the planning and operation of your charter school.

Governmental Agencies and Offices

- **LOCAL EDUCATION AGENCIES**: States delegate their responsibility for providing a free appropriate public education to local education agencies. As part of this responsibility, LEAs generally offer district schools technical assistance in the form of documents and training. Many districts maintain websites with abundant resources related to special education. District special education technical assistance can be invaluable to charter developers interested in learning more about special education.

- **REGIONAL EDUCATION SERVICE AGENCIES (RESAs)**: Georgia's Regional Education Service Agencies provide professional development, technical assistance, and school improvement activities to member LEAs and their schools (including charter schools). A wide variety of professional expertise and assistance is available through this network. For more information, see www.doe.k12.ga.us/support/improvement/resas.asp?u_order=ResaName

- **GEORGIA LEARNING RESOURCE SYSTEM (GLRS):** The Georgia Learning Resource System provides professional learning, technical assistance and school improvement activities specifically in the area of special education to LEAs, schools, teachers, and parents. (http://www.glrs.org)

- **GEORGIA DEPARTMENT OF EDUCATION**: The Georgia Department of Education can be a rich source of general information regarding special education and in some cases, specific information regarding special education in charter schools. Georgia's Charter School office hosts a web page for charter schools that provides valuable information on many charter school issues. (http://www.doe.k12.ga.us/schools/charterschools). The state also maintains a web page for special education with extensive information and links to laws, regulations, forms and other important aspects of special education (http://www.doe.k12.ga.us/curriculum/exceptional/index.asp). You can access websites of other states from the National Association of State Directors of Special Education website at http://www.nasdse.org/directors.cfm

- **REGIONAL RESOURCE CENTERS (RRC)**: The Regional Resource Centers and the Federal Resource Center (www.federalresourcecenter.org/frc/rrfc.htm) are federally funded projects that provide consultation, technical assistance and training to state educational agencies and through them to local educational and other appropriate agencies. Georgia is part of the Southeast Regional Resource Center (SERRC) whose website is at http://edla.aum.edu/serrc/serrc.html

- **U.S. DEPARTMENT OF EDUCATION (ED)**: Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants. The

Office of Special Education Programs (OSEP) maintains a web page that provides links to a many resources related to special education (www.ed.gov/about/offices/list/osers/osep/index.html). Another ED office that has more general resources for charter schools is the Office of Innovation and Improvement (http://www.ed.gov/about/offices/list/oii/index.html?src=mr). Information about the No Child Left Behind Act (NCLB) that all charter schools must understand is available at http://www.ed.gov/nclb/landing.jhtml?src=pb

National Special Education Networks

The following is a list of networks to learn more about special education in general and issues related to special education in charter schools specifically.

- **NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION:** NASDSE's website provides a wide array of special education resources including a copy of the final report of Project SEARCH, a national study on special education in charter schools and documents on critical issues in special education produced by NASDSE's Project Forum. http://www.nasdse.org

- **COUNCIL FOR EXCEPTIONAL CHILDREN (CEC):** CEC is the largest international professional organization dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities and/or the gifted. CEC sets professional standards, provides professional development and helps professionals obtain conditions and resources necessary for effective professional practice (http://www.cec.sped.org). The Georgia CEC website is http://www.gacec.org/

- **NATIONAL DISSEMINATION CENTER FOR CHILDREN WITH DISABILITIES (NICHCY):** NICHCY is an information and referral center that provides free information on disabilities and disability-related issues especially children with disabilities birth to age 22 (http://www.nichcy.org).

- **PARENT ADVOCACY COALITION FOR EDUCATIONAL RIGHTS (PACER):** PACER is a parent advocacy organization dedicated to expanding opportunities and enhancing the quality of life of children and young adults with disabilities and their families, based on the concept of parents helping parents. PACER's website has a variety of resources developed to assist parents of children with disabilities and may be helpful in informing charter school operators regarding their obligations to parents of children with disabilities (http://www.pacer.org).

- **PARENT TO PARENT OF GEORGIA** serves families who live in Georgia and provides support and information to parents of children with disabilities (www.parenttoparentofga.org).

- **SPECIAL EDUCATION NEWS:** This private newsletter provides in-depth, up-to-date news related to educating students with disabilities. http://www.specialednews.com

- **SPECIAL EDUCATION LAW:** This resource provides up-to-date information on judicial and legislative decisions concerning special education. http://www.specialedlaw.net

National Charter School Networks

- **U.S. CHARTER SCHOOLS WEBSITE**: This is a rich resource about all aspects of charter schools: http://www.uscharterschools.org
- **NATIONAL ASSOCIATION OF CHARTER SCHOOL AUTHORIZERS**: This organization renders support and technical assistance to those who sponsor or authorize charter schools. http://www.charterauthorizers.org

- **NATIONAL ALLIANCE FOR PUBLIC CHARTER SCHOOLS:** This is a national advocacy organization that provides information about the charter schools movement in the country and assistance to strengthen the number and quality of charter schools (http://www.publiccharters.org/).
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III. GEORGIA AUTHORIZER PRIMER

