

National **Charter School**
Resource Center

at American Institutes for Research

Welcome to the Webinar!

**Legal Rights of Children with
Disabilities and Charter Schools**

We will be starting soon.



The National Charter School Resource Center is funded by the U.S. Department of Education's Office of Innovation and Improvement and administered by American Institutes for Research, under contract number ED-04-CO-0109/0004.



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Legal Rights of Children with Disabilities and Charter Schools

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About the Resource Center

The **U.S. Department of Education** is committed to promoting effective practices, providing technical assistance, and disseminating the resources critical to ensuring the success of charter schools across the country. To that end, the Education Department, under a contract with American Institutes for Research, has developed the **National Charter School Resource Center**.

Presenter

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National Disability Rights Network (NDRN)

(Some) Relevant Federal Legal Authorities

IDEA

Section 504

Title I, ESEA

Due Process Protections

- Children cannot be removed from public school without due process – notice, hearing
- *Goss v. Lopez*, 419 U.S. 565 (1975).

How Does the IDEA Apply to Charters?

- 34 CFR 300.209(a)

“Treatment of charter schools and their students.

(a) Rights of children with disabilities. Children with disabilities who attend public charter schools and their parents retain all rights under this part.”

See also 20 USC 1413(a); (e)

IDEA Basics

- Child Find
- Eligibility
- FAPE (Free Appropriate Public Education)
- LRE (Least Restrictive Environment)
- Discipline

Eligibility IDEA

- Has a disability that meets one of several enumerated definitions—quite specific
- “By reason thereof” requires special education and related services
- If student does not require special education, he or she is not eligible

Free Appropriate Public Education (FAPE)

Available to all students with disabilities aged 3 through 21 (or later if state law)

20 U.S.C. § 1414(c)(5)(i): The right to a FAPE ends when a student graduates with a regular high school diploma.

Certificate/GED is not a diploma

FAPE (cont.)

Is the standard by which sufficiency is determined.

Must be at no cost to parents or student-may use Medicaid & private insurance with permission.

Child Find

- Locate, evaluate and identify students with disabilities.
- 2006 regulations-applies even to children advancing from grade to grade. 34 C.F.R. § 300.101(c).

Placement Decisions

Made by group of knowledgeable persons and in conformity with LRE provisions

Child's Placement is determined annually, based on the IEP and close as possible to child's home

Should attend school would attend if not disabled

LRE: considers potential harmful effect on child or quality of services needed

Placement Decisions

Cannot remove a child solely because of need to modify general curriculum

Need parental consent before providing initial special education services in most cases.

Schools must make attempts to involve parents in IEP/placement meetings. If cannot obtain involvement school may make placement decision without parent.

Least Restrictive Environment

Core concept referred to as inclusion, integration or mainstreaming

Child with a disability must receive services in same environment as non-disabled peers to “maximum extent appropriate.”

Must still consider child’s ability to progress and impact on classmates.

LRE

...Removed from the regular education environment only if the nature or severity of the disability is such that education in regular classes with **supplementary aids and services** cannot be achieved satisfactorily.

Supplementary aids and services: Assist children to remain in regular education environment and includes assistive technology.

LRE includes extracurricular activities.

Section 504 Basics

- Child Find
- Eligibility
- FAPE
- LRE
- Discipline
- Applies to Charter Schools that accept Federal Funds

Eligibility 504

- Mental or physical impairment
 - Which substantially limits a major life activity
 - Has a record of such impairment, or
 - Is regarded by others as having an impairment
- Needs regular **or** special education and related aids and services
- Therefore, needed accommodations to regular education program are sufficient.

Title I Basics

- Must report as required by public schools.
- Accountability: Varies based on state law.

Issues that may Arise

- Enrollment and Recruitment
 - Charter school or district staff who discourage parents from enrolling students with disabilities who need services and suggest to parents that the traditional public school can better meet their needs.
 - Charter schools that enroll students with disabilities at rates that are significantly lower than the local public schools.
 - Students are extremely underrepresented in three categories of disability that can require more intensive resources: intellectual impairment, emotional impairment and autism.
 - Schools that require admissions tests and interviews that result in students with certain disabilities being excluded.
 - Open enrollment "lottery" system: Are children with disabilities placed in the lottery?

Issues that may Arise

- Accessibility
 - Charters may be granted to schools in inaccessible buildings.
 - Charters that do not provide transportation for any students; a child with specialized transportation in his/her IEP cannot get to school because he/she cannot use the public bus system safely.

Issues that may Arise

- Discipline:
 - School that threaten to expel student if parents do not voluntarily remove him/her. Proper due process or IDEA procedures may not be followed.
 - Schools that use behavior contracts rather than developing FBAs (Functional Behavior Assessments) and BIPs (Behavior Intervention Plans), as IDEA requires.
 - Denial of services for behavioral health needs that are required by their IEPs or 504 plans, which could result in students being removed from school due to discipline problems related to services not provided.
 - Cyber-charters that enroll students who face disciplinary and truancy issues related to a disability. Behavioral issues cannot be addressed in a segregated environment, so they are not prepared to return to their home school. .

Issues that may Arise

- General / Other
 - Schools that serve all students with disabilities through §504; IDEA eligibility not provided for any student.
 - Charters designed just for kids with disabilities: do these meet the Least Restrictive Environment requirement?
 - Charter schools that don't recognize all learning disabilities.
 - Charters that are their own LEA may run into issues accessing resources; service denials are based on lack of resources.

Questions?



Raise your hand or enter your question in the chat box
on the left side of your screen.

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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