

# SEA Community of Practice: Integrating Special Education Into Key Practices: Rubrics to Examine Charter Applications and Monitoring

## Part 1



Slide 1

**TAMMIE:**

I apologize everyone. Can you hear me now?

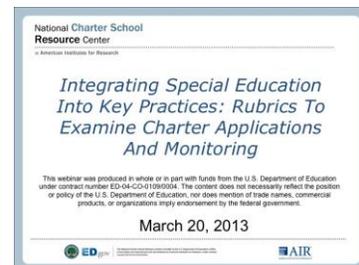
**MALE SPEAKER:**

Yes.

**TAMMIE:**

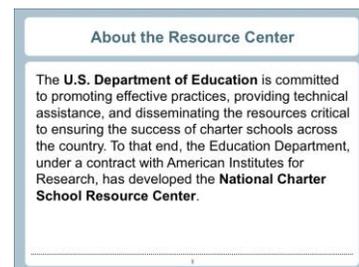
Great; I apologize for that. I somehow had myself muted. I will go through my introduction quickly again.

Good afternoon. My name is Tammie Knights from the National Charter School Resource Center, and I'm pleased to welcome you to the SEA Community of Practice "Integrating Special Education Into Key Practices: Rubrics to Examine Charter Applications and Monitoring."



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Just as a reminder, the Resource Center is funded by the Department of Education's Charter Schools Program and serves as a national center to provide resources, information, and technical assistance to support the successful planning, authorizing, implementation, and sustainability of high-quality charter schools.



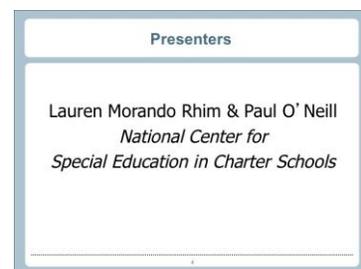
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Quickly, I'll remind you of our webinar platform. As you can tell, we are going to mute participants because we are going to record the webinar. Please know that we're just muting you for that reason. When at the end, when we're talking, having discussion or questions and answers, we can press \*6 to unmute and speak over the phone. You're also welcome to use the chat room that you see on the left-hand side of your screen.

If you weren't prompted to join the webinar through your phone, you can use the call that is in the chat room. Just for your information, at the bottom left-hand corner of your screen is a file share where we have today's presentation as well as the rubrics that we'll be talking about today.

Today's webinar will feature Dr. Lauren Rhim and Paul O'Neill. Dr. Rhim is president of [LMR Consulting](#), an education policy research and evaluation consulting firm [that is] dedicated to leveraging research to inform practice in K–12 education. A significant portion of her work for the past 20 years has been devoted to examining and providing technical assistance focused on supporting students with disabilities' access to and success in charter schools.

Paul O'Neill is an education attorney, advisor, professor, and author with extensive experience in guiding educational organizations through challenges and growth. As founder and president of [Tugboat Education Services](#) and as the head of the education law practice group of [Cohen Schneider & O'Neill LLP](#) in New York, he advises schools, charter school authorizers, networks, nonprofits, government agencies, and philanthropies on the rules and complexities that apply to educational organizations. He also serves on the adjunct faculty of Teachers College, Columbia University, where he teaches courses on education, policy, and law.

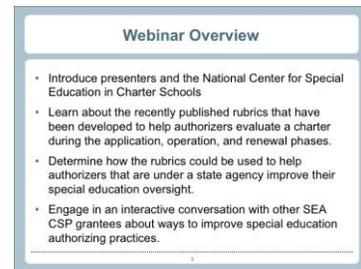


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And with that said, I will turn it over to Lauren and Paul.

**LAUREN RHIM:**

Great. Thank you very much, Tammie, and thank you, everyone, for joining in for the webinar. You should see on your computer now a brief overview of the webinar this afternoon, and our intention is to share some [inaudible] with you and then hopefully have an interactive conversation with you.



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I'm getting a note here about—and hopefully you all can hear me all right; I just turned it way up.

So I first want to introduce you to a new organization that Paul and I...can you hear me?

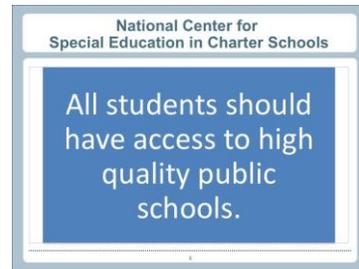
**TAMMIE:**

Yep, we can hear you.

**LAUREN RHIM:**

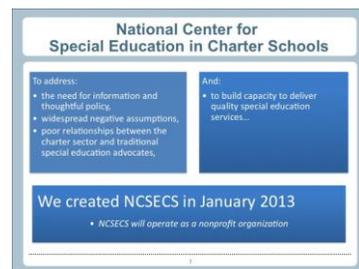
Okay, great. So first we're going to introduce you to an organization that Paul and I recently created specifically to focus on special ed[ucation] in charter schools. We're also going to talk to you about a set of rubrics that Paul and I developed specifically to help authorizers and operators build their internal capacity to develop or to provide special ed[ucation] in the charter schools that they're either authorizing or they're operating and then have a conversation with you about how you could use those rubrics, either by sharing it with the folks you work with in your states or, actually, if you are not just an SEA [state education agency] but also an authorizer, how you can use them and then have a conversation with you about the work that we've been doing.

First, I want to introduce you to the National Center for Special Education in Charter Schools. This is a brand new organization that Paul and I have partnered to start, in large part based on the work that we've been doing and really a sense of frustration that, while we've devoted a lot of time and energy to this, working with a number of different organizations, we really haven't been able to get the traction we wanted. And so we wanted to create an organization that would be wholly focused on hopefully moving the ball on this issue and really addressing it in a very coherent way. Really, the core mission of the organization is really a big commitment to the notion that all students should have access to high-quality public schools. As the charter sector grows, we need to make certain that students with disabilities have access to charter schools alongside their peers without disabilities.



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We see the center addressing a number of different needs. One is specifically the need for information and thoughtful policymaking. Another one is to address what we see or what we have come to characterize is the negative assumptions about charter schools and the perception that charter schools are not welcoming or good environments for students with disabilities, which we've encountered anecdotally to be relatively widespread in the field. And then [, finally,] a general sense of the poor relationships between charter schools and traditional special ed[ucation] advocates.



