
SPECIAL EDUCATION
TOOLKIT:
GUIDANCE FOR CHARTER
SCHOOL AUTHORIZERS

PREPARED BY THE NATIONAL CENTER FOR
SPECIAL EDUCATION FOR

NATIONAL ASSOCIATION OF
CHARTER SCHOOL AUTHORIZERS

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TABLE OF CONTENTS

Table of Contents	3
Introduction	5
Checklist by Question	6
Special Education Terminology: Commonly-Used Acronyms	7
Setting the Scene: Legal Backdrop	8
Federal Statutes and Regulations	8
Individuals with Disabilities Education Act	8
Section 504 & the Americans with Disabilities Act	9
Every Student Succeeds Act	10
State Statutes and Regulations	10
Impact of Legal Identity	10
Independent LEA	11
Part of an LEA	11
Key Considerations	12
School Design Stage	12
Human Resources	12
Curriculum and Assessment	13
Professional Development	13
Administration	13
Special Education Funding	14
Facilities	14
Transportation	14
Application Stage	15
Operations and Oversight Stage	15
School Accountability Stage – Review and Renewal	16
Non-Renewal, Revocation, and Closure	17
Exemplary Authorizer Profiles	18
Massachusetts: Proactive on Special Education Policies and Practices	18
Denver: Center-based and Hands-on Approach to Special Education	19
DC Public Charter School Board: Transparent and Intentional Oversight for Strong Special Education Programs	21
Special Education Terminology: Definitions	22
Rubric for Assessing Special Education in Charter Schools	27
Other Resources	28
Non-Profit Organizations	28
Government Entities	29
Examples of strong authorizers featured in this toolkit	29
Acknowledgements	30
Appendices	31
A. Charter School Policy Matrix by State	31
B. Special Education Funding Flow Chart	37
C. Special Education Funding in Your State: Key Questions and Variables	38
D. Special Education Funding 101: Sample Outline	39

I. Introduction	39
II. Federal Special Education Funding Statutes	39
III. Special Education Revenue Sources in [fill in appropriate state]	40
V. State Special Education Funds	40
E. Special Education Funding 101: New Jersey Example	41
F. Charter School Application Review Checklist	48
G. Sample Language for Charter Applications and Contracts	51
H. Special Education Review and Audit Policy	52
PURPOSE	52
POLICY	52
Procedures Following Identified Concern	53
I. Checklist for Revocation of Charter and Closure	54
IMMEDIATE ACTIONS	54
J. Discipline Best Practices	68
STUDENT DISCIPLINE BEST PRACTICES FOR CHARTER SCHOOLS TO EMPLOY	68
STUDENT DISCIPLINE MISTAKES FOR CHARTER SCHOOLS TO AVOID	69
K. Sample Discipline Policy FOR sTUDENTS WITH dISABILITIES	71
Generally	71
Provision of Services During Removal	71
Due Process	72

INTRODUCTION

All public schools in the United States have both a moral and legal obligation to provide quality education to students with disabilities. As the entities who approve and oversee charter schools, authorizers have the responsibility and authority to ensure that the schools under their purview are aware of and complying with these obligations.

As an authorizer, you play a critical role in the lifecycle of a charter school, from reviewing and approving applications for new charters, through ongoing oversight and monitoring practices, and ultimately the decision-making processes to determine whether or not a school has earned the right to continue serving students.

All authorizers must be informed and prepared with the tools necessary to evaluate the services offered for students with disabilities, provide guidance to schools regarding best practices and standards, and address shortcomings or areas for improvement.

This toolkit provides a framework for authorizers at each stage of the charter lifecycle, and the tools to do this work.

CHECKLIST BY QUESTION

Below are common questions this toolkit will help you answer.

- I need help understanding the overall role of the authorizer and charter schools regarding special education.
- What is the legal framework impacting the role of the authorizer in special education? What is the role of federal law? What is the role of state law?
- What is the legal identity of charters in my state and how does this impact provision of special education? How can I find out the legal status of charter schools in my state?
- How does funding flow to charter schools?
- What should I be looking for at the school design stage?
- What are the key elements of a charter application related to special education? Is there a checklist to review an application?
- What language should be included in a charter contract?
- What should I be monitoring and reviewing during the operations and oversight stage of a charter?
- What are some guidelines or red flags that there are problems with special education in a school I oversee?
- What do I need to know about renewal and closure of a school I oversee? Is there a checklist for closing a school?
- Who does this work well? What does good look like for authorizers addressing special education?
- What tools are available to provide support for authorizers interested in ensuring that they effectively address special education?

SPECIAL EDUCATION TERMINOLOGY: COMMONLY-USED ACRONYMS

For definitions of these and other terms, see [*“Special Education Terminology: Definitions.”*](#)

ADA	Americans with Disabilities Act
ED	U.S. Department of Education
EIS	Early Intervening Services (could also be Early Intervention Services)
ESSA	Every Student Succeeds Act (the most recent reauthorization of the Elementary and Secondary Education Act [ESEA])
504	Section 504 of the Rehabilitation Act of 1974
FAPE	Free Appropriate Public Education
FERPA	Family Educational Rights and Privacy Act
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
LEA	Local Education Agency (school district)
LRE	Least Restrictive Environment
NAPCS	National Alliance for Public Charter Schools
NLCB	No Child Left Behind (the previous reauthorization of the Elementary and Secondary Education Act [ESEA])
OCR	Office for Civil Rights
OSEP	Office of Special Education Programs
RTI	Response to Intervention
SEA	State Education Agency

SETTING THE SCENE: LEGAL BACKDROP

A combination of federal, state, and local statutes and regulations guide how special education is provided in public schools.ⁱ Charter schools are public schools and therefore must abide by the same laws and regulations. **It is essential to understand this legal background to ensure that your authorizing practices and the practices of the schools in your portfolio comply with applicable laws.**

FEDERAL STATUTES AND REGULATIONS

The federal laws guiding the provision of special education grew out of the civil rights movement, as protections increased for students with disabilities and other minorities in the recognition that segregation led to unfairness and inequalities in public education.ⁱⁱ

Four federal laws primarily influence how special education is provided in all public schools, both charter and non-charter:

1. Individuals with Disabilities Education Act (IDEA)
2. Elementary and Secondary Education Act (ESEA) recently reauthorized as Every Student Succeeds Act (ESSA)
3. Section 504 of the Rehabilitation Act of 1973 (Section 504)
4. Americans with Disabilities Act (ADA).

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

IDEAⁱⁱⁱ is the primary federal law impacting special education in public schools and provides students with a wide range of disabilities access to a public education in line with that of their non-disabled peers.^{iv} IDEA provides financial assistance to states^v to guarantee special education and related services to students with disabilities; any state receiving funds under IDEA must follow the requirements established by the law.

The 1997 amendments to IDEA made it clear that charter schools are covered under the law and made specific reference to a charter school's legal status as an LEA or part of an LEA.^{vi} See Section C for a discussion of the impact of LEA status.

Under IDEA, school districts serve as the primary vehicle for students with disabilities, ages three to 21, to access essential supports and interventions. Services typically referred to as “special education and related services,” are provided to enable children with certain categories of disabilities to access public education to the same extent as their peers without disabilities. IDEA also provides due process protections for the identification, evaluation, and placement of students with disabilities by requiring written notice of these rights and creating procedural requirements for resolution of conflicts.

The basic requirements of IDEA include:

- **Child Find:** States are required to develop policies and procedures to identify, locate, and evaluate children ages birth to 21 who are eligible to receive special education supports and services, with a focus on early identification and intervention. States generally use a combination of outreach efforts and work with existing entities serving children in order to inform parents of available services. After a child has been identified as eligible for services under IDEA, the school must provide the full range of support required.
- **Individualized Education Program (IEP):** IDEA requires that any student receiving special education services be given an IEP that addresses the student’s unique situation and needs. The IEP is a legally binding document that spells out the student’s learning needs, services that will be provided, and how progress will be measured. The document is created by a team of educators, administrators, service providers, and parents and serves as the blueprint for how the student’s educational needs will be met.
- **Free Appropriate Public Education (FAPE):** Public schools are responsible for providing students with disabilities a free and appropriate education, which includes all of the services and programs identified by the IEP team as necessary to meet the child’s needs. These services must be provided by the public education system at no cost to the student’s family. The details of how this applies in practice are the subject of litigation, but cost is not allowed to serve as a factor of appropriateness.
- **Least Restrictive Environment (LRE):** This requires students with disabilities to be educated along with non-disabled peers to the maximum extent appropriate for each child’s needs, drawing on accommodations, modifications, and supports as needed.

SECTION 504 & THE AMERICANS WITH DISABILITIES ACT

Section 504^{vii} and the ADA^{viii} are federal civil rights statutes that provide protection against discrimination for individuals with disabilities and disabling conditions.

Section 504 and the ADA function more broadly than IDEA to include any individual who has a physical or mental impairment that substantially limits one or more life activities, including learning. This language can cover disabilities that do not fall under one of the 13 specific categories listed in IDEA, such as a child suffering from a chronic illness or physical impairment resulting from cerebral palsy. These civil rights laws cover children who attend charter schools to the same extent as children in any other public school.

Section 504 and the ADA are applied almost identically in a public school context—ensuring that no otherwise-qualified individual with a disability shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. These statutes provide for reasonable accommodations to provide physical access to facilities, but stop short of requiring accommodations that would “fundamentally alter” a particular program.

Section 504 has requirements for child find, evaluation, FAPE, and LRE similar to those found under IDEA, although Section 504 does not provide funding and no IDEA funds can be used for students eligible only under 504.

EVERY STUDENT SUCCEEDS ACT

The Elementary and Secondary Education Act of 1965 (ESEA), reauthorized as the Every Student Succeeds Act (ESSA) in 2015, is a federal statute designed to provide states, districts, and schools with additional funding to benefit children living below or just above the federal poverty level.^{ix}

Over the last five decades, ESEA has evolved to contain multiple “titles” (i.e., specific funding streams) developed to help at-risk students, such as students at risk due to poverty, migrant children, English learners, and neglected children. The statute prioritizes accountability for results, expanded choice for parents, greater local control and flexibility, and implementation of effective practices based on scientific research.

ESEA largely defers to IDEA and the other statutes outlined above with regard to educating students with disabilities. The law does, however, provide for a special education category for accountability purposes, which specifically requires demonstration of academic progress for students with disabilities.

STATE STATUTES AND REGULATIONS

States are responsible for provision of special education services under IDEA and must create appropriate statutes and regulations to guide its implementation. States differ on how closely they align with the requirements of IDEA and some have expanded the scope.

Charter schools, however, did not exist at the time IDEA and most of the related state laws and regulations were passed; there has been very little state-level legislation addressing how policies affect public charter schools. The result is that many of these laws do not take the complicated nature of the relationship between a charter school and the entity that authorizes it into account. Authorizers must understand their specific state laws and regulations and how they apply to the charter schools under their purview. **The key consideration for most charter schools is how the state recognizes the legal identity of the school, otherwise known as its “LEA status.”** See Section C for more detail.

IMPACT OF LEGAL IDENTITY

The public education system consists of State Education Agencies (SEAs), school districts or other Local Education Agencies (LEAs), and schools that are part of an LEA.

Traditionally, the LEA was responsible for educating all of the children residing within its geographical boundaries. Charter schools, however, are schools of choice whose responsibility is limited to those students who attend their school. IDEA assigns primary responsibility for implementation of its requirements to the states, which in turn largely delegate those

responsibilities to individual LEAs. How a charter school fits into this structure, therefore, is critical to understanding the schools' responsibilities for special education.

Individual state charter laws typically determine whether a charter school is its own LEA or part of a larger LEA. To further complicate matters, a few states, such as New York and New Hampshire, use a more complex arrangement where charter schools are their own LEA for some purposes and part of an LEA for others. Additionally, some states allow for the charter schools or the entity that authorizes them to choose their LEA status, which can mean that schools within the same state have different legal status.

Unsure of your status? See Appendix A for a list of entity status by state.

INDEPENDENT LEA

States that give charter schools legal autonomy by giving them status as independent LEAs treat such schools like their own district. These schools are given both the independence and the obligations, including significant programmatic and financial responsibilities that go with that status.

Public charter schools acting as an independent LEA enjoy more freedom in areas such as curriculum design, hiring, and program implementation, but are responsible for the full continuum of services for students with disabilities analogous to a multi-school district. Charter LEAs typically receive state and federal funds directly and have control over how those funds are distributed. While preserving autonomy, this arrangement can carry significant financial implications and loss of economies of scale.

AUTHORIZER AS LEA

Example: Denver Public Schools (DPS) serves as the authorizer for approximately 60 charter schools in Denver. It also functions as LEA for each of those schools.

DPS takes an interesting and unusual approach to serving students with disabilities in charter schools. DPS expects all schools, including charters, to meet the needs of students with mild to moderate disabilities. Students with higher needs are served in centers that are located within some district and charter schools. Each center offers specialized expertise and services. Students are placed by the IEP team in a particular program, with input from parents.

PART OF AN LEA

In other states, the district, often also serving as the school's authorizer, is the LEA and retains primary responsibility for special education. This arrangement— where the charter school is part of a larger, multi-school LEA—limits the obligations of the charter school and allows economies of scale for services such as human resources, transportation, and legal counsel through the district. Being part of an LEA also limits autonomy, however, by making the school adopt the district's approach to educating students with disabilities including relying on the district for evaluations,

service delivery, and other measures. Given that the mission of charter schools is to develop new and innovative programs for students, this loss of autonomy can have a significant impact on the goals of the charter school.

KEY CONSIDERATIONS

This section identifies the ways that you, as authorizer, can approach special education in the schools you authorize. These considerations follow the life cycle of a charter school, from initial program design to renewal or closure.

This section should be read closely with the rubric found at the end of this document that provides very detailed point by point guidance on how to approach each of the elements identified below. For each, you can click on the link that will take you to that element of the rubric that takes you to information about the challenges presented, what “good” looks like in response to that challenge and other key considerations. Reviewing this document in electronic format allows the most user-friendly way to access the information.

SCHOOL DESIGN STAGE

The school design process encompasses the planning activities preceding the submission of a charter application to an authorizer. This stage grows increasingly structured as potential charter school applicants work to turn their vision of a school into a concrete plan that can be implemented. This is a critical stage in the creation of a charter school, with numerous important design considerations. As authorizer, you should make your expectations on design elements clear to potential charter founders.

HUMAN RESOURCES

- How many students with disabilities should the founders estimate that the school will enroll?
- What verifiable data sources are the founders citing to determine this?

