



Georgia Primer on Special Education in Charter Schools



Georgia Department of Education

Richard Woods, Georgia's School Superintendent
"Educating Georgia's Future"



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ACRONYMS

504	Section 504 of the Rehabilitation Act of 1973
ADA	Americans with Disabilities Act
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
ASD	Autistic Spectrum Disorder
AT	Assistive Technology
AYP	Adequate Yearly Progress
BIP	Behavior Intervention Plan
CBA	Curriculum-Based Assessment
CEC	Council for Exceptional Children
CFR	Code of Federal Regulations
CSP	Charter Schools Program (of the U.S. Department of Education)
DOE	Department of Education
EBD	Emotional & Behavioral Disorder
ED	U. S. Department of Education
EIP	Early Intervention Plan
ELL	English language learner
EMO	Educational Management Organization
ESEA	Elementary and Secondary Education Act
ESL	English as a Second Language
ESOL	English to Speakers of Other Languages
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
FERPA	Family Educational Rights and Privacy Act
FRC	Federal Resource Center
GADOE	Georgia Department of Education
GBOE	Georgia Board of Education
GLRS	Georgia Learning Resource System

Acronyms

IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
LD	Learning Disability
LEA	Local Education Agency (school district)
LEP	Limited English Proficient
LRE	Least Restrictive Environment
NACSA	National Association of Charter School Authorizers
NAEP	National Assessment of Education Progress
NAPCS	National Alliance for Public Charter Schools
NASDSE	National Association of State Directors of Special Education
NCLB	No Child Left Behind Act (the most recent reauthorization of the ESEA)
NCSLC	National Charter Schools Leadership Council
NICHY	National Information Center for Children and Youth with Disabilities
NRT	Norm Referenced Test
OCR	Office for Civil Rights
OSAH	Office of State Administrative Hearings
OSEP	Office of Special Education Programs
PACER	Parent Advocacy Coalition for Educational Rights
RESA	Regional Education Service Agency
RRC	Regional Resource Center
SEA	State Education Agency
SLD	Specific Learning Disability
UDL	Universal Design for Learning



STUDENTS WITH DISABILITIES

INTRODUCTION

Implementing special education in a charter school is a daunting task for which almost no developer or operator is adequately prepared. It is not just knowledge of the law (although that can be a huge hurdle), but rather the endless variation in how and to what degree the charter school will hold responsibility for compliance with federal, state, and (sometimes) local requirements. The devil is truly in the details, and it is crucial that an attorney involved with a charter school around special education issues understand the nuances of the situation.

In order to implement IDEA, there must be a 2-pronged approach that includes:

- Development of written policies, procedures, and practices; and
- A system of general supervision to ensure that practices and procedures are followed and implemented with fidelity.

What is special education?

Special education is defined as instruction that is specifically designed, at no cost to parents, to meet the unique needs of a child that result from his or her disability. Providing special education involves adapting the content, methodology, or delivery of instruction to ensure a child's access to the general education curriculum so that he or she can meet the educational standards that apply to all children within the jurisdiction of the school system.

What are the major legal concepts that underlie special education statutes, regulations and case law?

These six tenets are generally considered the foundational concepts of special education law:

1. **Zero Reject:** Federal law requires that all children are afforded an equal education opportunity; states may not deny that on the basis of a disability.
2. **Nondiscriminatory Evaluation:** There are specific legal requirements concerning the evaluation of children for special education services. It is important to understand these and follow necessary procedures.
3. **Individualized Education Program (IEP):** IDEA requires that a written plan, called an Individualized Education Program (IEP), be developed in accordance with IDEA regulations for all students identified as having a disability and in need of special education services. In general, the IEP includes the student's current educational level, annual goals, specific educational objectives, special education and related services to be provided (this may include transportation needs), dates for initiation of service, anticipated duration of service and evaluation criteria. Under certain circumstances, there are other requirements such as a plan for transition services for students ages 14 and older.

4. **Free Appropriate Public Education (FAPE):** What is deemed "appropriate" is not specifically defined in IDEA. Court decisions over the years have helped define the term in specific instances. What constitutes an appropriate program for an individual student is to be determined on a case-by-case basis depending upon the unique needs of that student, as reflected in the IEP.
5. **Least Restrictive Environment (LRE):** The IDEA provides that students with disabilities must be educated to the maximum extent appropriate with their non-disabled peers. The law expresses a preference, not a mandate, for educating students with disabilities in regular classes with appropriate supplementary aids and services.
6. **Due Process and Parental Involvement:** Procedural safeguards are central to the implementation of IDEA. Parents must be notified of a school's intent to evaluate their child for services and they must consent to an initial evaluation before the process begins. They must also be involved in the IEP process and consent to the initial placement and provision of services. Parents also have a right to request a due process hearing if they disagree with the school's recommendations for their child.

APPLICABLE LAWS

Which federal laws are most relevant to special education in charter schools?

The federal laws (and their regulations) that have most relevance for implementing special education in charter schools are:

The Individuals with Disabilities Education Act (IDEA)

- At the elementary and secondary levels, IDEA is the governing statute for students who meet eligibility criteria.
- Revisions to the IDEA were enacted in December 2004 as P. L. 108-446. The regulations related to IDEA 2004 were issued in August 2006. Copies of the law, its regulations, and related technical assistance are available on the OSEP website at <http://idea.ed.gov/explore/home> and at www.parentcenterhub.org

The No Child Left Behind Act (NCLB)

- The No Child Left Behind Act (NCLB) is the 2002 reauthorization of the Elementary and Secondary Education Act (ESEA). General information about NCLB that all charter schools must understand is available at <http://www.ed.gov/nclb/landing.jhtml?sr=c=pb>.
- Links to the law, regulations, and policy guidance are available online at <http://www2.ed.gov/nclb/landing.jhtml>

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Section 504 of the Rehabilitation Act of 1973 (504)

- The U.S. Department of Education provides information about the requirements of this law as they pertain to public schools at <http://www2.ed.gov/about/offices/list/ocr/504faq.html>
- Regulations can be found online at <https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html>

The Americans with Disabilities Act (ADA)

- Regulations and technical assistance are available online at <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

Family Educational Rights and Privacy Act (FERPA)

- An explanation is available online at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Which federal agency is responsible for overseeing these laws?

Several offices in the U.S. Department of Education oversee these laws.

- The Office of Special Education Programs (OSEP) is in charge of the IDEA
- The Office for Civil Rights (OCR) is responsible for Section 504 and the ADA
- The Office of Elementary and Secondary Education (OESE) manages the ESEA and NCLB
- The Family Compliance Policy Office provides technical assistance for FERPA requirements

Which Georgia laws are most relevant to special education in charter schools?

The Charter Schools Act of 1998, which is located in Title 20 of Georgia Code, is the law that governs charter schools in Georgia. The Georgia Department of Education (GaDOE) has also established its own rules and regulations that correspond with the IDEA.

Georgia special education rules can be found on the GaDOE website at:

<http://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/Pages/PEABoardRules.aspx>

Can a charter school authorizer grant waivers from legal requirements relating to special education as part of their charter?

No. Georgia does not grant any Special Education Rule waivers.

The Individuals with Disabilities Education Act (IDEA)

What is the Individuals with Disabilities Education Act (IDEA)?

The IDEA is a federal law that provides federal financial assistance to State Education Agencies (SEAs) and Local Education Agencies (LEAs) to guarantee special education and related services are provided to eligible children with disabilities. Every state receives these funds and must follow all of IDEA's specific procedures,

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including those for an evaluation to determine if students are eligible for special education and the additional requirements for subsequent services and re-evaluation.

What is the purpose of IDEA?

The regulations for the IDEA, released by the U.S. Department of Education in 2006, officially state that the major purposes of the IDEA are:

- To ensure that all children with disabilities have available to them a “Free Appropriate Public Education” that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- To ensure that the rights of children with disabilities and their parents are protected;
- To help States, localities, educational service agencies, and Federal agencies provide for the education of all children with disabilities; and
- To assess and ensure the effectiveness of efforts to educate children with disabilities.

Within these purposes are several key terms - *children with disabilities*, *Free Appropriate Public Education*, *special education*, and *related services* - all of which are defined within the regulations.

Why was IDEA passed?

The IDEA was enacted to ensure that children with disabilities have access to a Free Appropriate Public Education. This goal has its roots in the past, when children with disabilities were often excluded from schools.

Specifically, IDEA was passed to address these Congressional findings:

- (1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.
- (2) Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), the educational needs of millions of children with disabilities were not being fully met because:
 - (a) the children did not receive appropriate educational services;
 - (b) the children were excluded entirely from the public school system and from being educated with their peers;
 - (c) undiagnosed disabilities prevented the children from having a successful educational experience; or
 - (d) a lack of adequate resources within the public school system forced families to find services outside the public school system.

Does the IDEA apply to charter schools?

Yes, amendments to IDEA, passed in 2004, continued to affirm that students who attend charter schools are covered under this law.

IDEA makes specific references to charter schools, including the following provisions:

- Children with disabilities who attend public charter schools and their parents retain all rights under IDEA.
- Charter schools are included in the definition of an LEA when they are established as LEAs by state law.
- Students with disabilities in charter schools that are part of an LEA must be served in the same manner as that LEA serves children with disabilities in its other schools including that the LEA must provide supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools. The LEA must also provide funds under this part to those charter schools on the same basis as that LEA provides funds its other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as the agency distributes other federal funds to the agency's other public schools, consistent with the state's charter school law.
- A charter school that is its own LEA is responsible for ensuring that the requirements of IDEA are met unless state law assigns that responsibility to some other entity.
- If a charter school is a school of an LEA that receives IDEA funding, the LEA is responsible for ensuring that the requirements are met, unless state law assigns that responsibility to some other entity.
- Charter schools that are LEAs cannot be required to join with other LEAs to establish joint eligibility for funds. (States can require traditional LEAs to join together for funding purposes if they would not be able to establish and maintain programs of sufficient size and scope individually).
- The state special education advisory panel must include a representative of charter schools.
- Special education teachers in charter schools do not have to meet certification requirements in IDEA because the Georgia charter school law does not require that teachers in charter schools be certified. However, such teachers would have to meet the other components of the "highly qualified teacher" requirement.
- Charter schools that are their own LEAs are specifically included in eligibility to access the resources of an LEA risk pool for high need children with disabilities if Georgia establishes such a fund in the future.

“Child With a Disability” as Defined Under IDEA

How does IDEA define “child with a disability?”

“Child with a disability” is one of the most important terms in IDEA, because it shapes whether or not a specific child is eligible for special education and related services. The regulations for the Individuals with Disabilities Education Act (IDEA) define “child with a disability” as:

“a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, 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, an other 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)]

Evaluation

In order for a student to be considered a “child with a disability” who is eligible for special education services under IDEA, a full and individual **evaluation** of the student must first be conducted. The data gathered during the evaluation process will determine the nature and extent of the special education and related services the student needs, so that a comprehensive and appropriate Individualized Education Program (IEP) can be developed and implemented.

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The law requires a student to be assessed in all areas related to his or her suspected disability, including information relative to the student’s participation in the general curriculum in order to determine an appropriate educational program.

The evaluation should gather data from multiple sources and document each of the following:

- grade level difference, such as large performance difference compared to peers and benchmark expectations in specific areas (data from statewide testing, district level benchmarks, etc.);
- rate of learning difference, such as a large difference in rate of learning compared to the trajectory toward the benchmarks when provided with high-quality interventions implemented over a significant period (progress monitoring, tiered support);
- adverse educational impact, such as a review of the individual student qualitative and quantitative data that indicates the need for specially designed instruction;
- input from parents, teachers, and the student; and
- exclusionary factors, such as those that rule out more significant impairments and absence of meaningful instructional opportunities.

Students With Disabilities

The school district must have the parent's consent to evaluate the student. The LEA has 60 calendar days from the date the parent's consent is received by the school district to conduct the evaluation. If a school district recommends a child for an initial evaluation for special education services, and the parent does not provide consent, the LEA may, but is not required to, pursue the initial evaluation of the child using the due process procedures provided under the IDEA. If the LEA declines to utilize the due process procedures in this situation, it is not considered a violation of its obligations under the IDEA's Child Find or evaluation requirements.

To learn more about what the evaluation process involves, see: NICHCY's *Your Child's Evaluation*, available online at: <http://www.parentcenterhub.org/repository/evaluation/>

Reevaluation

Reevaluations are follow-up or repeat evaluations that occur throughout the academic career of a student with a disability. The IDEA requires an LEA to conduct a reevaluation every three years, unless the parent and school district agree that it is unnecessary. An LEA may conduct a reevaluation of a child with a disability if it determines that one is warranted, however, if the child's parent requests an evaluation, the district must conduct a reevaluation. Students should not be formally re-evaluated more than once a year, unless the parent and LEA agree otherwise.

Informed parental consent must be obtained in order to conduct a reevaluation. If a parent refuses to consent, the district may, but is not required to, use the IDEA mediation or due process procedures to demonstrate that a reevaluation is necessary. An LEA cannot unilaterally override a parent's refusal to consent. However, in situations where the parent does not respond to multiple attempts to obtain their informed consent, an LEA may proceed with a reevaluation. In such a case,

the LEA must be able to show its reasonable, and varied, attempts to contact the parent.

Eligibility

A child must have a qualifying disability in order to be eligible for services under IDEA. Accordingly, once the evaluation is completed, the eligibility team (the parent(s), the student's teacher(s), necessary administrators, and related service providers) will decide whether the student is **eligible** for special education services.

This eligibility determination occurs only when a student's response to both core instruction and supplemental interventions does not result in movement toward achieving benchmarks resulting in grade level performance. Likewise, a student may be considered for special education if the individual response to intensive interventions produces meaningful growth, but that growth requires significant and ongoing resources to maintain.

Disability Categories

In order to be eligible to receive special education services, the student must meet the criteria of one or more of the following disability categories:

- Autism Spectrum Disorder
- Deaf-Blind
- Deaf/Hard of Hearing
- Emotional/Behavioral Disorder
- Mild, Moderate, Severe, or Profound
- Intellectual Disability
- Orthopedic Impairment

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Other Health Impairment
Significant Developmental Delay
Specific Learning Disability
Speech-Language Impairment
Traumatic Brain Injury
Visual Impairment, including Blindness

The IDEA lists and defines these disability categories in section 300.8, available at: <http://idea.ed.gov/explore/view/p/,root,regs,300,A,300%252E8>,

See also: NICHCY's publication, *Categories of Disability Under IDEA*, available online at: <http://www.parentcenterhub.org/repository/categories/>

Exclusionary Factors

In addition to fitting one or more of the recognized disability categories, there must not be any exclusionary criteria that would preclude eligibility.

All categories include the following exclusionary factors:

- Lack of appropriate instruction in reading, including the essential components of reading instruction
- Lack of appropriate instruction in mathematics
- Limited English proficiency

State Definitions of Disability Categories

State definitions of individual disabilities can also play a critical role in whether or not a student meets the definition of a “child with a disability.” As long as state definitions are consistent with IDEA’s, states may establish additional criteria in the disability areas and frequently do, setting policies that explain each of the disabilities in their own terms. Thus, whether a student is considered to have a particular disability is a matter of how

IDEA’s definition intersects with State definitions and policies.

Georgia eligibility criteria can be found in the State Education Rules at: <http://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/Pages/PEABoardRules.aspx>

For additional information regarding eligibility categories, see the GaDOE’s Special Education Rules Implementation Manual, Part II, Eligibility Categories.

Connection Between Disability and Needed Services

The short phrase “who, by reason thereof, needs special education and related services” adds another level to what it means to be a “child with a disability” and therefore eligible for special education and related services.

It’s not enough for a child to be evaluated and found to have one of the disabilities listed in IDEA. The child must need specialized instruction and related services *because* of their disability. Many disabilities don’t result in the need for individualized instruction. If a child is found to need only accommodations, but not specialized instruction, he or she may not meet criteria for special education services.

If it is determined that a student is not eligible for special education, the reasons are recorded and parents are provided written notice of the finding.

The Basic Requirements of IDEA

Students With Disabilities

What are the basic requirements of IDEA?

The IDEA has 3 basic requirements:

1. **Individualized Education Program (IEP):** A document, personalized to each child with a disability, that contains specific content, including measurable annual goals, how the child will be included in state and district assessments, and how the child will access the general education curriculum in order to meet state standards.
2. **Free Appropriate Public Education (FAPE):** Special education and related services (if required) delivered at public cost under the supervision of the state that are designed to meet the individual needs of each student with a disability, based on his or her IEP.
3. **Least Restrictive Environment (LRE):** Placement in an educational setting that will meet the individual needs of a student with a disability while removing them as little as possible from the regular classroom.