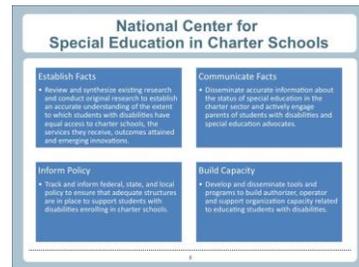
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In large part, I think out of assumptions and lack of knowledge and also due to some of the problems that charter schools have had, we've seen as a general perception that charter schools are not great places for kids with disabilities and understandably so many special ed[ucation] advocates are very hesitant to encourage students with disabilities to look at charter schools. But we see that there's a real opportunity here: As charter schools create opportunities for students and create environments where students can explore

learning in a different way—or whether it’s a different schedule or a different curricula—that this is something that all students should have access to. We’ve really missed an opportunity to think about creative and innovative and exciting different ways of approaching special ed[ucation]—of course, all within the rules and requirements outlined in IDEA [[Individuals with Disabilities Education Act](#)] and related state laws and regulations.

Our hope is that through a variety of different channels, the National Center for Special Ed[ucation] in Charter Schools can really help build the capacity to deliver quality special ed[ucation] services to students with disabilities who are interested in enrolling in charter schools. We created the organization in January 2013, and we’re in the process right now of securing our nonprofit status.

[On] the next slide, I walk through the four key goals of the national center. Again, the reason we’re introducing this is just so you know what it is. We’ve assumed there will be some curiosity when you see that Paul and I—our affiliation is a brand new organization—and it is a good backdrop for us to be then talking about the rubrics and places to get resources to help support the application of the rubrics.



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So, the National Center for Special Ed[ucation in Charter Schools] will have four key goals. It will establish facts, communicate facts, inform policy, and build capacity.

The first goal we see is the importance of establishing facts. Much of the conversation around special ed[ucation] in charter schools that we’ve observed has really been based on anecdotes and perceptions as opposed to facts, and we think that in order to have a very thoughtful and informed conversation on special ed[ucation] in charter schools, there needs to be more

intentional effort to try and document what the facts are and what is going on in the field in terms of numbers and services we're receiving and so on.

The second piece is to communicate the facts—to get the information out so that people understand what is going on and to specifically to get the information out to the key constituencies that are in a position to influence decisions around special ed[ucation] in charter schools. So this, in large part, is out of the perception that there is a very negative...many negative perceptions in the sense of distress between special ed[ucation] advocates and charter schools, and so communicating information in a credible way will be an important part of what the national center does.

The third piece is to track and inform federal, state, and local policies to ensure that adequate structures are in place to support students with disabilities but also to make sure that the autonomy that's provided to charter schools is being fully leveraged in order to provide services to students with disabilities as well as their peers.

The fourth piece is to develop capacity, and we see this as a reflection of the fact that many of the perceptions are based from the practical reality that, in many instances, charter schools have not been able to provide the services necessary for students with disabilities, and if we want it to be an open and a welcoming environment for students with disabilities, then we need to build capacity. We are envisioning this capacity building being a technical assistance piece, using tools such as the rubric and other tools that have been developed to run special ed[ucation] in charter schools but also specifically to develop training programs.

The first program that we are in the process of developing is a training program for special ed[ucation] administrators in charter schools. We're envisioning a

summer boot camp where people would come in for a week in order to learn more about the specific issues involved in special ed[ucation] in charter schools and then could go back to their schools and their regions to work on building the capacity of their school but hopefully on a regional basis to increase the...to form a sense of cohort among special ed[ucation] administrators in specific regions to then work on building infrastructures that have been so essential to traditional special education for many years. And I think about co-ops and collaboratives and examples of that, that one of the things a side benefit of us providing regional training would be that we could start to build infrastructure on a regional basis.

So those are the four key goals.

A fifth piece of the national center is what we are calling the equity coalition, and we are envisioning that as a group of representatives from a variety of organizations—both special ed[ucation] advocacy organizations and also charter school advocacy organizations and school reform organizations—that we would call upon to assist us as we're developing policy and various deliverables to the field so that we make sure that any proposals and recommendations we [lengthy pause] make are very informed by the practitioners who are out in the field doing the work.

The next item I'm going to talk about [is] some of the projects we're working on. I did see there's a question in the margin about the source of funding for the national center. At this point, the center is funded on a project basis and the work...the various contracts we've been able to receive. However, we are actively seeking funding from private sources and also hoping to position the organization to apply for federal funds.

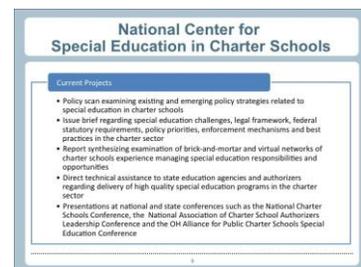
For instance, we are hoping to be able to successfully apply for funds from the U.S. Department of

Ed[ucation], hopefully the Charter Schools Office and/or the Special Ed[ucation] Office, to support some of the research that we're proposing to do down the road. So all of which to say is that the center will be funded with a combination of public and private dollars, and we anticipate also some fee-for-service work to help make sure that the center is sustainable. Our goal is to have multiple sources of funding so we're not heavily reliant on the one. This is very important for us to be independent but also that it's not just one source that could potentially hurt the sustainability of the organization.

So [here are the] current projects that we're working on. We received contracts from the National Association of Charter School Authorizers as well as the [National] Alliance for Public Charter Schools to work on a number of different briefs that are valuable to their constituents but also are helping us further formulate the work that we'll be doing and the research agenda and the policy positions.

So the first is a policy scan examining existing and emerging policy strategies related to special ed[ucation] in charter schools. I saw the registration list, and a number of the people on the list—I recognized the names—[be]cause they're the folks that Paul and I have been calling to find out what has been going on in various states and what legislation has recently been passed or...its being introduced in this legislative session related to special ed[ucation] to understand what's going on in individual states.

