

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](http://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.