

**HAWAI`I PRIMERS  
ON  
SPECIAL EDUCATION  
AND  
PUBLIC CHARTER SCHOOLS**

**HAWAI`I OPERATOR PRIMER**

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## **Note**

The **Hawai'i Primers on Special Education and Public Charter Schools** may be subject to change to appropriately reflect changes as charter school legislation continues to evolve and impact the State of Hawai'i.

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# HAWAII OPERATOR PRIMER

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## HAWAI'I OPERATOR PRIMER

### PRE-CHARTERING PLANNING STAGE

The pre-chartering planning phase, the time before you submit your application for a charter, is the ideal time to begin planning for all children who may become students in your charter school, including students with disabilities. As the charter school operator, you are assuming not only the role of administrator and operator, but also that of an instructional leader for your future faculty, parents, and students. Although you obviously cannot prepare for each child before you begin to enroll students, you should give appropriate consideration for children with disabilities as you are developing the initial design for your school. Therefore, as you plan, it is critically important you consciously prepare to include students with disabilities in every aspect of your charter school. Doing this now will not only prevent future problems, but will also result in more effective educational opportunities for all of your students. You may request that portions of the U.S. Department of Education Public Charter Schools Program Grant be used for this planning phase.

#### **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 critical 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 operates under an open enrollment, non-discriminatory acceptance policy, you should expect to enroll students with many different kinds of needs, including students with disabilities. If this is carefully considered in the initial planning process, it is much more likely your mission and vision statements will be crafted to accommodate a greater diversity of students, thus minimizing the likelihood of subsequent problems.

#### **How can we plan for students with a wide variety of different disabilities?**

During your initial planning phase, it is important to give some thought to how your school's purpose and mission embrace a wide range of students needs. For example, how can it be made accessible to students with learning disabilities, physical disabilities, or students who present behavioral challenges?

There are six major legal principles that underlie the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA) 2004 that should guide your planning to include students with disabilities:

- *“Zero reject” of children with disabilities* - All children are to be afforded an equal education opportunity, and states may not deny an education on the basis of a disability.

- *Individualized Education Program (IEP)* - A written statement developed in accordance with the IDEIA 2004 for all students identified as possessing disabilities requiring special education services.
- *Free Appropriate Public Education (FAPE)* - Special education and related services, as determined by the IEP team and based on the student's unique needs, are provided by the public school without charge to the parent.
- *Least Restrictive Environment (LRE)* - Students with disabilities must be educated to the maximum extent appropriate with their non-disabled peers. The law expresses a preference, not a mandate, for educating students with disabilities in regular classes with appropriate supplementary aids and services.
- *Parental involvement and due process* - Parents are an integral part of the team, beginning with parental notification of the intent to evaluate their child, continuing through the IEP process. In the event that an agreement cannot be reached, parents have the right to due process.
- *Nondiscriminatory evaluation* - A non-discriminatory evaluation incorporates a variety of assessment tools and strategies necessary to gather developmental and academic information in the language and form most likely to yield accurate information.

Taking time to consider these principles and how they relate to Hawai'i charter schools will help you to develop a school that addresses the needs of all your students including those with disabilities.

**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. More details are available in the online publication from the U.S. Department of Education, Office for Civil Rights.

[http://www.uscharterschools.org/pdf/fr/civil\\_rights.pdf](http://www.uscharterschools.org/pdf/fr/civil_rights.pdf)

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

In accordance with the Americans with Disabilities Act (ADA) and the IDEIA 2004, you must ensure that all parents, including those who might have a disability and/or who do not understand English, have a meaningful opportunity to understand the outreach information given about your charter school. Appropriate auxiliary aids and services to ensure effective communication with parents with disabilities must be requested and made available whenever they are necessary. For example, if outreach materials are made available to parents, you could help to ensure access by offering the materials in

Braille, on a tape, or in languages other than English, as appropriate. This may require qualified interpreters, translations, or another effective means of communication. If you conduct public informational meetings with parents or community groups, those meetings must be physically accessible to individuals with disabilities.

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

Students with disabilities must have the opportunity to meet any appropriate minimum eligibility criteria for admission consistent with the mission of the charter school and civil rights requirements. Under Section 504 (of the Vocational Rehabilitation Act) and Title II of the ADA, you may not categorically deny admission to students on the basis of disability. For example, you may not deny admission to a student with a disability due to the sole need for special education or related aids and services.

**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 including funding, space and facilities, human resources, curriculum, service provision, professional development, administration, transportation and special accommodations. *The Checklist of Special Education Considerations for Charter School Operators* (at the end of this section) poses questions designed to help you consider these important areas.

**In relation to special education, what should be addressed in preparing an application?**

Include the following in your detailed implementation plan (DIP):

- a statement (see HI Authorizer Primer, Issuance of a Charter section) ensuring that the school will serve students with disabilities;
- a statement regarding governance, service delivery, and finance of special education;
- a statement describing how the school will ensure compliance with federal and state laws relating to special education as specified in Chapter 56 and IDEA, but not limited to
  - identifying, evaluating and serving children with disabilities;
  - developing, reviewing and revising IEPs
  - ensuring that students with disabilities will have access to, be involved in, and make progress in the general education curriculum;
  - delivering special education and related services, and
  - ensuring procedural safeguards are provided for parents and students.

If charter schools were to take the legal status of a local education agency (LEA) or school district, the charter schools would then assume full responsibility for special education. In that case the plan should include

- a statement describing the considerations for special education in your school, as well as costs, such as, but not limited to:
  - child find, student identification, evaluation and planning; and
  - providing special education and related services.

Considering these details will prepare you when a child with a disability applies to your school and you open your doors on the first day.

### **Summary and Key Points**

The pre-chartering phase provides you and your local school board with the opportunity to become familiar with special education federal and state laws in planning and developing your charter. Considering special education requirements in the preplanning stage will allow you to attend to the needs of all students in your school's vision, mission and purpose. Addressing special education needs at every decision point will help reduce special education challenges in the future.

# CHECKLIST OF SPECIAL EDUCATION CONSIDERATIONS FOR CHARTER SCHOOL OPERATORS

Many charter school operators are unaware of all of important areas that must be considered. Addressing the following areas will assist you in providing a quality program for all students. Note that this is a generic checklist, and some elements do not pertain to charter schools in Hawai'i.

## 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?
- What funds will we receive for special education services?
  - o federal
  - o state
  - o local
  - o fundraising

## Space and facilities

- Where will student evaluations be conducted?
- Where will IEP meetings be conducted?
- Where will confidential student records be stored?
- Where will services be provided?
- Where will related services personnel meet with individual students?
- Where will supplies and equipment used by students with disabilities (e.g., educational, medical, mobility, assistive technology) be stored?
- Are entrances, classrooms, common areas and bathrooms accessible to all individuals with physical disabilities--in compliance with ADA requirements?
- Who will make repairs to ensure the school remains accessible to students with disabilities?

## Human resources

- How many students will the school enroll?
- How many teachers will need to be hired?
- How many special education teachers will need to be hired?
- What kind(s) of certification will the teachers need?
- Can dual-certified teachers be hired?
- Can part-time or retired special education teachers be hired?
- Can student teachers from area universities be used?
- What type(s) of related services personnel will be needed?
- How will these services and contracts with these individuals be obtained?
- What other types of services will our school need?
  - o Legal counsel with special education expertise
  - o accountants/bookkeepers

## Curriculum

- What curriculum will the school offer?
- How does the curriculum align with the state's suggested curriculum or standards for student learning?
- How will the curriculum be modified to address the unique needs of children with disabilities?
- How can general and special education teachers be trained to modify/adapt the curriculum for children with disabilities in inclusive classrooms?