The second piece is an issue brief regarding special ed[ucation] challenges, legal framework, federal statute requirements, policy priorities, enforcement mechanisms, and best practices. We're seeing that as kind of a general special ed[ucation] in charter school brief, similar to our briefs we had written. I wrote one six years ago—and this will be an updated version—with



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laying out kind of the landscape of what's going on in special ed[ucation] in charter schools.

The third document we're working on right now is a report synthesizing an examination of brick-and-mortar and virtual networks, with the focus on how networks—both EMOs [education management organizations] CMOs [charter management organizations]—are approaching special ed[ucation] and their roles and responsibilities to discern what are some of the challenges but also what [are] some of the benefits of being part of a network.

In addition to those three projects, we're also providing direct technical assistance to state agencies as well as giving presentations at national and state conferences.

So that is a very quick introduction to the center and the work that we're hoping to do. Our contact information is at the end of this [webinar]. I'm going to turn it over to Paul to now do the deeper dive in the rubrics we developed, but we would encourage you if you have any questions to reach out to us and let us know moving forward if there's ways that we can help with the work that you all are doing in your states.

So with that, I'm going to turn it over to Paul.

**PAUL O'NEILL:**

Thank you, Lauren. Can everybody hear me?

**TAMMIE:**

Yes.

**PAUL O'NEILL:**

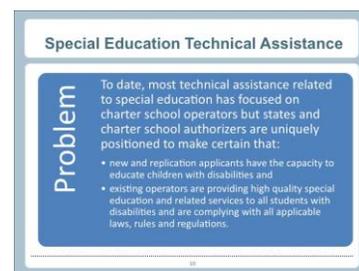
All right, good. Thank you to Tammie and to Lauren and everyone involved in this. It looks like we have 76 folks on the line—that seems like a lot—so thank you for taking the time.

I am going to, as Lauren mentioned, walk you through the rubrics that we developed in conjunction with and through the National Charter School Resource Center and the National Association of State Directors of Special Ed[ucation] with Eileen Ahearn and her folks over there.

So far, what we've done is talk about—Lauren has been talking about—the national center, and what we think the various activities of it can be to solve what some of the gaps are remaining out there for charter schools trying to tackle these tricky issues.

I'm going to focus on the one tool that we've come up with so far, which is, to say, [the] rubrics for authorizers to use, to make sure that all the different features of the different parts of the authorizer timeline for charter schools are covered in terms of special education responsibilities. This we thought of as a pretty large gap because we were not aware of anything that really walked you through end to end all the responsibilities of authorizers and then plugged in the special education considerations for that. We've seen pieces of it, but this, I think, is the only one that we're aware of that covers it end to end and that's what we want to walk you through and tell you how you can access this.

So going back to the slide, most of the technical assistance for special education in charter schools has focused on operators, but authorizers really do have to have a certain level of savviness in order to make sense of what they're seeing and to require information that's necessary in order to make the decisions. They need to make certain that new and replication applicants have the capacity to educate kids with disabilities and that the existing authorizers are providing high-quality services and complying with all the applicable rules, of which, obviously, there are many.



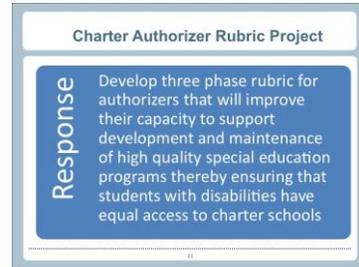
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We want to develop a three-phase rubric for authorizers that will allow them to make sense of this—those three phases being the application phase, the operations and oversight phase, and then the accountability decision phase, which is, to say, either granting renewal or denying it.

A great deal of the emphasis and a lot of the content of what we developed is in the first of those three phases because everything that comes from the application that's submitted in the oversight phase and in the accountability decision phase is really going to flow from all of the information that's promised up front. So essentially you promise what you're going to do and then the authorizer in the next two phases is going to see how it played out.

The objective is provide authorizers with a means to assess applicants—people who want to get a charter. Do they really know what they're taking on at the phase where they're applying? I would just say that it seems to me that, over the years, authorizers who are savvy have moved from asking people to describe a school that they'll figure out once you give them the charter to asking you to figure it out in advance, which is, to say, figure out what this school is going to look like and then we'll give you a charter. Too often, in the past at least, that has led to special education being kind of an add-on. You know, we're going to provide this whole program. Oh yeah, well how are we going to deal with kids with disabilities? And then they will make some sort of general statement about how we're going to comply with the law.

The rubrics that we've come up with have tried to pull away from that to try to get to a level of granularity that breaks out each of the issues that really need to be dealt with, and this is the application phase of that, so that it's crystal clear and that everybody understands the different elements of it. So we want that to add a layer of transparency to everything that the authorizer does.



**Slides 11 and 12**



**Slide 13**

Moving to the next phase, we want to provide a structure to ensure that when the school is actually up and running and operating, it's meeting the obligations that it has under the law but also making good on all those promises that came from the previous stage.



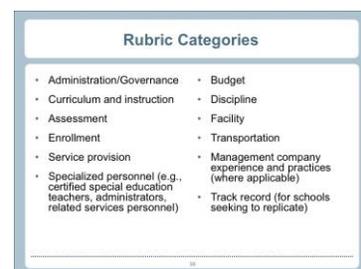
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Finally, when we get to the end of the line, authorizers need to be including special education as a serious consideration for whether a charter school has earned to do more or whether it needs to be shut down.



**Slide 15**

We have categories in this rubric that cover all the things on this slide and more. Let me just run through what the headings are. What we're not going to be able to do—I have a copy of the rubrics sitting in front of me, and it's 36 pages long. We are not going to be able to run through the 36 pages of this. We are going to be able to tell you what it covers in generality and to direct you to where you can find it. But the categories—and I'm just going to bump ahead here to see if, okay, yeah, so they're all on here [—are as follows:]



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- Administration and governance
- Curriculum and instruction
- Assessment we tied to that
- Enrollment considerations
- Service provision—actual on-the-ground service provision
- Specialized personnel that are required to get the work done
- Budgetary considerations
- Financial considerations

- Discipline issues of kids with disabilities as compared to the regular population
- Facilities issues that relate to disabilities
- Transportation of kids with disabilities
- Management company experience and practices in instances where there’s a CMO or an EMO involved with a school (That can be...a large part of the services that are delivered may be delivered through the management company, so we need to know about that.)
- The track record for schools that are seeking to replicate: “How have other schools within that network or with that model performed with regard to kids with disabilities?”