The OSEP website provides additional information concerning specific requirements of the IDEA and is accessible at:
<http://www2.ed.gov/about/offices/list/osers/osep/index.html>

Individualized Education Program (IEP)

What is an IEP?

An Individualized Education Program (IEP) is a written statement developed to best identify the specially designed instruction, related services, accommodations, modifications, and supports that a school will provide for a child with a disability.

The IEP is written and revised by the student's IEP Team in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Georgia special education law and regulations. IEPs must be developed and reviewed annually and must be in effect at the beginning of each school year. The IEP may be reviewed more than once a year if the parent or the district requests a review. If the parent requests a review more than annually, an IEP review must be held.

The IEP is not to be a curriculum for the child. Rather it is to serve as a guide for how to "open the doors" to improve access to the general education curriculum and the necessary special education and related services that will allow the child to progress.

What must an IEP include?

Every IEP for a child with a disability must include:

- a statement of the child's present levels of academic, developmental, and functional performance, including how the child's disability affects his or her involvement and progress in the general curriculum;
- a statement of what special education, related services, and supplementary aids and services are needed by the student
- the projected date for the beginning of special education services and the anticipated frequency, location and duration of those services;
- a description of how the student will be included in the general curriculum;
- an explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class;
- a statement of measurable annual goals, along with a description of how those goals will be measured;
- a discussion of how the student will participate in district and statewide assessments or why an alternate assessment is appropriate and how the child will be assessed;
- a statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and
- a statement that addresses family preferences and how the child's parents (or guardians) will be regularly informed of the child's progress.

In addition, for children age 16 and above, there are requirements for addressing transition needs that must be addressed in the IEP process.

IDEA's requirements for an IEP are discussed in detail at:

<http://www.parentcenterhub.org/?s=iep+process>

How is an IEP adopted?

There must be a consensus by the IEP Team members regarding the services provided. No one party decides the contents of the IEP and there is no majority vote. Parents, no matter how well motivated, do not have a right under IDEA to compel the school district to provide a specific program to employ a specific methodology for the education of their disabled child. An LEA is not required to obtain a parent's affirmative consent before carrying out the team decisions incorporated in an IEP (ex. a parent's signature is not required).

What are the timelines for developing an IEP after a child is determined to have a disability requiring specialized education?

After a student is determined eligible for special education services, the district has 30 calendar days to develop and implement the IEP. An LEA is required to have an IEP in place by the beginning of the school year for any currently eligible students.

Can the IEP be changed?

Yes. The IEP may need to be changed after the annual IEP meeting or at various times throughout the school year. This can be done either by reconvening the IEP team to amend it or by mutual agreement between the parent and the LEA to make changes to the written document without a meeting. The parent always retains the right to request a meeting for any and all changes or amendments to the IEP.

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Regardless of the method of changing the IEP, the parent must be provided with both a copy of the changes and an explanation of those changes in a timely manner.

Who should be involved in the development of a student's IEP?

Current IDEA requirements provide that IEPs are to be developed by a team whose membership includes, at a minimum:

- a parent of the child with a disability (or the person acting as the parent under IDEA);
- at least one general education teacher of the child, if the student is or may be participating in the general education environment (for preschool students, this is someone who is currently providing preschool services to nondisabled preschool students);
- at least one special education teacher or service provider (e.g., speech language pathologist) of the child; and
- an administrative representative of the LEA who:

- is knowledgeable about the general education curriculum, is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the child,
- knows about the availability of resources in the LEA, and has the authority to commit resources to ensure that services in the IEP will be provided.

Other IEP Team members, whose attendance at any particular IEP Team meeting will depend on the circumstances, may include:

- an individual who can interpret how evaluation results relate to classroom instruction and settings (this person may be already be a member of the team);

- other individuals, at the discretion of the parent or the LEA, who have knowledge or special expertise regarding the child (including related services personnel, as appropriate);
- a representative of any agency that is likely to be reasonable for providing or paying for any transition services, if the purpose of the meeting is to consider those services; and
- the parent's attorney or advocate;
- the LEA's attorney;
- the child with a disability, whenever appropriate.

Meetings of the IEP team create an opportunity for its members to work together to develop the IEP. These individuals combine their knowledge, experience, and commitment to design an educational program that must help the student to be involved in, and progress in, the general education curriculum.

Who is responsible for coordinating the IEP Team?

Responsibility for IEP development depends largely on a school's charter status. In LEA approved Charter Schools, most IEP development will be coordinated by the school, with support from the LEA. State Chartered Schools will have sole responsibility for developing IEPs for their students with disabilities. The procedures to be followed should be clearly written in school policies.

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Do all members of the IEP Team have to attend the IEP meeting?

The IDEA allows that a member of the IEP team is not required to attend an IEP meeting, in whole or in part, if the parent of the child with a disability and the LEA agree in writing that the attendance of such member is not necessary. The law also allows for participation in a meeting by conference call or other electronic means, with parental consent. However, provisions need to be made to obtain written input from these members if their curriculum area will be discussed.

What role do parents play in developing their child's IEP?

The parents of a student with a disability are necessary participants in every part of the development of the IEP. It is important that the parents provide information about their views of the student's progress or lack of progress, as well as express any concerns about the overall educational development of the child. Parents provide important knowledge about how the student behaves and performs outside the school setting.

Special Parent Requirements

In the event that a parent requires a translator or interpreter, it is the responsibility of the state charter to ensure that an appropriate adult is available to serve in that capacity.

Notice of IEP Meeting

The parent must be notified of the proposed date, time, and location of an IEP meeting and give him or her sufficient time to make arrangements to attend or to contact the school to reschedule. The parent may request to participate by telephone or videoconference if attending in person is not possible.

Must an IEP be developed for every child with a disability?

Yes. An IEP must be developed for every child found eligible under IDEA for special education services. Whether you have full or partial responsibility for developing IEPs for students who attend your charter school, your staff must participate in IEP meetings to provide the necessary information about the child's school progress. It is also important that you develop appropriate procedures for the required progress reporting to parents and all necessary input from the charter school for other special education reporting.

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

Yes. All students receiving special education services must have an IEP that is developed by a multidisciplinary team following the procedural requirements of IDEA and the state's special education law and regulations. The IEP may complement the plans a school will develop for all students; however, the IEP will be the legal, guiding document for all special education services provided to a child who has been found to be eligible for special education.

Students With Disabilities

If the charter school has accepted some students with Service Plans from private schools or home schools, will these meet the requirements for IEPs?

No. If students qualify for special education services, they are entitled to IEPs, and the charter school is required to develop and implement these plans in accordance with Georgia special education law.

What do we do if we do not get a student's IEP from a transferring LEA?

IDEA uses the term "within a reasonable time." Georgia now defines a "reasonable time" as seven to ten days from the date of enrollment, regardless of whether the IEP records are reviewed. There are a few options that should be exercised during the 7-10 day period, such as seeking help from the student's parents to provide their copy or asking them to obtain a copy from the sending LEA.

Free Appropriate Public Education (FAPE)

What is FAPE?

The Individuals with Disabilities Education Act (IDEA) dictates that all students with disabilities, age 3-21, are entitled to a Free Appropriate Public Education (FAPE), as defined by its four elements:

1. **Free** - provided to students with disabilities "without charge" to parents or children
2. **Appropriate** - in keeping with an Individualized Education Program (IEP) that meets the requirements of IDEA
3. **Public** - provided at public expense, under public supervision and direction

4. **Education** - includes preschool, elementary school, and secondary education

[34 CFR §300.17]

Requiring FAPE means that schools must provide eligible students with specially designed instruction to meet their unique needs, at no cost to the child's parents. This specially designed instruction is known as Special Education. Special Education and Related Services are provided so eligible students can make progress toward and/or meet the educational standards of Georgia.

All students must be provided an education that includes access to the Georgia curriculum and addresses the unique needs of the individual student and his or her disability.

FAPE may require consideration of the effect of the student's disability on, among other things, the proper functioning of hearing aids, non-academic services, recess, physical education, assistive technology, extended school day or year services, transportation, counseling and/or health services, and program options including art, music, and vocational education.

How is “appropriate” defined in the context of FAPE?

“Appropriate” means whatever’s suitable, fitting, or right *for a specific child*, given that child’s specific needs, strengths, and established goals, as well as the supports and services that will be provided to help the child reach those goals, as reflected on the student’s IEP. Thus, an “appropriate” education differs for each child with a disability because it is based on his or her individual needs. The term “appropriate” is not the same as “best.” “Appropriate” is a minimal standard that assures the student has the opportunity to make educational progress.

Is receiving FAPE a guarantee of academic success?

While the education provided to the student with an IEP must address what individual students need in order to make educational progress, this is neither a guarantee of achievement of each goal on the IEP nor a guarantee of promotion, passing grades, or graduation. Likewise, passing from grade-to-grade or receiving all passing grades does not mean that a student is receiving FAPE. Each student is an individual and his or her appropriate education is determined on a case-by-case basis.

How do courts judge whether a school has provided FAPE to a student with a disability?

The Supreme Court of the United States created a two-part test to determine if FAPE has been provided to a student:

1. Has the school district complied with the procedures set forth in the Act? If not, was the student harmed?
2. Is the Individualized Education Program (IEP) developed through the Act’s procedures reasonably calculated to enable the child to receive

educational benefits (i.e. is it a “defensible” IEP?)

Further development of case law reveals that FAPE will be determined by whether the IEP was actually carried out or implemented appropriately.

Least Restrictive Environment (LRE)

What is the Least Restrictive Environment?

The Least Restrictive Environment (LRE) is the instructional setting (placement) in which special education must be provided for a student with a disability. What constitutes the LRE varies, depending on the student’s needs. Therefore, once an IEP team has developed goals and objectives for an individual student, the IEP Team must then determine the best environment where that student will receive the needed services.

The IDEA requires that students with disabilities are educated alongside their nondisabled peers, to the maximum extent appropriate. Accordingly, the first placement option considered for each student with a disability must be the general education classroom, with the provision of supplementary aids and services. Supplementary aids and services may include accommodations and/or modifications to the curriculum, the manner in which the content is presented, or how a student’s progress is measured. Supplementary aids can include direct services and supports to the child as well as support and training for staff who work with that student.

Students With Disabilities

The terms “inclusion” and “mainstreaming” are often used in reference to placing special education students in a general education classroom.

A student with a disability may be placed in other settings, such as special classes or separate schooling, only when the nature and severity of his or her disability would prevent satisfactory achievement within the general education environment, even with the use of supplemental aids and services. If the student is placed in a setting other than general education settings for a portion of the school day, high expectations for achievement in the Georgia Milestones and a plan for moving back into less restrictive settings should continue to be in place.

Regardless of where services are being provided, students with disabilities are expected to continue to have access to the CCGPS for their grade level, and teachers are expected to maintain high expectations for student performance in meeting the standards.

Unless a child’s IEP requires some other arrangement, the child must be educated in the school (s)he would attend if (s)he did not have a disability.

Is determining where a student with a disability will be educated a form of discrimination?

No. Determining whether a particular educational environment is the best placement is not discrimination if conducted in an appropriate manner (i.e., by an IEP team) and based on an individual child’s needs. It is part of the process of ensuring that a child with a disability receives a Free, Appropriate Public Education in the Least Restrictive Environment. There is a fine line between discrimination and determining that a particular program may not be an appropriate setting for a child with a particular disability.

Who decides what placement is the Least Restrictive Environment for a student with a disability?

The Least Restrictive Environment (LRE) is determined by the IEP team in the forum of an IEP Team meeting and must be based on individual students’ educational requirements. Concerns about instruction are discussed during the meeting so that all team members can contribute and understand how the student will have access to the general curriculum in any proposed placement. The IEP team must reconsider the student’s placement at least annually.

How is the Least Restrictive Environment determined for each student with a disability?

Placement decisions should always start by considering how the requirements and goals in a student’s IEP can be met in the general education classroom. (Georgia Rule 160-4-7-.07). Once the IEP team has reviewed the student’s IEP, the IEP team should determine what education services and supports, related services, supplementary aids, accommodations and/or modifications, and assistive technology necessary for the student to make progress in the general education setting. Examples might include use of an assistive technology device, a behavior intervention plan, support from a paraprofessional or sign language interpreter, or changes in the physical environment such as use of positioning devices for a student with an orthopedic impairment.

After the IEP team has reviewed all required information, it must make the decision as to where services need to be delivered in order to enable the student to receive special education in the Least Restrictive Environment.

The IEP team may not make placement decisions based only on the category of the student's disability, the severity of the disability, the placement options currently available, the availability of educational or related services, space available, or administrative convenience.

To change anything specified on an IEP requires a legally constituted team decision. All services remain as specified on an IEP until an amended IEP is put in place.

How can a charter school plan to provide for all students with disability to be placed in the LRE?

The IDEA requires LEAs to ensure that a full continuum of alternative placements is available to meet the special education and related service needs of students with disabilities. The continuum begins with the regular classroom setting and continues to become more restrictive at each placement on the continuum.

Continuum of Alternate Placements as Set Forth in the Georgia Department of Education Special Education Rules Implementation Manual

Personnel Support Description of Service

- General Education* Students with disabilities are served in the general education class with no personnel support.
- Consultation* Students with disabilities receive at least one segment per month of direct service from the special education teacher.
- Supportive Instruction* Students with disabilities receive service from personnel other than a certified teacher in the general education classroom (i.e., a paraprofessional, interpreter, or job coach).
- Collaboration* A special education teacher works with identified students with disabilities and the general education teacher within the general education classroom (less than full segment daily).
- Co-teaching* The special education teacher provides service in the general education classroom by sharing responsibility with the general education teacher (full segment every day).
- Alternative Placement* The special education teacher provides instruction to students with disabilities in a separate classroom, part-day pull-out, full-day pull-out, special schools, home environment, hospitals, or institutions.

SECTION 504

In addition to IDEA, Congress also enacted Section 504 of the Rehabilitation Act of 1973 to address the special needs of individual students who are not covered under IDEA.

What is the purpose of Section 504?

Section 504 is designed to prevent discrimination against individuals with disabilities. Under Section 504, an LEA that receives federal funding is prohibited from discriminating in the delivery of school programs and activities. In contrast, the purpose of IDEA is to ensure FAPE is provided to students with disabilities.

How are Section 504 and the ADA similar to IDEA? How do they differ?

Similarities

Like IDEA, the Section 504 regulations require a charter school to provide a Free Appropriate Public Education (FAPE) to each qualified student with a disability that is comparable to that provided to students without disabilities. Reasonable accommodations are required by both of these laws and Section 504 goes further by specifically requiring the provision of educational and related aids and services that are designed to meet the individual educational needs of the child.

Differences

Section 504 defines disability much more broadly than the IDEA. They include any individual who has a

physical or mental impairment that substantially limits one or more life activities, has a record of such an impairment, or who is regarded as having such an impairment.

For further information about the relationship between IDEA and Section 504, see <http://www2.ed.gov/about/offices/list/ocr/504faq.html#interrelationship>

What are some examples of disabilities that may be covered under Section 504 but not by the IDEA?

Children who have chronic illnesses such as diabetes, or a physical impairment, such as those connected with cerebral palsy, may require specific accommodations or services, but do not meet the criteria of the IDEA definitions or additional specifications applied through state law. The Section 504 regulations do not provide an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments or major life activities because of the difficulty of ensuring the comprehensiveness of such a list.

Further details are available in the document *Frequently Asked Questions about Section 504 and the Education of Children with Disabilities*, available online at: <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

How are students identified as eligible for services under Section 504 of the Rehabilitation Act?

As with the evaluation and placement procedures of the IDEA, there are certain requirements that a school district must follow when determining if a student is eligible for services under Section 504.

Like the IDEA, an initial referral for evaluation may be made by the LEA, a private or public agency, an institution, or a parent. In the Section 504 context, “evaluation” refers to a gathering of data or information from a variety of sources so that persons knowledgeable about the student can make the required determinations. Section 504 requires schools to draw from a variety of sources, such as the student’s grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, teacher comments, etc. Decisions must be made by persons knowledgeable about the student and evaluation data. LEAs must conduct periodic reevaluations for Section 504 students that receive special education and related services.

Section 504 requires notice to parents regarding the identification, evaluation, and planned accommodations. Although Section 504 regulations do not address when or whether districts must obtain prior parental consent for evaluations, OCR has concluded that parental consent is necessary because parental discretion is “an appropriate and necessary policy component at the initial evaluation phase.” The GaDOE has also entered into a resolution with OCR that clearly provides that LEAs must have parental consent prior to conducting an evaluation under Section 504.