If the school will be responsible for providing special education:

- How many special education teachers will the school need to employ?
- What kind of certification will the special education teachers need?
- What are the state’s teacher and special education teacher qualifications standards?
- Can the school hire dual-certified teachers?
- Can the school hire part-time or retired special education teachers?
- Will the school need to hire staff for health-related issues?
- What are the implications for salaries and benefits if the school hires full- versus part-time employees?

- How will the school mitigate against potential difficulties in hiring qualified and certified special education teachers?

If an LEA will be responsible for all, or part of, special education in the school:

- Will the school be required to contract with an LEA for the purposes of special education?
- If the school needs to work with an LEA, how does it negotiate with the LEA to ensure its students will receive appropriate services?

CURRICULUM AND ASSESSMENT

- What curricula and instruction will the school offer?
- How will the school modify the curriculum and instructional delivery to address the unique needs of children with disabilities? Who will be responsible for overseeing these modifications and evaluating their efficacy?
- How can the school train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?
- How will the school include children with disabilities in required assessments or develop alternate assessment?
- How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?

PROFESSIONAL DEVELOPMENT

- How will the school provide teachers with professional development?
- How will the school evaluate teachers' professional development needs?
- Will teachers need any specialized professional development related to educating and including children with disabilities?
- Does the district or the state operate a professional development program or network that the school can utilize?

ADMINISTRATION

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

SPECIAL EDUCATION FUNDING

- How will federal, state, and local special education dollars flow?
- What does the school need to budget for special education during the first year of operation?
- Does the school need to prepare financially to enroll a student or students with significant special needs?

Special education funding is complex, and it is critical for authorizers to understand how funding flows to charters in their state, especially as it relates to special education. Being informed about special education funding will help provide guidance to schools to ensure that all available revenue is captured and correctly allocated.

For more information on special education funding, see:

- *Appendix B, Special Education Funding Flow Chart*
- *Appendix C, Key Questions and Variables to Consider Regarding Special Education Funding in Your State*
- *Appendix D/E for a sample funding overview*
- *NCSECS’s Charter School Special Education Finance Project for state-specific funding information, available at <http://www.ncsecs.org/state-data>*

FACILITIES

If the school will be responsible for special education evaluations and services:

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

TRANSPORTATION

If the school is responsible for special education services:

- How will the school meet transportation needs of students who receive transportation as a related service articulated on their IEP?
- Where will the school access transportation for a student in a wheelchair?

APPLICATION STAGE

Once a school model is fully developed, the individuals seeking to found the school must submit a formal charter application to an authorizer. The authorizer should review the application to ensure that the considerations listed in Section A have been cohesively incorporated into the plan and are addressed throughout the application.

By requiring substantial information as part of the charter application, authorizers have a unique opportunity to require applicants to incorporate special education into their overall planning of the school model, rather than add it later to existing policies and procedures.

Authorizers should require applicants to submit:

- Plan to evaluate and identify children with disabilities
- Plan to develop, review, and revise IEPs
- Plan to integrate special education into the general education program
- Plan to deliver special education and related services (e.g., in-house or contract out)
- Projected cost of special education program (e.g., percent of operating budget)
- Plan to access and account for special education funds
- Plan to ensure that the school facility meets the requirements of other related laws such as ADA and Section 504
- Plan for enrollment/IEP transition procedure
- Plan to address discipline for students with disabilities
- Plan to ensure confidentiality of special education records
- Plan to purchase services from special education vendors
- Plan to secure technical assistance and training

For additional guidance, see:

- Appendix F, Charter School Application Review Checklist
- Appendix G, Sample Language for Charter Applications and Contracts

OPERATIONS AND OVERSIGHT STAGE

Once a charter school opens and students arrive, your responsibility as authorizer shifts to overseeing the school and holding it accountable for the goals and objectives outlined in the charter. **As charter agreements are essentially performance contracts, authorizers are responsible for ensuring that charter operators fulfill their responsibilities articulated in the contract. It is important that each charter school's specific level of responsibility for special education be included in the charter school accountability plan.**

Charter authorizers' responsibilities for special education related paperwork depend on who the authorizer is in the larger state public education structure (e.g., a state board of education, a local education agency, an appointed board, or other entity). If a charter school is part of an LEA, the charter school and the district may share responsibility for special education paperwork. However, in many cases, charter schools are solely responsible for completing and submitting their own

paperwork. **Authorizers unsure about their specific responsibilities should contact their state for guidance.**

Monitoring is a crucial aspect of an authorizer's responsibilities with regard to special education. A school's legal status as either an LEA or a school within an LEA is critical here. An authorizer that is an SEA or an LEA is likely familiar with the federal and state special education monitoring process. The federal Office of Special Education Programs (OSEP) monitors every state on its compliance with IDEA requirements. In turn, each state must monitor how its districts comply. Charter schools are held accountable for special education in the same manner as all public schools: they must demonstrate that they comply with IDEA. Each state designs the way it will monitor LEA compliance. For example, state departments of education often send a team to review LEA procedures in order to ensure that LEAs comply with special education legal requirements. Each LEA is reviewed on a regular cycle and a report documenting the findings is issued after the review. The monitored entity must correct any identified compliance violations.

You should consider:

- Compliance with IDEA / Section 504 / ADA
- Counseling out students with disabilities
- Change of placement procedures
- Charter school program adaptation and modification
- Assurances to families interested in applying to the school that the charter school welcomes students with disabilities and is prepared to offer reasonable accommodations to children with disabilities who elect to attend the school
- Suspensions and expulsions of students with disabilities
- Informal limits placed on access to the school's program, such as shortened school day for students with disabilities and in-school suspensions that function as substantive suspensions
- Provision of mandated transportation (as a related service)
- Facilities access measures as needed

SCHOOL ACCOUNTABILITY STAGE - REVIEW AND RENEWAL

Most charter laws do not specifically require authorizers to consider special education in the renewal process. Rather, the laws require that authorizers assess the degree to which the charter school is meeting its goals and objectives and its compliance with federal and state laws. **Special education and specifically the performance of students with disabilities should be considered explicitly as a regular part of the school's progress toward meeting its overall goals and not an afterthought.** Failure to fulfill obligations related to special education could be a criterion contributing to non-renewal.

You should consider:

- Has the charter school consistently followed its own policies regarding special education?
- Has the charter school been the subject of any informal or formal complaints related to special education service delivery or procedures?

- If there have been problems with special education considerations, how has the school addressed them?
- Is there evidence of parents expressing satisfaction or frustration with the school over special education issues?
- Throughout the charter term, has enrollment of students with disabilities lagged behind that of the local district?
- Has the school retained the students with disabilities that have enrolled?
- Have students with disabilities performed well academically?

See Appendix H, *Special Education Review and Audit Policy*

NON-RENEWAL, REVOCATION, AND CLOSURE

If efforts to improve under a corrective action plan or other similar measures are unsuccessful, the authorizer may elect to close the school. Depending on available corrective measures and the severity of the problem, this may be accomplished through non-renewal (not renewing the charter during the normal renewal cycle), revocation (authorizer proactively removes or terminates the charter outside of the normal renewal cycle), or relinquishment (school voluntarily releases or surrenders its charter).

If a charter school ceases to exist, there are several considerations relative to students with disabilities that you as authorizer should consider:

- Closing procedures, including specific responsibilities for student records and the allocation of other school property should be addressed in the school's charter;
- How the school will ensure that records of students with disabilities are appropriately transferred. All students' educational records are protected by the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) that stipulates how the records are to be handled appropriately. Charter school personnel are responsible for closing and preparing files for transfer to either the next school or the LEA or SEA special education office in accord with these regulations. Information about FERPA is available online at: www.ed.gov/policy/gen/guid/fpco/ferpa/index.html;
- Specific accounting for special education funds, including how dollars were spent and the disposition of materials and equipment purchased with these dollars;
- How any special equipment purchased for students with disabilities will be distributed, especially any purchases made with federal dollars. Typically, this equipment should follow the child to his or her next public school placement. This is especially critical when federal funds were used;
- Any continuing legal obligations of the charter school to students with disabilities, such as participating in IEP staffing meetings at schools in which the students enroll after leaving the closing school.

See Appendix I.

EXEMPLARY AUTHORIZER PROFILES

MASSACHUSETTS: PROACTIVE ON SPECIAL EDUCATION POLICIES AND PRACTICES

The Massachusetts Department of Education (MDE) has the widest possible scope of authority for charter schools and special education. It serves as authorizer for all of the 81 charter schools in Massachusetts and, as the state education agency (SEA), it also has statewide oversight authority for special education for all public schools.

MDE takes a proactive approach to these special education responsibilities and in many respects, serves as a model for states interested in setting high standards and articulating a clear, detailed set of policies and practices for serving students with disabilities in charter schools.

The relevant elements of MDE are its Office of Charter Schools & School Redesign and its Office of Special Education Planning & Policy. These offices work in tandem to provide the information charter schools need in order to serve students with diverse needs and to hold them accountable for doing so.

MDE has created an extensive array of guidance documents, compliance forms and helpful tools for use by charter schools, most of them accessible online. Many of these resources are available in the “Access and Equity” section of the MDE’s “Massachusetts Charter Schools” web page. See: <http://www.doe.mass.edu/charter/sped/default.html?section=rights>.

One particularly valuable offering is the three-part Massachusetts Primer on Special Education and Charter Schools, which can be accessed at that web page. The first section

of the primer focuses on general information, the second part on information for state officials (such as special education authorities and authorizer staff) and the third part on charter school operators. Each section provides extensive links to further guidance, legal provisions, and other resources. Taken together, these narratives comprise a comprehensive guide to addressing special education in the state’s charter schools.

Beyond the primer, MDE offers resources on such topics as recruitment and retention plans for students with disabilities, information about metrics for how applicants for charter schools and for renewal of those schools will be judged regarding special education offerings and compliance, guidance on out-of-district placements, financial considerations, site visit protocols and observation forms, accountability and renewal, and more.

The contrast between the level of attention paid by MDE to special education policies and processes and that of many other authorizers is stark. Too often, special education is an afterthought for charter schools and authorizers alike. Even where it is a primary concern, most authorizers do not articulate the details of their standards and practices in a way that alerts schools to what is expected of them. Ultimately, that laxity has a negative impact on the children with disabilities who attend or seek to attend charter schools.

Authorizers such as MDE that proactively make special education a priority show what’s possible.

DENVER: CENTER-BASED AND HANDS-ON APPROACH TO SPECIAL EDUCATION

Denver Public Schools (DPS) serves as authorizer for approximately 60 charter schools in Denver. It also functions as the Local Education Agency (LEA) for each of those schools.

DPS takes an interesting and unusual approach to serving students with disabilities in charter schools. DPS expects all schools, including charters, to meet the needs of students with mild to moderate disabilities. Students with higher needs are served in centers located within some district and charter schools. Each center offers specialized expertise and services. Students are placed by the IEP team in a particular program, with input from parents.

This center-based approach to enrollment and service delivery has a number of elements that differ considerably from how these issues are handled in most chartering environments. First, the DPS structure makes charter schools more linked to other district schools. Each center serves the larger district as part of the network of specialized centers. So, a center located in a charter school may contain students from district schools, from alternative “innovation schools” in Denver, and/or from other charter schools. That center may have a focus on autism, visual impairments, or multiple disabilities. Students from across Denver may access it.

Second, this clustering approach means that parents of students with severe disabilities may not be able to choose a particular charter school for their children. If a student with profound autism seeks to attend Charter School A, but Charter School A lacks the specialized program she needs, the student will be placed in a school—charter or district, that hosts an appropriate center. This is trade

off: it allows for more focused resources but limits parental choice for a small percentage of families. Most students with disabilities in DPS schools have mild to moderate needs, and these students participate in the same district-wide common enrollment process as students without disabilities.

The approach that DPS takes to serving students with significant disabilities in charter schools is relatively new. Up until roughly five years ago, DPS would have placed such students in a handful of centralized district schools designed to serve high needs population. Now, the centers distribute programs more broadly and include charter schools as hosts. Every school pays a fee (\$300 per student) to DPS to fund the centers and other services. Schools that host a center receive funds from DPS to pay for the additional staffing needed to run the program.

Another important element of the way DPS approaches special education in charter schools is its use of “partners” employed by the district and assigned to work with cohorts of charter schools. These partners engage in a mix of compliance monitoring, support, and best practice coaching. They also sometimes serve in an intermediary role with parents, taking part in challenging IEP meetings. The district also relies on “associate partners” who visit schools and offer periodic trainings. As with its unique enrollment process, this hands-on approach to supporting charter school special education programs is a trade-off: it offers supports that help schools deal with the many compliance and programmatic challenges they face but it may also make it difficult for the authorizer to retain the distance needed to evaluate schools and hold them accountable for their performance. It is a difficult balance to achieve.

DPS provides a good example of an innovative approach to special education by a district authorizer that also serves as the LEA for the schools it oversees. **Their center-based,**

hands on approach to their work demonstrates the opportunities and flexibility that charter authorizers can have in driving positive outcomes for students with disabilities in charter schools.

DC PUBLIC CHARTER SCHOOL BOARD: TRANSPARENT AND INTENTIONAL OVERSIGHT FOR STRONG SPECIAL EDUCATION PROGRAMS

The DC Public Charter School Board (DC PCSB) is an independent authorizer that oversees 118 schools in Washington, DC, each of which operates as its own LEA.

The DC PCSB has earned a reputation as a quality authorizer that is very intentional in their oversight practices, especially as they relate to students with disabilities. They take a proactive approach to ensuring schools under their purview are providing strong and legally compliant special education programs and utilize the autonomy and innovative capacity of the charter sector to set a high standard. As stated on their website: “Because charter schools are autonomous, authorizers, if using best practice, do not dictate how they operate. Instead, they hold schools responsible for meeting the goals articulated in their charter.”

In order to accomplish these goals, DC PCSB has introduced a level of transparency that has motivated schools to examine their own practices and results as they relate to marginalized populations such as students with disabilities and English language learners. Annual “Equity Reports” gather and disseminate data measuring educational equity in areas such as attendance, discipline, student movement, and academic growth. This practice is not punitive; rather it creates motivation for schools to evaluate and take responsibility for how they compare to their peers, and to make changes as necessary. Discipline rates are one area in which clear data available through the Equity Reports helped change practice and, as a result, DC PCSB has seen a dramatic reduction in suspensions and expulsions.