We’re going to show you one slide here. This is one slide that reflects the format of the rubrics. Remember, each rubric is 36 pages or roughly and let me talk about that in a more general way first.

There are two rubrics that we are dealing with. They are effectively the same content, but what divides them is whether they are for a place where the charter schools are their own LEA [local education agency], so they effectively take on responsibilities that are district-like, or whether they are within a district LEA. So are they a school that looks to the district for special education services and funding and control or are they a school that is more independent and performs more of those functions themselves as the LEA?

The flip to the slide here—because at the top you’ll see the different categories that we cover for each of these parts. So we’re looking for the category, the item there on this particular slide is curriculum and instruction, and then we go down to IEP [individualized education program] development. We break out what we think are the core elements of each of those categories. In this

Applicable Category & Indicator	Key Elements	Key Considerations	Key Findings
Individual Education Program (IEP) Development	This case content to be delivered to the school and the method of delivering the content.	<ul style="list-style-type: none"> <li>• What is the applicant's plan to incorporate special learning objectives?</li> <li>• What is the applicant's plan to modify delivery of curriculum (e.g. program of student technology) to meet the education objectives of students with disabilities?</li> <li>• How does the school plan to track student progress, the completion of instruction to address the unique needs of students with disabilities?</li> </ul>	<p>Supporting evidence: access to general education curriculum in the program of providing special education and related services. Evidence of individualized instruction for IEPs as defined in a Free Appropriate Public Education (FAPE) program as set forth in the Least Restrictive Environment (LRE) appropriate for their needs. Other supporting evidence includes a description of the methods and how instructional techniques will be adapted to serve all students.</p> <p>If the school has a virtual or blended learning component, the application should contain a detailed description of how the learning management system (LMS) will be used, and how students with disabilities will access the technology.</p>
	The program by which a team of professionals, an administrator and parent, and other external parties or entities working in place to provide special education and related services to a unique individual or groups of special education.	<ul style="list-style-type: none"> <li>• Does the school have a plan to inform parents about their student's IEP's rights associated with IDEA?</li> <li>• Does the school have a plan to have personnel to write or edit contracts, requests for reimbursement, the IEP?</li> <li>• Does the school plan to have a staff member or contract for an external entity to be responsible for scheduling, tracking and monitoring IEP meetings?</li> <li>• If the school has a virtual or blended learning model, how will IEPs be modified to incorporate the virtual or blended learning environment?</li> </ul>	<p>The IEP is an evolving document that reflects a student with disability's unique needs and the available services to be provided to enable them to access the general education curriculum and resources at school. Developing an IEP requires a significant level of knowledge of IDEA as well as state special education rules and regulations. Local application should describe a clear and feasible plan for how IEPs will be developed.</p>

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## Slide 17

particular case for curriculum and instruction, it's the core content to be delivered in the school and the method for delivering that content and then key considerations. What should the authorizer be thinking about when it's looking at this category?

- Should it be thinking about, for curriculum and instruction, what's the applicant's plan [inaudible] the various learning styles?
- What's the applicant's plan in modified delivery of curriculum to ensure that those students can access the general education curriculum?
- How does the school plan to train teachers to modify the curriculum and instruction to address unique needs of various kids?

Again, this is just an example of what goes on for pages and pages in each of those three categories: the application stage, the oversight stage, and the accountability decision stage. Then we try to include best practices—a sense of what you might want to be looking for if you're the authorizer. So in the particular instance of curriculum and instruction, we would be talking about supporting students' access to general education, its purpose of providing special ed[ucation] and related services, and then we get into the details about how it's really supposed to work.

We also have in that particular category a paragraph at the bottom talking about how this would play out in a virtual or blended-learning context. That's obviously a consideration that a lot of states are dealing with—and that authorizers have to deal with as well—which is, to say, programs that are either online or partially online. And so in both rubrics we've tried to address this virtual and blended-learning consideration, and you'll find it worked into all of what we do.

All right, so that's how it works; that's how the rubric works. You read it left to right. It gets more detailed in

terms of what the expectations are to be, and, in some respects, I think of it as almost like a packing list. When you're going away on a trip, you've got a list of all things that you might want to think about bringing with you, and you want to make sure that they're all here.

The other tools that we have seen before working on this were more geared toward making sure that it was a tool for saying how good is good enough for this particular school. Usually, those tools are only at the application stage. But we're really not looking for you to be able to use this rubric as just a way of checking off each box [but] as more in forming a thinking around what are the questions that should be asked and what does the content look like when you get the answers.

So, let me move on. Lauren's going to talk a little bit more about discussion questions for this. I can drill down a little bit more on more of the categories that we're going to cover, but I think it may make more sense to have that information come out in the discussion part, and I'm happy to drill down more on each individual area or any particular individual area as we get to that.

### **LAUREN RHIM:**

Great, thank you, Paul. And something I want to add is that in creating the rubrics, our goal is not to say this is one rubric that all states should use. Our goal was to create a rubric that states or individual authorizers could take and customize to their particular policy context. So one of the things that the National [Charter School] Resource Center has done is published a PDF version that's a nice formatted, finished, [and] polished product, but [it] also made readily available a Word version of the rubric, with the hopes that as individual authorizers move to adopt the structure, that they could take it and modify it and make it work for their particular policy context. Because, as Paul mentioned, we don't, it's not a—well, first of all—it's not a traditional rubric where you go through and say, okay, if an applicant answers this,



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they're a 4, and if they answer it this way, they're a 3. Because the idiosyncrasies of individual states and authorizers are such that there's no one right answer. Even for one authorizer with multiple schools, there may not be one right answer.

The key is to ask the right questions in order to have a discussion about how responsibilities are going to be taken care of. That's why it's not a traditional rubric with numeric levels or scores, but really our hope is a template to have a really rich and robust conversation, [with] the end result being that charter schools are better prepared to serve students with disabilities the day that they open, recognizing that there's going to be some modifying based on the students who enroll. That was our hope in developing the rubric, and so we've tried to make it flexible enough so that different authorizers can take it and modify it to their use rather than... And we've seen this, where a new authorizer comes online and they sit down, and they sit with a blank piece of paper and say, okay, what are we going to ask about special ed[ucation]? Our hope is that by developing the rubric, we can help new authorizers as well as experienced ones who might be revisiting their practices to really develop a good process to assess capacity.