A. PRE-AUTHORIZATION/PLANNING

The pre-authorization phase provides charter school authorizers the critical opportunity to inform potential petitioners about their responsibilities related to special education. While the Georgia charter school laws and subsequent charter petitions require petitioners to provide an assurance that they will not discriminate or more specifically, an assurance to abide by IDEA, many petitioners are not aware of what these assurances entail. However, once charter schools are authorized and have evolved to the operating phase, the pressures associated with start-up and day-to-day operations frequently limit operators' ability and available options to create an effective and efficient special education program.
In an effort to pre-empt potential problems associated with not complying with IDEA requirements, charter authorizers can take advantage of the petitioners' planning phase to educate them about special education. By educating petitioners earlier rather than later, authorizers can encourage petitioners to build special education into their vision of a school rather than simply add special education after the school model is developed.

What is the pre-authorization phase?

The pre-authorization phase encompasses the planning activities preceding the submission of a charter petition to an authorizer. This stage generally starts out very informally and grows increasingly structured as potential charter school petitioners work to turn their vision of a school into a concrete plan that can be implemented.

What is an authorizer's role during preauthorization related to special education in charter schools?
Authorizers may encounter charter petitioners with limited knowledge of their responsibilities related to students with disabilities. It is helpful if the authorizer provides an orientation prior to submission of a petition that includes information about a charter school's roles and responsibilities regarding special education. It is also helpful if the authorizer has a list of resources that the petitioner can use in preparing the petition. In addition, it is helpful if the authorizer has set criteria on what the petitioner needs to have included in the special education section of the petition. Authorizers may want to refer petitioners to qualified technical assistance providers who can give them the developmental guidance they need throughout the planning phase.

At a minimum, petition materials should inform the petitioners that special education is a consideration in evaluating petitions. As articulated in the ***Background*** document, charter schools' legal identity and contractual relationship to a local education agency define their special education responsibilities. Authorizers should require that charter petitioners demonstrate that they understand those responsibilities and can amass the capacity to meet them. Most typically, this occurs through explanations within the petition including the program plan, budget, and staffing sections of the petition.

Why is it so important that an authorizer address special education in the petitioning process?

Introducing charter developers to the reasons underlying special education may support the implementation of special education programs from the start of the planning process. In other words, it is helpful if operators understand why special education exists. Furthermore, it may be helpful to acknowledge that, while special education policies and procedures can be cumbersome, they have evolved over many years and they stem from documented exclusion of children with disabilities. Authorizers may require that charter petitioners attend a brief introduction to the civil rights origins of the Individuals with Disabilities Education Act (IDEA) as well as other information regarding the laws and regulations that pertain to students with disabilities. As discussed in the ***Background,*** the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 are the main federal special education laws and there are regulations pertaining to each of these laws. Georgia, like all states, also has laws and regulations related to implementing the federal requirements.[29]

What level of special education expertise is recommended when reviewing a petition?

The authorizer should have someone knowledgeable about special education who will be responsible for reviewing the petition prior to its approval and be available to answer questions regarding all matters pertaining to students with disabilities. This typically will be the district's director of special education or a staff member of the department.

Can an authorizer grant charter school petitioners waivers from federal special education requirements as part of their charter?

No. The federal government has not permitted any waivers from federal special education requirements for charter schools. Charter schools are public schools and must be open to, and serve the needs of, any student with a disability wishing to attend. However, state charter school laws can grant charter schools waivers from state and local special education rules that go beyond federal requirements as part of their charter. Given that one of the tenets of the charter school movement is the goal of fostering innovation, authorizers should strive to provide charter school developers with the opportunity to develop special education programs in non-traditional ways as long as they operate within the parameters articulated in federal law.

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[29] The following websites provide copies of and information about these laws and regulations:

- The Georgia Department of Education website contains links to all parts of Georgia's state rules for special education plus many links to related federal legislation at http://public.doe.k12.ga.us/pea_board.aspx?PageReq=PEABoardRules, then scroll down to 160-4-7-.01. Special education rules run through 160-4-7-.27.
- A copy of the full IDEA 2004 Law: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ446.108.pdf
- Regulations implementing the IDEA 2004 are being prepared. Until they are adopted, the regulations implementing the 1997 IDEA law remain in effect, to the extent that they are consistent with the IDEA 2004 statute. One source of a full copy is: www.cec.sped.org/law_res/doc/law/index.php
- Section 504: The U.S. Department of Education provides information about the requirements of this law as they pertain to public schools on its website at www.ed.gov/about/offices/list/ocr/504faq.html

What are my responsibilities as an authorizer related to the No Child Left Behind Act (NCLB)?

Authorizers' responsibilities related to NCLB are determined by Georgia charter school law. The U. S. Department of Education has issued non-regulatory guidance related to NCLB requirements including documents pertaining to charter schools.[30]

It is important to note that charter schools must meet the same NCLB requirements as any other public school and as such should plan for the issues that may arise when opening the school (e.g., locating and hiring highly qualified teachers, reporting requirements, etc.).

What issues should I encourage charter petitioners to consider during the planning phase to ensure that they will be able to provide special education appropriately?