- What types of assistive technology will be needed by students?

## Service Provision

- How will special education related services (e.g., occupational and physical therapy, speech therapy) be provided?
- What should Child Find activities look like? How will student identification, evaluation and special education determination meetings be conducted?
- Who will participate in IEP development and implementation?
- What types of special staff or consultants will be needed to implement students' IEPs?
- How will re-evaluations be handled?
- How will parents be included?
  - o How can partnerships be built?
  - o What strategies can be used to be proactive in avoiding conflicts?

## Professional development

- How will teachers be provided with professional development?
- What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support children with disabilities?
- Does the state education agency (SEA) operate a professional development program or network that can be utilized?
- How will the staff be prepared for the implementation of appropriate testing protocols? and the Family Educational Rights and Privacy Act (FERPA)?

## 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?
  - o How will we obtain these?
  - o What training will be needed to use these efficiently and appropriately?
- How will coordination with the district/complex area special education office be conducted?
- How will transferring students be coordinated?

## Transportation

- Will transportation be provided?
- Can district or state transportation dollars be accessed to offset costs?
- How are transportation needs addressed for of students who receive transportation as a related service required by their IEP?
- How will transportation for a student in a wheelchair be arranged?

## 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?**

These issues should have been addressed during your pre-chartering activities in the development of your school's mission. Potential accommodations to include students with disabilities in your school should have been considered.

Concerns about a child's learning needs should be discussed at the IEP meeting so that all members of the team can contribute to and understand how the student will access the curriculum as is required by special education law. If your school's faculty requires assistance in learning how to accommodate the needs of a student who has a disability, the charter school should provide for professional development. One strategy that charter schools have found effective is incorporating a provision into the IEP for the 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 the student's progress and make any necessary revisions in the IEP.

**In Hawai'i, the charter school's local school board is responsible for hiring staff and faculty. What are the certification/licensing requirements for special education staff in the state?**

Your charter school must follow Hawai'i's laws and regulations regarding the hiring of special education staff and faculty. Changes in IDEIA 2004 require that special education teachers meet the "highly qualified" standards of NCLB. For specific information regarding current certification/licensure requirements, contact the Hawai'i Teachers Standards Board. ([www.htsb.org](http://www.htsb.org))

**What staffing resources might be provided to a charter school for its special education program?**

The Hawai'i Department of Education (HIDOE) allocates to each charter school one Student Services Coordinator (SSC) position whose role is to coordinate support services for all students in that school. In addition, the following positions may also be provided based on HIDOE's Staffing Methodology.

- special education teacher
- educational assistant
- general education (Article VI) teacher

The Staffing Methodology is based upon the special education students' needs as required by their IEPs.

If you have further questions about staffing resources, contact the Hawai'i Department of Education, Special Education Services Branch, at (808) 733-4400.

**Will a charter school always be provided with special education staff?**

No. If the enrollment data does not support the allocation for a Special Education Teacher and an Educational Assistant, according to the Staffing Methodology, the charter school will not receive the position(s).

**If a school does not qualify for special education staff under the current Staffing Methodology, how will the school provide services?**

You must ensure that FAPE can be provided for all enrolled students with disabilities. Your school should consult with its district/complex area special education office to explore options for meeting the requirements of the offer of FAPE.

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

Your school's application should include a question regarding a child's special needs, but this information shall not be used to discriminate on the basis of a disability in determining admission. The school's considerations for students with disabilities are to be the same as for students without disabilities. Charter schools should speak to all parents about school programs and services, including those that support the diverse needs of learners.

**What does the charter school do after a student with a disability is enrolled in the charter school?**

After acceptance and enrollment, it is critical that your charter school receives from the student's previous school his/her records to ensure that IEP requirements are implemented. If you do not automatically receive the records, initiate a request to the previous school. The HIDOE requires all public schools share student records upon transfer of the student to another public school, charter or non-charter. The District/Complex Area Special Education Office can also help if you are not able to obtain a response from the previous school.

For more information regarding support of students with disabilities after initial enrollment, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA 2004 and Section 504 in Public Charter Schools*. (See Appendix 2.)

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

**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?**

In general, it is inappropriate 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. Issues regarding the appropriateness of the child's placement should be discussed with the child's IEP team, in consultation with the District/Complex Area Special Education Office.

For more information regarding support of students with disabilities after initial enrollment, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA 2004 and Section 504 in Public Charter Schools*. (See Appendix 2.)

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

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) online document, *Applying Civil Rights Laws to Public Charter Schools: Questions and Answers*.

[http://www.uscharterschools.org/pdf/fr/civil\\_rights.pdf](http://www.uscharterschools.org/pdf/fr/civil_rights.pdf)

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

Yes. A charter school must provide access to the facilities so that persons with disabilities, including parents and students, can benefit from programs and activities offered at the school.

**Whose responsibility is it to make our school accessible if we rent our school building?**

Responsibility to modify a facility must 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 begun 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 student 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, (i.e., 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 on the first floor. However, the specific federal, state and local requirements on this issue are very complicated and you should obtain legal counsel when acquiring a facility to house the charter school.

### **Where can we obtain information and technical assistance in making our school accessible?**

The **Hawai'i Disability and Communication Access Board (DCAB)** provides guidelines for the design of buildings and facilities by, or on behalf of, the State of Hawai'i or the counties in accordance with Hawai'i Revised Statutes, §103-50 and has a number of functions related to accessible facilities. Consult the website for this agency.

<http://www.Hawaii.gov/health/dcab/about/overview.htm>

The state government and/or local code dictate who is responsible for ensuring that public facilities are accessible. Check with this individual/entity for technical assistance in determining what modifications need to be made and the appropriate approach to accomplish your desired goal. Federal resources on this topic are available online from the Office for Civil Rights (OCR).

<http://www.ed.gov/about/offices/list/ocr/index.html>

### **Summary and Key Points**

Activities during the start-up period will provide the foundation for the day-to-day operation of your school. As you prepare for the opening, keep children with disabilities in mind. Every time you, your board, and your staff get ready to make a decision, ask if this decision will help every potential student. Cultivate your resources so you can draw on their expertise and experiences. Remember there are many sources of information and support available. Other charter and traditional schools, the state department of education, and charter school resource centers and/or associations exist in many states to assist during the development and operation of a charter school.

# OPERATING A CHARTER SCHOOL

## Introduction

This section provides an overview of critical issues and activities related to serving students with disabilities that you and your colleagues should address during the day to day operation of your charter school. These may include curriculum implementation, staff and faculty hiring, student enrollment, fiscal issues and school accessibility. Ideally, each issue should have been considered during the pre-chartering and planning for startup phases. If not, analyze your situation and address all issues as soon as possible. Take the opportunity to build on what you have in place so that your school can support all students including those with disabilities.

For more information regarding support of students with disabilities after initial enrollment, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA 2004 and Section 504 in Public Charter Schools*. (See Appendix 2.)

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

## What special education services must a charter school provide?

Your school is linked to the District/Complex Area Special Education Office in your geographic area. Special education services will be coordinated out of the district office as is done for all public schools. The 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 may include related services, such as occupational and physical therapy, orientation and mobility training, adapted physical education or assistive technology.

For more information regarding delivery of services to students with disabilities, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA 2004 and Section 504 in Public Charter Schools*. (See Appendix 2.)

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

## If the charter school designs a program for students with a specific disability, what happens if a student with a different disability or without a disability enrolls?