Something that Paul and I talked about in the past is that when we've had the opportunity to review applications, what we've seen over time is one of two things. The first is that authorizers simply require an applicant to assure that they will meet the requirements of IDEA, when, in practice, we're relatively suspect about the extent to which the applicant understands what that means. And the second piece is that we've seen boilerplate language around special ed[ucation] that you can tell someone's cut and pasted, which again means that you don't have a clear understanding of how much they understand what the responsibilities are.

So the hope is that with the rubric, we've presented a structure for authorizers to have a better conversation with applicants. Again, the rubric is in three phases—the application phase, the operation phase, as well as the renewal phase—and also trying to encourage authorizers to be more intentional about looking at special ed[ucation] at the renewal stage because that really is a chance to reset and to look into and say, “Have you met the goals of your application?” So before I shift to the discussion questions, I see that two questions have come in.

**PAUL O'NEILL:**

Yeah, can I just jump in on that first. Lauren can I just jump in on that first one, the one about compliance and the legal requirements...

**Part 2**

**PAUL O'NEILL:**

That's a good point. I think in this particular case with regard to special education, best practices are so extraordinarily linked to the legal requirements with the federal law, that one consideration is going to be in the same ballpark as the other. It's not best practice if it doesn't meet the requirements, but I think it may be fair to say that it would be difficult for anyone in a particular location to take this rubric without factoring in factors such as what the local law says with regard to implementing rules for kids with disabilities in charter schools.

You're going to have to make sure that you take this document and modify it so that it reflects everything that will be applicable where you are. I don't want to make it seem as though you can just print this thing out and go into the charter school tomorrow and use it as a checklist. I don't think it's designed for that. We didn't make 43 versions of this in every place where they do charter schools. I do think that it should be helpful on

the best practices side for identifying things that are lawful. [But] it should be more than that; it should also get to what are good practices—what are responsible practices? And as we move toward challenging schools to do more to educate kids with disabilities well, and not just to technically do things that are compliant, I think we have to think about those considerations. But I do think that the best practices area should help folks identify things that are within the realm of what's lawful as long as they also factor in other localized considerations.

**LAUREN RHIM:**

Thanks, Paul. I see that a second question that came in was, “Where [can I] access the Word version?”

I believe that on the National [Charter School] Resource Center website we had both listed at one point. If not, we can follow up with Tammie and make sure that they're readily available online, or I can, you know, to the mailing list to the people participating today, we can send them out. Again, the goal was to [inaudible]. I see that Eileen has weighed in and said the three documents in the PDF, in the box associated with the webinar, are all PDFs. So we can post the Word version to it afterwards. So, thank you, we'd be thrilled if you all were using those and happy to share them to the greatest extent possible.

I see here another question we have is—oh, wait, Tammie is weighing in. We have a [inaudible] this week with both files. I can e-mail them out and post the Word version, so we'll get those to you all. We'll make sure you get them.

I see there's a question here from Virginia. “Have you or do you plan to collect information regarding states that have vouchers or scholarships for students with disabilities to attend a charter school?”

At this point, we don't have a formal plan to look at the voucher component, although we definitely see that as an opportunity to learn more about what is going on with special ed[ucation] when students are enrolled in schools that have fewer regulations—Florida being the most obvious example of that.

I know the [National \[Conference\] of State Legislatures](#) released a report in the last couple of months that actually goes through every state and the various scholarships/vouchers they offer, including a summary of the special ed[ucation] ones. If that's something you're looking for immediately, there's a relatively cursory review of that in the National [Conference] of State Legislatures. That is not something that we at this point plan to do a deeper dive on. And my understanding is that Florida is the only state where you can use those vouchers in charter schools. Correct me if I'm wrong, but that's my understanding also.

It looks like there's another question coming in from Eileen, and then I'll...we'll jump in the discussion questions. And just as preparation for the discussion questions, we'd really like to have this, I know it's hard with a group this large to have it be interactive, but we would like to hear from you all about ways that you're addressing the issues that are coming up in your states related to special ed[ucation] in charter schools. And we've posted these discussion questions as a way to generate some conversation, but we don't have to be limited to those questions. I thought Eileen was typing, but now I don't see...

**PAUL O'NEILL:**

There it is.

**LAUREN RHIM:**

So, actually, and I can't. I'm sorry, Tammie, are the questions showing up just for Lauren and Paul or does everyone in the group see the questions?

**TAMMIE:**

Everyone in the group sees the questions in the chat.

**LAUREN RHIM:**

Okay. If there's someone on the call from Florida who wants to weigh in and clarify, but my understanding actually is that in Florida with the [McKay Scholarship Program](#), that the dollars can go outside of the district and follow the student—the McKay dollars do. So, there's a unique funding structure in Florida that means that those McKay scholarships are following students to public schools. But if there's someone on the phone from Florida who wants to shed additional light, I'd welcome that.

We have another question coming in from Massachusetts. [pause] I apologize for the technology; there's a bit of a delay.

**PAUL O'NEILL:**

Lauren, why don't you go ahead with the next discussion question and then we'll swing back to the Massachusetts question or any others as they go in?

**LAUREN RHIM:**

Okay, great. Tammie, do we have the ability to unmute folks in order to ask questions or do we need to have everything be written in?

**TAMMIE:**

Nope; people can unmute themselves if they would like to ask questions. Just hit \*6.

**LAUREN RHIM:**

Okay, great, so \*6. So the first question...

**FEMALE SPEAKER:**

Can we talk over the phone?

**LAUREN RHIM:**

The first question we would start with was, “In your state how do you ensure that applicants fully understand issues related to serving, to making sure that schools are open to and then to serving students with disabilities and complying with the applicable rules?” We’d love to hear examples of how you’re handling that in your state.

[pause] Anyone unmuting? [pause] All right. While we’re waiting to see if people want to unmute to answer that question, Paul do you want to address the discipline question or do you want me to...?