DC PCSB also utilizes an innovative “mystery shopper” program to test schools’ responses to the potential enrollment of students with disabilities. DC PCSB staff posing as parents call individual schools and inquire about enrolling a child with a disability. If a school provides an inappropriate response that could create a barrier to enrollment, DC PCSB works with that school to provide opportunities for re-training or potentially issues a Notice of Concern that becomes part of the consideration during the renewal process. Schools are given appropriate notice and opportunity to train their staff and have responded positively to the feedback and opportunity to communicate appropriately and legally.

The DC PCSB takes their role seriously, not only with the schools they oversee but also by serving as a national role model for charter school authorizing and accountability. They share their successes and resources with the charter community and invite other authorizers to visit and learn about their program.

Their resources and tools are available on their website, including their Best Practices and Resources Guide, which includes sample forms for the Equity Reports, scripts for the mystery shopper program, and sample site visit materials. Additionally, there is a section of their website dedicated to special education where tools such as the Special Education Audit Policy (Appendix H), Quality Assurance Review (QAR), and other tools related to oversight/compliance and quality assurance are available.

SPECIAL EDUCATION TERMINOLOGY: DEFINITIONS

Note: The following glossary is an updated and expanded version of the glossary included in the Primer for Charter School Authorizers: Special Education Requirements and Including Students with Disabilities in Charter Schools from the National Association of State Directors of Special Education.

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

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

ALTERNATE ASSESSMENT: Tests that gather information on the standards-based performance and progress of students whose disabilities preclude their valid and reliable participation in general assessments. Alternate assessments measure the performance of a relatively small population of students who are unable to participate in the general assessment system, with or without accommodations, as determined by the IEP Team. There are different types of alternate assessments a state may adopt under the federal requirements. First, states must make available an alternate assessment based on grade level achievement standards. Then, states may develop two other alternates: the "alternate assessment based on alternate achievement standards" designed for students with the most significant cognitive disabilities and the "alternate assessment based on modified achievement standards" for students who cannot be expected to achieve grade level standards within one school

year and who need a less complex assessment to demonstrate their knowledge of those standards.

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

ASSISTIVE TECHNOLOGY DEVICE: Any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device [34 CFR §300.5].

ASSISTIVE TECHNOLOGY SERVICE: Any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device [34 CFR §300.6]. It includes evaluation, purchasing, training, and other services related to the acquisition and use of such devices.

AUTHORIZER: The office or organization that accepts applications, approves, exercises oversight and, after the period of approval, decides on renewal or revocation of a charter school. Some states use different terms for this role, e.g., sponsor.

AUTISM: According to the 2006 IDEA regulations 34 CFR §300.8(2)(c): (i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in

daily routines, and unusual responses to sensory experiences. (ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section. (iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

CHARTER SCHOOLS: Charter schools are independent public schools designed and operated by educators, parents, community leaders, educational entrepreneurs, and others. They are authorized/sponsored by designated local or state educational organizations who monitor their quality and effectiveness, but allow them to operate outside of the traditional system of public schools. Most states use the term "charter school" although there are other terms in use for this type of school, such as "community school" used in Ohio and "public school academy" in Michigan.

CHILD WITH A DISABILITY: A child evaluated in accordance with IDEA regulations §§300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services [34 CFR §300.8(a)(1)]. (See also STUDENT WITH A DISABILITY)

DEVELOPMENTAL DELAY: Child with a disability for children ages three through nine (or any subset of that age range, including ages three through five), may include a child: (1) Who is experiencing developmental delays, as defined by the state and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and (2)

who, by reason thereof, needs special education and related services [34 CFR §300.8(b)].

In addition: A State that adopts a definition of developmental delay under §300.8(b) determines whether the term applies to children ages three through nine, or to a subset of that age range (e.g., ages three through five). A state may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction. If an LEA uses the term developmental delay for children described in §300.8(b), the LEA must conform to both the state's definition of that term and to the age range that has been adopted by the state. If a state does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part [34 CFR §300.111(b)].

EARLY INTERVENING SERVICES (EIS): A new section of the 2004 reauthorization of the IDEA that provides that an LEA may use not more than 15 percent of the amount the LEA receives under Part B of the IDEA in combination with other amounts (which may include amounts other than education funds) to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment [34 CFR §300.226].

EARLY INTERVENTION SERVICES: Programs and services provided to infants and toddlers under Part C of IDEA who are experiencing developmental delays or have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

EMOTIONAL DISTURBANCE: A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: (A) An inability to learn that cannot be explained by intellectual, sensory,

or health factors. (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers. (C) Inappropriate types of behavior or feelings under normal circumstances. (D) A general pervasive mood of unhappiness or depression. (E) A tendency to develop physical symptoms or fears associated with personal or school problems. (ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section [34 CFR §300.8(c)(4)].

FREE APPROPRIATE PUBLIC

EDUCATION: Special education and related services that (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA; (c) Include an appropriate preschool, elementary school, or secondary school education in the state involved; and (d) Are provided in conformity with an individualized IEP that meets the requirements of IDEA §§300.320 through 300.324 [34 CFR §300.17].

HEARING IMPAIRMENT: An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section [34 CFR §300.8(c)(5)].

INCLUSION: Under special education, an approach that stresses educating students with disabilities, regardless of the type of severity of that disability, in the regular classrooms of their neighborhood schools and delivering special education and related services within the classroom to the extent possible.

INDIVIDUALIZED EDUCATION PROGRAM

(IEP): A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with IDEA regulations.

INTELLECTUAL DISABILITY: Significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational

performance [34 CFR §300.8(c)(6); S. 2781 — 111th Congress: Rosa's Law].

LEAST RESTRICTIVE ENVIRONMENT

(LRE): The IDEA requires that, to the maximum extent appropriate, school districts must educate students with disabilities in the least restrictive environment, i.e., in the regular classroom with appropriate aids and supports (referred to as "supplementary aids and services") along with their non-disabled peers in the school they would attend if not disabled, unless a student's IEP requires some other arrangement. See the IDEA regulations at 34CFR §§ 114 through 120.

LINKAGE: The type of connection mandated by state law or voluntarily established between a charter school and a traditional LEA.

LOCAL EDUCATION AGENCY (LEA):

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

MODIFICATION: A change to the testing conditions, procedures, and/or formatting so that measurement of the intended construct is no longer valid and the score cannot be aggregated with scores from tests administered under standard conditions.

MULTIPLE DISABILITIES: Multiple disabilities refers to concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities do not include deaf-blindness [34 CFR §300.8(c)(7)]

OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP):

The section of the U.S. Department of Education responsible for the implementation of the IDEA. It carries out activities related to state eligibility for IDEA funds and monitoring state compliance with IDEA requirements.

ORTHOPEDIC IMPAIRMENT: A severe orthopedic impairment that adversely affects a child's educational performance. This includes impairments caused by a congenital anomaly, by disease (e.g., poliomyelitis, bone tuberculosis), and from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). [34 CFR §300.8(c)(8)]

OTHER HEALTH IMPAIRMENT (OHI): Having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that (i) is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (ii) Adversely affects a child's educational performance [34 CFR §300.8(c)(9)].

QUALIFIED PERSONNEL: Under IDEA, personnel who have met SEA-approved or SEA-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education or related services.

RELATED SERVICES: Transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education; includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training [34 CFR §300.34(a)].

RESPONSE TO INTERVENTION (RTI): A practice of providing high-quality instruction and intervention matched to student needs using data

on the child's learning rate and level of performance to make important educational decisions about the necessity for more intense interventions or as part of evaluating eligibility for special education.

SPECIAL EDUCATION: Specially designed instruction, provided at no cost to the parents, to meet the unique needs of a child with a disability, including (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) Instruction in physical education. (2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section: (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education [34 CFR §300.39(a)].

SPECIFIC LEARNING DISABILITY (SLD): A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of an intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage [34 CFR §300.8(c)(10)].

SPEECH OR LANGUAGE IMPAIRMENT: A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance [34 CFR §300.8(c)(11)].

STANDARDIZED TEST: A test administered with the same directions and under the same conditions (time limits, etc.) and scored in the same manner for all students to ensure the comparability of scores. Standardization allows reliable and valid comparison to be made among students taking the test. The two major types of

standardized tests are norm-referenced and criterion-referenced.

STATE EDUCATION AGENCY (SEA): The component of state government primarily responsible for the state supervision of public elementary and secondary schools.

STUDENT (CHILD) WITH A DISABILITY: In IDEA, defined as “a child evaluated in accordance with §§300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.”

Section 504 of the Rehabilitation Act of 1973 defines a "handicapped person" (outdated terminology) as "any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment."

TRANSITION SERVICES: A coordinated set of activities for a child with a disability that:

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and includes (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If

appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education [34CFR §300.43].

Under the section on the IEP, the IDEA law also provides that:

Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include

(1) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals [34CFR §300.320(a)(7)(b)].

TRAUMATIC BRAIN INJURY: An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child’s educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma [34 CFR §300.8(c)(12)].

VISUAL IMPAIRMENT INCLUDING BLINDNESS: An impairment in vision that, even with correction, adversely affects a child’s educational performance. The term includes both partial sight and blindness. [34 CFR §300.8(c)(13)].

RUBRIC FOR ASSESSING SPECIAL EDUCATION IN CHARTER SCHOOLS

This rubric addresses key special education considerations and best practices at the charter school application, operations, and renewal stages. It refers to applicable laws and regulations and links to related tools. The rubric provides distinct recommendations for LEA and non-LEA charters and is a tool to implement the suggestions contained in this toolkit.

OTHER RESOURCES

NON-PROFIT ORGANIZATIONS

National Center for Special Education in Charter Schools (NCSECS)

www.ncsecs.org

NCSECS focuses on proactively working with states, charter authorizers, special education and charter school advocates and other stakeholders to raise awareness, improve access, create dynamic learning opportunities and address barriers that may impede charter schools' enrolling and effectively educating students with disabilities. NCSECS actively reviews and comments on policy, writes papers, builds key partnerships linking the special education and charter school communities, and engages in targeted assistance in the charter sector in select regions.

National Association of Charter School Authorizers (NACSA)

<http://www.qualitycharters.org>

The primary organization representing charter school authorizers nationally. NACSA has many tools and resources geared to assist authorizers with every aspect of their work, inform policy decisions, and help develop talent.

National Alliance for Public Charter Schools (NAPCS)

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

NAPCS is the leading national nonprofit organization committed to advancing the public charter school movement and occupies a critical role: as a leader in federal education policy, as a major supporting force to improve state charter policy and advocacy, and as a prominent national voice in the policy and public discourse on public charter schools.

National Association of State Directors of Special Education (NASDE)

www.nasde.org

Organization working with state education agencies to emphasize establishing and maintaining collaborative relationships during the development and implementation of education policies and practices impacting students with disabilities. NASDE offers tools and resources to support state directors of special education by providing effective strategies to engage students, families, communities, professionals, and policymakers.

National Charter School Resource Center (NCSRC)

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

The NCSRC is dedicated to helping charter schools reach their aspirations and furthering understanding of charter schools. To meet those goals, they offer a diverse selection of objective resources on every aspect of the charter school sector. These resources are compiled from trusted sources and also originally produced by the NCSRC.

Center for Reinventing Public Education (CRPE)

www.crpe.org

CRPE is a research and policy analysis center developing system-wide solutions for K-12 public education. They have robust research and publications on many issues impacting the charter sector, including several focusing on special education.

GOVERNMENT ENTITIES

U.S. Department of Education (ED)

Department of the federal government responsible for promoting student achievement by fostering educational excellence and ensuring equal access. ED offers detailed guidance related to charter schools and serving students with disabilities.

- **Office of Special Education and Rehabilitative Services/Office of Special Education Programs (OSERS/OSEP)**
Department responsible for programs related to special education.
<http://www2.ed.gov/about/offices/list/osers/osep/index.html>
- **Office of Innovation and Improvement**
Department responsible for programs related to charter schools.
<http://www2.ed.gov/about/offices/list/oii/index.html?src=oc>

State Departments of Special Education

State-specific agencies overseeing local education agencies (equivalent of school districts) and schools within the state.

Local Education Agencies (LEA)

The individual school districts within each state that oversee schools within their purview – charter schools are either their own LEA or part of a larger LEA, which has significant impact on operations and funding.

State school support organizations/charter school resource centers

Many states and charter schools receive support from state-based organizations that combine resources geared to assist schools within their state.

**Note: Individual authorizers should locate the appropriate state-specific resources available to them.*

EXAMPLES OF STRONG AUTHORIZERS FEATURED IN THIS TOOLKIT

Massachusetts Department of Elementary and Secondary Education, Charter Schools Section

<http://www.doe.mass.edu/charter/default.html>

Denver Public Schools

<http://portfolio.dpsk12.org/our-schools/charter-schools/>

Washington, DC Public Charter School Board

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

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APPENDICES

A. CHARTER SCHOOL POLICY MATRIX BY STATE

STATE	TYPE OF AUTHORIZER(S)	LEGAL STATUS	TYPE OF LINKAGE FOR SPECIAL EDUCATION ¹	STATE SPECIAL EDUCATION FUNDING FORMULA
Alaska	LEA	Part of an LEA	Partial link	Combination of funding formula types
Arizona	State charter school board; Local school districts	LEA	No link Partial link (LEA chartered)	Multiple student weights
Arkansas	SEA charter authorizing panel	Open-enrollment schools are LEAs Conversion schools are part of an LEA	Open-enrollment schools are no link Conversion schools are total link	No separate funding formula for special education; instead, special education dollars are included in the general fund
California	LEAs or county offices of education	LEA Part of LEA for the purposes of IDEA	No link Partial link	Census-based
Colorado	LEAs; Independent chartering board	Part of an LEA	Total link	Multiple student weights

¹ Charter schools link with traditional LEAs in different ways to serve students with disabilities. Linkage may be determined by statute or by choice. LEA status and linkage determine how charter schools receive federal, state, and local funding for special education services. Special education funding may flow:

1. to charter schools directly (**no link**) - A charter school that is its own LEA has full responsibility for special education, receives federal and state funds directly from the state, and usually has no link to the traditional LEA;
2. to traditional LEAs for distribution to charter schools (**total link**) - If a charter is part of a traditional LEA, that LEA is responsible for the students with disabilities enrolled in the charter school. The LEA receives all federal, state, and local dollars, which it allocates to charter schools directly or in the form of services; or
3. a combination of the above (**partial link**) depending on the type of funding involved - A charter school may have a required or negotiated connection with the traditional LEA. The terms of partial link relationships vary across states, with state charter law typically dictating how federal, state, and local dollars are allocated relative to services provided.

