



on implementing special education in charter schools.

Primer for Charter School Operators: Special Education Requirements and Including Students with Disabilities in Charter Schools

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- The full Primer set can be downloaded from www.edgateway.net/specialedprimers
- Further information is available by email from eileen.ahearn@nasdse.org
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- Pre-authorization
- Preparing for Start-up
- Operating a Charter School
- Accountability and Renewal
- Non-renewal, Revocation, & Relinquishment

Pre-authorization

As a charter school operator, what is my role during this phase?

- Plan for *all* children who may become students in your charter including students with disabilities.
- Create your school's vision to include all students.
- Consider how curriculum and instruction could be adapted to accommodate various students with disabilities.

Why is it important to include students with disabilities as we develop our school's mission and vision?

- As a public school, you must accept all students who apply.
- You will enroll students with many different kinds of needs including students with disabilities.
- If your mission and vision statements accommodate a diverse array of students, you will minimize future problems.

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

Consider 6 major legal principles of IDEA:

- zero reject of children with disabilities;
- individualized education program (IEP);
- free appropriate public education (FAPE);
- least restrictive environment (LRE);
- due process and parental involvement; and
- nondiscriminatory evaluation.

Keep in mind your state's requirements as to linkage to a local education agency (LEA) and your school's LEA status.

How do federal civil rights laws affect how we can recruit students?

- You may not discriminate against students with disabilities during advertising or recruiting.
- 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 from the U.S. Department of Education Office for Civil Rights:

www.uscharterschools.org/pdf/fr/civil_rights.pdf

How can we provide outreach information to parents?

- Your charter school can help a parent who might have a disability and/or who does not understand English to understand your charter school as effectively as other parents.

- You can do this by:
 - holding meetings in barrier-free environments
 - offering materials in Braille or on a tape
 - providing qualified interpreters, translations, or another effective means of communication

What should we do to ensure student applicants with disabilities are treated in a nondiscriminatory manner?

- You may not categorically deny admission to students on the basis of disability.
- You may not deny admission to a student with a disability solely because of a need for special education or related aids and services.
- You must provide students with disabilities the opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the mission of your charter school and civil rights requirements.

What issues should we consider to provide effective special education services?

- Funding
- Space and facilities
- Human resources
- Curriculum
- Service provision
- Professional development
- Administration
- Transportation
- Special considerations

Issues to consider.....

- **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?
 - federal
 - state
 - local funds
 - fundraising

Issues to consider....

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

Issues to consider...

- **Human resources:**

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

Issues to consider....

- **Curriculum**

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

Issues to consider....

- **Service Provision**

- How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)?
- What should our Child Find activities look like?
- How will we conduct student identification, evaluation, and special education determination meetings?
- Who will participate in IEP development and implementation?
- What types of special staff or consultants will we need to implement our students' IEPs?

Issues to consider....

- **Professional development**

- How will we provide my teachers 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 LEA or the SEA operate a professional development program or network that I can utilize?

Issues to consider....

- **Administration**

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

Issues to consider....

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

Does my school have to go beyond our state's charter school law to include assurances to abide by federal statutes?

- Providing a blanket assurance may meet the letter of the law, but it can be subject to interpretation and will not help you work through the intricacies of including students with disabilities.
- Your planning activities and application will be stronger if you address areas about the education of students with disabilities that are connected to your legal responsibility for special education in accordance with your state charter school law.

What should we consider in preparing our application?

- clarify your your understanding of responsibilities;
- articulate your special education plan regarding:
 - governance, service delivery and finance;
- explain how you plan to:
 - identify, evaluate, and serve children with disabilities;
 - develop, review, and revise IEPs;
 - integrate special education into the general education program;
 - deliver special education and related services; and
- project special education costs in your school including:
 - child find, student identification and evaluation, planning; and
 - providing special education services.

Depending on your LEA status, your responsibilities in these areas will vary. Consider these in detail so you will be ready when a child with a disability applies to your school and you open your doors.