**PAUL O’NEILL:**

Sure. Sure. The way they’re written in here is, “How are charter schools handling disciplining of special education students properly?” What I see as an attorney dealing with these issues is that, frequently, charter schools are confused about how they’re supposed to go about protecting the rights of kids with disabilities in charter schools. Sometimes they are ignorant of what’s required and, in terms of a manifestation determination review, when a kid has been suspended more than 10 days, and sometimes they don’t know who’s supposed to take charge of that. For example, we get back to the LEA/non-LEA distinction and who is supposed to be factoring that in.

I would say that in addition to being a protection under the law that kids are entitled to, they’re also an important part of the school. As I said, as we try and think more in terms of not just compliance but also the educational benefit and to think about whether we’re doing right by kids who are not getting everything that they’re supposed to be getting [inaudible] way. I would be interested to hear whether folks are having issues about this from the authorizer side, about whether there’s any confusion about who’s supposed to do what and what the timeline is supposed to be for these things. My experience is that, increasingly, discipline issues are

becoming problematic for authorizers in terms of equity issues. But I'd be very interested to hear if people are having issues like this or if they need anything clarified. [lengthy pause] Hmm, this is [inaudible].

**LAUREN RHIM:**

One moment. Is there any chance that part of it is a technical glitch, Tammie, that people aren't able to unmute given the size of the group. It seems hard to believe that no one is weighing in.

**TAMMIE:**

Possibly. We can unmute everybody. I actually just had a question about that.

Paul, just to follow up as a former authorizer, "[I'm] just wondering, how much detail you guys think should be in an application, particularly at the application stage, around what Massachusetts was bringing up in terms of functional behavior assessments and behavior intervention plans?"

**PAUL O'NEILL:**

Well, I guess my answer to that would be, why don't the folks in Massachusetts say a little more about that out loud if they're able to do that because then we can have a better discussion.

**FEMALE SPEAKER:**

Right, we're here. We unmuted.

**PAUL O'NEILL:**

Okay, great. Could you talk a little bit about what you have in mind?

**FEMALE SPEAKER:**

Well, I think that you set the stage just a minute ago, saying that there are a lot of charter schools that are a little confused about who should take the initiative when a student ends up with very many suspensions. Is it the

special ed[ucation] director, is it the assistant principal who is supposed to be on top of looking for whether a student should have been referred if they are getting that many suspensions, more than 10? Have they ever been evaluated for behavioral issues? It is, I think, that the schools sometimes are very confused about that.

**PAUL O'NEILL:**

Right. Well, I have, [and] I think it raises an important point. And let me just say I guess somebody's talking in the background there somewhere, which is [making it] harder to hear. But, you know, one answer to the problem is to say that you want schools to be incredibly explicit in their application and say exactly [the following:]

- How their stuff is going to go?
- Who does what?
- What does the state do?
- What does the district do?
- What does the charter school do?
- Who pays for what?

I think that that's incredibly helpful in a lot of ways so we're all sure that we understand what we're talking about.

It's a bit of a burden at this stage of the application for people who are submitting it, but it seems like one that would have a lot of benefits as we go forward, as there's no confusion [be]cause it's clear. But, there's a big "but" there, and that's that the more explicit you need it to be, the more complicated you need it to be, the more likely I think it is that folks are just going to borrow this language from some other application and not necessarily really authentically provide you with the information that you think they understand. And I've seen this more and more, increasing as you ask for more in the application stage as the authorizer, you take the risk that these folks don't

actually know what they're talking about. It's an ironic circumstance, but I find it to be true. It's one reason that I think that it's very important to have an interview as part of a charter application process, not limited to special education but across the board, so that you know when people are cutting and pasting and saying stuff that they don't actually authentically understand that you can tease that out and understand that. But even if you have an interview, you're not going to entirely take away this problem, and that's why I think we look to the latter stages of the rubric—the oversight stage, the renewal stage—to follow up on the promises that are made early on and see if, in practice, as the authorizer engages in some level of oversight, whether the schools are actually understanding what they're supposed to do and actually doing it.

**LAUREN RHIM:**

And to follow up on that, Paul, I think one of the things that's important that's a challenge is that you want to have high standards in terms of the level of knowledge and understanding about special ed[ucation], but you don't want to cross—or go over the tipping point—where it becomes a real, a barrier for someone to get a charter in that you don't want to just be requiring them to do exactly what the local district does because I think we've seen plenty of examples of charters being required to do what the local district does when the local district's program is not what you would call an exemplary special ed[ucation] program.

So it's this balance of, do they know enough about special ed[ucation] to develop a big program, even if that big program is different than what would be the norm in special ed[ucation] programs regionally or locally? But you don't want to do them cookie cutter that, oh, we'll just make this easy by requiring them to do exactly what the local district does.

**PAUL O'NEILL:**

I agree with that Lauren, and I just would add that sometimes what we see is that when they're worried that they're not going to get it right and they simply say oh well we're just going to do what the district does, often the district is in a different legal posture than the charter school. You see this reference to [, for example,] we're going to comply with Section 8, 9, 10 of the Missouri code or the Alabama code or whatever it is, and the reality is that the responsibilities there are completely different or at least subtly different than what the charter school has to do and should do. So it effectively scares people into muddying the water.

**LAUREN RHIM:**

My observation is that to carry that out to the next degree is that, frequently, there's so much fear around special ed[ucation] and special ed[ucation] compliance. I see this as a box, and that folks end up making special ed[ucation] a much smaller box than it needs to be largely out of fear or limited understanding. And it's coming out of the right place. You're trying to do what's right for kids and to try to be in compliance, but they narrow and make it small, even more rigid than it needs to be. And we've seen this with charters, especially charters that are part of local districts. And so it really... but whether it's the review process for the authorizers to make sure that you have someone that knows special ed[ucation] and [inaudible] only knows the district requirements but actually understands IDEA, to understand what the regulations are and how specific they are as opposed to simply [parrying] standard practices that may actually be more narrow and more rigid than what the law requires.

**FEMALE SPEAKER:**

From Massachusetts, again, we wanted to say that one of the authorizers here has pointed out that a lot of times in the interview process, what you're kind of trying to clue into is whether they recognize what they do know.

**LAUREN RHIM:**

Right.