If a student who enrolls has a disability different from what your school expected, the student must be considered individually so that his/her needs may be met. In each case, the charter school staff has the responsibility to meet the requirements of the IEP. The need for prior planning to develop special education capacity is obvious. Issues regarding the appropriateness of the student's placement should be discussed with the IEP team, in consultation with the District/Complex Area Special Education Office. 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 general education students. If a student with a disability then attends the school, adequate delivery strategies, personnel, tools, and materials must be added to address the student's 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?**

Ideally, a charter school representative would have been involved in the IEP team meeting to design the content of the IEP for the student's enrollment in your charter school, and plans will be in place when the student enters. If that did not occur, the first step is for your charter school staff to review the student's special education records, especially the IEP, and analyze your existing capacity to deliver the instruction and related services as described. If a student enrolls with an existing IEP, your charter school must implement the current IEP or, if that does not appear to be possible, the school must convene the IEP team immediately to discuss appropriate options, in consultation with the District/Complex Area Special Education Office. 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.

For more information regarding delivery of services to students with disabilities after initial enrollment, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA 2004 and Section 504 in Public Charter Schools*. (See Appendix 2.)

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

**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. Each student receiving special education services must have an IEP that is developed by their IEP team following the procedural requirements of IDEIA 2004 and Hawai'i'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 student who has been found to be eligible for special education.

## TECHNICAL ASSISTANCE AND RESOURCES

### **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 clear solution, several strategies have proved effective in reducing 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. For additional resources, see the website of the National Center for Special Education Personnel and Related Services Providers (The Personnel Center).

<http://www.personnelcenter.org/>

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

Charter schools need to provide professional development opportunities to a variety of role groups. Clearly, your instructional staff (including paraprofessionals) needs 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. Training is also available through the District/Complex Area Special Education Office.

### **What type of professional development would benefit our local charter school board members and other volunteers?**

Your local charter school board members and other volunteers should be appropriately included in professional development opportunities. They 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 training activities that involve all parents. As the operator, it is important that you take time to participate in ongoing professional development. Equally important, as appropriate, board members and school administrators are encouraged to participate in HDOE training activities that will broaden their scope, knowledge and understanding of special education.

Charter schools can access a variety of networks to learn more about special education, as well as those issues related to special education, in charter schools. The 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**

- **Hawai`i Special Education.** The HIDOE Special Education Office provides detailed information about special education requirements on its website.  
<http://doe.k12.hi.us/specialeducation/>
- **Hawai`i Special Education – Evaluation & Instruction Services for ESLL Program/ Special Education Students.**  
<http://doe.k12.hi.us/specialeducation/esllsped.htm>
- **Hawai`i Charter School Administrative Office (CSAO).** This office provides administrative support to all Hawai`i public charter schools.  
<http://www.hcsao.org>
- **Hawai`i Public Charter Schools.**  
[http://165.248.6.166/data/schoollist\\_pcs.asp](http://165.248.6.166/data/schoollist_pcs.asp)
- **Western Regional Resource Center.** The Regional Resource Centers and the Federal Resource Center provide consultation, technical assistance, and training to state educational agencies, and through them, to local educational and other appropriate agencies. Hawai`i is served by the Western Regional Resource Center (WRRC).  
<http://www.rrfcnetwork.org/wrrc/>

You can access links to the Federal Resource Center and to all the Regional Resource Centers.

<http://www.rrfcnetwork.org>

- **U.S. Department of Education (USDOE).** Several offices in the USDOE maintain websites that may be helpful to charter school applicants. The Office of Special Education Programs (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>
- **Office of Innovation and Improvement.** This is another USDOE office with general resources for charter schools.  
<http://www.ed.gov/about/offices/list/oii/index.html?src=mr>

- **No Child Left Behind (NCLB).** This site provides information about the No Child Left Behind Act, a law that all charter schools must understand.  
<http://www.ed.gov/nclb/landing.jhtml?src=pb>

## Hawai`i Special Education Networks

- **Special Parent Information Network (SPIN).** SPIN is a parent to parent organization in Hawai`i that provides information, support and referral to parents of children and young adults with disabilities and the professionals who serve them.  
<http://www.spinhawaii.org>
- **The Learning Disabilities Association of Hawai`i (LDAH).** This organization serves families that have children with learning disabilities and other special needs that interfere with learning. It provides education, advocacy, training and support in order to remove barriers and promote awareness and full educational opportunity.  
<http://www.ldahawaii.org/index.htm>
- **The Community Children's Councils (CCC).** The CCC are a partnership with parents, school personnel, private providers and other community members, who are concerned with the delivery of services and support to special needs children and families in the local community.  
<http://www.ccco.k12.hi.us/>

## Hawai`i Special Education Resources

- **The Arc in Hawai`i.** The Arc is a national, grassroots organization of and for people with mental retardation and related disabilities. It is the largest volunteer organization devoted solely to working on behalf of people with mental retardation. The Arc in Hawai`i is committed to helping Hawai`i's people with mental retardation secure the power to choose where and how they live, learn work and play.  
[http://www.thearcinhawaii.org/about/about\\_main.htm](http://www.thearcinhawaii.org/about/about_main.htm)
- **Disability and Communication Access Board (DCAB).**  
<http://www.state.hi.us/health/dcab/>
- **Easter Seals Hawai`i.** This organization provides service to thousands of children and adults with disabilities in the State of Hawai`i. The uniqueness of Easter Seals is its service to people of all ages with a variety of disabilities. This includes individuals with muscular dystrophy, autism, cerebral palsy, spina bifida, speech and developmental delays, Down syndrome and other sensory impairments. The disabilities of the individuals that they serve may come at birth, through accidents, disease, and injury or from aging.

Easter Seals is proud of its individualized programs for O`ahu, Kaua`i, Maui, and the Big Island. They provide:

- Early Intervention Programs
  - Home and Community-Based Services
  - Assistive Technology
  - Sleepovers
  - Family & Parent Support Groups
  - Information and Referral Services
  - Occupational Therapy - Infants
  - Physical Therapy - Infants
  - Speech Therapy - Infants and Youth
  - Equipment Loan Program
  - Advocacy and Public Education Programs
  - Toy Lending Program
  - Camping
  - Extended School Day Youth Programs
  - Individualized Education Program (IEP) Training  
<http://www.eastersealshawaii.org/history.htm>
- 
- **Special Education Center of Hawai`i (SECOH).** This organization is committed to providing individual and family supports that promote successful community living in the lifestyle of choice. Services and supports are provided in a manner that respects personal preferences, appreciates individual differences and preserves privacy and dignity to people with developmental disabilities, or acquired disabilities due to aging or head injury.  
<http://www.secoh.org>
- 
- **National Association of State Directors of Special Education (NASDSE).** 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>

- **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. Children and youth with disabilities (birth to age 22) are NICHCY's special focus.  
<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. The PACER 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>
- **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**

- **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/site/nacsa/>
- **U.S. Charter Schools Website.** This website is the most complete resource related to charter schools with information on state charter schools as well as research and other publications about the field.  
[http://www.uscharterschools.org/pub/uscs\\_docs/index.htm](http://www.uscharterschools.org/pub/uscs_docs/index.htm)

### **What should we do if one of our special education students requires more staff support, services or equipment than our school currently has been allocated?**

Lack of resources 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 in the provision of the required special education services depends on a number of factors. Charter school leaders should discuss possible service delivery solutions with their District/Complex Area Special Education Office. The district will provide technical assistance and support in a manner consistent with other public schools.

## **Are charter schools required to provide transportation for students receiving special education?**

If your school provides transportation to and from school or financial support (e.g., tokens) for non-disabled students, then, transportation for students with disabilities needs to be provided as well. 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, in consultation with the District/Complex Area Special Education Office, determines that the charter school is the only location that can provide FAPE, and identifies transportation as a related service on a child's IEP, then, transportation must be provided. 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).