When working with charter petitioners, authorizers are wise to advise them of the value of the old adage, "an ounce of prevention is worth a pound of cure." When applied to developing a school that can educate students with disabilities, the "ounce of prevention" requires adequate planning during the charter development and start-up phase. The specific issues that charter operators should consider during the pre-authorization phase will vary by state and even by individual authorizers within a state. However, the checklist in "Appendix A" is a list of issues authorizers should encourage petitioners to consider related to special education. The list is not exhaustive, but rather a guide to key issues that potential charter petitioners should take into account. The answers to these questions will depend upon: 1) legal status of the charter school; 2) the charter negotiated between the authorizer and the operator; and 3) the characteristics of the individual charter school.

Are there any existing models of how to address special education during the planning phase?

A number of organizations (e.g., state education agencies (SEAs), local education agencies (LEAs), other authorizers, charter school support organizations) have developed documents and orientation series that include information regarding special education in charter schools. The following documents are examples of technical assistance materials related to special education for charter school developers.[31]

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[30] A list is available at http://www.ed.gov/policy/elsec/guid/edpicks.jhtml?src=az and the full NCLB website is located at www.ed.gov/nclb/landing.jhtml

[31] These documents might be informative to authorizers interested in developing similar materials: Arizona Department of Education: Hot Topics in Special Education http://www.ade.state.az.us/charterschools/info/spedhottopics.asp; Colorado Department of Education, Charter Schools Guidebook http://www.cde.state.co.us/index_charter.htm ; Building Blocks: Building a Foundation for Starting a Charter School in Florida http://www.charterschools.usf.edu/pdf_files/BuildingBlocks7.15.pdf ; (Florida) Special Education: Information Briefs: http://www.charterschools.usf.edu/pdf_files/esebrief.pdf

B. AUTHORIZATION

The authorization stage is critical to the development of successful charter schools. Building on the foundation established during the pre-authorization phase, the authorization process provides authorizers the opportunity to verify potential operators' knowledge about their responsibilities and to assess the degree to which a petitioner is capable of fulfilling these responsibilities. Charter authorizers should be knowledgeable about special education even if this is not required by statute. This basic knowledge will enable authorizers to ensure that: 1) charter petitioners fully understand and are prepared for their responsibility to educate students with disabilities and 2) charter petitioners integrate their plan to provide adequately for special education within their petition. By providing charter developers early guidance on how to anticipate and adequately address the petition process, authorizers can help charter schools preempt a variety of challenging issues that will emerge once a child with a disability enrolls in the charter school.

What occurs during the authorization phase?

The authorization phase incorporates the stage in which the petitioner completes the formal written petition and seeks a charter. The petition process in Georgia conforms to broad requirements in the state charter school law and is further developed by individual LEA authorizers.[32]

Once the Georgia State Board of Education approves the petition, an agreement is executed by the State Board, the local board, and the charter petitioner. At this point, the agreement and the petition become the charter contract. All of the particulars of the operation of the charter school, the details regarding roles and responsibilities should be included in the petition once it is approved because it serves as the charter contract. This is particularly important in the area of special education because ambiguity in the petition can lead to legal and programming issues. Once the State Board of Education has approved the petition, the only opportunity for renegotiation or clarification is to add an amendment by going through a process similar to the original petitioning process.

When reviewing charter petitions, in what areas should I anticipate or require information regarding a petitioner's plan to incorporate students with disabilities?

- Administration
- Curriculum, instruction and assessment
- Enrollment
- Specialized personnel (e.g., certified special education teachers, administrators, related services personnel)
- Budget
- Facility
- Transportation
- Placement continuum
- Assessment and Evaluation

[32] See the end of this section for a list of the elements the Georgia charter school law requires to be addressed in every charter school petition.

- Child Find
- Student Support Team

What should authorizers ask petitioners about their plans to provide special education services to students with disabilities?

It is critical that petitioners demonstrate to authorizers that they have a well conceived, feasible plan to access the capacity they will need to meet their legal responsibilities. In addition, in accordance with the specific level of responsibility the charter school will have according to its legal status as an LEA or part of an LEA, authorizers should ask petitioners to provide information on some or all of the following during the petition and authorization phase:

- plan to evaluate and identify children with disabilities;
- plan to develop, review and revise IEPs;
- plan to integrate special education into the general education program;
- plan to deliver special education and related services (e.g., in-house or contract out?);
- projected cost of special education program (e.g., percent of operating budget);
- plan to access and account for special education funds;
- anticipated sources for ongoing legal guidance related to special education;
- plan to ensure that the school facility meets the requirements of other related laws such as the Americans with Disabilities Act (ADA) and Section 504;
- plan for enrollment/IEP transition procedure;
- plan for IEP development and review meetings;
- plan to address student discipline;
- plan to handle programming disputes involving parents;
- plan to ensure confidentiality of special education records;
- plan to purchase services from special education vendors; and
- plan to secure technical assistance and training.

As an authorizer, am I liable if charter schools I authorize do not serve children with disabilities or otherwise do not implement special education properly?

Yes. Authorizers can be held responsible for special education in the schools they authorize. Consequently, authorizers should seek legal counsel regarding local and state special education regulations and the degree to which charter schools or parents may hold the authorizers accountable for the implementation of special education in the charter schools that they authorize.