Students With Disabilities

“Child with a Disability” as Defined Under Section 504

Section 504 provides that a student with a “disability” means a student who:

- has a physical or mental impairment that substantially limits one or more major life activities of the individual;
- has a record of such impairment; or
- is regarded as having such impairment.

Substantially Limits

While the term “substantially limits” has not been specifically defined, it includes:

- An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

- The term “substantially limits” shall be interpreted without regard to mitigating measures, other than ordinary eyeglasses or contacts.

Mitigating measures include taking medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications that an individual may use to eliminate or reduce the effects of impairment. These measures cannot be considered when an LEA is determining whether a student may have a substantially limiting impairment.

Students With Disabilities

Major Life Activities

What constitutes a “major life activity” is also broadly defined. Specifically, a major life activity includes, but is not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Regarded as

An individual is “regarded as” having an impairment if he or she has been subjected to discrimination because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. “Regarded as” does not include impairments that are transitory and minor, which are impairments with an actual or expected duration of six months or less.

The Basic Requirements of Section 504

Section 504 requires that LEAs provide regular or special education and related services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of nondisabled persons are met. Such services must be provided without cost, except for fees imposed on non-disabled students and their parents.

504 Plan

If a student is found eligible under Section 504, a “504 Plan” (sometimes referred to as an “accommodation plan”) should be developed. Much like an IEP is developed by an IEP Team, a Section 504 Plan should be written by a 504 Team. The 504 Plan must include the accommodations that will

compensate for the disability so that the student has equal access to the educational benefits of the school’s general curriculum. For example, a child with diabetes who required frequent insulin checks and/or the ability to eat more frequently than other children, may have a 504 plan developed that would ensure that they were afforded these opportunities.

While curricular modifications may be available to special education students, there is no modification of the essential elements for Section 504 students. Section 504 is not about modifying or reducing expectations for disabled students, but providing the types of accommodations that will compensate for their disabilities so the students have an equal opportunity to succeed in school.

FAPE Under Section 504

Though the procedures involved may vary, the substantive requirements regarding FAPE are quite similar under both IDEA and Section 504. Even if an LEA believes that a student with a disability does not need special education services through an IEP, it is still required to consider if the student is entitled to reasonable modifications of policies, practices, or procedures under Section 504.

The type of reasonable accommodations an LEA is obligated to provide is case specific and each case requires its own analysis. If a student is regarded as having a disability, but does not need any accommodations, the school district is not obligated to provide accommodations.

Examples of reasonable accommodations or modifications include:

- Allowing a student who has a lung condition that constitutes a physical disability and limits the student's ability to be mobile, to use the faculty elevator because the student needs assistance in travelling to class (even if there is a school rule prohibiting students from using the faculty elevator)
- Provides a student with a visual disability with a tactile chess set so they can be part of the school's chess team
- Allowing a student with a heart condition, who has missed an extensive amount of school while recovering from corrective surgery, to make up missed school work without penalty, even though the student was absent more days than the school's attendance policy allows

School districts are also required to provide Section 504 students with nonacademic services and athletics in a manner that affords these students with an equal opportunity to participate in the activity or sport. The OCR has upheld that the LEA must meet this obligation.

LRE Under Section 504

Like the IDEA, Section 504 requires students with disabilities be educated in the LRE. An LEA must place a student with a disability in the general education environment, unless the school district demonstrates the education of the student in a general educational environment - even with the use of supplementary services and aids - cannot be satisfactorily achieved.



CHARTER SCHOOLS

INTRODUCTION

What is a charter school?

Charter schools are independent public schools designed and operated by educators, parents, community leaders, educational entrepreneurs and others. They are authorized by designated local or state educational organizations that monitor their quality and effectiveness. Charter schools are allowed to operate outside the parameters of the traditional system of public schools in exchange for increased accountability.

The No Child Left Behind Act (NCLB) defines the term “charter school” to mean a public school that:

- in accordance with specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of the [paragraph that sets forth the Federal definition];
 - is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
 - operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;
- provides a program of elementary or secondary education, or both;
 - is nonsectarian in its programs, administration policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
 - does not charge tuition;
 - complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Part B of the Individuals with Disabilities Education Act;
 - is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
 - agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
 - meets all applicable Federal, State, and local health and safety requirements; and has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter school pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

How did charter schools develop?

The charter school movement has roots in a number of other education reform ideas, including alternative schools, site-based management, magnet schools, public school choice, privatization and community parental empowerment.

The term “charter” likely originated in the 1970’s when New England educator Ray Budde suggested that small groups of teachers be given contracts or “charters” by their local school boards to explore new approaches. Albert Shanker, former president of the American Federation of Teachers, then publicized the idea, suggesting that local boards could charter an entire school with union and teacher approval.

In the late 1980’s, Philadelphia started a number of schools-within-schools and called them “charters.” The idea was further refined in Minnesota, where the concept of charter schools was expanded to include three basic values: (1) opportunity, (2) choice, and (3) responsibility for results. In 1991, Minnesota passed the first state charter school law, with California following suit in 1992. By 1995, 19 states had enacted laws allowing for the creation of charter schools. Today, there are approximately 3,000 charter schools operating in 40 states and the District of Columbia.

What are the major differences between charter schools and other public schools?

There are three major ways in which charter schools differ from other public schools:

1. Charter schools are schools of choice where parents choose to enroll their children rather than enrolling them by district assignment.
2. Charter schools are typically exempt from some of the regulations required for other public schools, although the

degree of freedom varies greatly from state to state.

3. Charter schools are often allowed autonomy for many, if not all, areas related to operating a school.

An essential element of the charter concept is that charter schools will be held accountable for performance goals defined in their charter or their performance contract with their authorizing agency. If they fail to meet those goals and do not operate in compliance with relevant laws and regulations, they may be closed.

How many Charter Schools operate in Georgia?

There are now over 300 charter schools in Georgia, including approximately 80 start-up charter schools, 30 conversion charter schools, and 200 charter system schools in 31 charter systems. Most charter schools in Georgia are concentrated in the metro Atlanta area.

All Charter Schools in Georgia should strive to become “high-quality” charter schools.

What makes a charter school “high-quality”?

To be considered “high-quality,” a charter school must meet minimum standards in four areas:

1. Strong Academic Results

- Meet the state accountability standards
- Meet the academic performance goals set forth in their charter contract

2. Well-trained and High-functioning Governing Board

- Governing board composition reflects diversity of the community
- Meets regularly and complies with Open Records and Open Meetings Laws
- Governing board sticks to governance and stays out of management
- Receives regular updates on academic, operational, and financial progress of the school
- Participates in regular governing board training each year

3. Financial Sustainability

- Balanced budget
- Financial reserves
- Qualified CFO
- Limited debts or sustainable debt service
- Meeting GaDOE and local board financial reporting deadlines

4. Legal and Regulatory Compliance

- Minimum or no issues associated with federal Title programs or Special Education

- Complies with Charter Schools Act, Rules, charter contract, Guidelines and Guidance
- Lottery and application process are fair and legal
- Incorporated as a Georgia non-profit
- EMO does not employ teachers

Charter Schools

CHARTER SCHOOL LEGAL STATUS

How is the public education system in Georgia structured and how do charter schools fit into it?

The elements of the public education system are:

1. The State Education Agency (SEA);
2. Local Education Agencies (LEAs, known elsewhere as “school districts”); and
3. Schools that are part of an LEA.

The place a charter school occupies in the public education system depends on the charter school’s **legal status**. A school’s legal status informs who is responsible for what in the ongoing identification, evaluation, and service delivery process for students with disabilities as required by IDEA, state regulations, and charter school law.

A lack of understanding of the implications of their legal status within the public education system is at the core of many of the problems that charter developers, operators, and boards face.

What factors determine a charter school's legal status for special education purposes?

As part of the public education system, a charter school must follow federal and state special education laws and regulations. However, the way this gets carried out in practice differs widely due to many factors, the most important of which are a charter school's **LEA status** and its **linkage to a traditional LEA** for purposes of special education (Linkage). Together, LEA status and its Linkage make up the charter school's **Legal Status**. Familiarity with these concepts is critical for charter school leaders and special educators to understand their school's level of responsibility for special education.

LEA Status

In each of the 40 states (plus DC) where they exist, charter schools are identified by state charter law or policy as either (1) an LEA, (2) a school of an LEA, or (3) some hybrid combination of these two types of structure.

An LEA is the entity that has legal responsibility for the education of all children who reside within a designated geographical area of a state and it establishes one or more schools to educate those children.

What types of LEA status applies to charter schools in Georgia?

Two types of LEA status apply to charter schools in the state of Georgia:

1. Charter schools that are part of an LEA - these schools, called Local Charter Schools, operate according to the terms

of a charter contract that has been approved by a local board of education; and

2. Charter schools that are their own LEA - these schools, called State Chartered Special Schools, operate according to the terms of a charter or contract that has been approved by the State Board of Education.

What are the critical implications of a charter school's LEA status regarding special education?

The major implication of a charter school's LEA status is the type of *linkage* that is mandated or voluntarily established between that charter school and a traditional LEA. In other words, a charter school's LEA status is reflected in the way it relates to other LEAs.

Linkage

Why is Linkage important?

Linkage is important because it determines the way in which the design and implementation of special education and services will be carried out. Under federal requirements, an LEA (a State Chartered Special School) has many more programmatic and financial responsibilities than a school that is only a part of an LEA (a Local Charter School). In addition, LEA status determines how funds for special education will flow to the charter school.

The specifics have to be negotiated between the charter school and the Authorizer. It is critical that a charter school arrange in advance, and commit to writing as clearly as possible, an understanding with the LEA and/or the state to avoid future problems.

What are the different kinds of linkage?

The Linkage between a charter school and a traditional LEA is the way the charter's LEA Status is implemented. It can be described along a continuum.

NO LINK - A charter school that is its own LEA (state approved charter) has full responsibility for special education and usually has no link to another LEA (although a charter could negotiate some working relationship with an LEA, if it chooses to do so).

PARTIAL LINK - A partial link between a charter and another LEA exists when there is required or negotiated connection, e.g. the charter school has responsibilities for services but the child's home LEA carries out evaluation team tasks, or the charter school is responsible for only those services that can be delivered in the school and the LEA resumes responsibility when the child needs more specialized day or residential placement.

TOTAL LINK - If the charter is considered part of an LEA, and the LEA is fully responsible for the students with disabilities, the charter school usually has a total link to that LEA (although it may be a partial link if different arrangements are negotiated between the parties).

What types of linkage is used by charter schools in Georgia?

Two types of linkage apply to charter schools in the state of Georgia:

1. No link, for charter schools that are their own LEA (State Chartered Special Schools); and
2. Total link, for charter schools that are part of an LEA (Local Charter Schools).

Impact of Legal Status on Charter School Operations

State Chartered Special Schools

As its own LEA, with no link to a traditional LEA, a State Chartered Special School has full responsibility for delivering special education to the children enrolled in that school. The school has independence in designing curriculum and instruction for all students. This includes the opportunity to integrate planning for students with disabilities in order to ensure coordination between general and special education in every child's program. The charter school may hire its own staff or contact for special education services with another LEA or other outside organization. The charter school will be monitored by the SEA in the same manner as any other LEA.

Local Charter Schools

There is always some division of responsibility between a Local Charter School and its LEA as to the specifics of special education. As such, the local charter school needs to negotiate a detailed special education operations contract with the LEA. While these arrangements for service delivery may vary widely, responsibility for special education ultimately remains with the LEA.

The central office of the district must treat charter schools that are part of the LEA the same as all other schools within the district. This includes providing services or supports (that are centrally managed) in the same manner as for other schools. For example, if the central office of the LEA funds the occupational therapist for any student in any school who needs the service to receive FAPE, then the students in the charter school must also be included. This equal treatment requirement can also include flowing funds, state and federal, to the charter at the same time as money is sent to other schools.

LEA staff are responsible for evaluating and prescribing plans and assessing progress for students with disabilities in the Local Charter Schools that are part of their LEA, even though they often have no information about the school's curriculum or instruction and they do not supervise the charter school staff. The LEA will usually send its staff into the Local Charter School to deliver services for its students with disabilities, although in some cases, a charter school may negotiate an arrangement to provide special education and be reimbursed by its LEA. Accordingly, the charter school may or may not have to budget for special education.

Charter Schools

POLICY TENSION

There is an overriding climate issue that must be taken into account, i.e., the policy tension between charter schools and special education that can give rise to conflict. The charter school concept, based on an exchange of greater autonomy for increased accountability, is driven in part by the desire to allow educators the freedom to be innovative about teaching and learning, but this can be difficult to do while remaining in compliance with highly prescriptive federal statutes such as the IDEA and Section 504. In the area of special education, charter schools must juggle autonomy and compliance that at times can feel like fitting a square peg into a round hole. Charter School Authorizers, operators, and board members must understand and acknowledge this tension and strive to identify operational solutions. The challenge is to attain a balance that is appropriate to the issue, i.e., to deliver special education services in an innovative way that complies with federal special education law and to work together with parents as important members of the IEP team to determine the best educational services and setting for their child. The challenge for charter school educators is to be creative about how they serve students with disabilities in a way that preserves the students' right to a Free Appropriate Public Education.

THE THREE PHASES OF CHARTER SCHOOL ESTABLISHMENT

Charter Schools

The Pre-Authorization Phase

What is the pre-authorization phase?

The pre-authorization phase encompasses the planning activities preceding the submission of a charter petition to an Authorizer. This stage generally starts out very informally and grows increasingly structured as potential charter school petitioners work to turn their vision of a school into a concrete plan that can be implemented. Unfortunately, this stage is frequently abbreviated or rushed due to application deadlines. Nevertheless, it is a critical stage in the creation of a charter school and provides a valuable opportunity to explore different aspects of your future charter school.

In an effort to preempt potential problems associated with not complying with special education requirements, you should use the pre-authorization phase to educate yourself and other critical players (e.g., board members) about special education. By educating yourself on this issue, you will be able to include special education and children with disabilities into your school's vision rather than leaving it to become an add-on component. Once your charter school is authorized and operating, the pressures associated with start-up and day-to-day operations may limit your ability to "think outside the box." Use the time you have available to design your school, making sure you include special education at every decision point.

Questions for Authorizers

What is a charter school authorizer?

An Authorizer is a legal entity that has been granted the authority to create a new public school by issuing a charter. Authorizers make decisions regarding the approval and renewal of charters. They also conduct ongoing oversight to evaluate performance, monitor compliance, and enforce the terms of a charter.

Which entities does Georgia law recognize as charter school authorizers?

In Georgia, charter school Authorizers are local boards of education, the State Board of Education, and the State Charter Schools Commission.

The Georgia Charter Schools Commission was established in 2008 as a state-level Authorizer. In May 2011, the Georgia Supreme Court struck down the law that authorized creation of "commission charter schools." Subsequently, a new law was passed in April 2012 to re-establish the state-level power to authorize statewide charter schools. This enabling legislation was activated by approval of a Constitutional Amendment in the 2012 election that guarantees the establishment of a state-level authorizer. In order to be granted a charter, schools must be approved by both their local board of education and the State Board of Education, with the exception of State Chartered Special Schools which are authorized by the State Board of Education only.

What does an authorizer do?

Authorizers are expected to exercise a proactive and ongoing role in supporting and providing services to its charter school(s). The charter should clearly specify the level of the Authorizer's involvement with special education in the school.

The role of the Authorizer can include:

- Accepting, analyzing, and evaluating proposals from prospective charter school developers;
- Negotiating and executing charter school contracts;
- Monitoring the compliance and performance of the school it charters;
- Evaluating compliance and performance;
- Conducting fiscal meetings;
- Reporting the results of evaluations;
- Intervening as necessary;
- Renewing or non-renewing school charters and other contracts;
- Providing technical assistance; and
- Providing services, if requested under a separate service agreement agreed to by the charter school and Authorizer.

The National Association of Charter School Authorizers (NACSA) is a membership organization formed to assist charter Authorizers. They have adopted a document entitled *Principles and Standards for Charter School Authorizing* which outlines Authorizers' roles and responsibilities. A copy is available at <http://www.qualitycharters.org>.

What does an authorizer need to know about basic IDEA concepts?

It is important that an Authorizer have a clear understanding of the basic special education concepts that are incorporated into the IDEA. A "Free Appropriate Public Education" (FAPE) refers to special education and, if

required, related services designed to meet the individual needs of students with disabilities based on an Individualized Education Program (IEP). The "Least Restrictive Environment" (LRE) is a requirement articulated in IDEA that stipulates that children with disabilities be educated in the general education classroom to the maximum extent appropriate and in the setting that they would be in if they did not have a disability unless the child's written plan or IEP requires otherwise. Students with disabilities are to be provided with supplemental aids and services to facilitate participation in general education.