**FEMALE SPEAKER:**

Because when a charter school is doing something new and novel innovative, it can be wonderful, but they may very well not have thought through what the implications of their novel practices are on diverse learners, in particular the no-excuses-type charter schools; we have a lot of those in Massachusetts. The disciplinary practices are more strict, are more structured and highly defined and those can be...bring out some behavioral issues that might not be as easily seen in a school that had less strict discipline. So they have to think through [the following]: What are they going to do? Are they going to do some individualization of behavior plans or are they going to try to make a one-size-fits-all disciplinary system work?

**PAUL O'NEILL:**

Right. Well and another—that's a very real-world consideration, and I think that's a very helpful comment. Another one that's related to the bottom discussion question here is [as follows]: In the real world, charter schools who come up for renewal are unlikely to be perfect on their compliance record and on meeting the requirements that they've set for themselves in the charter with regard to kids with disabilities. What does an authorizer do about that? What do you do about the fact that if—and my argument is—that if you look for a special education violation hard enough in any school, you will find one, not just in a charter school, because it's a very orthodox, very restricted and rigid set of rules.

So the authorizer has to develop an approach to dealing with how you deal with kids, with the schools that don't have a perfect record. And I think that one thing that we talk about in the rubrics is paying attention to what the school does when a problem is discovered.

- Do they just simply go along or do they do everything they can to remedy it?
- Does it become a series of problems that are similar because the school is not attending to the requirements enough or is it a one-time thing that then goes away?

But I think that it's an important aspect that as authorizers get savvier about dealing with these issues and really gathering real-world knowledge about this stuff—and not just what's written on paper—to pay attention to how good is good enough in dealing with less than perfect compliance.

**LAUREN RHIM:**

I would, just to follow up on that, and this is straying a bit from the rubrics. One of my takeaways from the work that Paul and I are doing with policies is the phone calls I've made to states; it's been really interesting. When I ask the question, "What percentage, what's the average percentage, of kids with disabilities in the charters in your state?" The vast majority of the folks I've spoken to don't even know how to answer that question, which leads to [the following:] "How do we—for you all at the state level thinking about policies—how do we think about these issues if you haven't had the opportunity or haven't taken the time to really drill down deeply to understand what's going on?" Because in the absence of that data analysis, a lot of it ends up being reactive to specific high-profile incidences.

So, it's one particular case where something happens in a school where a child is discriminated against rather than authorizers and states very proactively saying, "You're already collected this data for IDEA; the information is there. It's just a matter of, Are you analyzing it? Are you looking across all the schools and, saying, you've got a 100 kids, and you've only got two kids with disabilities?" Now, if the state average is

13 percent and you've only got two [kids], you're not even in the ballpark. So what's going on? How do you recruit? What are your application processes? What's going on that for some reason you haven't been able to enroll kids with disabilities? And what would be action steps to increase that student population? There are ways to do that whether it's intentional recruitment or being more intentional about advertising materials that you're open to all. There are ways to do that. But I think the real first step is for states and for authorizers to actually analyze the data they've got to understand what is going on in the charter schools and to what extent are they enrolling kids with disabilities, and where are the kids getting their services and, you know, that there are several nuance analyses, but a very kind of crude initial analysis is—How many kids are enrolling and are they staying? Are the schools retaining them?—can really shed light on a number of the issues we've been talking about. [pause]

So Sue weighed in, in talking about the application process in New York. Sue, are you there? You want to jump in and share a little bit about your process and what you all do for new school applicants?

**SUE:**

Sure. Can you hear me? I was on mute, my own mute, not just your mute. Can you hear me?

**LAUREN RHIM:**

Yes.

**TAMMIE:**

We can hear you.

**SUE:**

Okay, good. All right let me get back to where I was. I was, sorry, multitasking here. But I mean we, you know, are part of the State Education Department here in New York, so we work very closely with our P–12 special

education partners to put the right prompts in the application. But it's really not...it's still not enough—as has been pointed out before—because in the evaluation of what the applicants give us, we may...it's still broader than the specificity that you're describing in this session. And the other comment that I have to echo is that, of course, in the application, you know lots of stuff gets written, but whether the group that will actually be making that charter school application turn into a real school fully understands it and kind of implement it is another question.

So there's a lot of text, but somebody talked about talking about this in the interview, which we do, and that helps us to evaluate whether the initial board of trustees understands generally the obligations to serve students with disabilities in their school, but the devil is, of course, in the details. So I think your rubrics...I'm looking forward to looking at the rubric and using it to strengthen the evaluation of the application by our review panel members. So does that—that's about all I have to say. Do you want me to say what's in our application?

**PAUL O'NEILL:**

No, I mean I think that what you said so far is very helpful. If you want to drill down on that a little bit, I think you did in your slide a little bit about what the categories are.

**SUE:**

Yeah—I just kind of—we have a page limit on the application, on the narrative section, of 60 pages. So that's always a challenge for the applicants to be concise and to address the prompts and that's what the reviewers look at. So we have a prompt for how the school plans to provide a classroom—general ed[ucation]—classroom that will meet the needs of all students, including students with disabilities and English language learners, et cetera, et cetera, and then a lot of the other things I said. But as you know, Paul, because, you know, you are a New Yorker...

**PAUL O'NEILL:**

Right.

**SUE:**

...there's a lot of concern in the state right now with the capacity of our charter schools to meet the needs of students who come in with an IEP for a special setting that may be difficult for the individual charter school to provide.

**PAUL O'NEILL:**

Right.

**SUE:**

And I don't want to divert into a whole other policy issue, but I'll just throw it out there. There are positive reasons to think about giving charter schools in New York the autonomies to pool resources and provide collaborative services like both of you have done for the rest of New York state. And then, of course, there are reasons that others would not support such a proposal.

**PAUL O'NEILL:**

Right.

**SUE:**

In fact, the State Education Department has, I think, come out in opposition to a proposal to do that very thing. So...