STATE	TYPES OF AUTHORIZER(S)	LEGAL STATUS	TYPE OF LINKAGE FOR SPECIAL EDUCATION	STATE SPECIAL EDUCATION FUNDING FORMULA
Connecticut	State board of education	Part of an LEA	Total link	No separate special education funding; funding formula rolls special education costs into general funding
Delaware	LEA or state department of education for start-ups; LEA for conversions	LEA	No link	Resource-based
District of Columbia	State public chartering board	LEA Part of LEA for the purposes of IDEA	No link Partial link	Single student weight
Florida	LEA	Part of an LEA	Partial link	Multiple student weights
Georgia	State board of education; LEA	Part of an LEA	Total link for charters authorized through the LEA	Multiple student weights
	State chartering commission	LEA	No link for charters authorized as their own LEAs	
Hawaii	State public chartering commission Public and private postsecondary schools, county or state agencies, and nonprofit organizations may apply to the board of education for chartering authority	Part of an LEA	Partial link	No separate special education funding formula; special education funds are rolled into the general fund instead
Idaho	LEA	Part of an LEA	Total link	Census-based
Illinois	State public chartering board State public chartering commission	LEA LEA	No link No link	Funding formula is based on a combination system
	LEA	Part of an LEA	Partial link	

STATE	TYPES OF AUTHORIZER(S)	LEGAL STATUS	TYPE OF LINKAGE FOR SPECIAL EDUCATION	STATE SPECIAL EDUCATION FUNDING FORMULA
Indiana	LEAs; State public chartering board; Public and nonprofit universities; Executive of a consolidated city	LEA	No link	Multiple student weights
Iowa	LEA State board of education	Part of an LEA	Partial link	Multiple student weights
Kansas	LEA	Part of an LEA	Total link	Resource-based
Louisiana	State board of education LEA	LEA Part of an LEA	Partial link	Single student weight
Maine	Local school board within an administrative unit; A collaborative of approved authorizers; State charter school commission	Part of an LEA LEA	Total link	Single student weight
			No link	
Maryland	LEA; State board of education under limited circumstances	Part of an LEA	Partial link	Combination system
Massachusetts	State board of education (commonwealth type); LEA + local teacher union + state board (Horace Mann type)	LEA Part of an LEA	No link	Census-based
			Total link	
Michigan	Intermediate school board; Board of a community college or of a state public university; Entity created by two authorizers through an inter-local agreement	LEA Part of an LEA	No link	Percentage reimbursement system
			Total link	
Minnesota	LEA School board; Intermediate school district board or education district Eligible nonprofit organization	LEA LEA	Partial link	Percentage reimbursement system
Mississippi	College or university; Single-purpose authorizers Mississippi Charter School Authorizer Board	LEA	No link	Resource-based

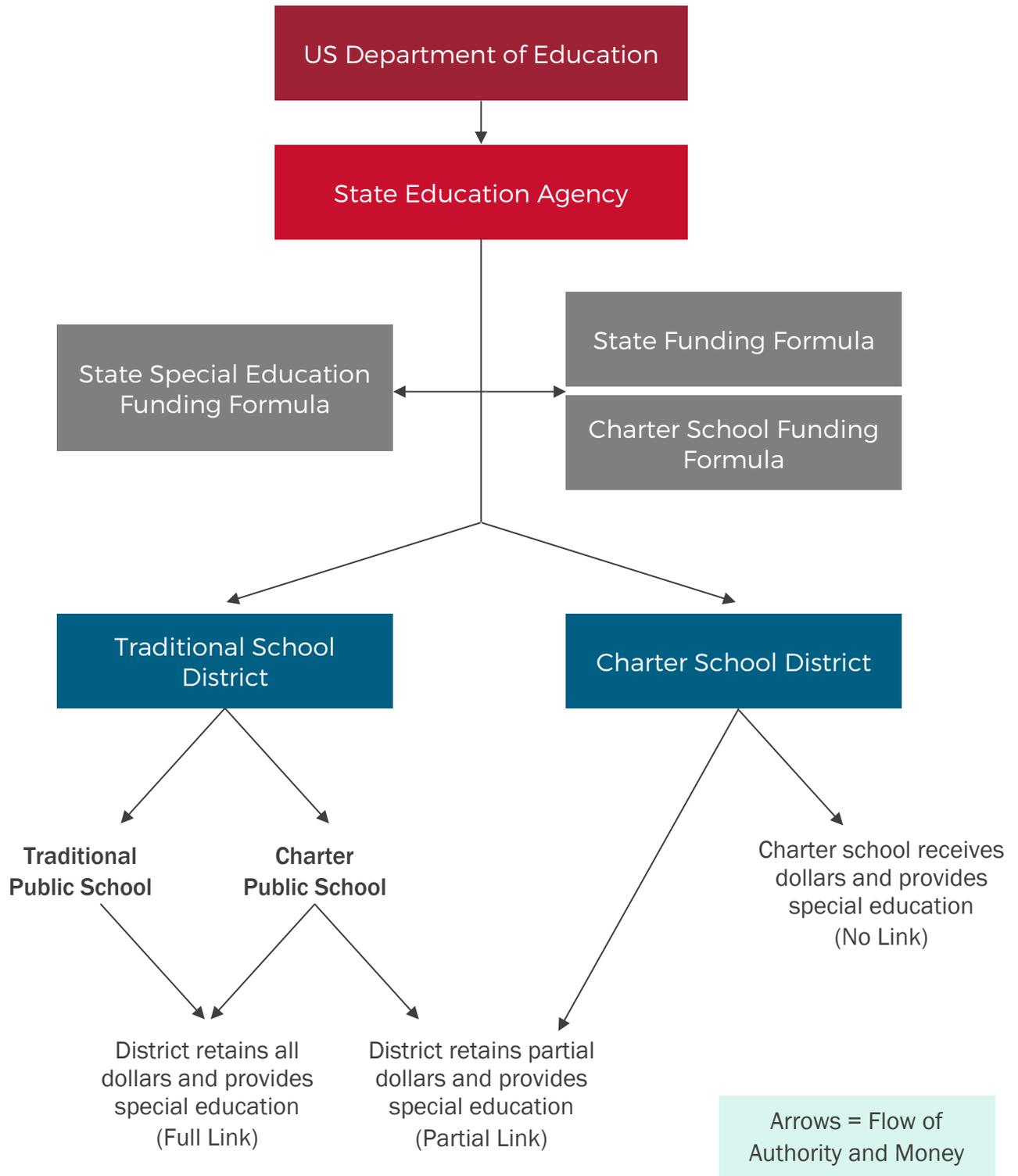
STATE	TYPES OF AUTHORIZER(S)	LEGAL STATUS	TYPE OF LINKAGE FOR SPECIAL EDUCATION	STATE SPECIAL EDUCATION FUNDING FORMULA
Missouri	1) The local school district in which the charter will reside	LEA	No link	No separate special education funding formula; special education funds and expenses are included with general funds and expenses
	2) A four-year college or university or a community college with its primary campus in Missouri	Part of an LEA	Partial link	
	3) Special administrative board of the St. Louis School District			
	4) State public chartering commission			
Nevada	LEA county school districts; Colleges and universities within the Nevada System of Higher Education; State public chartering commission	Part of an LEA	Partial link	Single student weight
New Hampshire	State	Part of an LEA	Total link	Single student weight
	LEA			
New Jersey	Commissioner of education	LEA	Partial link	Census-based
New Mexico	Public education commission;	LEA	No link	Multiple student weights
	Local school board		Partial link	
New York		Part of an LEA		Single student weight
	State University trustees; Board of Regents; LEA (with subsequent approval by the board of regents)	Part of an LEA	Partial link	
North Carolina	State board of education	LEA	No link	Single student weight
	LEA; Other LEA in the same county; Educational service center; LEA of a joint vocational district; 13 state universities named in the law	LEA	No link	
Ohio				Multiple student weights

STATE	TYPES OF AUTHORIZER(S)	LEGAL STATUS	TYPE OF LINKAGE FOR SPECIAL EDUCATION	STATE SPECIAL EDUCATION FUNDING FORMULA
Oklahoma	LEA;	LEA	No link	Multiple student weights
	Higher education entities career tech centers;		Partial link	
	Federally recognized tribes			
Oregon	LEA and state board of education by appeal	Part of an LEA	Total link	Single student weight
Pennsylvania	LEA; SEA	LEA and SEA	No link	Census-based (16%)
Rhode Island	State board of education after recommendation from the commissioner	LEA	No link	No separate special education funding formula; special education funding is included with all other funding
South Carolina	LEA ;	Part of an LEA	Partial link	Multiple student weights
	State (public charter school district)		Total link	
Tennessee	LEA	Part of an LEA	Partial link, total link	Resource-based
Texas	State authorizes open- enrollment charter schools	LEA	No link for open- enrollment charters	Multiple student weights
	LEA authorizes campus charter schools	Part of an LEA	Total link for campus charters	
Utah	LEA; State public chartering board;	LEA	No link for state board charters	Block grants
	Select institutions of higher education		Partial link for LEA charters	
Virginia	LEA	Part of an LEA	Total link	Resource-based
Washington	State public chartering commission; District boards of directors	LEA	No link	Single student weight
Wisconsin	LEAs are primary authorizers	Part of an LEA	Total link	Percentage reimbursement

	Higher education institutions	LEA	No link	
Wyoming	LEA	Part of an LEA	Total link	Percentage reimbursement

**Note: In 2015, the Washington State Supreme Court issued a ruling that the state charter school law was unconstitutional due to charter schools not meeting the definition of “common schools.” The state’s charter school law remained invalidated for that year. Bipartisan legislation in 2016 reestablished the state’s charter school.*

B. SPECIAL EDUCATION FUNDING FLOW CHART



C. SPECIAL EDUCATION FUNDING IN YOUR STATE: KEY QUESTIONS AND VARIABLES

- 1. What is the legal status (e.g., own LEA, part of an existing LEA, or a hybrid) of charter schools for purposes of special education?**
 - What is their “linkage” to a local district or LEA for purposes of accessing federal, state, and local funds and providing special education and related services?
 - If a charter school operates as part of an LEA, what is the LEA’s responsibility on special education, and what responsibility does the school have?
 - If the school operates as part of an LEA, how does the district quantify the value of the special education and related services it provides to the school?

- 2. How do charter schools in your state receive federal, state, and local funds?**
 - Do they have access to the same federal, state, and local dollars as other public schools?
 - What formula does your state use to distribute IDEA Part B and C funds?
 - What formula does your state use to distribute and reimburse state dollars?
 - Does your state fund preschool, and if so, how do charter schools access these dollars?
 - Does your state have a means to subsidize the cost of educating students with extraordinary special education needs (e.g., risk pools, high-cost aid)?
 - How do you access Medicaid reimbursement for qualified special education services?
 - If your state has a formula to reimburse schools for extraordinary costs, how do charter schools access these funds?

- 3. How do charter schools in your state submit data regarding special education enrollment and service provision?**
 - Who in a school is responsible for submitting data regarding special education enrollment and provision of services?
 - Does the school have a system to verify that data being reported is accurate (e.g., one staff member enters data and a second staff member verifies accuracy)?
 - Do district and state data reports accurately reflect the enrollment data specific to students with disabilities at the school?
 - If published reports regarding the school’s enrollment are not accurate, who do they contact to correct the data?

D. SPECIAL EDUCATION FUNDING 101: SAMPLE OUTLINE

Authorizers should use this template to create funding guidance for their state. Appendix E (funding guidance for New Jersey) is an example of how a completed version could look.

I. INTRODUCTION

Educating students with disabilities is shaped by an amalgam of federal, state, and local statutes, regulations, and negotiated agreements. This outlines the similarly complex mechanism for how public schools fund specialized programs to evaluate and support students with a diverse range of learning needs. Understanding how special education and related services are funded is critical to ensuring charter schools are allocating adequate funds to special education and accessing 100 percent of the dollars available to support these programs.

II. FEDERAL SPECIAL EDUCATION FUNDING STATUTES

- The Education of all Handicapped Children Act of 1975, renamed the Individuals with Disabilities Education Act (IDEA) in 1990, established a federal funding stream to help states, via local districts, provide services to students with disabilities. Special education and related services under IDEA are provided to enable children with a wide range of disabilities to access a free and appropriate public education to the same extent as their peers without disabilities. The IDEA establishes specific guidelines regarding educating children with disabilities and provides financial support to states. The law assigns primary responsibility for implementing the law to states, but identifies local education agencies (LEAs), frequently referred to as districts, as the entity responsible for ensuring that students with disabilities (ages 3-21) access essential supports and intervention.
- IDEA outlines state education agencies' (SEA) responsibilities to educate students with disabilities. In turn, SEAs are required to develop statutes and regulations to guide the implementation of IDEA. In some states, special education statutes align closely with IDEA; other states have expanded upon the scope of the federal law to prescribe local practice in detail. Although most state charter laws grant many charter schools waivers of state education statutes, these statutes still influence the contexts in which schools operate (e.g., state teacher training programs are typically developed to comply with state credentialing requirements).
- Allocating adequate funding to provide special education and related services is a nearly universal challenge for all public schools, including charter schools. Providing a full continuum of placements to students with a wide variety of disabilities and managing the administrative tasks associated with relevant federal and state laws can be expensive. Plus, there is no clear definition for "sufficient;" there are always opportunities to provide additional services, supports, and technologies. Students with disabilities, on average, represent 13 percent of the U.S. public school population but the cost of educating students with disabilities generally represents about 21 percent of the overall average school district budget. Moreover, while permitted by statute to support up to 40 percent of the total cost of special education, the federal government, to date, has not met this limit and in practice provides approximately 9 percent of the overall cost. States and local districts are required

to fill the gap between what is required under IDEA and the funds allocated under the statute.

III. SPECIAL EDUCATION REVENUE SOURCES IN [FILL IN APPROPRIATE STATE]

This section to be completed based on state funding sources, including whether the charter schools are their own LEAs (receiving federal and some state funds directly) and how local funds are distributed.

IV. Federal Special Education Funds in [fill in appropriate state]

- A. IDEA Part B
 - a. Use of Funds
 - b. Eligibility
 - c. Determining Funds
 - d. Fund Distribution and Reporting
- B. Medicaid
 - a. Medicaid School Program
 - b. Qualifications
 - c. Seeking Reimbursement

V. STATE SPECIAL EDUCATION FUNDS

Include state-specific governing allocation of state funds designated to support the provision of special education and related services in charter schools.

E. SPECIAL EDUCATION FUNDING 101: NEW JERSEY EXAMPLE

New Jersey Charter School Special Education Finance 101



EDUCATING STUDENTS WITH DISABILITIES is shaped by an amalgam of federal, state, and local statutes, regulations, and negotiated agreements. This brief outlines the similarly complex mechanism for how public schools fund specialized programs to evaluate and support students with a diverse range of learning needs. Understanding how special education and related services are funded is critical to ensuring charter schools are allocating adequate funds to special education and accessing 100% of the dollars available to support these programs.