## **Are charter schools responsible to conduct Operation Search (Child Find) activities?**

It is clear that all charter schools must conduct Operation Search (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.

## **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 assistance team to provide help) prior to a formal special education evaluation referral. Federal and state law and regulations contain numerous specific requirements related to procedural safeguards and confidentiality, and your teachers, parents, and board members should be familiarized with them.

Every charter school should have clear procedures in place for identifying and addressing student needs, such as a child who is not progressing or is exhibiting difficulties. Pre-referral support and assistance to such students is required before referral to special education. Establishing these procedures should be a part of the pre-planning stage in order to avoid the need to develop them during a crisis situation.

## **What special education forms and reports do we have to complete?**

Charter schools are required to complete documentation to support special education service delivery, the same as all Hawai'i public schools. Charter schools are required to input all special education information into the integrated special education database.

For more information regarding reporting requirements for students with disabilities, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA and Section 504 in Public Charter Schools*. (See Appendix 2.)  
[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

It is very important that you, as the charter school operator, understand the nature of your school's responsibilities and ensure your entire staff has a clear understanding of the reporting responsibilities to avoid violations that might make the school vulnerable to non-compliance charges. It is important for the charter school staff to develop the competence and expertise necessary to complete all reporting requirements related to special education.

### **Who should be responsible for developing a student's IEP?**

The charter school is responsible for scheduling, coordinating and convening IEP meetings. The IEP team is responsible for developing a student's IEP. The IEP team consists of at least one special education teacher of the child, and at least one general education teacher of the child, an administrator of the charter school, the parent or guardian, and a representative from the District/Complex Area Special Education Office, if necessary. (A representative from the District/Complex Area Special Education Office must be included in the IEP meeting when there is a consideration for allocation of services beyond what the charter school currently has available.) Individuals who can interpret the instructional implications of evaluation results, or with knowledge and expertise regarding the child and (as appropriate) the child should also be included.

### **What does the IEP need to include?**

An IEP for each student with a disability must include:

- a statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects his/her involvement and progress in the general curriculum;
- a statement of measurable annual goals and either benchmarks or short term objectives;
- a statement of the special education and related services, supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided;
- an explanation of the extent, if any, to which the student will not participate with non-disabled students 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 student to participate in the assessment. If the IEP team determines that the

student will not participate in a particular state or district-wide assessment, a statement of why that particular assessment is not appropriate for the student, and how the student will be assessed by an alternate assessment;

- the projected date for the beginning of the services and modifications and the anticipated frequency, location and duration of those services and modifications;
- a statement of how the student's progress toward the annual goals will be measured, how the parents will be regularly informed of their student's progress toward the annual goals, and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year; and
- a statement of transition services for students age 14 and older.

The IEP is not intended to be a curriculum or instructional plan for the student. It is a plan that provides access to and enables the student to make progress in the general education curriculum.

### **Is there a specific form that must be used for IEPs?**

Charter schools must use the existing state special education forms. These forms can be accessed through the special education database website. Charter schools are responsible for inputting all special education data into the integrated special education database website.

<http://www.sped.k12.hi.us>

### **Do we have to develop an IEP for every student with a disability under IDEIA 2004?**

Yes. An IEP must be developed for every student found eligible under IDEIA 2004 for special education services, unless parents refuse to give consent for initial provision of services or decline the offer of FAPE.

### **What is the charter school's responsibility when a student with a disability transfers to another school?**

As with any other student, when a student with a disability transfers to another school, you must ensure timely transfer of all records. Your school is not responsible for providing services to the student at the point he/she is formally no longer enrolled in your charter school.

### **Summary and Key Points**

As you move through the day-to-day operation of your school, if you have carefully planned procedures in place for handling special education issues, you will be able to handle the challenges that may arise. Your District/Complex Area Special Education

Office is available to provide support and guidance. Taking time to address students with disabilities in a proactive and positive manner will have significant benefits for your students, school and the community.

## SPECIAL EDUCATION ACCOUNTABILITY

### Introduction

Accountability refers to the policies, procedures and performance that charter schools must abide by as required by federal and state special education and state charter school rules and regulations.

Charter schools are obligated to collect and report the same special education information that public schools must report. The special education data may be utilized to demonstrate compliance and generate state and federal categorical funds.

It is essential to be knowledgeable about special education data you are expected to collect and store. The state-wide use of the special education database is the required way to handle this responsibility. The types of data you will need to compile include demographic information on students, academics, IEPs (content and timelines), attendance records, discipline records, enrollment data, and assessment information. A secure filing system in which to store the paper documents is also critical to ensure security and privacy of confidential and other critical data/reports.

For more information regarding reporting requirements for students with disabilities, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA and Section 504 in Public Charter Schools*. (See Appendix 2.)  
[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

### Are charter schools accountable for special education?

Yes. Operators must understand that all schools, including 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 state education agencies and the Hawai'i Department of Education must develop and carry out a formal monitoring process for each of its schools, including charter schools. It is important that you, as the charter school operator, understand this process and the way it will impact your charter school. Technical assistance is available through the State/District/Complex Area Special Education Offices and information is available at the Hawai'i Department of Education website.

<http://doe.k12.hi.us/specialeducation/SpEdhandbook/cimip.htm>

As part of the special education accountability system, monitoring involves a variety of procedures including case reviews, file reviews, and performance data reviews. A three-year monitoring cycle of special education programs for all schools, including public charter schools, is conducted by the HIDOE.

For more information regarding monitoring for students with disabilities, refer to the *Required Internal Management and Operational Guidelines for Implementation of IDEIA and Section 504 in Public Charter Schools*. (See Appendix 2.)  
[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

### **What type of special education accountability provisions do charter schools need to consider?**

First and foremost, charter schools need to address federal and state requirements governing the delivery of special education services to students with disabilities. For example, your school will need to be able to document specific outcomes of students with disabilities, timelines related to development and implementation of special education services, qualifications of faculty and staff, resolution of parent complaints, and, if applicable, fiscal responsibilities.

### **How do students with disabilities enrolled in a charter school participate in the NCLB accountability system?**

NCLB makes a point of including students with disabilities in school 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 also make a difference in your school's ability to meet criteria for "adequate yearly progress" (AYP) and state-specific performance measures under the NCLB law.

### **If a charter school closes, what special considerations should be given to students with disabilities?**

The charter school is to convene an IEP meeting, which must include the District/Complex Area Special Education Office, to determine the most appropriate placement for each student with a disability in an alternate educational setting. Ideally, your school will be in a situation to facilitate the transfer of all special education and Section 504 students and financial records, instructional and adaptive equipment purchased for special education students with special education funds, and any remaining special education funds. Check with the Charter School Administrative Office as well as the HIDOE to obtain additional guidelines and policies regarding school closure.

### **How should we transfer student records?**

Perhaps the most important consideration in records transfer is ensuring the privacy of student information. **FERPA** (20 U.S.C. 1232g) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on students. Details about the law can be found online.

<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.

### **Summary and Key Points**

There is no substitute for appropriate preparation to meet the requirements of special education before a charter school opens its doors. Accountability has become a cornerstone of school improvement efforts, and it is a basic principle of the charter school movement. At a minimum, accountability for a charter school includes monitoring, files/data management, record keeping, procedural (special education) compliance, state charter law compliance, and charter school contract compliance.

At the heart of accountability is a school's ability to demonstrate student progress, maintain qualified personnel, document instructional and financial practices, and provide for the health and safety of its students. 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 by working directly with the Hawai'i State and District/Complex Area Special Education Offices will avoid problems and enhance the quality of your accountability plan.