What are the responsibilities of an authorizer related to the No Child Left Behind Act (NCLB)?

Both NCLB and state law hold Authorizers accountable for ensuring that the charter schools they authorize comply with federal and state special education laws, regulations and administrative rules. Authorizers' responsibilities related to NCLB are determined by Georgia charter school law. It is important to note that charter schools must meet the same NCLB requirements as any other public school and as such should plan for the issues that may arise when opening the the school (e.g., locating and hiring highly qualified teachers, reporting requirements, etc.).

The U. S. Department of Education has issued non-regulatory guidance related to NCLB requirements, including documents pertaining to charter schools.

A list is available at <http://www2.ed.gov/nclb/choice/charter/charter-faq.html> and the full NCLB website is located at www.ed.gov/nclb/landing.jhtml.

What is an authorizer's role during pre-authorization related to special education in charter schools?

An Authorizer is responsible for ensuring that charter schools serve students with disabilities in the same manner as any other school of that district, although it is ultimately the state's responsibility to ensure compliance with IDEA. A charter school's legal status and charter define their roles and responsibilities related to special education. Authorizers should require that charter petitioners demonstrate that they understand those responsibilities and can amass the capacity to meet them. Typically, this occurs through explanations within the petition including the program plan, budget, and staffing sections of the petition. At a minimum, petition materials should inform the petitioners that special education is a consideration in evaluating petitions.

Since Authorizers may encounter charter petitioners with limited knowledge of their responsibilities related to students with disabilities, it is helpful if the Authorizer:

- provides an orientation prior to submission of a petition that includes a brief introduction to the civil rights origins of the Individuals with Disabilities Education Act (IDEA) and information about a charter school's roles and responsibilities regarding special education;

- has a list of resources that the petitioner can use in preparing the petition;
- sets criteria for what the petitioner needs to have included in the special education section of the petition;
- refers petitioners to qualified technical assistance providers who can give them the developmental guidance they need throughout the planning phase.

How can authorizers introduce potential charter school petitioners to the rationale behind special education laws?

Authorizers should consider teaching potential operators why special education exists. Introducing charter petitioners to the reasons underlying special education may help lower barriers to implementing special education programs from the start of the planning process. It may be particularly helpful to acknowledge that, while special education policies and procedures can admittedly be cumbersome, they have evolved over many years and they stem from documented exclusion of children with disabilities.

Examples of resources that an Authorizer could make available to charter applicants are publications from the Future of Children, available at: <http://www.princeton.edu/futureofchildren/publications/journals/>

Questions for Petitioners

Why is it so important to include students with disabilities as part of the discussion when we are developing the mission and vision of a charter school?

It is critically important to consider children with disabilities when you are developing the mission and vision of your charter school. A mission and vision statement is required in all charter school petitions, and careful thought should be given to how students with disabilities will fit into that vision.

Since charter schools are public schools that *must accept* all students who apply (or who are selected in a random selection process if there are more applications than seats available), you should expect that you will enroll students with many different kinds of needs, including students with disabilities. The range of disabilities may vary from mild to severe in terms of impact on learning. When this possibility is carefully considered in the initial planning process, it is much more likely your mission and vision statements will be crafted so that you can accommodate a diverse array of students thus minimizing the likelihood of subsequent problems. Therefore, regardless of the type of school, it is critically important to consciously plan for including students with disabilities in every aspect. Doing this in the planning stage will help to ensure compliance with federal and state law and will result in more effective educational opportunities for all students.

What issues should charter petitioners consider during the planning phase to ensure they will be able to provide special education appropriately?

There are many issues to consider in developing and implementing a special education program. While they will vary from school to school, several are common to all schools, including funding, space and

facilities, human resources, curriculum, service provision (including continuum of placement and Least Restrictive Environment), professional development, administration, transportation, and special considerations. Responsibility in these areas will depend upon the legal status of the charter school, the charter negotiated between the Authorizer and the operator, and the characteristics of the individual charter school.

The checklist at the end of this section includes an expanded list of issues petitioners should consider related to special education. The list is not exhaustive, but rather a guide to key issues that potential charter petitioners should take into account. Considering these in detail during the planning process will prepare charter school staff to be ready to serve students with disabilities on the first day of school.

How do we ensure that we have the knowledge to adequately plan for special education?

It is critically important that a member of your charter school development team have expertise in this area, including knowledge of federal and state laws and regulations. If not, you should strongly consider securing a consultant with special education expertise to support you.

What role does professional development and training play while we are preparing for start-up?

Training staff on the requirements of federal and state special education laws and regulations is critical to a successful charter school that provides quality services to students with disabilities. Waiting to understand the school's responsibilities regarding special education until the school is open is too late.

The charter school law in Georgia only requires charter school petitions to include an assurance that school personnel will abide by federal statutes related to special education. Is there any need for me to expand upon this assurance?

Providing a blanket assurance may meet the letter of the law, but it can be subject to interpretation and will not help you work through the intricacies of including students with disabilities. In the long run, your planning activities and application will be stronger if you address specific issues regarding the education of students with disabilities that are your legal responsibility in accordance with your legal status and linkage to an LEA.

The most useful charter school petitions address how the school will ensure that all students with disabilities have access to a Free and Appropriate Public Education (FAPE) and how the needs of special education students will be met in specific areas, including:

A description of how the school will comply with state and federal special education requirements for serving students with disabilities, including a description of the settings in which these requirements will be implemented, and the qualifications of the individuals delivering services.

- A description of how the school will provide students with disabilities access to the general education curriculum by implementing programs of special education, including how the special education program will be implemented at the school, given the particular mission and educational program of the school.
- A description of how the proposed school will identify, evaluate, and develop an Individualized Education Program (IEP) for each student in need of special education services.
- A list of the special education staffing levels the school intends to provide, by year, for each of the school's first five years. Staffing positions should include: the special education director, teachers, paraprofessionals, and other staff, as well as the number of staff the school plans to hire each year and their qualifications, salary, and the percentage of their time that will be devoted to special education. If the school anticipates outsourcing services such as occupational therapy, physical therapy, or speech therapy, indicate that a contract will be developed, and if possible, indicate with whom.
- A description of the school's plan to evaluate the special education program and to assess its effectiveness in serving the needs of all students, including the data sets that will be used to conduct the analysis and how the school will address program weaknesses.

Can a charter be amended after it has been approved?

Yes, a charter contract may be amended pursuant to O.C.G.A. Section 20-2-2067.1. Amendments are subject to local and state board approval.

Are there any existing models of how to address special education during the planning phase?

Yes, a number of organizations have developed documents and orientation series that include information regarding special education in charter schools. The following documents are examples of technical assistance materials related to special education that might be informative to Authorizers interested in developing similar materials:

Arizona Department of Education: Hot Topics in Special Education, available at:
<http://www.azed.gov/special-education/files/2011/08/attachment-2-current-hot-topics-in-sped-11-20-12-seap.pdf>

Colorado Department of Education, Charter Schools Guidebook, available at:
<https://www.cde.state.co.us/cdechart/charterhbkbk.asp>

(Florida) Special Education: Information Briefs, available at:
<http://floridacharterschools.org/assets/publications/FCPCSSpecialEducationGuide.pdf>

Issues for Charter Petitioners to Consider During the Pre-Authorization Phase

Collaboration With Other Entities

- What are the roles and responsibilities for our school and LEA to provide special education services?
- How will decisions be made about provision of related services?

Funding for Special Education

- How will federal, state and local special education dollars flow?
- What does our school need to budget for special education during the first year of operation?
- Do we need to prepare financially to enroll a student with significant special needs?
- Is there a formula for determining how much special education funding to include in our budget?
- What is the formula and how is it determined?
- When will funds be available?
- Who receives funds for related services?
- What is our budget plan related to special education?
- What funds will we receive for special education services?
 - federal
 - state
 - local funds
 - fundraising

Space and Facilities

- Are the facilities we're considering accessible?
- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential student records?
- Where will we provide (pullout) services?
- Where can related services personnel meet with individual students?
- Where will we store supplies and equipment used by students with disabilities (e.g., educational, medical, mobility, assistive technology)?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals—including adults—with physical disabilities?
- Who will make repairs to ensure school remains accessible to students with disabilities?
- Does the facility have space for a nurse to store and administer medications or use medical equipment?

Human Resources

- How many students will the school enroll?
- How many students with disabilities should we estimate that our school will enroll?
- How many teachers will I need to hire?
- What kind of certification will the teachers need?
- How will we obtain these services and contract with these individuals?
- How can we collaborate with other schools and agencies to meet the needs of students with disabilities?
- How will we provide for an entire continuum of LRE options, if necessary?
- What other types of services will our school need?
 - Legal counsel with special education expertise?
 - Accountants, bookkeepers, number crunchers?
- *For State Chartered Special Schools:*
 - How many special education teachers will we need to hire?
 - What kind of certification will the special education teachers need?
 - What type of related services personnel will we need?
 - How does our staff meet the highly qualified requirements found in IDEA and NCLB?
 - How does Georgia define “highly qualified” teachers according to NCLB and “qualified personnel” under IDEA?
 - Can our school hire dual-certified teachers?
- Can we use student teachers from area universities?
- Can we hire part-time or retired special education teachers?
- What are the implications for salaries and benefits if we hire full- versus part-time employees?
- Will we need to hire staff for health-related issues?
- How will we assure that all teachers are HQT?
- *For Local Charter Schools:*
 - Will the school be required to contract with an LEA for the purposes of special education?
 - If our school needs to work with an LEA, how do we negotiate with the LEA to ensure our students will receive appropriate services?

Curriculum

- What curriculum and instruction will my school offer?
- How does our curriculum align with the state's suggested curriculum or standards for student learning?
- How will students with disabilities access the general education curriculum?
- How will we modify the curriculum and instructional delivery to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?
- What types of assistive technology will be needed by our students?
- How will students with disabilities be provided with allowable accommodations as determined by their IEP's when participating in state mandated assessments?
- How will students with disabilities who qualify for Alternate Assessments be assessed?
- How will our 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?

Service Provision

- How will we ensure students will receive special education services by a highly qualified special educator?
- How will we address the wide continuum of students who will apply to our school?
- How will we obtain all records (including special education) for our students in a timely fashion?
- How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)? Who determines and hires related service providers?
- What should our Child Find activities look like?
- How will we implement Student Support Teams?
- How will we conduct student identification, evaluation and special education eligibility determination meetings?
- Who will participate in IEP development and implementation?
- What types of special staff or consultants will we need to implement our students' IEPs?
- How will we handle re-evaluations?
- How are we going to work with families?
- How can we build partnerships?
- What strategies can we use to be proactive in avoiding conflicts?
- How will we collaborate with LEA and state staff?
- How will we provide individual accommodations during statewide testing?
- How will we provide secondary transition services?
- What services will we not provide and how will we assure these services will be available to students?

Professional Development

- What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support children with disabilities?
- How will our school provide teachers with professional development?
- Have we included training on administration of medications in schools?
- Does the LEA or the SEA operate a professional development program or network that we can utilize?
- Will we contract with an external provider to assist with administration of special education and develop internal policies and procedures?
- How will our school handle student records and other school property appropriately in the event of closure of the charter school?

Administration

- Do we have the capacity to coordinate special education or will we contract out this responsibility to an external entity?
- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- What equipment/supplies/programs will be needed to collect and store data and records? How will we obtain these? What training will be needed to use these efficiently and appropriately?
- Can we create our own system to administer special education or will we adopt the policies/procedures dictated by our Authorizer, local district, or other administrative unit (e.g., a Intermediate Unit or a Cooperative)?
- Who is going to monitor us? How do we prepare for these activities?
- Who will coordinate the special education program?

Transportation

- Will we provide students with transportation?
- How will we provide students with transportation?
- Can we access district or state transportation dollars to offset costs?
- How will our school meet transportation needs of students who receive transportation as a related service articulated on their IEP?
- How will we arrange transportation for a student using a wheel chair?
- Where will we access transportation for a student with special transportation needs (e.g., wheelchair, requiring behavior support)?

The Authorization Phase

The authorization phase is critical to the development of successful charter schools. Building on the foundation established during the pre-authorization phase, the authorization process provides Authorizers the opportunity to verify potential operators' knowledge about their responsibilities and to assess the degree to which a petitioner is capable of fulfilling these responsibilities.

Charter Authorizers should be knowledgeable about special education, even if this is not required by statute. This basic knowledge will enable Authorizers to ensure that: (1) charter petitioners fully understand and are prepared for their responsibility to educate students with disabilities and (2) charter petitioners integrate their plan to provide adequately for special education within their petition. By providing charter developers early guidance on how to anticipate and adequately address the petition process, Authorizers can help charter schools preempt a variety of challenging issues that will emerge once a child with a disability enrolls in the charter school.

What occurs during the authorization phase?

The authorization phase incorporates the stage in which the petitioner completes the formal written petition and seeks a charter. During this stage, the charter school petitioner transitions to a formal governing authority that has legal responsibilities for which they will be held accountable by their Authorizer.

The petition process typically conforms to broad requirements in Georgia's charter school law and is further developed by individual LEA Authorizers. Charter school applicants are generally required to articulate the school's mission, governance structure,

educational model, budget, assessment and accountability plans, and how finances – including special education finances – will be managed.

Once the Georgia State Board of Education approves the petition, an agreement is executed by the State Board, the local board, and the charter petitioner. At this point, the agreement and the petition become the charter contract. All of the particulars of the operation of the charter school, the details regarding roles and responsibilities should be included in the petition once it is approved because it serves as the charter contract. This is particularly important in the area of special education because ambiguity in the petition can lead to legal and programming issues. Once the State Board of Education has approved the petition, the only opportunity for renegotiation or clarification is to add an amendment by going through a process similar to the original petitioning process.

Questions for Authorizers

What should authorizers ask petitioners about their plans to provide special education services to students with disabilities?

At a minimum, Authorizers should ask applicants to articulate a rudimentary plan regarding governance, service delivery and financing of special education. It is critical that petitioners demonstrate to Authorizers that they have a well-conceived, feasible plan to access the capacity they will need to meet their legal obligations.

In addition, in accordance with the specific level of responsibility the charter school will have pursuant to its legal status, Authorizers should ask petitioners to provide information on some or all of the following during the petition and authorization phase:

- evaluation and identification of children with disabilities;
- conducting Child Find activities
- setting up a Student Support Team
- development, review, and revision of IEPs;
- integrating special education into the general education program;
- providing opportunities for students with disabilities to be included in the Least Restrictive Environment as determined by the IEP team;
- delivering special education and related services;
- technical assistance and training.
- Hiring specialized personnel (e.g., certified special education teachers, administrators, related services personnel)
- purchasing services from special education vendors (including monitoring and holding the service provider accountable);
- projected cost of special education services, including transportation;
- accessing and account for special education funds;
- anticipated sources for ongoing legal guidance related to special education;
- ensuring the school facility meets the requirements of other related laws such as the Americans with Disabilities Act (ADA) and Section 504;
- enrollment and IEP transition procedures;
- addressing student discipline in accordance with federal and state laws;
- conducting manifestation determination hearings associated with discipline issues;

- handling programming disputes involving parents;
- ensuring confidentiality of special education records;
- Compliance with FERPA; and
- Compliance with HIPPA.

Depending on a school's legal status, the operator's responsibilities in these areas will vary. Even if not required to address these in the content of the charter petition, considering them in detail during the planning process will prepare the operator to be ready when a child with a disability applies to the school and the doors open on the first day of school.

What level of special education expertise is recommended when reviewing a petition?

The Authorizer should have someone knowledgeable about special education who will be responsible for reviewing the petition prior to its approval and be available to answer questions regarding all matters pertaining to students with disabilities. This typically will be the district's director of special education or a staff member of the department.

What does it mean to have the capacity to provide special education services?

Special education capacity entails having the human, fiscal and legal resources required to fulfill the responsibilities articulated in IDEA. At a minimum, capacity includes the ability to implement existing IEPs, refer eligible students to special education, conduct evaluations,

develop IEPs and provide special education and related services for all entitled students enrolled in the school. Authorizers need to be confident that petitioners either have established, or can access, the capacity they will need to meet their special education responsibilities. This could involve securing services from an outside source. Authorizers should require a detailed plan to ensure services outlined on each IEP are delivered in a timely and appropriate manner.

Why is it important for authorizers to ensure that charter petitioners have the capacity to provide special education services?