Federal Special Education Funding Statutes

- The Education of all Handicapped Children Act of 1975, renamed the Individuals with Disabilities Education Act—IDEA—in 1990, established a federal funding stream to help states, via local districts, provide services to students with disabilities.¹ Special education and related services under IDEA are provided to enable children with a wide range of disabilities to access a free and appropriate public education to the same extent as their peers without disabilities. The IDEA establishes specific guidelines regarding educating children with disabilities and provides financial support to states. The law assigns primary responsibility for implementing the law to states, but identifies local education agencies or LEAs, frequently referred to as districts, as the entity responsible for ensuring that students with disabilities ages of 3-21 access essential supports and intervention.
- IDEA outlines state education agencies' (SEA) responsibilities to educate students with disabilities and in turn, SEAs are required to develop statutes and regulations to guide the implementation of IDEA. In some states, special education statutes align very closely with IDEA whereas other states have expanded upon the scope of the federal law to prescribe local practice in detail. Although most state charter laws grant many charter schools waivers of state education statutes, these statutes still influence the contexts in which schools operate (e.g., state teacher training programs are typically developed to comply with state credentialing requirements).

¹Education for All Handicapped Children Act of 1975, Pub. L. No. 94-142, 89 Stat. 773.

- Allocating adequate funding to provide special education and related services is a relatively universal challenge for traditional as well as charter public schools. Providing a full continuum of placements to students with a wide variety of disabilities and managing the administrative tasks associated with relevant federal and state laws can be expensive. Plus, there is no clear definition for sufficient; there are always opportunities to provide additional services, supports and technologies. Students with disabilities on average represent 13%² of the public school population across the U.S. but the cost of educating students with disabilities generally represents about 21%³ of the overall average school district budget. Moreover, while permitted by statute to support up to 40% of the total cost of special education, to date the federal government has not met this limit and in practice provides approximately 9%⁴ of the overall cost. States and local districts are required to fill the gap between what is required under IDEA and the funds allocated under the statute.

Special Education Revenue Sources in New Jersey

Charter schools in New Jersey are their own LEAs so they receive federal and some limited state funds directly from the state, which includes funding for students in the first year of entering charter schools from a private/nonpublic school and adjustment or hold harmless aid for some schools. Special education funding along with other categorical funds dispersed by the state and local tax levies are passed on to charter schools by resident districts.

Federal Special Education Funds in New Jersey

IDEA Part B

The Individuals with Disabilities Education Act has multiple parts. Part B is the grant program for K-12 education. The statute outlines specific provisions related to use of funds and eligibility and individual states develop formulas to distribute the aid to districts and track implementation.

Use of Funds. The purpose of IDEA funds is to supplement local and state funding to support excess costs incurred to provide special education and related services. Funds are used to provide a free and appropriate education (FAPE) for students with disabilities ages 3-21 (Basic) and 3-5 (Preschool).⁵ Part B funds can also be used to start, expand, or supplement special education and related services for students with disabilities already receiving services. Also, up to 15% of IDEA Part B funds can also be utilized to support early intervention services, frequently referred to as Response to Intervention or RTI. States are able to allocate a portion of their IDEA Part B funding to the establishment and implementation of extraordinary aid funds for high cost special education and related services as previously mentioned above.

²National Center for Education Statistics, Common Core of Data (CCD), "State Nonfiscal Survey of Public Elementary/Secondary Education," 2010-11. Retrieved July 24, 2014 from http://nces.ed.gov/programs/digest/d12/tables/dt12_051.asp.

³Parrish, T., Harr, J., Wolman, J., Anthony, J., Merickel, A., Esra, P. (2004). State Special Education Finance Systems, 1999-2000: Part II: Special Education Revenues and Expenditures. Center for Special Education Finance. Retrieved on July 28, 2014 from <http://csef.air.org/publications/csef/state/statepart2.pdf>. This percent is the general and special education costs combined for students with disabilities. Special education costs alone account for 14% of the total budget.

⁴McCann, C. (2014). Federal Funding for Students with Disabilities: The Evolution of Federal Special Education Finance in the United States. New America. Retrieved from http://education.newamerica.net/sites/newamerica.net/files/policydocs/IDEA_6_26_2014_FINAL.pdf on July 24, 2014.

⁵N.J.A.C. 6A:14

Eligibility. Each LEA must have a special education IDEA Plan that includes policies, procedures, assurances, a comprehensive system of personnel development, data collection, and an application that describes how Part B funds will be used. Each component of this plan must be approved by NJ Department of Education through respective county offices of education (e.g., Essex County).

All first year charter schools must submit programs and policies for approval to their respective country office to be eligible for Part B funds.

Determining Funds. New Jersey uses the IDEA base allocation per student (i.e., 1999 funding level) multiplied by the special education enrollment count. Any remaining funds not allocated using the base allocation are dispersed based on the LEA's proportion of students in poverty (15%) and total ADM (85%). For the year 2013-14 school year, the average amount received was \$2,735 per student with a disability or \$191 per student overall. There is a large variation in the amount of funding schools receive, however, with a minimum of \$508 to a maximum of \$5,340⁶ per student with a disability.

Fund Distribution & Reporting. Application and reporting for IDEA Part B funds is all completed using the New Jersey System for Administering Grants Electronically (SAGE). Web User Administrators (WUA) establish users in the SAGE system so that IDEA Plans, early intervention, maintenance of effort, and Basic and Preschool budgets can be submitted.⁷ Timely and accurate reporting to the state of New Jersey regarding students with disabilities is critical to ensuring school access federal and state dollars to support special education programs.

Medicaid

Medicaid School Program. Medicaid is a federally funded health care program for individuals with low incomes and limited resources. Beginning in 1988, the Medicare Catastrophic Coverage Act created the Medicaid School Program (MSP) to reimburse schools for providing specific services to students eligible for Medicaid. The program is referred to as the Special Education Medicaid Initiative (SEMI) in New Jersey. It is administered by the Department of Human Services through the Division of Medical Assistance and Health Services. For Medicaid to cover school-based services, the services must be primarily medical and not educational in nature and a qualified Medicaid provider must provide them to children in families that meet Medicaid income eligibility requirements.

Qualifications. To qualify for Medicaid reimbursement, students must have an IEP in accordance with IDEA. In order to have services reimbursed under the Federal Medicaid program, a service must meet the definition of a coverable service under section 1905(a) of the Social Security Act. Examples of services for which districts can seek Medicaid reimbursement are diagnostics services, occupational, physical, and speech therapy and mental health counseling.

Seeking Reimbursement. In New Jersey, charter schools can apply to be validated as a provider eligible to provide services and seek reimbursement from Medicaid. Medicaid reimbursements can generate significant federal dollars for certain special education and related services. However, the administrative burden associated with meeting initial and ongoing requirements associated with seeking Medicaid reimbursement can be a notable deterrent to small districts. For guidance related to Medicaid reimbursement in New Jersey, see "State of New Jersey: School Based Medicaid Reimbursement for Programs Providers Handbook." <http://www.state.nj.us/treasury/administration/pdf/semi-handbook.pdf>

⁶New Jersey Department of Education. (2014). Implementation of IDEA. Retrieved on November 11, 2014 from <http://www.state.nj.us/education/specialed/idea/>

⁷Holcomb-Gray, P. (2013). New Jersey System for Administering Grants Electronically (NJSAGE): Individuals with Disabilities Education Act - Part B Entitlement Grant FY 2013. Retrieved on November 11, 2014 from <http://www.state.nj.us/education/specialed/fund/IDEA13SAGEPres.pdf>

State Special Education Funds

Multiple factors inform the allocation of state funds designated to support the provision of special education and related services in districts and ultimately charter schools in New Jersey: 1) the census-based distribution, and 2) Extraordinary Aid funds which are both formulated in the School Funding Reform Act.

Census-Based Distribution. Under the New Jersey School Funding Reform Act of 2008, the distribution of state special education dollars shifted from a weighted funding formula, in which each student in special education received funding based on their disability, to a “census-based” formula. Multiple states have adopted this approach to reduce incentives to over-identify students and it works best in large districts that can pool and distribute resources and responsibilities across many schools. Under the census-based formula, the New Jersey Department of Education assumes that all districts provide special education and related services to 14.78% of their students. Because funding is allocated based on a predetermined rate of students with disabilities in the total school population, all necessary data for disbursement of state funds are collected through school wide counts.

School Funding Reform Act of 2008. Under the new state funding formula, the state designated special education funding as a separate categorical item within the larger formula. The state determines the actual amount provided for students with disabilities through two distinct but related calculations.

1. The first calculation—representing 2/3 of state special education funding—is provided as equalization aid⁸ for students who receive only speech services and for students that receive general special education services. Funding for both types of services are structured similarly based on the funding provided for the district in which the charter school student resides. For the general special education funding, the district special education adequacy budget is divided by the total district adequacy budget to determine a special education adequacy budget percentage. The district equalization aid and the general fund tax levy (this is the pre-budget year levy adjusted by the consumer price index for the given year) are multiplied by the adequacy budget percentage, and the two added together to give the total district special education aid. Charter schools, however, can only receive 90% of the aid allocated to the districts, so the total aid for charters is 90% of the district’s total aid. Finally, the total charter special education aid is divided by the total projected district special education enrollment for that year to determine the charter per pupil allocation. For students who receive only speech services, the adequacy budget percentage is based on the percent in which the speech adequacy budget makes up the total district adequacy budget. In the example provided on page 6, the special education adequacy budget percentage is 9.136% while the speech only is .127%.

$$\frac{\text{Special Education Adequacy Budget}}{\text{District Adequacy Budget}} = \text{Special Education Adequacy Budget \%}$$

$$\begin{aligned} & (\text{District Equalization Aid X Special Education Adequacy Budget \%}) \\ & + (\text{General Fund Tax Levy X Special Education Adequacy Budget \%}) \\ & \underline{\hspace{10em}} \\ & = \text{Total District Special Education Aid} \end{aligned}$$

⁸Equalization aid refers to the aid provided to districts based on their “ability to pay” or their relative wealth – a district’s “state share” percentage determines how much equalization aid it gets

2. The second calculation—accounting for the remaining 1/3 of funding—is provided as categorical aid. Charter school enrollment in special education

as a percentage of the total district special education enrollment is multiplied by the total district special education categorical aid budget. Unlike the equalization aid, categorical aid enrollments are based on the projections funded in the prior year. All state categorical aid or federal funds attributable to a specific student (e.g., students with disabilities) must be paid to the charter school by the district of residence.⁹

$$\text{District Special Education Categorical Aid} \times \text{Charter Enrollment as \% of District} = \text{Categorical Aid}$$

Extraordinary Aid. New Jersey allocates extra funds to districts/charters for students with disabilities who require services outside of their school. For in-district public or private placement where the student is educated along their non-disabled peers, the state covers 90% of total costs for providing direct instructional and support services that are in excess of \$45,000. For specialized public school programs, often referred to as center-based programs, specifically designed for students with disabilities, the state will pay 75% of costs that are in excess of \$45,000. Lastly, the state will pay 75% of excess costs above \$60,000 for students placed in private schools for students with disabilities.¹⁰ As with categorical aid, the district of residence is responsible for applying for grants and providing this excess funding for students with high cost disabilities through the states Homeroom system. When applicable, charter schools should provide the names and cost information to the resident district so that a reimbursement request can be filed. An average of 1.6%¹¹ (6.5% in traditional public schools) of students with disabilities in charter schools are placed in settings that may qualify them for excess cost allocations. The New Jersey charter school law assigns financial responsibility for students who require a private day or residential school to districts of residence (See sidebar).

CHARTER SCHOOL PROGRAM ACT OF 1995, N.J.S.A. 18A:36A

18A:36A-II. Operation of charter school

b. A charter school shall comply with the provisions of chapter 46 of Title 18A of the New Jersey Statutes concerning the provision of services to handicapped students; except that the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence.

⁹Charter School Program Act of 1995, N.J.S.A. 18A:36A

¹⁰Charter School Program Act of 1995, N.J.S.A. 18A:36A; & Education Law Center (2014)

¹¹New Jersey Department of Education. (2014). 2013 Placement Data. Retrieved on November 11, 2014 from <http://www.state.nj.us/education/specialed/data/2013.htm#placement>

The following chart presents an example of how special education dollars flow to a hypothetical charter school in Newark.

John Doe Charter School County: Essex District: Newark City	Charter Enrollment (i.e., ADM) = 400¹² Base per pupil: \$10,322 ¹³	Charter Special Ed. Enrollment = 59 (14.78%¹⁴) Charter Speech Only Enrollment = 0
New Jersey State Special Education Funding Formula¹⁵		TOTAL
State Calculation I: Special Education Equalization Aid¹⁶		
A: General Special Education Funding		
Special Education Adequacy Budget / District Adequacy Budget = Special Education Adequacy Budget %		
\$68,077,311 / \$745,128,153 = 9.136%		
District Equalization Aid X Special Education Adequacy Budget %		
\$645,243,822 X 9.136% = \$58,949,476		
General Fund Tax Levy ¹⁷ X Special Education Adequacy Budget % +		
\$113,037,921 X 9.136% = \$10,327,144		
Total District Special Education Aid = \$69,276,620		
X .90 = \$62,348,958 / 7267¹⁸ = \$8,580 per pupil		
		\$506,220
B: Speech Only Funding		
Speech Adequacy Budget / District Adequacy Budget = Speech Adequacy Budget%		
\$946,203 / \$745,128,153 = 0.127%		
District Equalization Aid X Speech Adequacy Budget %		
\$645,243,822 X 0.127% = \$819,460		
General Fund Tax Levy X Speech Adequacy Budget % +		
\$113,037,921 X 0.127% = \$143,558		
Total District Speech Aid = \$963,018		
X .90 = \$866,716 / 549¹⁹ = \$1,579 per pupil		
State Calculation 2: Special Education Categorical Aid²⁰		
District Special Education Categorical Aid X Charter Enrollment as % of District ²¹		
\$28,180,824	X 0.91%	\$256,445
Total State Special Education Aid for John Doe		\$762,665
Federal IDEA Part B		
Enrollment X Estimated per Student Allocation ²²		
59	X \$2761.75	IDEA Part B Total Allocation \$162,943
Total State and Federal Special Education Funding for John Doe		\$925,608
Per Special Education Pupil Funding above base funding ²³		\$15,688

¹²Average daily attendance is assumed based on an average sized charter school that will not experience an enrollment increase or decrease.
¹³Per pupil allocation is estimated based on the 2014-15 budget allocations to charter schools in Newark.
¹⁴This percent of special education enrollment exemplifies what funding would be if a charter school enrolled the state's average rate of disabilities for New Jersey. Schools may have a higher or lower percentage of students with disabilities in reality.
¹⁵Estimates of cost and disability rates for the 2014-15 school year come from the following report: http://www.edlawcenter.org/assets/files/pdfs/Newsblasts/ADEQUACY_REPORT.PDF
¹⁶Census funding allocates 2/3 of special education funding as well as funds specifically for student receiving only speech or language therapy.
¹⁷The General Fund Tax Levy is indexed using the Consumer Price Index (CPI), which is reported as 1.69% for 2014-15.
¹⁸District projected enrollment for the current year.
¹⁹District projected enrollment for the current year.
²⁰Categorical aid category includes geographic cost adjustment and accounts for 1/3 of total state special education funding.
²¹Categorical aid enrollment is based on the prior year's projected special education enrollment funding.
²²This amount is based on the average per student in special education funding from IDEA Part B for charter schools located in Essex County.
²³Per pupil in special education funding is the amount allocated from state and federal sources over and above the state's per pupil general education funding amount of \$10,322.