**HAWAI`I PRIMERS  
ON  
SPECIAL EDUCATION  
AND  
PUBLIC CHARTER SCHOOLS**

**HAWAI`I AUTHORIZER PRIMER**

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State and District Special Education Specialists and Resource Teachers  
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## **Note**

The **Hawai'i Primers on Special Education and Public Charter Schools** may be subject to change to appropriately reflect changes as charter school legislation continues to evolve and impact the State of Hawai'i.

The HIDOE is not responsible for the content or the accessibility of the web pages and links cited throughout the primers that are external to the HIDOE.

# HAWAI'I AUTHORIZER PRIMER

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## HAWAII AUTHORIZER PRIMER

### PRE-CHARTERING PLANNING PHASE

#### **What is meant by charter school authorization in Hawai'i?**

Authorization is the process by which a community group or an existing public school receives a charter. The three different types of charter schools, known as New Century Public Charter Schools in Hawai'i, are:

- the start-up or new charter school;
- the conversion charter school, a Hawai'i Department of Education (HIDOE) school that converts to charter status;
- the partnership conversion charter school, a HIDOE school that allows a nonprofit organization to manage and operate a charter school, and its local school board would consist of directors of the nonprofit organization. Schools receive the financial support of \$1.00 from the nonprofit organization for every \$4.00 of the State of Hawai'i charter school per pupil allocation.

All charter schools receive their charters from the State Board of Education (BOE). The BOE is the sole chartering authority in Hawai'i.

#### **What is the pre-charter planning phase?**

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

Any community, group of teachers, group of teachers and administrators, entity recognized as a nonprofit organization, or any program within an existing school may submit a letter of intent to the BOE to form a New Century Charter School, establish a Local School Board as its governing body and develop the Detailed Implementation Plan (DIP). A formal application to become a charter school can be obtained from the Charter School Administrative Office (CSAO).

A new start-up charter or traditional HIDOE school wanting to convert to a charter school needs to form an Interim Board of Directors. This board is essentially a "stakeholder" board in composition, that is, it must have minimum representation from the administration, teachers, parents, students, and community members. Once the charter is issued, the Interim Board is converted to a permanent Local School Board that is charged with implementing the charter.

This stage may be impacted by tight timelines. Nevertheless, it is a critical stage in the creation of a charter school. At this time, the BOE, through the HIDOE, has a unique opportunity to urge developers to integrate special education into their overall planning, rather than to incorporate it later to existing policies and procedures.

**What is the BOE's role during the pre-chartering stage in relation to special education in a charter school?**

The BOE's major role at this stage is to ensure that the HIDOE provides accurate and timely information and the technical assistance necessary for the provision of special education in the potential charter school to interested applicants and agencies. By doing so, the BOE anticipates that the charter school applicant will be likely to demonstrate understanding of special education responsibilities and be able to gather the resources necessary to meet them.

As a branch of the HIDOE, the Special Education Section (SES) is one of the State resources available to the BOE and to potential applicants. During the pre-chartering planning phase, the SES supports charter inquiries with access to appropriate special education information. SES also provides technical assistance to two charter school offices, the Public Charter Schools Program Office (PCSPO) and the CSAO.

**What does the BOE need to know about PCSPO and CSAO and their relationship to special education in a charter school?**

The PCSPO coordinates charter affairs on behalf of the HIDOE, administers the federal Public Charter Schools Program Grant, and currently establishes special education positions.

Before submitting a formal application to become a charter school, a group or existing HIDOE school may apply for a special planning grant from the PCSPO. The purpose of the grant is to explore the feasibility and specifics of the proposed charter schools as well as to develop a tentative plan.

The CSAO is an independent office, which reports to the BOE, and is responsible for ensuring that charter schools operate according to the law and distributes state funds to charter schools. The CSAO works in partnership with SES by sharing its expertise and knowledge of the chartering process.

**What does the BOE need to know about basic IDEIA 2004 requirements?**

The BOE must understand that federal law requires that the State "serve children with disabilities [in charter] schools in the same manner as it serves children with disabilities in [DOE] schools . . . ." The HIDOE has responsibility for all IDEIA 2004 compliance in

all public schools, including charter schools. The Superintendent authorizes the SES to:

- oversee matters related to implementation, compliance, and monitoring of special education students and adjunct services;
- provide technical assistance to all schools; and
- serve as a liaison to the CSAO and the local public charter school boards.

For more information, refer to Appendix 2, *Required Internal Management and Operational Guidelines for the 2005-06 Implementation of the Individuals with Disabilities Education Improvement Act (IDEIA) 2004 and Section 504 in Public Charter Schools*.

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

State and federal laws for special education are very prescriptive, and it is not unusual for issues to become involved in due process procedures and legal proceedings. The federal government has not permitted any waivers from federal special education requirements for charter schools. Charter schools are public schools that must meet the needs of students with disabilities. Given that one of the goals of the charter school movement is to foster innovation, the BOE should provide charter school developers the opportunity to design special education programs in non-traditional ways while meeting the conditions of federal and state laws.

### **What are the BOE's No Child Left Behind Act (NCLB) responsibilities as applied to special education in charter schools?**

The BOE approves the state plan for NCLB that establishes standards, levels of proficiency, and the assessment process for all subgroups, including students with disabilities, for purposes of determining adequate yearly progress. The BOE can also attend to issues related to highly qualified special education teacher requirements.

For general information about NCLB, see the U.S. Department of Education website.

<http://www.ed.gov/nclb/landing.jhtml?src=1n>

### **What concerns should charter applicants be encouraged to consider during the planning phase to ensure that they will be able to provide special education appropriately?**

During the planning phase, applicants should consult with the HIDOE and the charter school offices as they address the following special education-related areas of concern:

- human resources
- curriculum, instruction, and assessment
- professional development
- administration
- special education funding

- facilities
- transportation

A checklist of such issues is appended to this document.

**Are there any existing models of how charters might address special education during the planning phase?**

States differ widely in this matter. The following states have developed resources that may provide useful information and references for Hawai'i applicants. Colorado offers a useful guidebook:

- *Colorado Department of Education, Charter Schools Guidebook.*  
[http://www.cde.state.co.us/index\\_charter.htm](http://www.cde.state.co.us/index_charter.htm)

Another is Florida's series of information documents,

- *Building Blocks: Building a Foundation for Starting a Charter School in Florida*  
[http://www.charterschools.usf.edu/pdf\\_files/BuildingBlocks7.15.pdf](http://www.charterschools.usf.edu/pdf_files/BuildingBlocks7.15.pdf)
- *(Florida) Special Education: Information Briefs.*  
[http://www.charterschools.usf.edu/pdf\\_files/esebrief.pdf](http://www.charterschools.usf.edu/pdf_files/esebrief.pdf)

**Summary and Key Points**

The pre-planning phase gives the BOE the critical opportunity to provide access to information and assistance for interested applicants. To pre-empt potential problems associated with non-compliance to IDEIA 2004 requirements, the BOE, the charter school authorizer, can take advantage of applicants' planning stages to educate them about special education. By educating applicants at the onset of the available planning resources, applicants can be encouraged to build special education into their school visions rather than attempt to fulfill special education requirements after the school models are developed.

In short, the BOE's role is to ensure that special education for both charter and HIDEOE schools operate in accordance with state and federal law.

## ISSUANCE OF A CHARTER

### **How is a charter issued?**

The BOE issues all charters. The Legislature has not empowered any other authority to issue charters. The process includes the submittal of a Detailed Implementation Plan (DIP) and is subject to the approval by the BOE, which may require additional information or modifications as a condition of approval.