By ensuring that charter schools have the capacity to provide special education services, Authorizers can help operators and themselves avoid potential liability and ensure that all students who enroll have the opportunity to obtain an appropriate education. Authorizers should note that students with disabilities are afforded these opportunities as a civil right as noted in IDEA and Section 504.

How can charter schools develop the capacity to deliver special education services in the school?

Building special education capacity may entail various arrangements depending upon a charter school's legal status. As long as charter schools can ensure that children with disabilities enrolled in their schools have access to a Free Appropriate Public Education, they may utilize a variety of strategies to amass the capacity. This may include hiring appropriate professionals to work at the school. Schools can also contract with the local education agency or other entities and individuals that are qualified to provide special education services.

When does a charter school need to have the capacity to provide special education services and comply with federal and state laws?

A charter school needs to have the capacity to meet its legal responsibility for providing special education services, in compliance with federal and state laws, on the first day it opens and maintain this capacity thereafter for as long as it operates.

What is an authorizer's role in ensuring that charter schools fulfill their mission while complying with their special education obligations under IDEA and Section 504?

Authorizers should require applicants to articulate their mission explicitly and ensure that the charter school is prepared to offer reasonable accommodations to children with disabilities who elect to attend the school. A key component of reasonable accommodations is a school culture that incorporates a commitment to offering accommodations to individuals with disabilities while guarding against substantively changing the nature of the school's mission. During your initial planning, it is important to give some thought to how your school's purpose and mission can be relevant to a wide range of students. For example, how can it be made relevant to students with learning disabilities, physical disabilities, or students who present behavioral challenges?

Is an authorizer liable if a charter school they authorize does not serve children with disabilities or otherwise do not implement special education properly?

To date, there is no case law establishing whether, or the degree to which, Authorizers can be held responsible for special education in the schools they authorize. Nor is there judicial precedent that explicitly releases Authorizers from responsibility related to special education. This does not mean that Authorizers cannot or will not be held responsible at some point in the future. Authorizers should seek legal counsel regarding the degree to which charter schools or parents may hold the Authorizers accountable for the implementation of special education in the charter schools that they authorize.

Facilities

What requirements for physical access and space apply when selecting the facilities that will house a charter school?

An LEA may not limit the extent to which persons with disabilities -including parents as well as students- may benefit from the programs and activities it offers because of inaccessible facilities.

The planning team must consider whether the facility has capacity for dedicated space for related special education services such as occupational therapy, physical therapy, speech and language and educational testing. These services are often needed soon after a school opens. When selecting a school building, one should consider the potential costs incurred to make the building programmatically accessible to persons with disabilities prior to opening the school.

The state and federal requirements for accessibility of facilities are complex. It is important that Authorizers and operators of

charter schools have appropriate legal and technical assistance on this topic. A charter school should not assume that the facility meets accessibility requirements, even if it has previously been occupied by another public school. Authorizers should advise charter schools to consult with a building inspector to review their potential facilities for compliance with ADA and Section 504.

The Georgia Department of Education website contains a section entitled the Facilities Services Unit that provides assistance and resources related to school facilities plus a set of links to other internet resources on this:

<https://www.gadoe.org/Finance-and-Business-Operations/Facilities-Services/Pages/default.aspx>

What is the legal basis for the requirements relating to facilities accessibility?

Legal requirements regarding accessibility are extremely complex and stem from the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act.

To read these laws and see documents regarding their implementation in public schools please see the following websites:

Americans with Disabilities Act of 1990:
<http://www.ada.gov/regs2010/2010ADASTandards/Guidance2010ADASTandards.htm>

Section 504 of the Rehabilitation Act of 1973:
<http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>

ADA and Section 504, Kids source:
<http://www.kidsource.com/kidsource/content3/ada.idea.html>

Federal regulations can be found online at
<https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html>

Are there different legal requirements that apply to charter schools located in existing facilities as compared to newer facilities?

Yes. Generally for existing facilities, a charter school's programs and activities, when viewed in their entirety, must be readily accessible to individuals with disabilities. Both the Section 504 and ADA Title II regulations permit considerable flexibility in meeting this legal standard. For example, structural changes are not required in existing facilities if nonstructural methods are effective in achieving program accessibility. For new construction and alterations (all construction begun since June 1977), Section 504 and ADA Title II require that a new or altered facility (or the part that is new or altered) must be readily accessible to, and usable by, individuals with disabilities. For example, if your charter school is in a new building, all parts of the building including a third-floor chemistry lab must be accessible for use by persons with disabilities. In contrast, if your charter school is in an existing facility, you might be able to meet the program accessibility requirement by locating at least one chemistry lab in an accessible location such as the first floor.

Whose responsibility is it to modify a charter school building so it is accessible to an individual with a disability?

The charter school must ensure that any facility it purchases or rents meets accessibility requirements. Responsibility to modify a rented facility, even in the event of unforeseen need, should be articulated in the lease between the charter school and the owner of the facility. Authorizers should

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strongly encourage charter operators to seek experienced legal counsel prior to signing any contracts to lease or purchase a facility for their school.

Do we need to consider access to public transportation when selecting a facility?

The charter school petitioner may want to consider access to public transportation when selecting a facility. Transportation may be identified as a related service on a student's IEP and providing such transportation would be the financial responsibility of the charter school. Public transportation may not be appropriate and, in those cases, alternate plans funded by the charter school may be necessary. Having access to public transportation may be necessary for some parents to participate in special education related meetings, so consideration of public access is important for them also.

What responsibility do charter school authorizers have for monitoring accessibility of charter school facilities?

Charter Authorizers are ultimately responsible for ensuring that charter school operators fulfill their obligations outlined in their charter and comply with all applicable laws. Therefore, Authorizers would be well advised to take a proactive role in ensuring that facilities are accessible to individuals with disabilities in accordance with federal and state laws. Authorizers must ensure that their charter schools have appropriate certificates of occupancy.

Staff

In order to provide FAPE, the school may need to train and employ professionals who are competent to design instruction and provide an appropriate education to students with disabilities.

Hiring and Retention

Do charter schools have to hire full-time special educators?

Whether your school will need a full or part time special education staff is dependent upon the number and needs of students and the school's capacity to implement the IEPs as written. Since most charter schools are small, it is highly unlikely that your charter school will have sufficient need to warrant hiring a full complement of special educators or related service providers. However, you will have to be creative and flexible in designing staffing loads. A few of the options include hiring faculty with dual licensure (in special and general education), hiring consultants on an hourly basis, or contracting for special educators via a collaborative agreement with the local school district or other (private or charter) schools.

How will we know which types of related service personnel to hire prior to school opening?

You will not know the exact services until you review the IEPs of your enrolled students. Even so, it is important to know where to find the capacity to provide special education and related services once student needs are identified.

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Are there special strategies to attract and retain personnel who work with children with disabilities?

In many parts of the country, demand for educators (particularly special educators) exceeds the supply. While there is no special "fix," several strategies have proved effective in reducing turnover. These include:

- hiring faculty with dual licensure (e.g., elementary education and special education);
- creating a mentor system for new special educators
- hiring consultants to provide special education services;
- implementing a peer support program
- hiring retired teachers to work part-time;
- developing collaborative agreements with an LEA;
- implementing an open-door discussion practice
- developing collaborative agreements with other charter schools to share special education teachers; and
- forming partnerships with a local non-profit entity (e.g., a hospital) or a post-secondary institution that employs related professionals.

Increasingly, research shows that the primary reasons special educators leave their positions are paperwork responsibilities, feelings of isolation from colleagues, high caseloads and multiple responsibilities.

Specific upfront discussions about their individual roles in fulfilling the school's mission will help them to understand your school and their ability to help you meet your goals. It is extremely important that you are in frequent contact with your special educators to gauge satisfaction and/or frustration and explore strategies to minimize areas of difficulties.

Additional resources to assist in recruitment, preparation and retention for special education personnel are available at www.personnelcenter.org/resources.cfm.

Teacher Qualifications

Which teacher qualification requirements pertain to special education teachers in charter schools?

The No Child Left Behind Act (NCLB) requires all public school teachers of core academic subjects to be “highly qualified.” The law defines core academic subjects as English, reading/language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography. Although NCLB does not specifically refer to special education, IDEA requires special education teachers who provide the primary instruction in any of the core academic subjects to meet the “highly qualified” definition.

A teacher is considered “highly qualified” under IDEA if (s)he:

has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a

public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law;

has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

holds at least a bachelor’s degree.

However, the law contains an *exception* for special education teachers in charter schools. The Georgia Professional Standards Commission (GPSC) allows charter school teachers to be considered “highly qualified” under NCLB even if they do not have certification (though an Authorizing LEA can require certification as a stipulation of approving the petition). This issue should be negotiated during the Authorization process.

The Office of Special Education Programs (OSEP) in the U.S. Department of Education has created a website with specific information and guidance on all aspects of IDEA 2004, including a section on highly qualified teachers.

All matters pertaining to teacher certification in Georgia are handled by the Georgia Professional Standards Commission.

For details, see:

<http://www.gapsc.com/Rules/Current/Certification/505-2-.27.pdf>

Due to my charter school's legal identity, we are responsible for hiring our staff and faculty. How much flexibility do we have in special education?

It is important that the charter school abide by the decisions of the IEP team regarding the type of services a student will need and consider the staffing implications, including the required qualifications, for delivering those services. It is essential that charter school operators who hire special education personnel follow Georgia's charter school law and regulations regarding faculty.

A charter school may hire or contract for any special education staff as long as these staff hold the appropriate certification and meet applicable state and federal requirements. Remember, even if a charter school contracts for services, the charter school operator remains responsible for compliance and service delivery.

Are there licensure requirements for related service providers?

Yes. Pursuant to the IDEA, any person, including non-educational personnel, who provides related services, supervises paraprofessionals in the provision of related services, or provides support services directly to the regular or special education teacher must be appropriately certified, licensed, board-registered, or otherwise approved to provide such services by the relevant professional standards board or agency for the profession. Related services include, but are not limited to, speech-language, occupational or physical therapy or interpreting services for students who are deaf or hard of hearing.

Where can I obtain specific information on Georgia's licensure requirements pertaining to special education in charter schools?

In addition to Georgia's Charter School Office, you should become very familiar with the Georgia Professional Standards Commission. The staff in this office will be able to interpret federal and state certification requirements as they pertain to charter schools. Particularly during the early days of your school, do not assume you understand licensure requirements because you talked with a colleague in a neighboring state. There is extreme variability in certification requirements across states.

Professional Development

Who should receive professional development?

All staff, including general education teachers, should receive professional development in the area of special education prior to the school opening. It is critical that the school's administrator is trained along with the special and general educators in the school.

What types of special education professional development should we offer our staff?

A school's instructional staff (including paraprofessionals) need to have ongoing access to training focused on linking instruction, curriculum, and the school's mission to the individual needs of students.

Specifically, both special and general education staff should receive training in:

- State and federal special education requirements and related local special education policies and procedures
- Analyzing and accommodating diverse learning styles of all student in order to achieve an objective of inclusion in the general classroom with diverse learning styles
- Methods of collaboration among teachers and paraprofessionals to accommodate diverse learning styles of all students in the general classroom.

LEAs usually offer a full complement of professional development activities. Personnel from Local Charter School that are part of an LEA are eligible to participate. The Georgia Learning Resource System (GLRS) provides a wide range of professional development opportunities to LEAs. Additional resources are available through the Georgia Charter Schools Association, GCASE (Georgia Council of Administration of Special Education), and GACEC (Georgia Council for Exceptional Children). Successful practices in personnel retention also stress the importance of involving the staff members in the planning of their own professional development programs.

What type of professional development would benefit our board members and other volunteers?

Your charter school board members and other volunteers who are involved in your school need to be involved in focused, ongoing awareness and training activities to ensure their understanding of special education and the needs of students with disabilities.

Charter Schools

They will benefit from training in the charter school's responsibilities for students with disabilities, as well as educational management and leadership issues.

Given the strong charter school focus on parental involvement, it is also important to reach out to parents and family members of students with disabilities to ensure they are part of the activities that involve all parents and meet their needs for information.

Budget and Funding

How are charter schools funded?

As public schools, charters are not allowed to charge tuition, and they are funded according to enrollment. Much like their traditional public school counterparts, Charter schools are funded from multiple sources, including state Quality Basic Education (QBE) funding, local funding, fundraising, and charitable contributions. In addition, charter schools are entitled to federal categorical funding for which their students are eligible, such as Title I and special education monies. Federal legislation provides grants to help charters with start-up costs through the Federal Charter Schools Program.

For further information, see:
www.ed.gov/programs/charter/index.html.

Are funds available to implement services required by Section 504?

No. Unlike the IDEA, which provides federal funds to supplement local and state expenditures for special education and related services and assists schools in meeting special education requirements, Section 504 is an anti-discrimination law and does not provide any type of funding. IDEA funds may not be used to serve children found eligible under Section 504.

Do charter schools receive the same amount of funding as traditional public schools?

Yes. Pursuant to IDEA and GA Code section 20-2-2068.1(a), the local and state school boards may not treat charter schools any less favorably than other public schools located within the local school system, unless otherwise provided by law, with respect to funding for instruction, school administration, transportation, food services, and, building programs.

What are the major expenses associated with special education?

Expenses associated with special education fall into four general categories: (1) personnel, (2) equipment, (3) facility modifications, and (4) transportation. The amount a charter school will need to allocate to these categories, and the degree to which these expenses may be shared with another entity, depends upon the school's legal status. Authorizers also need to consider the cost of administration, oversight, and technical assistance for services related to special education.

How can charter schools plan for their expenses related to special education?

As a general rule of thumb, charter schools should anticipate that approximately 13% of their student population will be students with disabilities. This translates to about 40 students to one part-time special education coordinator. Schools should budget accordingly, since that percentage is the national average of the public school population identified as eligible for special education services. Authorizers should review the budgets of the charter schools they authorize to ascertain whether the budgetary figures match the projected enrollment of students with disabilities and the services they will need.

The National Resource Center on Charter School in Finance and Governance (NRC) developed a tool to help charter school leaders identify and estimate the wide array of special education costs and funding needs at each stage of school development

A Cost Estimation Tool for Charter Schools: <http://files.eric.ed.gov/fulltext/ED509438.pdf>

How do special education funds flow to the charter school?

The State of Georgia allocates state and federal special education funds to the authorizing LEA, which then has the responsibility for dispersing the funds, equivalent services, or a combination of funds and services, to the charter school based upon each LEA's policies.

State Chartered Special Schools are responsible for all special education services. Accordingly, funds flow directly from the state to State Chartered Special Schools.

Local Charter schools should receive funds on the same basis as other schools within the LEA.

Historically, state and federal special education funding has been less than what LEAs must spend to fulfill the requirements of law related to programs and services for students with disabilities. Authorizers should ensure that applicants know how to access all the federal, state and local resources that are available to their children with disabilities. Charter schools petitioners should be advised to consider developing a reserve in case their special education expenses exceed revenue.

Are charter schools excused from their legal responsibilities if the special education program costs more than the funding it receives from the state and federal governments?

No. Lack of funds is not a legal reason for denying services to a child who is eligible for special education. The manner in which your charter school may seek additional support to pay for required special education services depends on a number of factors, such as your school's legal status, the provisions of your charter, and the contractual relationship (linkage) you have with an LEA.

Revisions to IDEA passed in 2004 permit states to establish risk pools to assist LEAs in addressing the needs of "high need children with disabilities." The law specifically includes State Chartered Special Schools as eligible to participate. Sharing resources entails careful collaboration and there are many factors that a charter school must take into consideration when using or joining outside groups for special education services. Pooling resources may enable individual

charter schools to realize economies of scale, but combining funds would require careful budgeting and tracking of funds to ensure that individual schools can report on how federal and state dollars are allocated and expended.

Who monitors the charter school to ensure the special education funds are spent on the services agreed upon in student IEPs?

The Authorizer is responsible for ensuring that all of its schools meet the responsibilities related to the use of special education funds. A State Chartered Special School will be monitored by the SEA in the same way that all other LEAs in the state are monitored.

Transportation

Do charter schools have to provide transportation to students with disabilities?

If your school provides transportation to and from school or financial support for non-disabled students for that kind of transportation, then you need to do the same for students with disabilities. If you do not provide this support in general, then you typically do not need to provide it to students with disabilities. However, if an IEP team identifies transportation as a *related service* on a child's IEP, then your school will need to arrange for transportation services or see that the responsible entity does so. It is critical that IEP Team members understand the difference between a student's need for transportation to get to school (common for all students) and a student's need as a result of a disability (which results in the need for a related service).