Pre-authorization Summary and Key Points

- This is a valuable time to plan for your school's future.
- You and your colleagues may not initially be aware of legal and civil rights assurances.
- Use this time educate yourself and other critical players (e.g., board members) about special education.
- This will help you to include special education and children with disabilities into your school's vision rather than leaving it to become an add-on component.
- Don't wait until you receive your charter or open your doors. Day-to-day operations may limit your ability to "think outside the box."

Preparing for Start-up

How can we provide students with disabilities with access to our curriculum?

- Consider this as you develop/refine your school's mission
- Consider accommodations you may need to provide to students with disabilities who may enroll in your school
- Discuss instructional issues during a child's IEP meeting
- Discuss how IEP team members can contribute to and understand how the student will have access to the curriculum
- Provide professional development to faculty who need help in accommodating student needs
- Track student adjustment during his/her first 30 days
- Convene a full IEP team to review progress and make any necessary revisions.

How much flexibility do we have in hiring special education faculty?

- You must abide by the decisions of the IEP Team that identified services for the child.
- Check with your SEA for specific information and guidance on relevant regulations in this area.
- Be sure to follow your state's charter school law and regulations regarding faculty licensure. (See next slide for definition of a highly qualified special education teacher.)

- Highly Qualified Teacher:
 - “A special education teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law” (IDEA 2004)

Do we have to hire full-time, licensed special educators?

- Probably not.
- Staffing decisions should be made on the needs of your students as identified in their IEPs.
- A few creative options include:
 - hiring faculty with dual licensure (in special and general education),
 - hiring consultants on an hourly basis, or
 - contracting for special educators via a collaborative agreement with the local school district or other (private or charter) schools.

Where can I obtain special education licensure information?

- State charter school office
- SEA licensure office

Don't assume you understand licensure requirements because you talked with a colleague in a neighboring state. There is extreme variability in licensure requirements across states.

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

- You CAN NOT discriminate on the basis of a disability in determining eligibility for admission.
- Your considerations for students with disabilities are to be the **SAME** as for students without disabilities.
- Receive and review records (*including the IEP*) for all children with disabilities who apply for admission from the previous school.
- If you do not automatically receive records, request from:
 - previous school,
 - previous LEA,
 - SEA special education office.

Can we recommend other schools if we have concerns about meeting a student's needs?

- It is typically not appropriate for you to suggest this.
- During student recruitment, share information with prospective students and families on the school's curriculum and services.
- Discuss the services and supports currently provided to students with disabilities.
- Explore strategies for meeting needs of the prospective student.
- Focus on understanding the needed supports and services.
- Identify strategies for delivering supports in *your* school.
- Discuss placement issues with the child's IEP team.
- Review U.S. Department of Education Office for Civil Rights (OCR) materials on this topic.

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

- Responsibility to modify a facility should be articulated in the lease between your school and the owner of the facility.
- Seek legal counsel prior to signing any contracts to lease or purchase your facility.

Are there different legal requirements that apply to existing versus 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.
 - Section 504 and ADA Title II regulations permit flexibility
 - Structural changes are not required in existing facilities if nonstructural methods are effective in achieving program accessibility.
- For new construction and alterations (i.e., construction began since June 1977), Section 504 and ADA Title II require that a new or altered facility (or the part that is new or altered) must be readily accessible to, and usable by, individuals with disabilities.

What impact will these requirements have on our operations?

- You must make sure that a child with a physical disability has access to every part of the new building or the parts that are newly altered.
 - If your charter school is in a new building, all parts of the building—including a third-floor chemistry lab—must be accessible for use by persons with disabilities.
 - If your charter school is in an existing facility, you might be able to meet the program accessibility requirement by locating at least one chemistry lab in an accessible location like the first floor.
- Specific federal, state and local requirements are very complicated.
- Obtain legal counsel when acquiring a facility to house your charter school.

Where can we obtain information and technical assistance to make our school accessible?