F. CHARTER SCHOOL APPLICATION REVIEW CHECKLIST

Authorizers should adapt this form and use it as a guide when evaluating charter school applications to ensure the applicants have thought through and fulfilled their special education responsibilities. Applicants and/or founding teams should be able to answer the questions below and provide documentation as indicated.

TOPIC	COMMENTS	DATE/ INITIALS
Human Resources		
How many students with disabilities do the founders estimate that the school will enroll?		
<i>If the school will be responsible for providing special education:</i>		
How many special education teachers will the school need to employ?		
What kind of certification will the special education teachers need?		
What are the state's teacher and special education teacher qualifications standards?		
Will the school hire dual-certified teachers?		
Will the school hire part-time or retired special education teachers?		
Will the school need to hire staff for health-related issues?		
What are the implications for salaries and benefits if the school hires full- versus part-time employees?		
<i>If an LEA will be responsible for all, or part of, special education in the school:</i>		
Will the school be required to contract with an LEA for the purposes of special education?		
If the school needs to work with an LEA, how will it negotiate with the LEA to ensure its students will receive appropriate services?		
Curriculum and Assessment		
What curricula and instruction will the school offer?		
How will the school modify the curriculum and instructional delivery to address the unique needs of children with disabilities?		
How can the school train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?		
How will the school include children with disabilities in required assessments or develop alternate assessment?		

How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?		
Professional Development		
How will the school provide teachers with professional development?		
Will teachers need any specialized professional development related to educating and including children with disabilities?		
Does the district or the state operate a professional development program or network that the school can utilize?		
Administration		
Who will administer the special education program?		
Who will be responsible for collecting, managing, and reporting data related to children with disabilities?		
Will the founders create their own system to administer special education or will they adopt the policies/procedures dictated by the authorizer, local district, or other administrative unit?		
How will the school handle student records and other school property appropriately in the event of closure of the charter school?		
Special Education Funding		
How will federal, state, and local special education dollars flow?		
What does the school need to budget for special education during the first year of operation?		
Does the school need to prepare financially to enroll a student or students with significant special needs?		
Facilities		
<i>If the school will be responsible for special education evaluations and services:</i>		
Where will it conduct student evaluations?		
Where will it conduct IEP meetings?		
Where can it store confidential student records?		
Where will it provide pullout services?		
Where will related services personnel meet with individual students?		
Will entrances, classrooms, common areas, and bathrooms be accessible to individuals—including adults—with physical disabilities?		
Will the facility have space for a nurse to store and administer medications or use medical equipment?		

Transportation		
<i>If the school is responsible for special education services:</i>		
How will the school meet transportation needs of students who receive transportation as a related service articulated on their IEP?		
Where will the school access transportation for a student in a wheelchair?		
Required Documentation		
Plan to evaluate and identify children with disabilities		
Plan to develop, review, and revise IEPs		
Plan to integrate special education into the general education program		
Plan to deliver special education and related services (e.g., in-house or contract out)		
Projected cost of special education program (e.g., percent of operating budget)		
Plan to access and account for special education funds		
Plan to ensure that the school facility meets the requirements of other related laws such as the Americans with Disabilities Act (ADA) and Section 504		
Plan for enrollment/IEP transition procedure		
Plan to address discipline for students with disabilities		
Plan to ensure confidentiality of special education records		
Plan to purchase services from special education vendors		
Plan to secure technical assistance and training		

G. SAMPLE LANGUAGE FOR CHARTER APPLICATIONS AND CONTRACTS

Authorizers may encourage or require similar language to be included in application materials or charter contracts, as appropriate.

1. Assurances regarding discrimination and adherence to state and federal laws:²

- [Insert name of school] will be open to all students, on a space-available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or academic achievement [insert appropriate state law/s].
- [Insert name of school] will adhere to all applicable provisions of federal and state law relating to students with disabilities including, but not limited to, the Individuals with Disabilities Education Act, section 504 of the Rehabilitation Act of 1974, and Title II of the Americans with Disabilities Act of 1990 and [insert appropriate state law/s].

2. Sample language regarding Child Find

- [Insert name of school] intends to serve students with disabilities in proportions greater than or equal to other public schools in its surrounding community. [Insert name of school] believes its educational model will attract families with children who have disabilities. Additionally, [insert name of school] will reach out to parent organizations, day care centers, and other community organizations within its region to inform them of its desire to serve students with disabilities. During school fairs or other outreach events, the school will have an official present who is intimately aware of the special education programs present at the school who will actively seek to engage interested parents of students with disabilities on the services offered, and connect these parents with the school's team to ensure all relevant concerns can be addressed.³

² Adapted from Massachusetts Department of Elementary and Secondary Education Application Guidance available at <http://www.doe.mass.edu/charter/app/NewOperators.pdf>

³ Adapted from application to DC Public Charter School Board available at: <http://www.dcpceb.org/sites/default/files/report/DPPS%2BExperienced%2BOperator%2BApplication%2B%28Redacted%29.compressed.pdf>

H. SPECIAL EDUCATION REVIEW AND AUDIT POLICY

PURPOSE

The purpose of this policy is to identify and address potential discriminatory practices occurring against students with disabilities. This policy lists flags that may trigger audits of submitted data.

POLICY

[Insert name of authorizing entity] will review special education practices and data on a periodic basis [may insert more specificity, such as the renewal cycle] to determine whether practices are in line with the charter school's responsibilities to students with disabilities. Data will be submitted by the charter school and reviewed by [insert name of authorizing entity]. The following criteria may trigger a secondary review or audit:

- Enrollment of students with disabilities, as measured by the percent of students with an Individualized Education Program (IEP), is under ___%⁴ in K-12 programs
- Expulsion Rate of students with disabilities (relative to IEP enrollment) is higher than the Expulsion Rate of their non-disabled peers (relative to non-IEP enrollment)
- Out of School Suspension Rate of students with disabilities (relative to IEP enrollment) is higher than the Out of School Suspension rate of their non-disabled peers (relative to non-IEP enrollment)
- Number of Exclusionary Incidences of students with disabilities are higher than number of Exclusionary Incidences of their non-disabled peers
- Disproportionality of a singular disability classification (i.e. Specific Learning Disability, Emotional Disturbance, etc.), as measured by any one disability classification that comprises 75% or more of the total population of students with disabilities in K-12 programs
- Disproportionality of special education levels of need (Levels 1-4), as measured by any specific level of need that comprises 75% or more of the total population of students with disabilities in K-12 programs
- Underrepresentation of special education Level 3 and Level 4 students, where the combined total is 0 students in K-12 programs
- The rate of transfers of students with disabilities is higher than the rate of their nondisabled peers
- The rate of mid-year withdrawals of students with disabilities is higher than the rate of their non-disabled peers
- [insert appropriate state entity]'s compliance finding(s) issued for IEP timeliness (ie. Concern with Initial Eligibility, Reevaluation)

⁴ The authorizer should develop an enrollment rate below which the enrollment of students with disabilities should raise concern. This rate may be based on the enrollment rate for the district of comparison or other factors, depending on the state and the authorizer. For instance, D.C. Public Charter School Board has set their percentage rate at 7%.

- *[insert appropriate state entity]*'s compliance finding(s) and/or parent complaint logs identify manifestation determination hearings have not been held for all students for whom they are legally required before expulsions or suspensions are implemented

PROCEDURES FOLLOWING IDENTIFIED CONCERN

If one of the preceding triggers indicates a potential problem, *[insert name of authorizing entity]* will begin collecting and reviewing the relevant data points on a monthly basis and may undertake a secondary review or full audit, depending on the circumstances. The secondary review could include any one, or a combination of, the following:

- Comparison of accuracy of special education data between a school's student information system and data
- Communication between *[insert name of authorizing entity]* and *[insert appropriate state entity]* to determine whether the identified trigger has resulted in *[insert appropriate state entity]* resolving the concern
- Interviews with a school's Special Education data manager or other persons responsible for student data
- Special Education Desk Audits
- Request of the school team to complete a Special Education Quality Assurance Review (part of Special Education Performance Management Tool)
- Special education site visit and/or observations

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I. CHECKLIST FOR REVOCATION OF CHARTER AND CLOSURE

IMMEDIATE ACTIONS

ACTION ITEM		RESPONSIBILITY FOR COMPLETING ACTION	COMPLETION DATE ²	STATUS
1	<p>Create “Charter School Closure: Frequently Asked Questions” Document</p> <p>General document from authorizer outlining Authorizing Board’s policies, commitment to quality authorizing through supporting the transition of students and staff to new settings, overview of transition steps, general timelines, checklist for parents transitioning to a new school in the next school year and authorizer contact information.</p>	Authorizer Lead	Prior to the authorizing board’s vote to close the charter school	
2	<p>Establish Transition Team and Assign Roles</p> <p>A team dedicated to ensuring the smooth transition of students, staff and close down of the school’s business populated by authorizer staff in conjunction with board members and staff of the closing charter school.</p> <p>Team to include:</p> <ul style="list-style-type: none"> – Lead person from Authorizer Staff; – Charter School Board chair; – Lead Administrator from the Charter School; – Lead Finance person from the Charter School; – Lead person from the Charter School Faculty; and, – Lead person from the Charter School Parent Organization. 	Authorizer Lead and Charter School Board Chair	Within 24 hours of the authorizing board’s vote to close the charter school	
3	<p>Assign Transition Team Action Item Responsibilities</p> <p>Distribute contact information to all transition team members, set calendar for meetings and assign dates for completion of each charter school closure action item.</p>	Authorizer Lead and Charter School Board Chair	Within 48 hours of the authorizing board’s vote to close the charter school	
4	<p>Initial Closure Notification Letter: Parents & School</p> <p>Distribute letter to faculty, staff and parents outlining:</p> <ul style="list-style-type: none"> – Closure decision; – Timeline for transition; and – Help Line information. 	Authorizer Lead and Charter School Board Chair	Within 24 hours of the authorizing board’s vote to close the charter school	

5	<p>Initial Closure Notification Letter: State & Local Agencies Letter to state education agency as well as local school districts (as necessary by statute or to inform local district for purposes of enrolling students from the closing school) to include:</p> <ul style="list-style-type: none"> - notification materials distributed to parents; - notification materials distributed to faculty and staff; and - authorizing board decision materials, resolution to close school, copy of any termination agreement (if applicable). <p>Copy local public school districts as required by quality practice, state statute and regulation.</p>	Authorizer Lead and Charter School Board Chair	Within 24 hours of the authorizing board's vote to close the charter school	
6	<p>Talking Points Create talking points for parents, faculty, community and press. Focus on communicating plans for orderly transition of students and staff. Distribute to transition team.</p>	Authorizer Lead and Charter School Board Chair	Within 24 hours of the authorizing board's vote to close the charter school	
7	<p>Press Release Create and distribute a press release that includes the following:</p> <ul style="list-style-type: none"> - history of school; - authorizing board closure policies; - reason(s) for school closure; - outline of support for students, parents and staff; and - a press point person for the authorizer and for the school. 	Authorizer Lead and Charter School Board Chair	Within 24 hours of the authorizing board's vote to close the charter school	
8	<p>Continue Current Instruction Continue instruction under current education program per charter contract until end of school calendar for regular school year.</p>	Charter School Administrator Lead	Continuous after the authorizing board's closure vote until end of classes as designated in authorizing board's closure resolution	
9	<p>Terminate Summer Instruction Program Take appropriate action to terminate any summer instruction, such as canceling teaching contracts.</p>	Charter School Board Chair and Administrator Lead	Within 48 hours of the authorizing board's vote to close the charter school	
10	<p>Secure Student Records Ensure all student records are organized, up to date and maintained in a secure location.</p>	Charter School Administrator Lead	Within 24 hours of the authorizing board's vote to close the charter school	
11	<p>Secure Financial Records Ensure all financial records are organized, up to date and maintained in a secure location.</p>	Charter School Financial Lead	Within 24 hours of the authorizing board's vote to close the charter school	

12	<p>Parent Contact Information Create Parent Contact List to include:</p> <ul style="list-style-type: none"> - student name; - address; - telephone; and - email, if possible. <p>Provide a copy of the parent contact information to the authorizer.</p>	Charter School Administrator Lead	Within 24 hours of the authorizing board's vote to close the charter school	
13	<p>Faculty Contact Information Create Faculty Contact List that includes:</p> <ul style="list-style-type: none"> - name; - position; - address; - telephone; and - email. <p>Provide a copy of the list to the authorizer.</p>	Charter School Faculty Lead	Within 24 hours of the authorizing board's vote to close the charter school	
14	<p>Convene Parent Closure Meeting Plan and convene a parent closure meeting.</p> <ul style="list-style-type: none"> - Make copies of "Closure FAQ" document available; - Provide overview of authorizer board closure policy and closure decision; - Provide calendar of important dates for parents; - Provide specific remaining school vacation days and date for end of classes; - Present timeline for transitioning students; - Present timeline for closing down of school operations; and - Provide contact and help line information. 	Authorizer Lead, Charter School Administrator and Charter School Parent Organization Leads	Within 72 hours of the authorizing board's vote to close the charter school	
15	<p>Convene Faculty/Staff Meeting Board Chair to communicate:</p> <ul style="list-style-type: none"> - commitment to continuing coherent school operations throughout closure transition; - plan to assist students and staff by making closing as smooth as possible; - reasons for closure; - timeline for transition details; - compensation and benefits timeline; and - contact information for ongoing questions. <p>Provide the authorizer copies of all materials distributed at the Faculty/Staff Meeting.</p>	Charter School Board Chair, Charter School Administrator Lead and Charter School Faculty Lead	Within 72 hours of the authorizing board's vote to close the charter school	