If transportation is identified as a related service, the responsibility for transporting the child to the charter school, and paying for this service, is assigned on the basis of the charter school's legal status. State Chartered Special Schools will have to budget for special education transportation. In such a situation, the school may contract for transportation services or arrange for the family to transport the child to and from school (or the location of the special services) and receive reimbursement. For Local Charter Schools, the responsibility for paying for special education transportation is decided as part of the contract between the charter school and the LEA.

Equipment

What is a charter school's responsibility in providing specialized equipment, instructional materials, and assistive technologies for students with IEPs?

If specialized equipment, instructional materials, or assistive technology is determined as a need for the student on the IEP, the school must provide the resource. Charter schools may want to consider creating a bank of resources available for the entire school or collaborate with other schools in the purchase of these devices.

How does a charter school's program development team determine what specialized equipment or materials need to be purchased or borrowed?

Individual student IEPs are the guiding documents in this area and will list the need for devices. The special education and related services staff you hire, or with whom you contract, will provide additional guidance about the types of devices or materials that must be made available. Charter school developers should remember that general instructional materials should be flexible enough to meet the needs of students with

varying abilities and skill levels. For example, when choosing a reading curriculum or approach, it is important to consider whether the curriculum can be differentiated to meet special student needs. Staff may need assistance to accomplish this and may need professional development in this area.

The Operation Phase

This section provides an overview of critical issues and activities related to serving students with disabilities. As you move through the day-to-day operation of your school, you will find that often you have to focus on a "challenge of the moment" related to students with disabilities. If you have planned carefully to put strategies in place for handling special education issues, they will not reach the crisis stage. Occasionally, you should take the time to revisit your mission and vision and have specific discussions on how all of your students and staff are doing. Remember to consult with resources available in your LEA, the GaDOE, or the charter Authorizer.

Student Recruitment and Admissions

Charter Schools

Do students with disabilities have a federally protected right to attend charter schools?

Yes. Section 504 and Title II of the Americans with Disabilities Act specifically dictate that students with disabilities may not, on the basis of their disability status, be discriminated against or refused entry into any school that receives federal funding. For example, a school may not deny admission to a student with a disability solely because of that student's need for special education or related aids and services or because the school staff feel they lack the expertise necessary to serve that student.

Children who attend charter schools are covered by these civil rights laws in the same way as children in any other public school. Students with disabilities must have the opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the mission of the charter school and civil rights requirements. Charter schools are expected to make proactive efforts to recruit students from all segments of the community served by the school using strategies that will not exclude students with disabilities, and to administer their enrollment process in a way that is open, inclusive, and fair.

Can we test students before enrollment or placement in a lottery?

No. Charter schools may not administer tests to potential applicants or predicate enrollment on results from any test of ability or achievement.

Can a charter school “counsel-out” a student with a disability?

No. “Counseling-out” is the process of subtly (or not-so subtly) “counseling” a child with a disability to influence an enrollment decision based on the child's disability. As public schools, charter schools are not allowed to discriminate against students with disabilities. They are legally required to maintain open enrollment policies. Advising students with disabilities that they are not allowed to attend, or that the school cannot provide the modifications or accommodations necessary to enable them to attend, is discriminatory and illegal.

If, in the process of making placement decisions, charter schools “counsel” students regarding placement, is this “counseling-out”?

Not necessarily. Determining whether a particular educational environment is the best placement is not discrimination if conducted in an appropriate manner (by an IEP Team) and based on an individual child's needs. It is part of the process of ensuring that a child with a disability receives a Free Appropriate Public Education in the Least Restrictive Environment. Given the unique nature of some charter schools' programs, not all charter schools are going to be appropriate for all children with disabilities (children with an official IEP or 504 plan) while meeting the goals and objectives outlined in their charter. However, there is a fine line between discrimination and determining that a particular program may not be an appropriate setting for a child with a particular disability.

If we have concerns about our ability to meet the needs of a specific student with a disability, can we recommend other programs or schools?

Generally, no. It is typically not appropriate to suggest that the needs of a student with a disability may be better met in another school. During the course of student recruitment, it is expected that your school staff and representatives will share information with prospective students and families on the school's curriculum and services. It would also be appropriate to discuss the services and supports currently provided to students with disabilities and to explore potential strategies for meeting the needs of the prospective student. The initial focus should be on understanding the needed supports and services and identifying strategies for delivering them within the context of your school's framework.

All issues about the appropriateness of the child's school placement should be taken up with the child's IEP team. If the school is not able to provide all of the services identified in a student's IEP, the operator must make arrangements for these services, either directly, if the school is a separate LEA, or in collaboration with the authorizing school district.

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

Since charter schools may not discriminate on the basis of disability in determining eligibility for admission, your considerations for students with disabilities should be the same as for students without disabilities.

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

Once a student with disabilities is admitted to the charter school, it is critical that you receive the records from the student's former school to ensure that prior IEP requirements are known and implemented until an IEP team meeting is convened to determine if a new IEP is required.

When a student with an IEP transfers from another LEA, whether or not both of those LEAs are in Georgia, the sending school must take reasonable steps to promptly respond to the new school's request for records. If you do not automatically receive the records, initiate a request both to the previous school and to the special education office of the LEA. The Georgia special education office can also help if you are not able to obtain a response from the previous school or LEA.

It is important to note that transfer of records from one public school to another does not require a signed consent for release form.

Georgia Special Education Regulations are available online at <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/default.aspx>

What is our school's responsibility when a child with a disability transfers to another school?

As with any other child, when a student with a disability transfers to another school, you must ensure timely transfer of all records. At the point that the child is formally no longer enrolled in your charter school, your school no longer has a responsibility to provide services to the child (except in the context of a due process violation or litigation in which non-compliance was found and the charter school was required to provide compensatory services). Special equipment and assistive technology may also need to be transferred.

How should we transfer student records?

Student records, including special education records, should be returned to the LEA for retention and storage according to state law. Perhaps the most important consideration in records transfer is ensuring the privacy of student information. The Family Educational Rights and Privacy Act (FERPA) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students. Careful attention to sections pertaining to disclosure of information without the "written consent" of the parent or eligible student will help alleviate future problems. For details about the law, see: <http://www2.ed.gov/policy/gen/guid/fpco/index.html>

What resources are available to assist charter schools plan for the recruitment and admission of students with disabilities?

One of the best sources of information to guide the enrollment practices of charter schools is the non-regulatory guidance generated by the Charter Schools Program of

the U.S. Department of Education, available at: <http://www2.ed.gov/programs/charter/nonregulatory-guidance.html>

The department continues reviewing its non-regulatory guidance and may publish updated clarifications or modifications when appropriate at <http://www2.ed.gov/programs/charter/nonregulatory-guidance.html>

The National Alliance for Public Charter Schools has created a helpful tool for charter school leaders to understand state-level requirements related to student recruitment, enrollment, and lottery procedures. This comprehensive resource offers a state-by-state description of enrollment-related policies and regulations, including open enrollment, lottery, enrollment preferences, and optional preference in each state.

Measuring Up to the Model: A Tool for Comparing State Charter School Laws, available at: <http://www.publiccharters.org/get-the-facts/law-database/>

Additional information and clarification on appropriate strategies for addressing this issue may be found in the U.S. Department of Education Office for Civil Rights (OCR) document, *Applying Civil Rights Laws to Public Charter Schools: Questions and Answers*, available at: https://www.sde.idaho.gov/site/charter_schools/law_regs_docs/FederalCivilRightsLaws.pdf

Identification of Students With Disabilities

What are some indicators that a student may have a disability?

If a student is having difficulty in school - covering a broad range of possibilities including academic, behavioral, physical, emotional or social dysfunction or difficulty or some other manifestation of difficulty - someone generally notices, becomes concerned, and wants to get to the root of the problem. This may be the child's teacher or parent. At other times, the student's performance on a test or classroom assessments may signal cause for concern.

What should we do if a teacher or parent suspects a child might benefit from special education?

A parent (or other person in a care giving or professional position) who is concerned that a student may have a disability can refer the student for an initial evaluation. The student's parent must provide consent prior to the student's evaluation. Within 60 days of the parent providing consent, a full and individual evaluation must be provided to the student being considered for special education categorical eligibility. The Georgia Department of Education Special Education Office provides technical assistance and mediation support if the parents refuse permission for an evaluation. The charter school must be prepared to use existing, evaluative information and conduct an evaluation, without delay, in all areas related to the student's suspected disability. However, an eligibility determination cannot occur until the existing data is reviewed to determine whether exclusionary factors related to specific eligibility categories are present.

Charter Schools

Every charter school should have clear procedures in place for attending to the needs of a child who is not progressing or is presenting other kinds of problems. Putting such procedures in place should be a part of planning before start-up so that they do not have to be developed in a crisis situation. Georgia Rules require that each school must have a minimum of one student support team (SST) that must conduct an assessment before a referral is made for other supplemental or support services. Extensive guidance on student support teams is available from the Department of Education website <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Student-Support-Teams/Pages/default.aspx>

What are our responsibilities to conduct "Child Find" activities?

Child Find refers to the affirmative, ongoing obligation of states and LEAs to identify, locate, and evaluate all children with disabilities, or who are suspected of being children with disabilities, residing within their jurisdiction that either have, or are suspected of being children with disabilities, residing within their jurisdiction that either have, or are suspected of having disabilities and need special education as a result of those disabilities.

The GaDOE has set forth a variety of methods that LEAs can use to meet their child find obligations under the IEDA, such as annual print notices in local newspapers and in local public agencies (e.g. the community health center and the Department of Family and Children Services office). Other media outlets, such as TV and radio stations, may be used when appropriate.

While charter schools must participate, a school's specific responsibilities for Child Find depend on its Legal Status. States develop procedures that their LEAs must follow to carry out these responsibilities. State Chartered Special Schools must follow state procedures just like any other LEA. Georgia has developed specific instructions and practices for public schools (including charter schools) and LEAs with regard to Child Find that the school operator must learn, understand and follow.

Charter school "Child Find" responsibilities differ from traditional public school in one significant way. Because charter schools do not have jurisdiction over a geographical area as most traditional public schools, they are only responsible to conduct "Child Find" activities for the students who are actually enrolled in the school. All charter schools must conduct Child Find activities for their full student population so that children who may need special education are appropriately identified and, if necessary, referred for evaluation.

What happens to students who are not found eligible for special education services?

In general, this is left to the option of the LEA, since it can be affected by a number of local factors. One recommended practice would be to consider Section 504 plans for those students who do indeed have an impairment that impedes their ability to have the same chance to succeed in the general education classroom as their non-impaired peers. It may be that general education classroom accommodations are all that are needed to give such a student equal access. In many districts, the cases of students found ineligible for special education are automatically assigned to the Student Support Team in the student's school. That team is responsible for helping design an individual plan for

overcoming obstacles to success. The substantial information that comes back from the comprehensive evaluation can assist the SST in this task.

Providing Special Education Services

What special education services must a charter school provide?

All public schools, including charter schools, must ensure that each of its students with a disability receives all special education and related services, supplementary aids and supports, and modifications and accommodations that are identified in his or her IEP in the LRE.

The range of services and equipment that must be provided depends on the content of each student's IEP. In addition to specific instructional content and strategies, the IEP may include related services, e.g., occupational and physical therapy, orientation and mobility training, adapted physical education, transportation, or assistive technology. Charter schools must provide homebound instruction for eligible enrolled students and also meet the requirements related to IDEA discipline provisions including an "interim alternative educational setting" if such a placement is made for the student.

The specific services that must be delivered by your charter school depend on its Legal Status. In Local Charter Schools, special education services will either be coordinated out of the district office as is done for other schools in the district, or delivered in another way as specified in the charter contract negotiated with the LEA. The expectations for a State Chartered Special School are quite different. Such schools must ensure that each of its students with an IEP receives all special education supports identified in the student's IEP.

What should we do if we have concerns about our ability to deliver instruction to students with disabilities that will be in keeping with our curriculum?

Hopefully, this is an issue you addressed during your pre-authorization activities as you developed your school's mission and considered potential accommodations that will help you to include students with disabilities in your school. It is important that all charter staff understand that each child who is identified as a student with disability has an individual entitlement to a FAPE under IDEA.

For students who require specific support, you need to adjust your program to meet their needs. Some strategies may include:

- Provide professional development regarding differentiating instruction;
- Re-allocate staff to ensure appropriate support for students;
- Incorporate into a student's IEP a provision for close tracking of the student's adjustment in the first 30 days at the charter school with a set date for the full IEP team to review progress and make any necessary revisions;
- Provide an array of accommodations and modifications to allow students to access the general education

- curriculum, e.g., assistive technology, positive behavior support (PBS);
- Collaborate with other PSAs, LEAs, or the ISD to provide a continuum of services;
- Contact your LEA for additional support/ideas for maintaining special education students in your school

Concerns about instruction should be discussed at the time of the child's IEP meeting and addressed in the child's IEP. All members of the team can contribute to, and understand, how the student will have equal access to the Georgia Performance Standards (GPS) general curriculum and accommodations to support this access.

If your school's faculty needs help in accommodating the needs of a student who has a disability, you need to make provisions for professional development.

A student with a significant disability has enrolled in our school. No one on our faculty has experience in this area. What should we do?

Ideally, a charter school representative would have been involved in an IEP team meeting to design the content of the IEP in anticipation of the child's enrollment in your charter school and plans will be in place when the child enters. If that did not occur, the first step is for your charter school staff to review the child's special education records, especially the IEP, and analyze your existing capacity to deliver the instruction and related services as described.

If the charter school can meet the goals and objectives, the instructional and related services in that IEP should be implemented immediately. If that does not appear to be possible, must convene the IEP team immediately to discuss appropriate options.

Staff who will work with this student must be appropriately prepared and certified or receive professional development addressing the student's specific needs. If no one on the school staff has experience working with students with these needs, the school will need to access this technical support from outside sources (consultants, State Department of Education).

Remember to collaborate with your LEA and involve them in the process of planning for a student. Check with the Georgia Department of Education, the Georgia Charter Schools Association, and the Georgia Public Policy Foundation to determine if there is a cooperative that can provide support in this area. Many cooperatives have formed to provide technical support and resources to charter schools with children with significant or low-incidence disabilities. Some also provide direct services for these children.

Can a charter school's curriculum alone meet the needs of students with disabilities?

No. The core tenet of the IDEA is that children are treated as individuals with unique abilities and disabilities that need to be addressed by providing unique support services, which are explicitly articulated in an IEP. This is true even for charter schools where students with disabilities (e.g., students who are deaf or hard of hearing) make up most or all of the school's student body. When a child with a disability enrolls in this type of charter school, the IEP Team must develop an IEP that reflects the unique environment of the school while meeting the individual needs of the student.

In general, any policy that aims to treat all children with disabilities the same way should raise a red flag to Authorizers assessing petitions. When reviewing charter petitions, Authorizers can request additional information regarding how the charter school plans to ensure that its particular curriculum or instructional approach can address the unique individual needs of students with disabilities.

May we limit the participation of students with disabilities to certain aspects of our school's program?

No. Under IDEA and civil rights laws, students with disabilities must be provided a range of choices in academic and extracurricular programs and activities that is comparable to that offered to students without disabilities. LEAs must provide these activities in such a way that students with disabilities have an opportunity to participate in general school activities such as lunch, counseling services, athletics, transportation, health services, recreation activities, clubs, or employment opportunities. Only an IEP Team can determine that a child should be limited in their participation in activities, according to his or her individual needs.

Accommodations and Modifications

For students with disabilities, the decision for teams developing the IEP is not whether the student will be included in the general curriculum and classroom and state administered testing program, but how they will participate. Appropriate inclusion of the students with disabilities in standards-based instruction and in all assessments, classroom and state administered, must be assured.

The selection and use of appropriate accommodations and/or modifications for students with disabilities assure that the results of classroom instruction, classroom assessments, and state administered tests can provide an accurate measure of the student's progress toward grade level standards. In turn, these measures can then be used to make instructional and programmatic decisions. Charter schools should approach adaptations, accommodations, and modifications for students with disabilities with a good faith effort to include the student in the regular education curriculum and classroom to the maximum extent possible.

What are accommodations?

Accommodations are changes to the manner in which instruction or assessment is administered, how the student is expected to respond to a learning task or assessment, how the student participates in classroom activities, and in the kinds of instructional materials and how they are used. For example, a student might listen to portions of a text on tape rather than reading it, answer questions orally or use a computer keyboard instead of writing with a pencil, use large print text books, watch video with captions, participate in a discussion in a biology class with a sign language interpreter, or have a peer take notes on carbon paper so a copy of the notes can be easily shared.