As part of a charter issuance, the CSAO plays a role by convening a review panel/committee, which reviews the DIP and makes a recommendation to the BOE concerning actions regarding charter applications.

### **What should the BOE, as the charter authorizer, look for in a charter school's application regarding its plans to provide special education services to students with disabilities?**

The BOE should expect the applicant's DIP to include a plan regarding special education service delivery and its legal responsibilities. It is critical that an applicant demonstrates to the review panel and the BOE that it has a feasible plan that meets the legal state and federal requirements for the provision of special education and related services that is non-discriminatory.

Adequate plans entail the fiscal and legal resources and personnel required to fulfill the responsibilities articulated in IDEIA 2004. The applicant's DIP describes how it will address identification of eligible students, evaluation of students, development and implementation of Individualized Education Programs (IEP), and provision for special education and related services for all eligible students enrolled in the school. The BOE needs to be confident that an applicant can meet these special education responsibilities from the first day of operation.

An abbreviated example of an applicant's statement of intent follows in a *Sample Statement (from Colorado) of a Charter School's Plan to Provide Special Education*. However, take note that additional information is often required.

**Special Education and Section 504 Compliance Plan:  
Compliance with Federal and State Special Education and Disability Laws**  
(ACME Charter School) acknowledges and understands that it is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, including the Individuals with Disabilities Education Act (IDEA), the Colorado Exceptional Children's Education Act (ECEA), Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA). (ACME) will be accountable to the board of education of the (Lost Lake School District) for purposes of assuring compliance with federal and state special education and disability laws.

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

Students with disabilities have a right to access charter schools in the same way as students without disabilities. However, this is a complex issue. For a detailed explanation regarding access to charter schools for students with disabilities, see the Office of Civil Rights (OCR) document, *Applying Federal Civil Rights Laws to Charter Schools*.

[http://www.uscharterschools.org/pdf/fr/civil\\_rights.pdf](http://www.uscharterschools.org/pdf/fr/civil_rights.pdf)

**Summary and Key Points**

The authorization stage is critical to the development of successful charter schools. By building on the foundation established during the pre-authorization phase, the authorization process provides the BOE the opportunity to verify the potential operators' knowledge about their IDEIA 2004 responsibilities and to assess their capability to fulfill these responsibilities.

## OVERSIGHT, ACCOUNTABILITY, AND RENEWAL

### **How has the BOE held the charter schools accountable in the area of special education?**

The BOE has designated the Superintendent as its agent to:

- oversee matters concerning program implementation, compliance, and the monitoring of special education students and related services,
- provide technical assistance to all schools, and
- serve as a liaison to the public, CSAO and the local public charter school boards.

For more information, refer to Appendix 2, *Authority for Special Education in Hawai'i Public Schools*.

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.htm](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.htm)

### **Should the BOE consider special education a part of the charter school multi-year review process and a part of the BOE review process for amendments to a charter school's DIP?**

All aspects of a charter school's operations, including special education, need to be considered during the multi-year review process and when amendments are made to a school's DIP.

### **What responsibility does the BOE have for monitoring accessibility of the charter school facilities?**

Responsibility for ensuring that charter school facilities are accessible rests with the BOE and the charter schools. For issues related to an individual charter school, the HDOE will work with the charter school in developing a solution.

### **As the entity that authorizes charter schools, is the BOE liable if a charter school does not serve children with disabilities or does not implement special education properly?**

Yes. Although the BOE is ultimately responsible for the implementation of special education in charter schools, those responsibilities may also be shared by the charter school. Therefore, it is critical that applicants are knowledgeable about the special education laws and regulations and are meeting the needs of students with disabilities.

## **NON-RENEWAL, REVOCATION, AND RELINQUISHMENT**

**If the BOE revokes or does not renew a charter, or if a school relinquishes its charter, what happens to its special education students?**

The BOE must ensure an appropriate transition process for those special education students.

Charter schools are obligated to transfer records. All student educational records are protected by the **Family Educational Rights Privacy Act (FERPA)** 20 USC 31 §1232g; 34 CFR Part 99 that stipulates how the records are to be handled. Information about FERPA is available online.

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Charter school personnel are responsible for closing and preparing special education files for transfer to either the next school or the district in accordance with these regulations. The charter school personnel may also be required to participate in IEP meetings at the students' next school.

All charter school assets and equipment, including special equipment purchased by public funds for students with disabilities, revert back to the state. In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or be returned to the local district. Federal requirements dictate the disposal of equipment purchased with special education dollars, requirements that may be different from what is typical for other school equipment. The charter school is to contact the CSAO, as well as the HIDEOE, to obtain additional guidelines and policies regarding school closure.

## TECHNICAL ASSISTANCE AND RESOURCES

Successful delivery of special education services requires early and ongoing technical assistance. The BOE ensures that charter schools address all responsibilities related to special education by promoting access and the means to technical assistance from the HIDOE. Schools can also use a variety of networks to learn more about special education as well as those issues related to special education in charter schools. The following is a list of resources prepared for authorizers and potential charter school applicants.

### Hawai`i Department of Education

- The **Charter Schools Section of the Hawai`i Public Schools**. This section maintains a website with links to individual charter schools as well as to other resources.  
[http://165.248.6.166/data/schoollist\\_pcs.asp](http://165.248.6.166/data/schoollist_pcs.asp)
- The **Special Education Section of the Hawai`i Public Schools**. It also has an information/resource website.  
<http://www.doe.k12.hi.us/specialeducation>

### Hawai`i Charter School Support Organizations

- **Hawai`i Charter Schools Resource Center**. This organization supports the development of charter schools through information resources and training events.  
<http://www.uhh.Hawaii.edu/~charter>
- **Hawai`i Association of Charter Schools**. It is a non-profit organization created to represent and nurture Hawai`i's New Century Charter Schools.  
<http://www.k12.hi.us/~bwoerner/hacs>

### U.S. Department of Education

- Several offices in the **U.S. Department of Education (ED)**. These offices support websites which may be helpful to charter school applicants. The U.S. Department Office of Special Education Programs (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>
- The **Office of Innovation and Improvement**. This office provides general resources for charter schools.  
<http://www.ed.gov/about/offices/list/oii/index.html>

## **National Charter School Authorizer Network**

- **National Association of Charter School Authorizers (NACSA).** This is a nonprofit membership association of educational agencies across the country that authorizes and oversees 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.

<http://www.charterauthorizers.org/site/nacsa/>

## **National Special Education Networks**

- **National Association of State Directors of Special Education (NASDSE).** NASDSE offers 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).** As an information and referral center, NICHCY 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 Charter Schools website.** Extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools, is available on this site.

[http://www.uscharterschools.org/pub/uscs\\_docs/index.htm](http://www.uscharterschools.org/pub/uscs_docs/index.htm)

- **Center for Education Reform.** The center provides up-to-date information about state charter school laws.

<http://www.edreform.com>

## QUESTIONS TO CONSIDER DURING THE PLANNING PHASE

### HUMAN RESOURCES

- How many students with disabilities should we estimate that our school will enroll?
- How many special education teachers will we need to employ?
- What kind of certification will the special education teachers need?
- How does our state define “highly qualified” teachers according to NCLB and “qualified personnel” under IDEIA 2004?
- 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?

### 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?
- Does the district or the state operate a professional development program or network 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**

- Are the facilities (i.e., entrances, classrooms, common areas and bathrooms) in compliance with ADA requirements and accessible to all individuals with physical disabilities--?
- Does the facility have space for a nurse to store and administer medications or use medical equipment?
- 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?