- Your state and/or local code dictate who is responsible for ensuring accessibility of public facilities.
- 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.
- Additional resources are available from:
 - Office of Civil Rights (US Department of Education)
 - your SEA

Preparing for Start-up Summary and Key Points

- Activities during the start-up period will provide the foundation for your school's day-to-day operation.
- Before you 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 to you, including:
 - other charter and traditional schools,
 - your state department of education, and
 - charter school resource centers and/or associations.

Operating a Charter School

What do we need to consider when operating our charter school?

- curriculum implementation
- staff and faculty hiring
- student enrollment
- fiscal issues
- school accessibility

What special education services must we provide?

- This depends on your school's legal identity and your LEA linkage:
 - *total-link* or a *partial-link* - special education services will either be coordinated out of the district office as is done for other schools in the district, or delivered in another way as specified in a contract you have negotiated with the LEA.

Special Education Services (cont'd)

- *no link* - the charter school must ensure that each of its students with an IEP receives all special education supports identified in the student's IEP.

You don't have to hire staff specifically to provide the services. You can:

- contract with a local school district to provide specific services,
- hire a consultant or
- form a cooperative with other charter schools.

Our curriculum was selected specifically for students with disabilities. How can we include those without disabilities?

- Each student should be considered individually so that their needs can be met.
- General plans for a new charter school must include a grade-appropriate curriculum to be available for students without identified disabilities.
- If a population with disabilities is targeted, adequate delivery strategies, personnel, tools and materials must be added for the expected needs.

A student with a significant disability has enrolled in our school. Where do we start?

- The first step is for your charter school staff to review the child's special education records, especially the IEP, and analyze your existing capacity to deliver the instruction and related services as described.
- Your charter school must try to implement the child's IEP or, if that does not appear to be possible, must convene the IEP team immediately to discuss appropriate options.
- Track the student's adjustment in the first 30 days with you.
- Set a date for the full IEP team to review progress and make any necessary revisions.
- Check with your SEA and charter school organizations to determine if there is a cooperative that can provide support in this area. Many provide technical support and resources and others provide direct services for these children.

May we limit participation of students with disabilities to certain aspects of our program?

- No.
- Students with disabilities must be provided a range of choices in programs and activities that is comparable to that offered to students without disabilities, including an opportunity to participate in a range of nonacademic or extracurricular programs and activities offered at your charter school.

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

- Yes.
- All students receiving special education services must have an IEP developed by a multidisciplinary team under IDEA and state special education requirements.
- The IEP may complement the plans your school will develop for all students.
- The IEP is the legal document for a child eligible for special education.

How can we retain personnel to work with children with disabilities?

- Discuss individual roles in fulfilling the school's mission,
- Create a mentor system for new special educators,
- Implement a peer support program and
- Implement an open-door discussion practice.

What special education professional development should we offer?

- Strategies to link instruction, curriculum, and the school's mission to the individual needs of students are most useful.
- Involve staff members in the planning of their own professional development programs.

What areas of professional development should be provided to board members and other volunteers?

- Focused, ongoing training in the charter school's responsibilities for students with disabilities
- Educational management issues

What resources are available for professional development?

- Government offices:
 - Local Education Agencies
 - Regional Technical Assistance Networks
 - State Departments of Education
 - Regional Resource Centers
 - U.S. Office of Innovation and Improvement
 - U.S. Charter Schools Office
- National Networks:
 - Federally funded technical assistance projects

Resources (cont'd)

- National Special Education Networks:
 - Council for Exceptional Children (CEC)
 - National Information Dissemination Center (NICHCY)
 - Parent Advocacy Coalition for Educational Rights (PACER)
 - National Association of State Directors of Special Education (*NASDSE*)
- Legal Resources:
 - Special Education News
 - Special Education Law

Our special education program costs more than our funding. What do we do?

- Continue providing services in the IEPs!
- Review contract provisions with LEAs, state funding policy, and your school's LEA status and linkage to another LEA.
- Inquire about “risk pool” special funds to cover unexpected high costs for students with disabilities.
- Contact your authorizer or SEA regarding any other special funds.