16	<p>Establish Use of Reserve Funds If school is required to maintain closure reserve funds, identify acceptable use of such funds to support the orderly closure of the school.</p>	Authorizer, Charter School Board Chair and Charter School Financial Lead	Within one week of the authorizing board's vote to close the charter school	
17	<p>Maintenance of Location and Communication Establish if the school will maintain the current facility as its locus of operation for the duration of closing out the school's business, regulatory and legal obligations. In the event the facility is sold or otherwise vacated before concluding the school's affairs, the school must relocate its business records and remaining assets to a location where a responsive and knowledgeable party is available to assist with closure operations. The school must maintain operational telephone service with voice message capability and maintain custody of business records until all business and transactions are completed and legal obligations are satisfied. The school must immediately inform the authorizer if any change in location or contact information occurs.</p>	Charter School Board Chair	Ongoing until closure complete	
18	<p>Insurance The school's assets and any assets in the school that belong to others must be protected against theft, misappropriation and deterioration. The school should:</p> <ul style="list-style-type: none"> - maintain existing insurance coverage until the disposal of such assets under the school closure action plan; - continue existing insurance for the facility, vehicles and other assets until 1) disposal or transfer of real estate or termination of lease, and 2) disposal, transfer or sale of vehicles and other assets; - negotiate facility insurance with entities that may take possession of school facility (lenders, mortgagors, bond holders, etc.); - continue or obtain appropriate security services; and - plan to move assets to secure storage after closure of the school facility. <p>If applicable under state statute, the school should maintain existing directors and officers liability (D&O) insurance, if any, until final dissolution of the school.</p>	Charter School Board Chair and Charter School Financial Lead	Ongoing until all business related to closure is completed	

NOTIFICATIONS

ACTION ITEM	RESPONSIBILITY FOR COMPLETING ACTION	COMPLETION DATE ²	STATUS
<p>19</p> <p>Parent/Guardian Closure Transition Letter Distribute letter with detailed guidance regarding transition plan. Notification should include, but not be limited to:</p> <ul style="list-style-type: none"> - date of the last day of regular instruction; - cancellation of any planned summer school; - notification of mandatory enrollment under state law; - date(s) of any planned school choice fair(s); - listing of the contact and enrollment information for charter, parochial, public and private schools in the area; - information on obtaining student records pursuant to the state Freedom of Information Law before the end of classes; and - contact information for parent/guardian assistance/questions. <p>Provide the authorizer with a copy of the letter.</p>	<p>Charter School Board Chair and Charter School Administrator Lead</p>	<p>Within 10 days of the authorizing board's vote to close the charter school</p>	
<p>20</p> <p>Staff/Faculty Closure Transition Letter Outline transition plans and timelines for staff, including but not limited to:</p> <ul style="list-style-type: none"> - commitment of school's board to transitioning staff; - commitment to positive transition of children into new educational settings; - any transition to new employment assistance board anticipates providing (such as job fairs); - timelines for compensation and benefits; - timelines for outstanding professional development issues; - COBRA information; - pertinent licensure information; - faculty lead contact information; and - transition team member contact information. <p>Provide the authorizer with a copy of the letter and any accompanying materials.</p>	<p>Charter School Board Chair</p>	<p>Within 10 days of the authorizing board's vote to close the charter school</p>	

<p>21</p>	<p>Agency Notifications The school must satisfy statutory and regulatory obligations to ensure a smooth transition for students. Check requirements under state statute and regulation. Agency notifications may include:</p> <ul style="list-style-type: none"> - state charter school oversight department; - school finance; - grants management; - federal programs office; - state teacher retirement system; - non-instructional staff retirement system; - local school district superintendent(s); - state auditor/comptroller/budget office (depending on revenue flow); - assessment and testing; - data reporting (student information); - child nutrition; and - transportation. 	<p>Authorizer Lead and Charter School Board Chair</p>	<p>Within 10 days of the authorizing board's vote to close the charter school</p>	
<p>22</p>	<p>Union Notification Pursuant to any Collective Bargaining Agreement If applicable, the school should contact legal counsel and work with them to notify any unions of termination of collective bargaining agreements (CBAs) and the pending cessation of instruction, pursuant to the notice requirements set forth in any existing CBA or notice requirements of applicable federal, state and local law. The school should:</p> <ul style="list-style-type: none"> - consult with legal counsel with respect to notice requirements for terminating the CBA and the legal implications with respect to termination of CBAs and the termination of employees connected to the CBAs; - provide a copy of the latest CBA to the authorizer; - provide a copy of the notice to the authorizer; and - keep the authorizer informed of the implications, penalties and damages in connection with any termination of a CBA and ongoing discussions and negotiations with the union in connection with termination. 	<p>Charter School Board Chair</p>	<p>Within one week of the authorizing board's vote to close the charter school</p>	

<p>23</p>	<p>Notification of Employees and Benefit Providers The school should establish an employee termination date and:</p> <ul style="list-style-type: none"> - notify all employees of termination of employment and/or contracts; - notify benefit providers of pending termination of all employees; - notify employees and providers of termination of all benefit programs; - terminate all programs as of the last date of service in accordance with applicable law and regulations (i.e., COBRA), including: <ul style="list-style-type: none"> - health care/health insurance; - life insurance; - dental plans; - eyeglass plans; - cafeteria plans; - 401(k) retirement plans; and - pension plans. <p>Specific rules and regulations may apply to such programs, especially teachers' retirement plans, so legal counsel should be consulted.</p> <p>Provide the authorizer copies of all materials.</p>	<p>Charter School Board Chair and Charter School Financial Lead</p>	<p>Within 45 days of the authorizing board's vote to close the charter school</p>	
<p>24</p>	<p>Notification of Management Company/Organization and Termination of Contract The school must:</p> <ul style="list-style-type: none"> - notify management company/organization of termination of education program by the school's board, providing the last day of classes and absence of summer programs; - provide notice of non-renewal in accordance with management contract; - request final invoice and accounting to include accounting of retained school funds and grant fund status; and - provide notice that the management company/organization should remove any property lent to the school after the end of classes and request a receipt of such property. <p>Provide a copy of this notification to the authorizer.</p>	<p>Charter School Board Chair</p>	<p>Within three weeks of the authorizing board's vote to close the charter school</p>	

<p>25</p>	<p>Notification of Contractors Agreement The school must formulate a list of all contractors with contracts in effect and:</p> <ul style="list-style-type: none"> - notify them regarding school closure and cessation of operations; - instruct contractors to make arrangements to remove any contractor property from the school by a certain date (copying machines, water coolers, other rented property); - retain records of past contracts as proof of full payment; and - maintain telephone, gas, electric, water and insurance (including Directors and Officers liability insurance) long enough to cover the time period required for all necessary closure procedures to be complete. <p>Provide the authorizer written notice of such notification.</p>	<p>Charter School Financial Lead</p>	<p>Within three weeks of the authorizing board's vote to close the charter school</p>	
<p>26</p>	<p>Notification to Creditors Solicit from each creditor a final accounting of the school's accrued and unpaid debt. Compare the figures provided with the school's calculation of the debt and reconcile.</p> <p>Where possible, negotiate a settlement of debts consummated by a settlement agreement reflecting satisfaction and release of the existing obligations.</p> <p>Provide the authorizer a written summary of this activity.</p>	<p>Charter School Financial Lead</p>	<p>Within one month of the authorizing board's vote to close the charter school</p>	
<p>27</p>	<p>Notification to Debtors Contact all debtors and demand payment. If collection efforts are unsuccessful, consider turning the debt over to a commercial debt collection agency. All records regarding such collection or disputes by debtors regarding amounts owed must be retained.</p> <p>Provide the authorizer a written summary of this activity.</p>	<p>Charter School Financial Lead</p>	<p>Within one month of the authorizing board's vote to close the charter school</p>	

RECORDS

ACTION ITEM	RESPONSIBILITY FOR COMPLETING ACTION	COMPLETION DATE ²	STATUS
<p>28</p> <p>Disposition of Records If the school's board has a records retention policy, or if records retention in charters is governed by state law, follow the appropriate policy and/or law.</p> <p>In all cases, the school board shall maintain all corporate records related to:</p> <ul style="list-style-type: none"> - loans, bonds, mortgages and other financing; - contracts; - leases; - assets and asset sales; - grants (records relating to federal grants must be kept in accordance with 34 CFR 8042.) - governance (minutes, by-laws, policies); - employees (background checks, personnel files); - accounting/audit, taxes and tax status; - employee benefit programs and benefits; and - any items provided for in the closure action plan. <p>If the school does not have a records retention policy, and no state law governs records retention in charter schools, or if the school's board abdicates responsibility for records, authorizers that seek to take possession of personnel, non-student and non-personnel records should consult legal counsel about liabilities.</p>	<p>Charter School Board Chair</p>	<p>Within two months of the end of classes and ongoing</p>	
<p>29</p> <p>Final Report Cards and Student Records Notice The school must ensure that:</p> <ul style="list-style-type: none"> - all student records and report cards are complete and up to date; - parents/guardians are provided with copies of final report cards and notice of where student records will be sent (with specific contact information); and - parents/ guardians receive a reminder letter or post card reminding them of the opportunity to access student records under Freedom of Information law. <p>Provide the authorizer with a copy of the notice.</p>	<p>Charter School Administrative and Faculty Lead</p>	<p>One week after the end of classes</p>	

<p>30</p>	<p>Transfer of Student Records As required by state statute, the school must transfer all student records to students' new schools, a state agency or another entity. Student records to include:</p> <ul style="list-style-type: none"> - grades and any evaluation; - all materials associated with Individual Education Programs (including documentation of any ongoing legal obligations and whether the school staff will participate in IEP staffing meetings at receiving schools for students with disabilities); - immunization records; and - parent/guardian information. <p>The school must contact the relevant districts of residence for students and notify districts of how (and when) records—including special education records—will be transferred. In addition, the school must create a master list of all records to be transferred and state their destination(s).</p>	<p>Charter School Administrative Lead, Charter School Faculty Lead and Charter School Parent Organization Lead</p>	<p>Within one month after the end of classes</p>	
<p>31</p>	<p>Documenting Transfer of Records Written documentation of the transfer of records must accompany the transfer of all student materials. The written verification must include:</p> <ul style="list-style-type: none"> - the number of general education records transferred; - the number of special education records transferred; - the date of transfer; - the signature and printed name of the charter school representative releasing the records; and - the signature and printed name of the district (or other entity) recipient(s) of the records. <p>Provide copies of all materials documenting the transfer of student records to the authorizer.</p>	<p>Charter School Board Chair and Charter School Administrative Lead</p>	<p>Within one month of the end of classes</p>	
<p>32</p>	<p>Transfer of Testing Materials The school must determine state requirements regarding disposition of state assessment materials stored at the school and return as required.</p> <p>Provide authorizer with letter outlining transference of testing materials.</p>	<p>Charter School Administrative Lead</p>	<p>One week after the end of classes</p>	

FINANCIAL

ACTION ITEM		RESPONSIBILITY FOR COMPLETING ACTION	COMPLETION DATE ²	STATUS
33	<p>US Dept. of Education Filings File Federal form 269 or 269a if the school was receiving funds directly from the United States Department of Education. See 34 CFR 80.41.</p>	Charter School Financial Lead	One week after the end of classes	
34	<p>IRS Status If the school has 501(c)(3) status, it must take steps to maintain that status including, but not limited to, the following:</p> <ul style="list-style-type: none"> – notification to IRS regarding any address change of the School Corporation; and – filing of required tax returns or reports (e.g., IRS form 990 and Schedule A). <p>If the school corporation proceeds to dissolution, notify the IRS of dissolution of the education corporation and its 501(c)(3) status, and provide a copy to the authorizer.</p>	Charter School Board Chair and Charter School Financial Lead	Date to be determined depending on 501(c)(3) status	
35	<p>UCC Search If required under state statute, the school should perform a Uniform Commercial Code (UCC) search to determine if there are any perfected security interests and to what assets security interests are attached.</p> <p>Provide a copy of the search to the authorizer.</p>	Financial Lead	Within 30 days of the authorizing board's vote to close the charter school	
36	<p>Audit The school must establish a date by which to complete a final close out audit by an independent firm or state auditor as determined by statute.</p> <p>Provide a copy of the final audit to the authorizer.</p>	Charter School Board Chair and Charter School Financial Lead	Within 120 days of the end of classes	
37	<p>Vendors The school must:</p> <ul style="list-style-type: none"> – create vendor list; and – notify vendors of closure and cancel or non-renew agreements as appropriate. <p>Provide the authorizer with a copy of all documents.</p>	Charter School Financial Lead	Within 45 days of the authorizing board's vote to close the charter school	

38	<p>Inventory The school must:</p> <ul style="list-style-type: none"> – create a fixed asset list segregating state and federal dollars; – note source codes for funds and price for each purchase; and, – establish fair market value, initial and amortized for all fixed assets. <p>Provide the authorizer with a copy of all documents.</p>	Charter School Financial Lead	Within 45 days of the authorizing board's vote to close the charter school	
39	<p>Disposition of Property Check with the state department of education regarding proper procedures for the disposition of property purchased with federal funds, including those assets purchased for students with disabilities using special education funding.</p>	Authorizer and Charter School Financial Lead	Within 45 days of the authorizing board's vote to close the charter school	
40	<p>Disposition of Inventory Establish a disposition plan (e.g., auction), and establish a payment process (e.g., cash, checks, credit cards) for any remaining items.</p> <p>Provide the authorizer with a copy of all documents.</p>	Charter School Financial Lead	Within 45 days of the authorizing board's vote to close the charter school	
41	<p>Property Purchased with Public Charter School Program (PCSP) Funds Establish under state or individual school agreements required disposition of property purchased with PCSP funds. Generally, property purchased with PCSP funds must first be offered to other charter schools within the same region in which the closing school is located, with requisite board resolutions consistent with the purpose of the PCSP. If no schools want the property, an auction must be held to dispose of the PCSP assets. The school must:</p> <ul style="list-style-type: none"> – ensure public notice of the auction is made widely; – price items at fair market value, as determined from inventory and fixed assets policy; and – determine with the state education department how to return funds if any remain. <p>Provide the authorizer board resolutions and minutes of any transfer of assets with a dollar value of zero (0) to another school.</p>	Charter School Financial Lead	Within 60 days of the end of classes	
42	<p>Disposition of Real Property (i.e., Facilities) Determine state requirements for real property acquired from a public school district to determine right of first offer and other applicable requirements for disposition.</p>	Charter School Financial Lead	Within 45 days of the authorizing board's vote to close the charter school	