## **TRANSPORTATION**

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

**HAWAI`I PRIMERS  
ON  
SPECIAL EDUCATION  
AND  
CHARTER SCHOOLS**

**HAWAI`I STATE OFFICIALS PRIMER**

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SPECIAL EDUCATION SECTION  
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HONOLULU, HI 96816  
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State and District Special Education Specialists and Resource Teachers  
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## **Note**

The **Hawai`i Primers on Special Education and Charter Schools** may be subject to change to appropriately reflect changes as charter school legislation continues to evolve and impact the State of Hawai`i.

The HIDOE is not responsible for the content or the accessibility of the web pages and links cited throughout the primers that are external to the HIDOE.

# HAWAI`I STATE OFFICIALS PRIMER

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## HAWAI`I STATE OFFICIALS PRIMER

### CHARTER SCHOOL BASICS

#### **Background**

*The Hawai`i State Officials Primer* provides information about special education in charter schools to Hawai`i state officials. It provides state officials an overview of charter schools, how they are defined, and the charter schools' responsibilities as they relate to special education. Understanding what charter schools are, their related responsibilities, and how they impact State agencies and departments is particularly important with respect to special education as special education needs and operations often cut across many different State agencies.

In the early 1990's, the Federal Government encouraged and funded the development of charter schools to bring about change and innovation in education. Since the introduction of charter schools more than a decade ago, there are now approximately 3,000 charter schools operating in 40 states and the District of Columbia.

Hawai`i's first charter schools began in 1995. Today, there are 27 charter schools statewide in Hawai`i, with schools located on the islands of O`ahu, Hawai`i, Maui, Moloka`i and Kaua`i. Currently, charter schools provide innovative alternatives and serve over 5,000 general and special education students in grades K to 12.

#### **Why is it important for Hawai`i Department of Education (HIDOE) personnel to know about charter schools?**

By law, the HIDOE is responsible for special education in all public schools including charter schools. State-level special education needs span throughout several departmental branches. HIDOE personnel in finance, monitoring, accountability, special education, and many other areas need to know what their responsibilities are in relation to charter schools.

#### **How are charter schools defined?**

In Act 87, Section 3, §302A-101

'New century charter schools' means public schools chartered by the board of education with the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.

'Public schools' means all academic and non-college type schools established and maintained by the department and new century charter schools chartered by the board of education, in accordance with law.

Section 5210(1) of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the No Child Left Behind Act of 2001 (NCLB) defines the term "charter school" to mean a public school that:

- is nonsectarian in its programs, administration policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
- does not charge tuition;
- complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Part B of the Individuals with Disabilities Education Act;
- has a written performance contract with the authorized public chartering agency; and
- must comply with NCLB.

### **What types of charter schools are in Hawai`i?**

In Hawai`i, the three different types of charter schools, which are known as New Century Public Charter Schools, are:

- the start-up or new charter school;
- the conversion charter school, a HIDOE school that converts to charter status; and
- the partnership conversion charter school, a HIDOE school that allows a nonprofit organization to manage and operate the charter school and has a local school board that would consist of directors of the nonprofit organization. Eligible schools may receive financial support of \$1.00 from the nonprofit organization for every \$4.00 of State of Hawai`i charter school per pupil allocation.

Charter schools are public schools funded through the state per-pupil-funding formula and governed by a local school board. They are exempt from many state policies that apply to HIDOE schools, but they are not exempt from federal policies and statutes, health and safety requirements, state collective bargaining, and discriminatory practices as they relate to civil rights.

### **What are the major differences between charter schools and other public schools?**

The four major differences between charter schools and other public schools are:

- First, charter schools are schools of choice. Parents choose to enroll their children in a charter school rather than to accept placement based on residential geographical area.
- Second, charter schools are typically exempt from some of the policies and regulations required of other public schools although the degree of freedom varies greatly from state to state.
- Third, charter schools are often allowed autonomy for many, if not all, areas related to operating a school.
- Fourth, an essential concept is that charter schools are held accountable for performance goals included in the performance contracts they entered into with their authorizing agency. Failure to meet those goals, together with non-compliance to all relevant laws and regulations, may result in school closure. These expectations may be quite specific to the charter school, or they may be more general and similar to, or the same as, the accountability requirements for other public schools in their district or state.

### **How are charter schools authorized to operate?**

A charter school must be authorized by a specific entity or entities designated by law. In most states, charter school law stipulates that a charter school must be authorized by an entity such as a local or county school board, state board of education, college or university, municipal body, special-purpose board, or (in two states in 2003) a nonprofit organization meeting certain criteria. In Hawai'i, the sole authorizer is the Board of Education (BOE).

### **What are some typical characteristics of charter schools?**

In Hawai'i, charter schools may have the following characteristics:

- maintain smaller learning environments,
- emphasize project based learning,
- enroll high percentage of native Hawaiian children,
- offer Hawaiian culture based curriculum,
- exist in rural areas,
- engage in public, private, and community partnerships,
- provide alternative curriculum and assessment, and/or
- incorporate active parent involvement.

### **How are charter schools funded?**

In Hawai'i, charter schools are funded by a legal formula that allocates operating funds on a per pupil basis. Funding and distribution for special education and related services for all public schools, including charter schools, is provided by the HIDOE.

As public schools, charter schools are not allowed to charge tuition; they are funded according to enrollment. As in most states, Hawaii's charter schools do not receive capital funds for facilities. They are entitled to federal categorical funding for which their students are eligible.

**Do students with disabilities attend charter schools?**

Yes. Students with disabilities may not be discriminated against or refused entry into any charter school on the basis of their disability status.

**What other resources provide information about charter schools?**

The **U.S. Charter Schools** website provides extensive information.  
[http://www.uscharterschools.org/pub/uscs\\_docs/index.htm](http://www.uscharterschools.org/pub/uscs_docs/index.htm)

Another valuable site is the **National Association of Charter School Authorizers**.  
<http://www.charterauthorizers.org/site/nacsa/>

## SPECIAL EDUCATION AND HAWAII CHARTER SCHOOLS

On May 5, 2005, the BOE designated the Superintendent of the HIDOE as its agent to oversee the implementation of, and compliance with, all federal and state laws regarding the provision of special education services to exceptional children in all public schools including public charter schools.

The Superintendent has authorized the Special Education Section (SES) the responsibility to oversee matters of implementation, compliance, and monitoring of special education students, related services, to provide technical assistance to all schools, and to serve as a liaison between the public Charter School Administrative Office and the local public charter school boards. For more information, refer to Appendix 2, *Authority for Special Education in Hawai'i Public Schools*.

<http://doe.k12.hi.us/specialeducation/AuthorityForSpEd.htm>

The SES has developed guidelines and procedures in a document entitled, *Required Internal Management and Operational Guidelines for the 2005-2006 Implementation of the Individuals with Disabilities Education Improvement Act (IDEIA) 2004 and Section 504 in the Public Charter Schools* (See Appendix 2 for the guidelines.) These guidelines were developed collaboratively with representatives from the public charter schools and the HIDOE and will be reviewed annually.

[http://doe.k12.hi.us/specialeducation/sped\\_in\\_charterschools.pdf](http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf)

### **Can charter schools waive their responsibilities for special education?**

No. Charter schools are public schools and, as such, cannot waive their responsibilities under federal laws. They must comply with all federal education laws including the IDEIA 2004, Section 504 of the Vocational Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (ADA).