What are some issues authorizers should monitor related to discrimination against students with disabilities?

One important issue that should be monitored is discrimination against students with disabilities which violates civil rights laws. Such discrimination that arises in both charter schools and traditional public schools is "counseling-out" of students with disabilities. Counseling-out is the process of subtly or not-so subtly "counseling" a child with a disability to influence an enrollment decision inappropriately based on the child's disability.

Can a charter school "counsel-out" a student with a disability?

No. Charter schools are public schools and as such, they are legally required to maintain open enrollment policies. Advising students with disabilities that they are not allowed to attend, or that the school cannot provide the modifications or accommodations necessary to enable them to attend, is discriminatory and illegal. All placement decisions for students with disabilities should be made in the forum of an IEP meeting and must be based on an individual student's educational requirements. The federal Office for Civil Rights (OCR) is charged with investigating issues raised about discrimination against students with disabilities.

If, in the process of making placement decisions, charter schools "counsel" students regarding placement. Is this counseling-out?

Not necessarily. Determining whether a particular educational environment is the best placement is not discrimination if conducted in an appropriate manner (i.e., by an IEP team) and based on an individual child's needs. It is part of the process of ensuring that a child with a disability receives a free appropriate public education in the least restrictive environment.

To what degree are charter schools required to modify their programs to accommodate a student with a disability?

Charter schools that are part of an LEA will share this responsibility across a number of schools, including schools that may offer specialized programs for students with certain types of disabilities.[33]

What are examples of appropriate classroom adaptations, accommodations and modifications offered to children with disabilities?

Examples of appropriate classroom adaptations, accommodations and modifications that enable a child to access the curriculum include[34]:

- changing the manner in which material is presented;
- creating personalized study guides;
- adapting textbooks;
- arranging the classroom environment to enhance student learning;
- altering task requirements;
- selecting an alternate task for a classroom assignment;
- managing classroom behavior;
- promoting social acceptance; and
- using assistive technology devices.

What if it appears the charter school is not the best location for the student?

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[33] For a more detailed explanation regarding access to charter schools for students with disabilities, see the OCR document *Applying Federal Civil Rights Laws to Charter Schools*, at www.uscharterschools.org/pdf/fr/civil_rights.pdf

[34] More information on classroom adaptations, accommodations and modifications is available from the National Dissemination Center for Children with Disabilities online at http://www.nichcy.org/pubs/bibliog/bib15txt.htm

Given the unique nature of some charter schools' programs, not all charter schools are going to be appropriate for all children with disabilities (i.e., children with an official IEP or 504 plan) for meeting the goals and objectives outlined in their IEP. However, there is a fine line between discrimination and determining that a particular program may not be an appropriate setting for a child with a particular disability. To ensure that decisions regarding enrollment are: 1) made based upon each individual child, as opposed to groups of children with particular disabilities and 2) made based upon the best interests of the child as opposed to the convenience of the charter school, decisions regarding appropriate placement must be made by an IEP team rather than a single individual. One approach is to build in a 30 day review of the IEP that allows the team to come back together to review the child's progress after attending the charter school. Some LEAs have designed a process where the LEA representative at these meetings is from the student's feeder school as they are most familiar with the student's needs.

What is my role in ensuring that charter schools fulfill their mission while complying with their obligation related to adaptation, accommodations and modifications required by IDEA?

Authorizers should require petitioners to articulate their mission explicitly and ensure that the charter school is prepared to offer reasonable accommodations to children with disabilities who elect to attend the school. A key component of reasonable accommodations is a school culture that incorporates a commitment to offering accommodations to individuals with disabilities while guarding against substantively changing the nature of the school's mission. Authorizers should scrutinize charter schools' admission policies to ensure that the policies do not block enrollment for particular students or groups of students.

Can a charter school's curriculum alone meet the needs of students with disabilities?

The core tenet of the IDEA is that children are treated as individuals with unique abilities and disabilities that need to be addressed by providing unique support services, which are explicitly articulated in an IEP. Even if the school plans to provide all enrolled children with individualized learning plans loosely analogous to IEPs that address each student's unique cognitive and physical abilities and disabilities, the learning plan for a student with a diagnosed disability must conform to all of the requirements of IDEA. To determine whether these learning plans or other curricular approaches meet IDEA procedural requirements, charter operators must be aware of district and state special education requirements. In general, any policy that aims to treat all children with disabilities the same way should raise a red flag to authorizers assessing petitions. When reviewing charter petitions, authorizers can request additional information regarding how the charter school plans to ensure that its particular curriculum or instructional approach can address the unique individual needs of students with disabilities. It also may be helpful if the charter school is required to use the authorizing LEA's forms relating to special education.

What does it mean to have the capacity to provide special education services?

Special education capacity entails having the human, fiscal and legal resources required to fulfill the responsibilities articulated in IDEA. At a minimum, capacity includes the ability to implement existing IEPs, refer eligible students to special education, conduct evaluations,

develop IEPs and provide special education and related services for all entitled students enrolled in the school. Authorizers need to be confident that petitioners either have established, or can access, the capacity they will need to meet their special education responsibilities. This could involve securing services from an outside source.