**PAUL O'NEILL:**

Well, I think that's actually a good comment as we're getting close to the end here to sort of tie us back to where Lauren started it, which is to say talking about this national center and trying to position it so we can help with some of the overall issues that state to state everyone is dealing with. And one of them is being dealt with in New York in a particularly concrete way, which is to say quotas essentially that have been built into the law recently to make sure that kids with disabilities are

being represented and retained by charter schools in comparable numbers to the ones that are in the regular school district or the community school district in New York City nearby. And whether that's—whether or not taking that sort of approach to try to make sure at the authorizer level—that charter schools are serving kids with disabilities in an acceptable and a robust way is an open question, and it's a question that we plan to throw around a lot with this national center as to whether that's a good measure or maybe there are other measures or there are other ways to incentivize charter schools to serve those kids. It's a big issue, and New York has kind of come out with a particular approach to it that everybody is looking at. But I think that there are good and bad things about it, and it really is the kind of issue that we want to drill down with at this national center that we are building.

**LAUREN RHIM:**

Yes.

**PAUL O'NEILL:**

All right. We are, I have us at one minute till 3:00. How do we wrap this presentation up?

**LAUREN RHIM:**

So, actually, there are two resources, and I realize that I...we missed a slide here. There are two resources that I want to alert you all about. One is the rubrics, which we've talked extensively about, that are posted at the National [Charter School] Resource Center. But the other tool that I think you'll also find very helpful is a tool called the Special Ed[ucation] Start-Up and Implementation Tool[s], and it's for charter leaders and



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special ed[ucation] managers that was developed by colleagues Beth Giovannetti and Nancy Opalack also for the National [Charter School] Resource Center and posted there. It's a very helpful tool that as you're working with schools—whether new schools or renewal schools or replication schools—that I think you'll find very helpful in terms of walking folks through in a much more in-depth way than the rubric does, [such as] some of the mechanics of starting a school and making sure you've got all your ducks in a row for special ed[ucation]. So I just want to alert you all to those two resources.

I'm seeing here that Tammie is saying that she's just e-mailed the Word version of the document to everyone. And, as I said, there's a nice, polished version online, and then she sent out the Word version. These documents were all supported with funds from the U.S. Department of Ed[ucation], so while it's important to get attribution, you're welcome to photocopy them and use them in any way that you find helpful.

The other resources right there in the second-to-last slide. And then the final couple of pages are references and other sources that you all might find helpful. Finally, if you have any questions, don't hesitate to send us an e-mail. And as we get the national center off the ground, we look forward to hopefully working with the National [Charter School] Resource Center to promote some of the tools and the work that we're doing as well as working with you all directly.

I really appreciate you dialing in, and we hope that you find the rubrics helpful in the work that you're doing. I'm going to turn it back to Tammie.

**Resources**

- Ahman, E. M., Long, C., Ryan, L. M., & McLaughlin, M. J. (2013). Project Education: Charter expansion as a requirement to create schools. Final report of research study. Alexandria, VA: National Association of State Directors of Special Education.
- Government Accountability Office. (2012). Charter schools: Additional federal actions needed to help protect access for students with disabilities. Washington, DC: Author.
- Hushek, J. P. (1987). Schools without rules? Charter schools, federal disability law, and the paradoxes of deregulation. *Harvard Civil Rights-Civil Liberties Law Review*, 22, 261-323.
- Individuals with Disabilities Education Improvement Act, 2004 (P.L. 108-446).
- O'Neil, P. T., Sherry, R. J., & Glickman, B. (2002). Learning Disabilities and Charter Schools: Legal Obstacles and Policy Options. *188 West's Education Law Reporter* (2/18/02), 1-2002.
- O'Neil, P. T. & Thurner, R. (2010). The United States of Charter Schools: A Preliminary Challenge. *Leeds University New Orleans Journal of Public Interest Law*, Vol. 11, 22.
- PROJECT INTERSECT PUBLICATION WEBSITE: <http://www.educationpolicyinstitute.org/>
- PROJECT INTERSECT PUBLICATION WEBSITE: <http://www.educationpolicyinstitute.org/>
- Ryan, L. M., & Branson, C. (2012). Learning Disabilities in Charter Schools: Charter Schools and Children with Special Needs. *Public Center for Renewing Public Education*.
- Ryan, L. M., & Branson, C. (2012). Reaching Ambiguity: Factors Influencing Charter Schools' Access to Federal Employment Programs. *University of Center for Innovation and Entrepreneurship*.
- Ryan, L. M., Branson, C., & Joseph, J. (2010). Case studies of charter innovation and success.
- Van, B. Lake (Ed.). (2010). *Charter Schools Serving Urban Students: Charter Schools and Children with Special Needs*. Public Center for Renewing Public Education.
- Ryan, L. M. & McLaughlin, M. J. (2007). Accountability Incentives and students with disabilities: A call for state-level action. *Journal of Public Education for All Students, International Journal of Disability, Development and Education* 14(1).
- Ryan, L. M., & O'Neil, P. (2012). Charter school suburban status: Why have charter schools never really gone to suburbia? <http://www.educationpolicyinstitute.org/>

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**Questions Suggestions?**

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- Paul O'Neill
  - [ptponeill@gmail.com](mailto:ptponeill@gmail.com)
- National Charter School Resource Center
  - <http://www.charterschoolcenter.org>

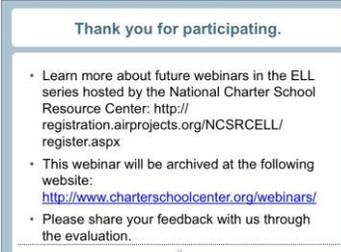
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**TAMMIE:**

Great. Thank you, Paul, and thank you, Lauren, and thank you everyone for dialing in today and participating in this webinar. We really wanted to make you aware of these rubrics that Lauren said and give you a tool to use both within your organization and possibly with other organizations in your state.

With that said, we'll let you go, but [there is] one brief thing. We're going to, when you hang up—end this meeting—it's going to go to a slide for you to log onto a feedback form, and we would greatly appreciate your feedback as we continue to do webinars for this audience, and we want to make sure that we are providing you with the most useful information and the topics that are of most importance to you.

So, thank you again for joining; we appreciate it, and we will talk to everyone soon.



Thank you for participating.

- Learn more about future webinars in the ELL series hosted by the National Charter School Resource Center: <http://registration.airprojects.org/NCSRCELL/register.aspx>
- This webinar will be archived at the following website: <http://www.charterschoolcenter.org/webinars/>
- Please share your feedback with us through the evaluation.

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