Do we have to provide transportation to students in special education?

- Yes – if you provide transportation to and from school or financial support (e.g., tokens) for non-disabled students.
- If an IEP team identifies transportation as a *related service* on a child's IEP, then you need to arrange transportation services.
- IEP team members need to understand the difference between a student's need for transportation to get to school (common for all students) and a student's need as a result of a disability (which results in the need for a related service).
- If your charter school is responsible to provide this related service, you may contract for it or pay the family to transport the child to and from school or the location of the special services.

Do we have to conduct “Child Find” activities?

- This depends on your LEA status.
- All states develop procedures for LEAs to identify children with disabilities.
- Charter schools do not have jurisdiction over a geographical area as most traditional LEAs do, so the actual implementation of Child Find responsibilities by charter schools will differ.
- Charter schools are responsible for children only when they are actually enrolled in the charter school.
- Check with your SEA.

on implementing special education in charter schools.

What should we do if we think a child has a disability?

- Talk with the child's family first.
- Provide pre-referral support to the student through your student assistance team.
- Provide information on procedures and rights of a child to an evaluation for special education.
- Review your school's procedures for steps to be taken when a child is not progressing or is presenting other problems.

What special education forms and reports do we complete?

- This depends on your contract, state law, and legal identity of your charter school.
- Depending on LEA linkage, staff may have to
 - participate in or lead the IEP process
 - provide child progress information
 - conduct special education identification, evaluation and IEP development and monitoring
 - manage complete financial/funding
 - arrange staffing
 - report your special education child count

Who should complete the forms?

- Individuals who have received training including
 - special educator with a modified teaching load or additional compensation
 - special education administrator to assist in management of complex responsibilities required by federal and state laws

Who is responsible for developing IEPs?

- This depends on specific arrangements as reflected in your contract, state law, and the linkage to an LEA.
 - Total-link - most IEP development will be coordinated by the school district
 - Partial-link - process will vary depending on state law and contract
 - No-link - most likely, the charter school has sole responsibility for developing IEPs

What does the IEP include?

- present levels of educational performance, including how the child's disability affects involvement and progress in the general curriculum;
- measurable annual goals
- special education and related services, supplementary aids and services
- extent, if any, to which the child will not participate with non-disabled children in the regular class;
- individual modifications in the administration of state or district-wide assessments of student achievement;
- projected date for the beginning of the services and modifications;
- anticipated frequency, location, and duration of those services and modifications;
- statement of how the child's progress toward the annual goals will be measured, how parents will be regularly informed of their child's progress toward the annual goals, and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- for children age 16 and above, transition needs must be addressed in the IEP

IEP Content (cont'd)

- The IEP is not a curriculum for the child.
- It is to serve as a guide for how to “open the doors” to improve access to the general education curriculum.

What do we do when a child transfers to another school?

- You must ensure timely transfer of all records.
- At the point that the child is formally no longer enrolled in your charter school, your school no longer has a responsibility to provide services to the child.

Operating and Start-up Summary and Key Points

- Take time to revisit your mission and vision
- Have specific discussions on how *all* of your students and staff are doing
- Consult with resources available in your local school district, state education office, or charter authorizer
- Take time to address students with disabilities in a *proactive* and *positive* manner

Accountability and Renewal

Accountability Considerations

Charter schools may be released from some state reporting requirements (e.g., teacher qualifications).

You are still obligated to collect and report the same information that traditional public schools must report (e.g., statistical reports regarding students, standardized tests, and budgets).

A comprehensive (electronic) management information system and consistent, detail-oriented staff are two effective ways to handle this responsibility.

Consider special education when creating management information systems.

A secure filing system to store the paper documents is critical to ensure security and privacy of confidential and other critical data/reports.

What data should we collect to complete required reports?

- demographic information on students
- enrollment and attendance accounting
- program accounting
- IEPs (content and timelines)
- student performance and other academic data
- data on all of your students disaggregated by the subgroups outlined in NCLB, one of which is students with disabilities
- financial reporting

Is there added accountability for special education?