Why is it important for authorizers to ensure that charter petitioners have the capacity to provide special education services?

By ensuring that charter schools have the capacity to provide special education services, authorizers can help operators and themselves avoid potential liability and ensure that all students who enroll have the opportunity to obtain an appropriate education.

When does a charter school need to have the capacity to provide special education services and comply with federal and state laws?

A charter school needs to be ready to provide service on the day it opens. Charter schools need to have the capacity to meet their legal responsibility for special education and comply with federal and state laws on the first day they open and thereafter for as long as they operate.

How are charter schools developing the capacity to deliver special education services in the school?

Building special education capacity may entail various arrangements. In some cases, special education implementation has been negotiated between the charter school and the authorizing LEA and is based upon the petition.

Examples of approaches charter schools are using to increase their special education capacity include: 1) hiring appropriate professionals to work at the charter school; 2) contracting with the local education agency; 3) contracting with other entities; 4) contracting with individuals or organizations qualified to provide special education services; or 5) some combinations of these approaches. As long as charter schools can ensure that children with disabilities enrolled in their schools have access to a free appropriate public education, they may utilize a variety of strategies to amass the capacity.

Do charter schools have to hire certified special educators?

Changes to IDEA in 2004 require that special education teachers meet the "highly qualified" standards of NCLB. However, the law makes an exception for charter schools.[35] Though the

[35] *REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS- When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that--*
(i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; (ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and`(iii) the teacher holds at least a bachelor's degree. (H.R. 1350 § 602(10)(B).

Georgia Professional Standards Commission allows charter school teachers to be considered highly qualified teachers under NCLB even if they do not have certification, an authorizing LEA can require certification as a stipulation of approving the petition. This should be negotiated during the authorization process.

What are the budgetary considerations for the authorizer?

1. The IDEA says that states and LEAs must treat charter schools in a similar manner as they do all other schools in the LEA with regard to funding. In addition, federal regulations require that states and LEAs must ensure that charter schools opening for the first time or significantly expanding their enrollment receive the Federal-to-State formula funds for which they are eligible within specific timelines.[36]

2. Expenses associated with special education fall into four general categories: personnel, equipment, facility modifications and transportation. The charter school may need assistance in understanding the role of these categories in planning for expenses. Authorizers should provide information or a resource list for charter schools in this area.

3. The budget provided in the petition must take into consideration the costs associated with special education. Authorizers should review the budget to ascertain whether the budgetary figures match the projected enrollment of students with disabilities and the services they will need.

4. The authorizers also need to consider the cost of administration, oversight, technical assistance, and interface in their LEA budget for those services related to special education as well as other areas.

How do special education funds flow to the charter school?

The State of Georgia allocates state and federal special education funds to the authorizing LEA which has the responsibility for dispersing either the funds or equivalent services or a combination of funds and services to the charter school based upon each LEA's policies. The disbursement of special education funds and/or services needs to be considered by the authorizer when developing policies related to charter schools.

Who is responsible for special education costs that are not covered by state and federal special education funds?

The authorizing LEA is responsible for students with disabilities in charter schools that are part of their LEA.

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[36] See the document, *How Does a State or Local Educational Agency Allocate Funds to Charter Schools that are Opening for the First Time or Significantly Expanding Their Enrollment?* at http://www.uscharterschools.org/pdf/fr/sea_guidance_main.pdf

Who monitors the charter school to ensure the special education funds are spent on the services agreed upon in the IEP?

The authorizing LEA is responsible for ensuring that all of its schools, including its charter schools that are part of that LEA, meet the responsibilities related to the use of special education funds. A charter school that is its own LEA will be monitored by the SEA in the same way that all other LEAs in the state are monitored.

What is the legal basis for requirements related to public school facilities' accessibility to students with disabilities?

Legal requirements regarding accessibility are extremely complex and stem from the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act.[37]

What should authorizers advise charter schools about accessible facilities?

Negotiating the parameters of the ADA and 504 is challenging and authorizers should strongly encourage the schools they authorize to seek legal counsel regarding their obligations associated with accessibility. Authorizers also should obtain counsel to be familiar with the requirements themselves.

If a charter school is required to make its facility accessible to an individual with a disability, whose responsibility is it to make the building accessible?

The charter school is responsible for ensuring that any facility it purchases or rents meets accessibility requirements. Responsibility to modify a facility, even in the event of unforeseen need, should be articulated in the lease between the charter school and the owner of the facility. Authorizers should strongly encourage charter operators to seek experienced legal counsel prior to signing any contracts to lease or purchase a facility for their school.

What responsibility do charter school authorizers have for monitoring accessibility of charter school facilities?