Accommodations are designed to provide equity for the student with disabilities so that their disabilities are not barriers to achievement, not to provide an advantage or ensure proficiency. Accommodations do not reduce or change the learning expectations for the student or the construct the test is designed to measure (knowledge or skill).

Accommodations are designed and put into place to reduce or eliminate the effect of the disability on the instructional tasks/assessment. Accommodations do not change the meaning of the results or an assessment, so the results provide an accurate measure of what the student knows and can do within the construct being measured. Students with accommodations are still expected to meet the same grade level GPS as their peers without disabilities.

Accommodations can be made within the classroom instruction, on classroom assignments, on classroom assessments (both formative and summative), and on state administered tests. Accommodations should not be confused with differentiated instruction.

How are appropriate accommodations identified?

IEP teams are charged with determining appropriate accommodations and with documenting those accommodations on the IEP. Accommodations must be appropriate and specific to the student's needs. Too many accommodations or unnecessary accommodations can hinder achievement or lower expectations. On the other hand, a lack

of needed accommodations in the classroom can prevent a student from meeting the standards that may have been possible with the right accommodations implemented well.

The selection of accommodations by the IEP team should follow a consistent process that reviews data from a variety of sources. IEP teams should consider four important points when making decisions about accommodations:

1. The accommodations are intended to lessen the effect of the student's disability as progress is made on grade level standards. Documentation of accommodations (one part of a standards-based IEP) should reflect the student's inclusion in those standards that are being taught in the grade level in which the student is enrolled. Accommodations must be chosen on an individual basis. The delivery of an accommodation (or a set of solely on an eligibility category or grade level must be avoided.
3. Providing unnecessary accommodations and/or the inaccurate assignment or misuse of accommodations can counteract the perceived or intended benefits of an accommodation.
4. The interaction of accommodations within and across content areas must be considered. An accommodation may be necessary for the student to participate appropriately in one content area but not in another.

After the selection and documentation of appropriate accommodations is complete, the accommodations must be provided consistently throughout a student's instructional program.

What are modifications?

Modifications are alterations that change, lower, or reduce learning expectations. Modifications can increase the gap between the achievement of students with disabilities and the expectations for proficiency at a particular grade level. Consistent use of certain modifications could adversely affect students throughout their educational career. Modifications in statewide assessments will invalidate the results.

What is the difference between an accommodation and a modification?

While accommodations and modifications both reduce the effect of the student's disability on an assignment or assessment, there are important differences. An accommodation does not change the construct of the assessment (in depth or breadth) and does not lessen the learning expectations for the student. A modification often changes the construct and changes the learning expectations. For example, an accommodation for a classroom assignment might be extended time so that the student can complete all parts of the assignment. A modification for that assignment might be taking a portion of the assignment away for the student so that the student is not expected to complete all parts of the assignment.

What are some examples of appropriate classroom accommodations and modifications offered to students with disabilities?

While there is no standard list of appropriate classroom adaptations, accommodations, and modifications that enable a child to access the curriculum, some examples include:

- changing the manner in which material is presented;
- creating personalized study guides;
- adapting textbooks;
- arranging the classroom environment to enhance student learning;
- altering task requirements;
- selecting an alternate task for a classroom assignment;
- managing classroom behavior;
- promoting social acceptance; and
- using assistive technology devices.

Students with disabilities may also need special accommodations to participate appropriately in statewide testing.

More information on classroom adaptations, accommodations and modifications is available from the National Information Center for Children and Youth with Disabilities online at:
<http://www.parentcenterhub.org/nichcy-resources/>

What is an assistive technology device?

The term “assistive technology device” means 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 functional capabilities of a child with a disability. Many people think of technology as equipment such as a wheelchair or an expensive computer-based communication device. In fact, most assistive technology devices are simple and inexpensive.

Many devices require an accompanying “assistive technology service,” meaning any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. This may include:

- the evaluation of the needs of such student, including a functional evaluation of the student in the student’s customary environment;
- purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for such student;
- selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- coordinating and using other therapies, interventions, or services with assistive technology devices such as those associated with existing education and rehabilitation plans and programs;
- training or technical assistance for such student, or, where appropriate, the family of such student; and
- training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such student.

IEP Teams must consider each student's need for assistive technology in the development, review, and revision of the student's IEP. If the team determines that assistive technology is required, the necessary devices and services should be clearly specified in the student's IEP and provided in a timely manner. The student, school staff, and student's family, if appropriate, should receive training in the use of the device.

Related Services

What are related services?

Related Services are those services that are required to assist a student with a disability in accessing or benefiting from special education. The IEP team determines the related services needed for each individual student.

Related services may include:

- Speech-language pathology and audiology services;
- Interpreting services;
- Psychological services;
- Physical therapy and occupational therapy;
- Recreation (including therapeutic recreation);
- Early identification and assessment of disabilities in children
- Counseling services (including rehabilitation counseling);
- Orientation and mobility services;
- Medical services (for diagnostic or evaluation purposes only);
- School health services and school nurse services;
- Social work services in schools
- Parent counseling and training; and
- Transportation

The list of related services in IDEA is not intended to be exhaustive, which means that other developmental, corrective, or support services can be provided as "related services" if they are required to help a child benefit from special education.

To the extent practicable, all related services must be based on peer-reviewed research. This means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid data relevant to improving student learning.

For more details about related services, including how each individual service listed above is defined, please visit NICHCY's web page devoted to related services, beginning at: <http://www.parentcenterhub.org/repository/iep-relatedservices/>

Do related services include medical devices?

No. Related services do not include functional optimization, maintenance, or replacement of surgically implanted devices (such as cochlear implants). LEAs *do* remain responsible for appropriately monitoring and maintaining medical devices that are needed to maintain a child's health and safety, including breathing, nutrition, or operation of other bodily functions, while at school or being transported to and from school. The LEA is also responsible for routinely checking children's hearing aids and the external component of a surgically implanted device to make sure they are functioning properly.

How do we determine what related services, if any, are necessary for a child with a disability?

To determine what special education services and/or related services will be provided to the child, the IEP team will look at the child's present levels of academic and functional performance, assessment results, the measurable annual goals, and, if appropriate, the short term objectives or benchmarks that are included in the IEP. Any services should be based on the unique needs and abilities of the child and help the child advance appropriately toward attaining the annual goals.

Assessments

The section of a student's IEP that addresses district and statewide assessments should be as specific as possible and should identify testing accommodations the student must have in order to participate in the assessment. The Georgia Department of Education, Testing Division, has an extensive assessment manual that addresses all aspects of testing, including a list of accommodations for each standardized assessment. The IEP team may not identify any accommodations that are not on the state-approved list. If a student must have an accommodation that is not on the list,

the IEP team should work with the district testing coordinator who will contact the GaDOE Testing Division to discuss the ramifications of the potential accommodations. Each assessment should be listed by content areas so that accommodations can be individualized.

Procedures for the inclusion of all students with disabilities in large scale assessments are a developing area of knowledge and practice. Extensive resources on this topic are available at the website of the National Center on Educational Outcomes at: <http://www.education.umn.edu/nceo/>.

Are charter school students required to participate in the same state assessments as traditional public school students?

Yes. Pursuant to the Charter Schools Act, all charter schools, as public schools, are subject to the Georgia statewide accountability assessments. A state's assessment system must be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities.

Must all students with disabilities participate in Georgia's statewide achievement testing?

Yes, every student must be assessed. Students with disabilities are to be included in the state tests and their test results are reviewed as one of the subgroups.

How do students with disabilities participate in the statewide assessments?

Most students with disabilities are assessed in the same manner as all other students attending a charter school. However, some students with disabilities may need special accommodations to participate appropriately in district and statewide testing. Alternate assessments must be provided for those children who cannot participate in state and district wide assessment programs, even with accommodations.

What are the recommended goals and short term objectives for students taking the Georgia Alternate Assessment (GAA)?

If the student is assessed using the GAA, IEP goals should address the individual student's needs described in the present levels of academic achievement and functional performance. The goals should be written in measurable form and must have a direct relationship between the area of instruction and the deficits in order for the student to progress in the standards-based curriculum. These students must have short term objectives as well as annual goals. Students assessed on the GAA are expected to be working toward grade level content standards that are the same as for all students.

Are there required special education forms and reports that we have to complete?

Charter school staff may have paperwork responsibilities in various areas, including funding, staffing, child count, identification and evaluation, IEP development and monitoring, and student progress. Your school's responsibility in these areas will vary based on your contract, state rules and the legal status of your charter school. Local Charter Schools that are part of an LEA should use the LEA's forms. Otherwise, you may use/adapt the forms developed by the

Georgia Department of Education.

State recommended forms are available on the Department of Education website. See: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Sample-Special-Education-Forms.aspx>

Many LEAs in Georgia have adapted the state forms for local use.

You may need to request technical assistance from the state Division for Exceptional Students. Most are available at on the website for the Division for Exceptional Students: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/default.aspx>

Regardless of your specific requirements, it is very important that the charter operator understand the nature of your school's responsibilities and ensure your entire charter school staff has a clear understanding of the reporting responsibilities to avoid violations that might make the school vulnerable to non-compliance charges. Be sure to have your LEA or the state review your forms to ensure compliance with federal and state laws and rules.

Are special education records kept confidential?

Yes. Confidentiality of educational records is a basic right shared by all children in public schools and their parents. These fundamental rights are described in the Family Educational Rights and Privacy Act (FERPA) of 1974, which applies to all students, not just those with disabilities.

All district personnel (including contracted employees) are governed by confidentiality requirements and should receive training and information regarding the law. Written and dated parental consent must be obtained before *personally identifiable* information can be disclosed to unauthorized individuals, organizations, or agencies (unless otherwise authorized to do so under FERPA).

Personally identifiable information includes the following:

- the name of the student, the student's parent, or other family member;
- the student's address;
- any personal identifier such as the student's social security number or student number; and
- any personal characteristics or other information that would make it possible to identify the student.

FERPA allows parents to inspect and review all educational records of their child maintained by an educational agency that receives federal funds, including charter schools. The school must comply with a request to inspect records within a reasonable amount of time, and in no case more than 45 days after the request has been made.

More information about FERPA can be found at:
<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Paperwork

What strategies can schools use to ensure all required special education-related paperwork is completed?

Deciding who on your staff will be responsible for what paperwork (followed by training to do this) will help to ensure completion of all requirements by competent, qualified individuals. Since student-focused paperwork can be very time consuming, many charter schools alter a special educator's teaching load or provide additional compensation. Some states have recognized the need for charter schools to have access to the services provided by a special education administrator to assist in the management of the complex responsibilities required by federal and state law.

Do authorizing agencies have any obligation to complete documentation related to special education in the charter schools they authorize?

Charter Authorizers have responsibilities associated with a variety of special education related documentation. If a charter school is part of an LEA, the charter school and the district may share responsibility for special education documentation. However, in many cases, charter schools are solely responsible for completing and submitting their own paperwork. Authorizers should develop a policy related to documentation responsibilities that delineate the charter school and LEA's roles.

Student Discipline

Are students with disabilities subject to school rules and discipline procedures?

Yes. All schools in Georgia must have a code of student conduct and school rules which all students, including students with disabilities, should be expected to follow (unless their IEP specifies otherwise). Under Georgia law, the conduct code must outline progressive discipline processes for school officials to follow. Most schools' codes of conduct also include a series of offenses followed by the consequences that result from the commission of those offenses. Disciplinary incidents should be addressed on a case-by-case basis and the school discipline process is the same for all students, with the addition of certain procedural safeguards that apply specifically to students with disabilities under the IDEA.

Although a school's conduct code applies to all students, school officials have discretion to consider, on a case-by-case basis, the unique circumstances surrounding any behavior incident involving a student with a disability when deciding the consequences for that student's behavior. Accordingly, school officials are not limited to the sanctions outlined in the code of conduct and may consider the student's disability when crafting a disciplinary action that accounts for the unique needs of the student.

Can a student with a disability be suspended or expelled?

Yes. When a student with a disability violates a provision of a student code of conduct, a school official may have the authority to remove the student from his or her current *placement* (the educational setting specified in the student's IEP) and place the student in an alternative educational setting, as long as non-disabled students would be subject to removal for the same offense.

The alternative setting might be in-school or out-of-school suspension, placement in an alternative school, or expulsion. Charter school personnel should be carefully trained on the specific discipline requirements related to such removals so that correct procedures can be consistently followed in compliance with the law.

Must a charter school continue to provide special education services to students with disabilities who are suspended?

If a student with a disability is suspended out of school for less than 10 days (consecutive or cumulative) in any school year, no services are required to be provided, assuming educational services would not be provided for a student without a disability. However, when a student with a disability is suspended or expelled out of school for more than 10 days (cumulative or consecutive), the school district must continue to provide FAPE for that child, even though the child is no longer attending school. Services must be provided, starting on the eleventh day of suspension.

Removal of a student for more than 10 consecutive or cumulative days is considered a *change of placement* and triggers a mandatory consideration as to whether the behavior is a manifestation of the student's disability. The student's IEP Team must conduct a "**manifestation determination**" within 10 days of the decision to change the student's placement due to their violation of the school's student code of conduct.

The IEP team must review all relevant information and determine if (a) the student's conduct was caused by or substantially related to the student's disability and/or (b) was a direct result of the school's failure to implement the student's IEP.

If the team determines the behavior was a manifestation of (caused by) the child's disability and/or the IEP was not followed:

The IEP team must conduct -or review and revise- a Functional Behavior Assessment (FBA). An FBA seeks to answer the question of what circumstances may have triggered the student's behavior and/or what the student sought to accomplish by engaging in the behavior. In addition, the student's IEP Team must implement -or review and revise- a Behavior Intervention Plan (BIP) for the student. The goal of conducting an FBA and developing a BIP should be to implement behavioral services and interventions that will ensure that the student's behavior does not recur.

The student must be returned to the placement from which (s)he was removed, unless:

- (1) the parent and the charter school agree to a change of placement as part of a modification of the student's behavioral intervention plan, or
- (2) it is a case of illegal drugs, weapons, or serious bodily injury. If the student possesses or sells illegal drugs or weapons or causes serious bodily injury, the school may change the placement for up to 45 school days without consent of the parent.

If the team determines that the behaviors were not caused by the disability and that the IEP was followed:

The student may be disciplined in the same manner as for nondisabled students, according to school policy. However, during the exclusion period, the student must continue to receive an academic program sufficient to enable him or her to progress in the general curriculum and appropriately advance toward the goals set out in the student's IEP. When a student is suspended from school, education services should be provided by a teacher or paraprofessional in either the student's home or at a "neutral site" such as the local library. The student's IEP Team determines the interim alternative setting that would be appropriate for the student.

A note on Section 504

Some students with disabilities are not covered by IDEA, but are covered by Section 504 of the Rehabilitation Act of 1973. The protections afforded to students covered by Section 504 usually are not as extensive as those afforded to students covered under IDEA. However, in Georgia, students covered by Section 504 are at least entitled to receive a Manifestation Determination Review of their behavior.

How can Charter Schools plan for and implement a system of positive behavior management and support?

IDEA requires special education teams to consider the use of behavioral supports for students whose behavior impedes academic achievement, but the law stops short of dictating that any one approach be adopted by states or schools.

In order for schools to address problem behavior successfully, best practice dictates placing an increased emphasis on proactive approaches rather than reactive behavior management. Proactive approaches to discipline for all students include expectations of more socially acceptable behaviors that are directly taught, skills that are regularly practiced in the school environment by staff and students, and frequent recognition of everyone in the school environment in the performance of these behaviors.

To shift from a reactive and aversive approach for managing problem behavior and discipline issues, to a positive and prevention oriented approach, schools must:

- work for and with all students, since every student entering school needs behavior support;

Charter Schools

- give priority to evidence-based procedures;
- integrate academic and behavioral success for all students;
- emphasize prevention in establishing and maintaining safe and supportive school climates;
- expand the use of effective practices to district, county, regional, and state levels;
- increase collaboration among multiple community support systems, (i.e., education, juvenile justice, community mental health, family, and medical); and
- build a school environment where team building and problem-solving skills are expected, taught, and reinforced.

Family Engagement

Should parents be involved in decisions about their child's education?

Yes. Parents should be included as members of any decision-making team for their child. They should be included in decisions about eligibility, initial evaluation, reevaluation, development of the IEP, the provision of a FAPE, and educational placement. If neither parent can be present in a meeting concerning educational decisions for a child, the district must use other methods to ensure parent participation. These methods could include individual/conference telephone calls or videoconferencing.

If the district cannot reach the parent, after several documented attempts to include the parent in the meeting, the meeting can be held without the parent. The district must make and document reasonable efforts to ensure the parent's involvement. Such efforts are defined as: detailed records of phone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to a parent's home or place of employment and the results of those visits. A best practice would be to document at least two attempts by two methods to reach the parent.