43	<p>Payment of Funds The school should work with the authorizer to prioritize payment strategy considering state and local requirements. Using available revenue and any funds from auction proceeds, pay the following entities:</p> <ul style="list-style-type: none"> - retirement systems; - teachers and staff; - employment taxes and federal taxes; - audit preparation; - private creditors; - overpayments from state/district; and - other as identified by authorizer. <p>Provide the authorizer with a copy of all materials associated with this action.</p>	Authorizer and Charter School Financial Lead	Plan complete within 45 days of the authorizing board's vote to close the charter school and ongoing activity until completed	
44	<p>Expenditure Reporting Ensure that Federal Expenditure Reports (FER) and the Annual Performance Report (APR) are completed.</p> <p>Provide the authorizer a copy of all materials.</p>	Charter School Financial Lead	Within 45 days of the end of classes	
45	<p>Itemized Financials Review, prepare and make available:</p> <ul style="list-style-type: none"> - fiscal year-end financial statements; - cash analysis; - list of compiled bank statements for the year; - list of investments; - list of payables (and determinations of when a check used to pay the liability will clear the bank); - list of all unused checks; - list of petty cash; and - list of bank accounts. <p>Additionally, collect and void all unused checks as well as close accounts once transactions have cleared.</p>	Charter School Financial Lead	Within 30 days of the end of classes	
46	<p>Special Education Funds Review, prepare and make available:</p> <ul style="list-style-type: none"> - specific accounting for special education funds, including [as applicable] federal, state, and local funding sources, accounting of how all special education funds were spent, and the disposition of materials and equipment purchased with special education dollars. 	Charter School Financial Lead	Within 30 days of the end of classes	

<p>47</p>	<p>Payroll Reports The school must generate a list of all payroll reports including taxes, retirement or adjustments on employee contracts.</p> <p>Provide the authorizer with copies of all materials.</p>	<p>Charter School Financial Lead</p>	<p>Within 30 days of the end of classes</p>	
<p>48</p>	<p>List of Creditors and Debtors Formulate list of creditors and debtors and any amounts accrued and unpaid with respect to such creditor or debtor. The list should include:</p> <ul style="list-style-type: none"> - contractors to whom the school owes payment; - lenders; - mortgage holders; - bond holders; - equipment suppliers; - secured and unsecured creditors; - persons or organizations who owe the school fees or credits; - lessees or sub-lessees of the school; and - any person or organization holding property of the school. 	<p>Charter School Financial Lead</p>	<p>Within three weeks of the authorizing board's vote to close the charter school</p>	

ENDNOTES

¹ NACSA thanks the State University of New York's Charter Schools Institute and the Thomas B. Fordham Foundation for contributing to the development of this model Action Plan for Charter School Closure. For more information on charter school closure, refer to *Accountability in Action: A Comprehensive Guide to Charter School Closure* available at http://www.qualitycharters.org/wp-content/uploads/2016/01/AccountabilityInAction_AComprehensiveGuidetoCharterSchoolClosure.pdf.

² Suggested completion timeframes are based on lessons shared from authorizers experienced with school closure. Authorizers consulting this document are encouraged to modify timeframes based on statute, regulation, and local considerations.

J. DISCIPLINE BEST PRACTICES

STUDENT DISCIPLINE BEST PRACTICES FOR CHARTER SCHOOLS TO EMPLOY

1. **Develop a comprehensive, lawful Code of Conduct** that addresses student behavior at school, related events, and on social media that impacts the school. Define infractions and consequences with specificity. Include a section on special education considerations that tracks federal law and regulations. Make sure all students and their families receive the Code and any revisions.
2. **Consistently and uniformly implement the Code of Conduct.** Ignorance of disciplinary practices and sloppy execution can negate a strong Code. Annually train all staff on the Code and its requirements.
3. **Create template letters that effectively communicate suspension status and information about upcoming disciplinary hearings.** Such letters should advise students of alleged violations of the Code of Conduct and their due process rights. These communications should make a student's current suspension status clear and address any alternative educational services that the school will provide to a suspended student.
4. **Ensure that students with disabilities are disciplined in accordance with applicable federal and state law.** School policies and practices should reflect an understanding of what entity is the Local Education Agency (LEA) primarily responsible for special education issues such as discipline. Students with disabilities should be afforded due process protections such as a manifestation determination review in advance of any proposed long-term suspension or expulsion.
5. **Understand that federal protections apply to students who may be in need of special education and related services but do not yet have an Individualized Education Program (IEP).** School policies and practices should direct staff to abide by special education due process protections when disciplining students whom they believe may be eligible to be identified as having a disability.
6. **Provide appropriate and legally sufficient alternative educational services to students who are suspended.** State laws vary on the nature and extent of alternative educational offerings.
7. Follow lawful practices when disciplining a student with an IEP who brings weapons or drugs to school, or whose behavior constitutes a danger to themselves or others, to **place them in interim alternative educational settings for up to 45 days in accordance with federal and state law.**
8. **Establish a clear, lawful process for conducting disciplinary hearings.** Make it detailed and explicit in order to provide maximum clarity, fairness, and efficiency. Ensure all due process rights. Make evidentiary rules clear.
9. **Appoint neutral, capable hearing officers who have no conflicts of interest.** Avoid appointing a staff member or other person who has been involved with the incident(s) at issue. It may be preferable to appoint a person from outside of the school community to serve as hearing officer.

10. **Establish a clear, lawful process for conducting disciplinary appeals.** Make it detailed and explicit in order to provide maximum clarity. Notify students and families appealing a disciplinary ruling of any additional appeals or challenges allowed by state law.

STUDENT DISCIPLINE MISTAKES FOR CHARTER SCHOOLS TO AVOID

1. **Students have a right to attend school; keep out-of-class suspensions in advance of a disciplinary hearing to a minimum.** There should not be substantial suspension (e.g., more than a few school days) in advance of a hearing determining whether or not a substantial suspension is warranted. If a hearing cannot be quickly scheduled, consider returning the student to the classroom until the hearing date.
2. **Avoid creating practices that limit student access to the classroom but fall outside of the Code of Conduct.** Quasi-suspensions can skirt due process. These include sizable in-school suspensions that involve a removal from the classroom that is roughly equivalent to out-of-school suspensions but come with no hearing and are not reported by the school to the district or state for accountability purposes.
3. **Do not engage in practices that impermissibly limit student access to the school.** These include requiring parents to be in the classroom to minimize problem behavior, shortening the school day of disruptive students (including students with disabilities), and requiring students to undergo certain sorts of medical, behavioral, or therapeutic interventions in order to be readmitted to school after misconduct.
4. **Do not seek to have students who face expulsion voluntarily withdraw from the school.** Parents are free to make that decision, but schools should neither urge removal without a hearing nor deny one. Both would undermine due process.
5. **Do not overlook basic due process even for short-term suspensions.** In Goss v. Lopez, the U.S. Supreme Court established the minimum process for any suspension: The student has the right to be confronted with the charges and tell his or her side of the story; courts have determined that parents have the right to have the circumstances explained to them and to ask questions. Suspensions that fall short of this standard are unlawful. A more formal hearing is required for longer suspensions and expulsions.
6. **Avoid scheduling a disciplinary hearing either too quickly or with too much delay.** Parents should be given at least several days to seek an attorney and to arrange to attend the hearing. But especially where the accused student is suspended pending the hearing, the school should try to hold the hearing without delay.
7. **Once a hearing officer has been identified, that person should not be made aware of the school's preparation of its case.** In order to maintain impartiality, the hearing officer should not be made aware of either party's perspective, evidence, or intentions in advance of the hearing.
8. **Do not misuse the interim alternative educational setting for students with disabilities.** Federal and state laws call for students to be placed in an interim alternative education setting for up to 45 days in instances involving weapons, drugs, or dangerous behavior. The threshold for dangerous behavior is high, and must be extreme to trigger this emergency practice. Students must present a genuine threat to themselves or others.

9. **Where the behavior of a student who has an IEP—or is known to be at risk for one—is found to be linked to a disciplinary violation, do not suspend any further.** A Functional Behavioral Assessment (FBA) should be conducted and a Behavioral Intervention Plan (BIP) created to address challenging behavior.
10. **Do not fail to create a clear record of communications with families over disciplinary matters.** Letters and emails attest to a school’s efforts to ensure that its policies and due process requirements are followed. Misunderstandings, disagreements, and other problems often arise when communications are informal or inconsistent.

K. SAMPLE DISCIPLINE POLICY FOR STUDENTS WITH DISABILITIES

GENERALLY

In addition to the discipline procedures applicable to all students, the following procedures are applicable to students with disabilities. A student not specifically identified as having a disability but whose school district of residence or charter school, prior to the behavior which is the subject of the disciplinary action, has a basis of knowledge—in accordance with 34 CFR 300.534 of the Code of Federal Regulations (“CFR”) —that a disability exists may request to be disciplined in accordance with these provisions. The school (“School”) shall comply with sections 300.530-300.536 of the CFR and the following procedures, except that in the event that the following procedures are inconsistent with federal law and regulations, such federal law and regulations shall govern.

The School shall maintain written records of all suspensions and expulsions of students with a disability including the name of the student, a description of the behavior engaged in, the disciplinary action taken, and a record of the number of days a student has been suspended or removed for disciplinary reasons.

If a student identified as having a disability is suspended during the course of the school year for a total of 10 days, such student shall not be further suspended without the involvement of the Individualized Education Program (IEP) team of the student’s district of residence prior to the 11th day of suspension, because such suspensions may be considered to be a change in placement.

In considering the placement of students referred because of disciplinary problems, the IEP team is expected to follow its ordinary policies with respect to parental notification and involvement.

PROVISION OF SERVICES DURING REMOVAL

Those students removed for a period of fewer than 10 days will receive all classroom assignments and a schedule to complete such assignments during the time of his or her suspension. Provisions will be made to permit a suspended student to make up assignments or tests missed as a result of such suspension. The School also shall provide additional alternative instruction within the 10 days and by appropriate means to assist the student, so that the student is given full opportunity to complete assignments and master curriculum, including additional instructions, phone assistance, computer instruction and/or home visits, and one-on-one tutoring.

During any subsequent removal that, combined with previous removals equals 10 or more school days during the school year, but does not constitute a change in placement, services must be provided to the extent determined necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. In these cases, school personnel, in consultation with the child's special education teacher, shall make the service determination.

During any removal for drug or weapon offenses pursuant to 34 CFR §300.530(g), services will be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. The IEP team will make these service determinations. The school will place students in interim alternative educational settings as appropriate per 34 CFR §300.520(g).

During any subsequent removal that does constitute a change in placement, but where the behavior is not a manifestation of the disability, the services must be provided to the extent necessary to enable the student to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. The IEP team will make the service determination.

DUE PROCESS

If discipline which would constitute a change in placement is contemplated for any student with an IEP, the following steps shall be taken: (1) not later than the date on which the decision to take such action is made, the parents of the student with a disability shall be notified by the school of that decision and provided the procedural safeguards notice described in 34 CFR §300.504; and (2) the IEP team shall meet and review the relationship between the child's disability and the behavior subject to the disciplinary action.

If, upon review, it is determined that the child's behavior was not a manifestation of his or her disability, then the child may be disciplined in the same manner as a child without a disability, except as provided in 34 CFR §300.530(d), which relates to the provision of services to students with disabilities during periods of removal.

If, upon review, if it is determined that the child's behavior was a manifestation of his or her disability, then the child may not be disciplined further in connection with that incident. A functional behavioral assessment shall be conducted if needed and a behavioral intervention plan either created or, if one already exists, revised. The school will then implement this plan.

Parents may request a hearing to challenge the manifestation determination. Except as provided below, the child will remain in his or her current educational placement pending the determination of the hearing.

If a parent requests a hearing or an appeal to challenge the interim alternative educational setting or the manifestation determination resulting from a disciplinary action relating to weapons or drugs, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in the disciplinary action, whichever occurs first, unless the parent and school agree otherwise.

Other: In addition to disciplinary actions provided for elsewhere in this policy, any breaches of state or federal law may be handled in cooperation with the local police department or other authorities. Where appropriate, school officials also will contact law enforcement agencies.

ⁱ This section draws heavily on language included in: Rhim, L. M. & O'Neill, P. Improving Access and Creating Exceptional Opportunities for Students with Disabilities in Public Charter Schools (National Alliance for Public Charter Schools, 2013); and Rhim, L. M., Ahearn, E. M., Giovannetti, E.A., Lange, C. M., & Warren, S. H. (2004). *Primer for*

Charter School Authorizers: Special Education Requirements and Including Students with Disabilities in Charter Schools. Alexandria, VA: National Association of State Directors of Special Education.

ⁱⁱ See *Brown vs. Board of Education*, 347 U.S. 483 (1954).

ⁱⁱⁱ Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

^{iv} Under IDEA, children with disabilities are identified as having one of 13 categories of disabilities: autism, deaf-blindness, developmental delay, emotional disturbance, hearing impairments, intellectual disabilities, multiple disabilities, orthopedic impairments, other health impairments, specific learning disabilities, speech or language impairments, traumatic brain injury, or visual impairments. 20 U.S.C. 1401(3)(A)(i).

^v For a detailed discussion of funding streams under IDEA, see L. M. Rhim and P. O'Neill, "Getting Lost While Trying to Follow the Money: Special Education Finance in Charter Schools" (National Alliance for Public Charter Schools 2015).

^{vi} 34 C.F.R. § 300.29(d)

§ 300.209 Treatment of charter schools and their students.

(b) Charter schools that are public schools of the LEA.

(c) Public charter schools that are LEAs.

(d) Public charter schools that are not an LEA or a school that is part of an LEA.

(1) If the public charter school is not an LEA receiving funding under § 300.705, or a school that is part of an LEA receiving funding under § 300.705, the SEA is responsible for ensuring that the requirements of this part are met.

(2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity. However, the SEA must maintain the ultimate responsibility for ensuring compliance with this part, consistent with § 300.149.

^{vii} Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

^{viii} Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*

^{ix} Every Student Succeeds Act of 2015, Pub. L. No. 114-95 § 114 Stat. 1177 (2015-2016). Retrieved from

<https://www.congress.gov/bill/114th-congress/senate-bill/1177/text>