State or municipal codes generally dictate who is responsible for ensuring that public facilities are accessible to individuals with disabilities. However, given that charter authorizers are ultimately responsible for ensuring that charter school operators fulfill their obligations outlined in their charter and comply with all applicable laws, authorizers would be well advised to take a

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[37] To read these laws and see documents regarding their implementation in public schools please see the following websites:

- Americans with Disabilities Act of 1990
  http://www.usdoj.gov/crt/ada/adahom1.htm
- Section 504 of the Rehabilitation Act of 1973
  http://www.504idea.org/Select504.pdf
- ADA and Section 504, Kids source
  http://www.kidsource.com/kidsource/content3/ada.idea.html

proactive role in ensuring that facilities are accessible to individuals with disabilities in accordance with federal and state laws.

In the event that a charter school must make its facilities accessible to an individual with a disability, where should an authorizer direct its operator to obtain information about how to make facilities accessible?

- MUNICIPAL WEBSITES: most cities and counties post their municipal code, including regulations pertaining to implementing ADA, on their website. Authorizers should familiarize themselves with county building and municipal codes.
- US DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS: http://www.ed.gov/about/offices/list/ocr/index.html?src=mr
- AMERICANS WITH DISABILITIES ACT: http://www.usdoj.gov/crt/ada/adahom1.htm
- In addition, the Georgia Department of Education website contains a section entitled the Facilities Services Unit (http://public.doe.k12.ga.us/fbo_facilities.aspx) that provides assistance and resources related to school facilities plus a set of links to other internet resources on this topic.

Do charter schools have to provide transportation to students with disabilities?

Transporting children with disabilities is a separate issue from daily transportation to and from school because transportation can be a related service provided as a component of a child's IEP. If transportation is identified as a related service, the responsibility for transporting the child to the charter school is assigned on the basis of the charter school's legal status and linkage to an LEA. If the charter school is its own LEA, it will have to budget for special education transportation. If the charter school is part of an LEA, then the responsibility for paying for special education transportation is decided as part of the contract between the charter school and the LEA.

C. OVERSIGHT, ACCOUNTABILITY AND RENEWAL

Accountability is a core tenet of the charter school concept and one of the critical responsibilities of all charter school authorizers. State charter school laws generally provide broad guidelines regarding how charter schools will be held accountable for fulfilling the goals and objectives articulated in their charters while leaving authorizers the discretion and responsibility to develop an adequate renewal decision-making process. Charter schools are also required to participate in federally required monitoring and accountability processes. As with most issues, the manner in which charter schools are held accountable for educating students with disabilities and participating in federal and state monitoring processes is dictated by individual states and specifically by the charter school's legal status and linkage to an LEA.

What is my role as an authorizer to hold charter schools accountable in the area of special education?
Once the charter school doors open and the students arrive, charter authorizers' responsibility shifts from granting charters to overseeing the schools and holding them accountable for the goals and objectives outlined in the charters. The charter is a performance contract and the authorizer is responsible for ensuring that charter operators fulfill their responsibilities articulated in the contract. It is important that each charter school's specific level of responsibility for special education be included in the charter school accountability plan.

Do authorizing agencies have any obligation to complete documentation related to special education in the charter schools they authorize?

Charter authorizers have responsibilities associated with a variety of special education related documentation. If a charter school is part of an LEA, the charter school and the district may share responsibility for special education documentation. However, in many cases, charter schools are solely responsible for completing and submitting their own paperwork. Authorizers unsure about their specific responsibilities should contact their state for guidance. Authorizers should develop a policy related to documentation responsibilities that delineate the charter school and LEA's roles.

Where or when is my role related to accountability formally articulated to the charter schools I authorize?

The charter school's accountability plan is a part of the approved petition. Often, the accountability plan outlined in the petition contains specific means by which the authorizer will assess the degree to which the charter school is fulfilling its goals. The plan may include a site visit when the school first opens; periodic submission of reports pertaining to enrollment, achievement and finance; annual site visits; and, eventually, a comprehensive site visit associated with the charter renewal process. Issues related to special education should also be part of this process.

Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding children with disabilities should authorizers recommend that charter schools collect and report?

The responsibility for documentation resides with the LEA, but how the documentation occurs and who is responsible for data collection is negotiated between the charter school and the authorizing LEA.

Does a charter school's legal identity affect how the school is monitored for special education?

Yes, the manner in which charter schools are monitored for special education depends upon their legal identity and linkage to an LEA.

- Charter schools that are part of an LEA are monitored when their LEA is monitored. Monitoring visits do not include all schools within an LEA every time, but rather a sample of schools. As a result, charter schools may or may not be visited as a part of the state monitoring of the district. However, the district will be held accountable for the policies and processes implemented at the charter school as demonstrated by the data the district maintains.
- Charter schools that are their own LEA for special education will be monitored by the state in much the same manner any other LEA is monitored.

Should authorizing agencies consider special education part of the charter renewal process?

Yes. Authorizers are required to assess the degree to which the charter school is meeting its goals and objectives and its compliance with federal and state laws. Special education and specifically the performance of students with disabilities should be considered explicitly as a regular part of the school's progress toward meeting its overall goals and not an afterthought. Failure to fulfill obligations related to special education could be a criterion contributing to non-renewal.[38]

What do we do if we get multiple complaints about special education?