- Yes.
- The U.S. Department of Education carries out extensive special education monitoring of SEAs.
- SEAs must develop and carry out a formal monitoring process for each of its LEAs.
- Your charter school's involvement is dictated by your legal status as an LEA or part of an LEA.

How is special education monitoring conducted in a state?

- No-link
 - LEAs conduct a self-assessment to review implementation of all special education requirements
 - SEA reviews and validates data
 - Reviews conducted on a three-to-five year cycle
 - Report is written detailing the findings of the SEA
 - LEA develops a plan to address all non-compliance
- Partial-link or Total-link
 - Participate in the LEA's special education monitoring on the same basis as other schools of that LEA
 - LEA is responsible for correcting non-compliance findings
 - Your school might be randomly selected for visitation

What resources are available to prepare for special education monitoring?

- SEA
- other LEAs
- regional resource centers
- other charter schools
- national organizations
- monitoring mentors where an experienced special educator can assist your charter school prepare for monitoring

How do students with disabilities participate in NCLB accountability?

- All students receiving special education services - including those with significant disabilities - participate in assessments
- All scores “count” in the accountability formulas
- They can make a difference in your school’s ability to meet “adequate yearly progress”

How will special education be considered in charter renewals?

- Authorizers will most likely evaluate your special education practices in the areas of:
 - finance
 - academics
 - personnel
 - facilities
 - data systems

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

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

Accountability Summary and Key Points

- Accountability is a cornerstone of school improvement efforts and is a basic principle of the charter school movement.
- Charter schools are accountable for monitoring, files/data management, record keeping, procedural (special education) compliance, state charter law compliance, and charter school contract compliance.
- Your school must be able to demonstrate student progress, maintain qualified personnel, and document instructional and financial practices.
- Students with disabilities and their programs and staff will be involved in each aspect of this phase.

Non-renewal, Revocation, & Relinquishment

What do these terms mean?

- *Non-renewal*
 - charter school seeks renewal to operate after its approved period and the authorizer does not grant a new charter
 - school loses its authority to operate and exist as a public school
- *Revocation*
 - proactive decision by an authorizer to remove a charter and authority to operate occurs when contractual obligations are not met
- *Relinquishment*
 - voluntary release of a charter by charter board

If our school ceases to exist, what do we need to consider relative to special education?

- It is your responsibility to facilitate transfer of all:
 - funds,
 - records (including student and financial), and
 - equipment (instructional and adaptive).
- Check with your authorizer, LEA, and SEA to obtain specific guidelines and policies in your state.
- Federal guidelines also provide information on property disposal.

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

- There will be requirements to conduct a final accounting of all funds spent by your school.
- Your state law, charter contract, and authorizer will determine the specific nature of these activities and the ultimate destination of reports.
- Be sure to be in touch with the appropriate authorities to avoid the possibility of legal ramifications.

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

- Your responsibility is to send students' records to their new schools.
- If you don't know where to send them, you should return all records to the child's LEA of residence or last known LEA.
- If you aren't able to determine this information, contact your authorizer or the SEA for assistance.

How does FERPA affect our transfer of student records?

- The Family Educational Rights and Privacy Act (FERPA) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students.
- Pay careful attention to sections pertaining to disclosure of information without the “written consent” of the parent or eligible student.

How should we dispose of special equipment purchased for students with disabilities?

- If equipment was purchased for one specific student, it should be forwarded to the student's new school.
- If equipment was purchased for use in a special education program, it should be handled in the same manner as all other school equipment.
- Your state requirements for disposal/transferring of equipment purchased with federal or state funds will also provide guidance in this area.

Non-renewal, Revocation, & Relinquishment Summary & Key Points

- You and your Board of Directors have legal responsibilities to safeguard the rights of students, the privacy of records, and the security of equipment.
- Clarify your responsibilities with your authorizer to ensure everyone has a clear understanding of roles and responsibilities.