### **What are the major legal concepts that underlie special education statutes, regulations and case law?**

There are six tenets generally considered the underlying concepts of special education law:

- *“Zero reject” of children with disabilities* — Federal law requires that all children are afforded an equal education opportunity, and states may not deny that on the basis of a disability.
- *Individualized Education Program (IEP)* — IDEIA 2004 requires that a written plan, an IEP, be developed in accordance with IDEIA 2004 regulations for all students identified as having a disability and in need of special education services. In general, the IEP includes the student's current educational level, annual goals, specific educational objectives, special education and related

services to be provided (this may include transportation needs), dates for initiation of service, anticipated duration of service, and evaluation criteria. Under certain circumstances, there are other requirements such as a plan for transition services for students ages 14 and older.

- *Free Appropriate Public Education (FAPE)* — What is deemed "appropriate" is not specifically defined in IDEIA 2004. Court decisions over the years have helped define the term in specific instances. What constitutes an appropriate program for an individual student is to be determined on a case-by-case basis depending upon the unique needs of that student.
- *Least Restrictive Environment (LRE)* — The IDEIA 2004 provides that students with disabilities must be educated to the maximum extent appropriate with their non-disabled peers. The law expresses a preference, not a mandate, for educating students with disabilities in regular classes using appropriate supplementary aids and services.
- *Parental involvement and due process* — Procedural safeguards are central to the implementation of IDEIA 2004. Parents must be notified of a school's intent to evaluate their child for services, and they must consent to an initial evaluation before the process begins. They must also be involved in the IEP process and consent to the initial placement and provision of services. Parents also have a right to request a due process hearing if they disagree with the school's recommendations for their child.
- *Nondiscriminatory evaluation* — There are specific legal requirements concerning the evaluation of children for special education services. It is important to understand these and follow necessary procedures.

### **What HIDOE functions interface with special education in charter schools?**

Nearly all divisions within the HIDOE may interface with charter schools. For example, the Office of Business Services may field questions related to the funding of special education in charter schools. The Student Transportation Services Branch may be closely involved in the transportation of students with disabilities in charter schools. In each of these examples, HIDOE personnel may be called upon to provide training and technical assistance to charter school operators and need to know how Hawaii's laws and policies concerning special education pertain to charter schools.

## **What can HIDOE personnel do to assist charter school operators and authorizers as they consider successful implementation of special education?**

There are several things HIDOE personnel in any division or unit (e.g., accountability, finance, transportation, special education) can do to assist charter school operators, authorizers and parents. A few are:

- Know charter school law and be prepared to answer questions about special education issues that pertain to your area of specialization in the HIDOE structure.
- Provide guidelines for charter school operators of their responsibilities as they pertain to your division. Since they are new schools, charter schools often need more rudimentary information than what is available for the state's existing school districts.
- Train division personnel on the charter school law and its intersection with charter schools and special education as it pertains to your division.
- Provide training for charter school operators and staff specific to your respective area (e.g., finance, transportation, accountability) as it relates to special education.
- Integrate charter schools into existing special education technical assistance efforts.
- Develop coordinated guidelines with the State Special Education Section so that all are working in tandem to assist charter schools.

## **Is there more information that can assist Hawai'i State Officials in understanding charter schools and special education?**

Additional information of relevance and importance is summarized in the other parts of this primer. Nevertheless, the resources that follow have useful information on this topic.

An online question-and-answer document, entitled *Applying Federal Civil Rights Laws to Public Charter Schools*, may be helpful in answering questions regarding how federal civil rights laws apply to charter schools.

[http://www.uscharterschools.org/pdf/fr/civil\\_rights.pdf](http://www.uscharterschools.org/pdf/fr/civil_rights.pdf)

The **U.S. Charter Schools** website with an overview of charter schools and links to several pertinent websites is also available.

[http://www.uscharterschools.org/pub/uscs\\_docs/index.htm](http://www.uscharterschools.org/pub/uscs_docs/index.htm)

## STATE OF HAWAII

### **MATRIX: Selected Special Education Characteristics in Charter Schools**

As part of the public education system, a charter school must follow federal special education laws and regulations. A charter school fulfills the requirements of these laws and regulations, by two key factors: **legal identity** and **linkage**.

This matrix provides a brief snapshot of critical issues related to special education in charter schools for the State of Hawai'i. Each state that had a charter school law as of January 2004 is described in terms of the legal status of its charter schools, the type of linkage required between charter schools and traditional LEAs, the way special education funds flow to charter schools and other relevant comments.

<http://www.uscharterschools.org/cs/spedp/query/q/2057>

#### **Legal Status**

A charter school is either a Local Education Agency (*LEA*) or *Part of an LEA*. As part of the public education system of a state, a charter school has a specific legal identity that is established by law or state policy. As its own LEA for special education, a charter school has a higher level of responsibility for students with disabilities than a charter school that is part of a traditional LEA that retains some or all of the special education responsibilities for students with disabilities who go to charter schools. Some states have both types by either choice of the charter school or as a function of the type of authorizer.

#### **Linkage**

The linkage between a charter school and a traditional LEA is the way the charter's LEA status is implemented. It can be described along a *continuum*. A charter school that is its LEA has full responsibility for special education and usually has *No-Link* to another LEA (although a charter could negotiate some working relationship with an LEA, if it chooses to do so). At the other end of the continuum, if the charter is considered part of an LEA and the LEA is responsible for the students with disabilities, the charter school usually has a *Total-Link* to that LEA (although it may be a *Partial-Link* if different arrangements are negotiated between the parties). A *Partial-Link* between a charter and another LEA exists when there is required or negotiated connection, e.g. the charter school has responsibilities 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.

## Special Education Funding Flow

As part of the public school system, charter schools are supported through federal, state and sometimes local education funds. The funding for students with disabilities is allocated depending on the state law and differs from state-to-state. The IDEIA 2004 provides that charter schools are entitled to federal funding for special education on the same basis as other schools in the state. Thus, the way the charter school receives its [IDEIA 2004] funds depends on the charter school's legal status and the public education system of the state. Refer to the chart below for Hawai'i's funding flow.

## Other Information/Comments

Additional comments in the following columns are offered to clarify the preceding information or to make a point about charter schools that may have impact on special education implementation.

<http://www.uscharterschools.org/cs/spedp/query/q/2057>

## Legal status and linkages for Hawai'i public charter schools

Today, the HIDOE is both the State Education Agency (SEA) and the LEA. The charter schools legal status is that of being *Part of the LEA*, and maintains a *Total-Link* to the HIDOE. The chart below gives a description of some of the special education issues that are relevant to charter schools in the State of Hawai'i.

LEGAL STATUS	TYPE OF SPED LINK	SPECIAL EDUCATION FUNDING FLOW	OTHER INFORMATION/COMMENTS
Part of an LEA	Total-Link	HI is a unitary district. Charter schools get per-pupil allotment from the district (state) for each enrolled pupil. Then, the State Special Education Director allocates teacher and aide positions to each charter school based on the same staffing method used for all public schools. Each island also provides related services personnel to charter schools out of its allocation.	Charter schools are required to attend all trainings and meetings and follow all directives involving special education including those related to the Felix case (a court consent decree to improve special education in the whole state).

## Summary and Key Points

There is no substitute for an appropriate understanding of what a public charter school is, its legal status and how they are linked to the LEA, in this case, for Hawai'i, the HIDOE. A clear understanding of how the public charter schools function and interface with regard to special education and to the HIDOE is crucial in order to provide a free appropriate public education in the least restrictive environment and to meet the IEP needs of special education students.

The information in the chart on the previous page was reprinted from the **Primers on Special Education and Charter Schools: Compilation of Full Primer Set**, by E.M. Ahearn, E.A. Giovannetti, C.M. Lange, L.M. Rhim, and S.H. Warren of the National Association of State Directors of Special Education.

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