The charter school that is part of an LEA is subject to a review of its compliance with federal law by its authorizing LEA at any time. If the LEA finds multiple or uncorrected non-compliance with special education requirements, it should do a complete and timely examination of the response of the charter school to corrective actions prescribed to correct the complaints. The authorizing LEA should consider revocation or non-renewal of the charter for that school if the non-compliance is not ended or if the school is not meeting all requirements related to the education of students with disabilities.

D. NON-RENEWAL, REVOCATION, AND RELINQUISHMENT

The non-renewal, revocation, or relinquishment of a charter is at best an unpleasant experience and at worst, highly contentious and politically charged. Regardless of how unlikely a school closure may appear, ensuring the proper transfer of student records and appropriate disposition of

[38] A key factor that authorizers may want to assess when contemplating renewal is whether charter schools have been the subject of any informal or formal complaints related to special education service delivery or procedures. While complaints can arise from a variety of issues separate from the quality of special education services provided, multiple complaints should raise a red flag at renewal time. Multiple or persistent complaints may be an indication of a substantive failure to provide a free appropriate public education to students with disabilities. Low enrollment of students with disabilities in a charter school may serve as a "yellow flag" that triggers further inquiry regarding enrollment practices and questions regarding "counseling-out."

all assets in the event of closure, including those specifically for special education is a responsibility for which authorizers must always be prepared. Regardless of the environment in which a school closes, authorizers are responsible for ensuring that the necessary steps are taken to protect students' rights to privacy and maintain the integrity of records. Establishing the procedures for closing a school, including special education considerations, should be incorporated into the initial charter contract to ensure that all parties are aware of their roles and responsibilities in the event of closure.

What is the meaning of the terms non-renewal, revocation and relinquishment as used in this Primer?

- NON-RENEWAL is what occurs when a charter school seeks renewal and the authorizer does not grant the charter school a new charter (or renew its current charter). As a result of not having its charter renewed, the charter school loses its authority to operate and can no longer exist as a public school.
- REVOCATIONS occur when an authorizer proactively (prior to a regular renewal process) removes or terminates a school's charter and consequently, its legal authority to operate as a public school because the charter school has failed to meet the obligations articulated in its charter or contract with the authorizer.
- RELINQUISHMENT is a voluntary release or surrender of an authorized charter by the charter school's governing board, in contrast to a revocation, which is initiated by an authorizer. Relinquishments may occur either prior to, or after, a school's opening.

If a charter school ceases to exist, what has to be considered relative to students with disabilities?

To ensure appropriate procedures will be followed in the event of a closure, authorizers should require that specific responsibilities for student records and the allocation of other school property are addressed in the petition process and subsequently codified in the school's charter or contract with the authorizer. When a charter school is closed, the charter school board has an obligation to ensure that student records are sent to the school to which students will be transferred. In instances where the charter school is part of the local education agency, the responsibility to maintain student records may revert to the district in which the charter school was located. Authorizers should work with boards of closed charter schools to ensure that records are handled appropriately. If there is no known school of transfer for the child, the authorizer should seek counsel from the GaDOE regarding the appropriate transfer of student records.

Authorizers will also need to ensure that there is a specific accounting for special education funds. Special education programs receive funding from federal, state and local sources. As such, dismantling a special education program requires careful accounting of how special education dollars were spent and the disposition of materials and equipment purchased with special education dollars.

In the case of revocation or relinquishment, how should charter schools dispose of any special equipment that was purchased for students with disabilities?

Georgia charter school law dictates how a charter school's assets are to be distributed should the school close. In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or alternatively, be returned to the local district that is the student's district of residence. Disposing of equipment purchased with federal special education dollars is dictated by federal requirements that may be different from what is typically articulated in a charter contract. Authorizers should check state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

In the case of school closure, are there special procedures for handling special education files?

All students' educational records are protected by the Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g; 34 CFR Part 99, which stipulates how the records are to be handled.[39] Charter school personnel are responsible for closing and preparing files for transfer to either the next school or the LEA or SEA special education office in accord with these regulations.

Do charter schools have any legal obligation to their students with disabilities after the school closes?

Charter schools are obligated to transfer records. Charter schools' staff may be requested to participate in IEP staffing meetings at schools in which the students enroll after leaving the charter school.

[39] Information about FERPA is available online at http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html

APPENDIX A
Issues for Charter Petitioners to Consider During the Planning Phase

HUMAN RESOURCES
_ How many students with disabilities should we
estimate that our school will enroll?
If we will be responsible for providing special education:
_ How many special education teachers will we need to employ?
_ What kind of certification will the special education teachers need?
_ How does Georgia define "highly qualified" teachers according to NCLB and "qualified personnel" under IDEA?
_ Can our school hire dual-certified teachers?
_ Can we hire part-time or retired special education teachers?
_ Will we need to hire staff for health-related issues?
_ What are the implications for salaries and benefits if we hire full- versus part-time employees?
If an LEA will be responsible for all, or part of,
special education in our school:
_ Will the school be required to contract with an LEA for the purposes of special education?
_ If our school needs to work with an LEA, how do we negotiate with the LEA to ensure our students will receive appropriate services?

CURRICULUM AND ASSESSMENT
_ What curricula and instruction will our school offer?
_ How will we modify the curriculum and instructional delivery to address the unique needs of children with disabilities?
_ How can we train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?
_ How will our school include children with disabilities in required assessments or develop alternate assessment?
_ How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?

PROFESSIONAL DEVELOPMENT
_ How will our school provide teachers with professional development?
_ Will teachers need any specialized professional development related to educating and including children with disabilities?

_ What does the district or Georgia provide for professional development that we can utilize?

ADMINISTRATION
_ Who will administer the special education program?
_ Who will be responsible for collecting, managing and reporting data related to children with disabilities?
_ Can we create our own system to administer special education or will we adopt the policies/procedures dictated by our authorizer, local district, or other administrative unit?
_ How will our school handle student records and other school property appropriately in the event of closure of the charter school?

SPECIAL EDUCATION FUNDING
_ How will federal, state and local special education dollars flow?

_ What does our school need to budget for special
education during the first year of operation?
_ Do we need to prepare financially to enroll a student with significant special needs?

FACILITIES

If we will be responsible for special education evaluations and services:

_ Where will we conduct student evaluations?
_ Where will we conduct IEP meetings?
_ Where can we store confidential student records?
_ Where will we provide pullout services?
_ Where can related services personnel meet with individual students?
_ Are entrances, classrooms, common areas and bathrooms accessible to individuals—including adults—with physical disabilities?
_ Does the facility have space for a nurse to store and administer medications or use medical equipment?

TRANSPORTATION

If we are responsible for special education services:

_ How will our school meet transportation needs
of students who receive transportation as a related
service articulated on their IEP?

APPENDIX B
Technical Assistance and Resources

Technical Assistance and Resources

Providing special education in charter schools, not unlike traditional public schools, is challenging for a variety of reasons, and amassing the capacity to deliver special education requires early and ongoing technical assistance related to the complex requirements stemming from IDEA. Although they vary in how they perceive their relationship to the schools they charter, authorizers can play a critical role in not only informing charter schools of their responsibilities related to special education, but also in serving as a source of information regarding where charter schools can obtain technical assistance. Charter schools can tap into a variety of networks to learn more about special education in general and issues related to special education in charter schools specifically. Following is a partial list of resources that authorizers should be familiar with and to which they may direct potential charter petitioners.

Local Education Agencies

States delegate their responsibility for providing a free appropriate public education for students with disabilities to local education agencies. As part of this responsibility, LEAs generally offer district schools technical assistance in the form of documents and training. Many districts maintain websites with abundant resources related to special education. While not catering specifically to charter schools, district special education technical assistance can be invaluable to charter developers interested in learning more about special education.

Regional Technical Assistance Networks

GaDOE operates regional technical assistance networks designed to provide, among other services, education technical assistance, including special education. Examples of these networks are the Regional Education Service Agencies (RESA) and the Georgia Learning Resource System (GLRS). As public schools, charter schools should have access to these networks. Contact the GaDOE for information regarding either RESA or GLRS (www.glrs.org).

Charter School Support Organizations

The Georgia Charter School Association supports the development and operation of charter schools. Authorizers should be familiar with the organization and encourage the schools they charter to be involved with the organization.

Georgia Department of Education

The GaDOE can be a rich source of general information regarding special education and, in some cases, specific information regarding special education in charter schools. The Georgia website provides such resources at http://www.doe.k12.ga.us/schools/charterschools/index.asp Authorizers may also find additional resources at the websites maintained by other states. For example, the Colorado Department of Education offers the following documents on its charter school website http://www.cde.state.co.us/index_charter.htm

- Sample Special Education Compliance Plan
- Colorado Charter Schools Special Education Guidebook
- Fast Facts—How is Special Education Provided in Charter Schools in Colorado?
- Report on Special Education Services in Colorado Charter Schools

- Special Education Guidelines for Negotiating a Charter Contract

U.S. Department of Education
Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school petitioners. OSEP maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education http://www.ed.gov/about/offices/list/osers/osep/index.html?src=mr
Another office that has more general resources for charter schools is the Office of Innovation and Improvement http://www.ed.gov/about/offices/list/oii/index.html?src=oc

National Charter School Authorizer Network
NATIONAL ASSOCIATION OF CHARTER SCHOOL AUTHORIZERS (NACSA) is a nonprofit membership association of educational agencies across the country that authorize and oversee public charter schools. Created in 2000 by a diverse group of charter school authorizers nationwide, NACSA is dedicated to supporting and strengthening the capacities of authorizers to charter successful schools. It provides many resources of significant value to charter school authorizers through its website at http://www.charterauthorizers.org

National Special Education Networks
- NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION (NASDSE) provides a wide range of information regarding special education including research reports and technical assistance documents pertaining to special education in charter schools http://www.nasdse.org
- NATIONAL INFORMATION CENTER FOR CHILDREN AND YOUTH WITH DISABILITIES (NICHCY) is an information and referral center that provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus http://www.kidsource.com/NICHCY

National Charter School Networks
- US CHARTERSCHOOLS website contains extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools http://www.uscharterschools.org
- CENTER FOR EDUCATION REFORM provides up-to-date information about state charter school laws http://www.edreform.com