What steps should we take when providing outreach information to parents?

When providing outreach information to parents, you must make sure that a parent who might have a disability and/or who does not understand English has a meaningful opportunity to understand the outreach information given about your charter school as effectively as other parents. Qualified interpreters, translations, or another effective means of communication must be provided if requested. Appropriate auxiliary aids and services must also be made available whenever they are necessary to ensure effective communication with parents with disabilities. For example, if outreach materials are made available to parents, you could help to ensure appropriate access to the content of the materials by offering the materials in Braille or on a tape. When public information meetings with parents or community groups are held, those meetings must be physically accessible to individuals with disabilities.

Does the Georgia Department of Education have any resources that articulate parental rights and procedures related to special education?

Yes. The Parent Rights in Special Education notice provides the foundation for ensuring that a child with a disability has access to FAPE. The Parent Rights notice provides parents with the opportunity to understand their rights, the rights of their child, and the procedures for resolving differences. This document should also help facilitate communication between parents and district personnel. The Parent Rights notice outlines all of the rights and safeguards available to parents of children with disabilities and children who are decision makers.

A copy of the Parent Rights notice must be given to the parents at least once in a school year. Additionally, a copy must be given upon:

- initial referral or parental request for evaluation;
- receipt of the first state complaint;
- receipt of the first due process hearing request;
- notification by the school district to the parent of a disciplinary removal of a student from school that would constitute a change of placement; and
- parental request.

The Parent Rights notice should be written in language understandable to the general public and provided in the native language of the parent or other mode of communication (e.g., braille or sign language) used by the parent. If

necessary, the district will translate the notice orally or by other means so that the parent understands the content of the notice.

The Parent Rights notice may be provided by electronic mail (e-mail) and may be posted for access on the GaDOE and/or local school district website(s).

If parents would like a more detailed explanation of these rights, they can contact the principal at their child's school, a teacher or administrator, the local special education director, and/or the Georgia Department of Education, Division for Special Education at 404-656-3963 or

<https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/default.aspx>

Parents may also check to see whether the district has a Parent Mentor on staff. Parent Mentors are parents of a child with a disability who work for the district as a connection between schools and families. More information may be obtained through Parent to Parent of Georgia at (800) 229-2038.

Dispute Resolution

What is the process for informal resolution of disputes about special education between parents and schools?

There are a number of strategies parents and schools can use when there is dispute over the rights and services afforded to students with disabilities and their families. The quickest and most efficient method is to contact the child's teacher and, if necessary, building level administrators when a concern arises. If concerns cannot be satisfactorily addressed at the school level, parents should contact the district's special education director. The special education director can often assist a family in working out the differences with minimal time and conflict. The parties may also resolve their differences through voluntary mediation.

Voluntary Mediation

Mediation is an option when the parent and the LEA disagree about the special education services and programs for a disabled student. Either party may request mediation and the state bears the cost of the mediator. Although this process is voluntary for each party, both parties must agree to mediation.

How does mediation work?

In mediation, an impartial or neutral person, called a Mediator, assists the school and the parent in clarifying the problem, exploring interests, discussing options, and reaching a mutually agreeable solution. The mediator does not tell either party how to resolve the dispute, but he or she works with both in the development of their solution. This informal and collaborative approach to problem solving can often foster a positive working relationship between the district and the family.

Who serves as the Mediator?

Mediators are trained in conflict resolution, collaborative problem solving, and effective communication. In addition, Mediators for special education are required to have knowledge and experience in the laws impacting the education of students with disabilities. The GaDOE contracts with a number of qualified Mediators and will assign a Mediator from that group if mediation is requested.

Are communications during the Mediation process confidential?

Yes. Discussions during the mediation process are confidential and may not be used as evidence in any due process hearings or civil proceedings.

What happens if an agreement is reached during mediation?

If an agreement is reached, it is documented in writing and signed by all parties. This written agreement will be legally binding and is enforceable in any Georgia Court of competent jurisdiction or in a federal district court. There is no 3-day Void rule for mediations.

What formal dispute resolution procedures are available in the case an informal solution cannot be found?

If a resolution cannot be worked out locally, parents have two options:

1. File a complaint with the Georgia DOE
2. File a due process complaint, which will be heard by the Office of State Administrative hearings.

After exhausting administrative procedures, parents can appeal to state or federal court.

Georgia DOE Complaint

Filing a formal complaint with the GaDOE provides an opportunity to express concerns regarding possible violations of the IDEA or of Georgia Rules or the failure of a party to comply with the written agreement of a mediation or resolution session. To be eligible for consideration, the violation must have occurred within one calendar year of the GaDOE's receipt of the complaint. The GaDOE will review the complaint and will

assist the parties in coming to a resolution. Any organization or individual may file a signed written complaint and most individuals who do so are not represented by legal counsel.

The formal complaint must be a written, signed document that includes:

a statement that a public agency has violated a requirement of the IDEA or Georgia Rules for Special Education; the facts on which the statement is based; and suggested resolutions to the problem(s).

Complaints should be signed and addressed in writing to:

*Director
Division for Special Education
1870 Twin Towers East
Atlanta, Georgia 30334-5010*

Complaints may be faxed to: 404-651-6457

The process of filing a complaint with the Georgia DOE is described step-by-step on page 170 of the Georgia DOE Special Education Rules Implementation Manual.

Remedies Available Through the Georgia DOE

If a parent files a complaint with the Georgia DOE, the remedies are fairly limited. For example, if the Georgia DOE finds that the LEA was not in compliance with IDEA, it can require compensatory services, technical assistance, reimbursement, or other corrective actions, but it cannot award attorney's fees.

Appeals

There is no right of appeal for either the LEA or the parent from a decision of the Georgia DOE.

Due Process Complaint

There are specific requirements that a party must follow to pursue a Due Process complaint. First, the initiating party must file a "due process complaint notice."

This notice must include:

The name of the child, the address of the child's residence (or available contact information in the case of a homeless child), and the name of the school the child attends.

A description of the nature of the problem of the child relating to any proposed initiation or change of special education, including facts relating to such problems.

A proposed resolution of the problems to the extent known and available to the party at the time.

The written notice is required to be provided to the other party with a copy forwarded to the GaDOE.

Early Resolution

The IDEA sets forth a mandatory process -the Early Resolution Session- for the purpose of resolving Due Process complaints earlier and less expensively than in full Due Process hearings. This process is triggered by the filing of a due process complaint.

An LEA is exempt from convening a Resolution Session meeting in two specific circumstances:

1. the parent and the LEA agree in writing to waive the meeting; or
2. the parent and the district agree to use the mediation process.

When must the Early Resolution Session take place?

The LEA must convene a Resolution Session meeting within 15 days of receiving notice of the parent's due process complaint. If the school does not resolve the complaint to the parent's satisfaction within 30 days of receiving the due process complaint, the Due Process hearing may occur.

Who participates in the Early Resolution Process?

Parents and any IEP Team members who have relevant knowledge regarding the issues raised in the complaint should be involved in the Early Resolution Session. The LEA may not bring its attorney to the resolution meeting unless the parent also brings an attorney.

Are communications during the Early Resolution Process confidential?

No, communications that occur in a resolution meeting are not automatically confidential. However, parties may agree to make discussions confidential if they mutually agree to do so. An LEA may not demand confidentiality of the discussions as a condition to the Resolution Session meeting.

What happens if an agreement is reached during the early resolution process?

The parties must execute a legally binding agreement that is (1) signed by both the party and the representative of the LEA who has the authority to bind the school district and (2) enforceable in any state court of competent jurisdiction.

After the agreement has been executed, any party may void the agreement for any reason within three business days of the agreement's execution.

Impartial Due Process Hearing

An impartial due process hearing is designed to provide an opportunity to resolve differences between concerned parties regarding any matter related to the identification, evaluation, placement, or provision of a Free Appropriate Public Education for a student with a disability. A hearing may be requested by either the school district or the family when the parties cannot agree and other means of dispute resolution have not been successful.

Who conducts due process hearings?

Due process hearings are conducted by the Office of State Administrative Hearings (OSAH). Once a request for a due process hearing is received by OSAH, an administrative law judge (ALJ) will be

assigned to conduct the hearing. That ALJ's office will contact both parties and begin to set up the arrangements for the impartial due process hearing.

The Administrative Procedures Act, as set forth in O.C.G.A. Title 50, Chapter 13, governs all contested cases referred to OSAH.

When must the due process hearing be held?

A due process hearing must be conducted and the decision issued within 45 days of the request for a hearing. The 45-day timeline starts the day after the ALJ has been informed of one of the following events:

- (1) Both parties agree in writing to waive the early resolution process meetings;
- (2) After either the mediation or early resolution meetings starts, but before the 30-day resolution period ends, the parties agree in writing that no agreement is possible; or
- (3) If both parties agree in writing to continue the mediation at the end of the early resolution period, but later, the parent or district withdraws from mediation.

Extensions to the 45 days for a decision may only be allowed when both parties agree in writing and the extension does not violate the rights of the student.

What is the statute of limitations for a due process hearing?

A due process hearing request must allege a violation that occurred not more than two years before the date the parent or district knew or should have known about the alleged action that forms the basis of the request, with some exceptions. The two-year timeline does not apply if the parent was prevented from filing a due process complaint due to specific misrepresentations by the school district indicating that it had resolved the problem forming the basis of the complaint, or if the school district withheld information from the parent that was required to be provided to the parent.

Who pays for the Due Process hearing?

Due process hearings are provided at no cost to either party; however, each party is responsible for his, her, or its costs associated with hiring legal counsel or expert witnesses unless a court awards the recovery of these costs to a prevailing party. The district must inform the parents of low cost legal and other relevant services available if the parent requests the information or whenever a due process request is received by the district.

Who has the burden of proof in a due process hearing?

The burden of proof in an administrative hearing challenging an IEP is upon the party seeking relief.

What happens to a student's placement during a due process hearing?

IDEA requires an LEA to retain a student in his or her current placement while an administrative or judicial proceeding related to Special Education is pending, unless the parent and the LEA mutually agree on another placement. This requirement does not apply when the parent files a complaint with the Georgia DOE.

Remedies

Compensatory services

Compensatory services are a primary source of relief granted by many courts and can take many forms. It requires services that are above and beyond the services normally due to a student and compensatory services are intended to make up for a school district's past failure to provide FAPE. The purpose is to put the student in the position that the student would have been in if the school district had complied with its IDEA obligations and is not intended to provide additional benefits to the student. Compensatory services can take the form of extra public services, extra year(s) of eligibility for special education services, or privately provided extra services.

Reimbursement for private placement or services already received

Private school or services expense reimbursement can be awarded for students that were unilaterally placed by their parents in private school where a court or hearing officer finds that the public agency did not make FAPE available to the student prior to the private enrollment and the private placement is determined to be appropriate. Courts have the discretion to reduce or deny an award of tuition reimbursement on a case-by-case basis.

Future Private School Placement

The IDEA also provides for future placement in a private school at public expense where education in a public school is not possible or where the Court finds that its proposed program does not offer FAPE. The parents must still convince the Court that the private program is appropriate, but the same exact standards of FAPE do not apply.

Monetary Damages

The 11th Circuit, which makes decisions that apply to schools in Georgia, has held that awards of compensatory or punitive damages are not available under IDEA.

Orders Relating to Evaluations, IEPs, Placements, or Services

Courts may also use a variety of remedies regarding evaluations, IEPs, or the student's placement. Example: a court can order an LEA to implement an existing IEP, revise an IEP, develop an IEP, comply with a hearing officer's order, evaluate the student, or to institute a particular placement, provide extra services, etc.

Injunctive Relief

A parent can seek a preliminary injunction when the parent has demonstrated the following:

1. Irreparable harm; and
2. Either a likelihood of success on the merits, or sufficiently serious questions during the merits of the case and a balance of hardship decidedly tipping in the parent's favor.

Appeals

Any party who disagrees with an ALJ's decision under IDEA may bring an appeal by filing a civil action in either Superior or Federal Court. When an aggrieved party appeals from a final due process decision, the court will:

- Receive the records of the administrative proceedings;
- Hear additional evidence in its discretion and at the request of a party;
- Base its decision on the preponderance of the evidence (the 11th Circuit has held that the challenging party has the burden of proof regardless of who prevailed at the administrative level); and
- Grant relief that the court determines to be appropriate.

Parties must exhaust their administrative remedies under the IDEA before seeking relief via a civil action. This rule applies even if a party is seeking relief using a different statute, as Section 504 or the ADA, which are often brought by parents in conjunction with an IDEA claim. This rule also applies even if the ALJ cannot award the full continuum of remedies under one of these separate laws (i.e. monetary damages or attorney fees).

The deadline to appeal is 90 days from the date of the ALJ's decision. A counterclaim is considered a response in an IDEA lawsuit and not a claim in its own right subject to the IDEA's 90-day deadline.

Remember, there are other avenues for complaints regarding students with disabilities. Each LEA should have its own 504 Complaint Procedures. In addition, the Office for Civil Rights (OCR), which has jurisdiction over other discrimination claims (e.g. race, gender, age), has its own complaint procedures.

ACCOUNTABILITY

Accountability is a core tenet of the charter school concept and one of the critical responsibilities of all charter school Authorizers. At a minimum, accountability procedures include monitoring, files/data management, record keeping, procedural (special education) compliance, state charter law compliance and charter school contract compliance. At the heart of this is a school's ability to demonstrate student progress, maintain qualified personnel and document instructional and financial practices. As valued members of your school, students with disabilities and their programs and staff will be involved in each aspect of this phase.

As with most issues, the manner in which charter schools are held accountable for educating students with disabilities and participating in federal and state monitoring processes is dictated by the charter school's legal status (LEA status and linkage to an LEA). While Georgia law may release charter schools from some state reporting requirements (e.g., teacher qualifications), such schools are generally obligated to collect and report the same information that other public schools must report. This includes statistical and demographic information regarding students, standardized test results, the school's budget(s), and procedural documents relating to special education, such as IEPs.

The best way to prepare to be accountable is to be thinking about it before the charter school opens its doors on the first day. It will be essential for charter school staff and administration to get oriented to the data requirements related to special education that they are expected to collect and any required means of collecting and storing such data. A secure filing system to store the paper documents is also critical to ensure security and privacy of confidential and other critical data/reports.

How are charter schools held accountable for academic results?

Schools are held accountable for academic results through their charter contract with an Authorizer (the LEA and/or the State Board of Education). The contract stipulates certain academic performance goals that the school must meet in order to fulfill the terms of its charter.

What is the role of an authorizer regarding hold charter schools accountable in the area of special education?

Once a charter school's doors open and the students arrive, the Authorizer's responsibility shifts from granting the charter to overseeing the school and holding it accountable for the goals and objectives outlined in the charter. The charter is a performance contract and the Authorizer is 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.

Where or when is the role of the Authorizer related to accountability formally articulated to the charter schools is authorizes?

The charter school's accountability plan is typically a part of the approved petition. The charter school and the Authorizer should agree upon the manner in which the charter school will be held accountable and include specific means by which the Authorizer will assess the degree to which the charter school is fulfilling its goals in the accountability plan. The plan may include a site visit when the school first opens; periodic submission of reports pertaining to enrollment, achievement and finance; annual site visits; and, eventually, a comprehensive site visit associated with the charter renewal process conducted by an outside team. Issues related to special education should also be part of this process.

Is there added accountability specifically for special education?

Yes. Operators must understand that charter schools have an added level of formal accountability related to special education. The U.S. Department of Education carries out an extensive monitoring of SEAs, and then SEAs must develop and carry out a formal monitoring process for each of its LEAs. Your charter school's involvement in the process of monitoring is dictated by your legal status.

What type of special education accountability provisions do we need to consider?

First and foremost, you need to address your Authorizer's requirements and the Georgia charter school law. Stay in close contact with the Georgia Department of Education to learn of updates in IDEA and NCLB implementation and implications for your charter school. At a minimum, you will also need to be able to document specific outcomes of students with disabilities, fiscal practices related to special

education, timelines related to development and implementation of special education services, qualifications of faculty and staff and resolution of parent complaints.

How do students with disabilities participate in the NCLB accountability system?

NCLB includes students with disabilities and special education programs in state assessment and accountability systems. Students receiving special education services, including those with the most significant disabilities who participate in an alternate assessment system, will "count" in the accountability formulas and the computation of measures of adequate yearly progress (AYP). Not only do they count—they can make a difference in your school's ability to meet AYP criteria and Georgia-specific performance measures under the NCLB law. Talk with your colleagues, your Authorizer and your SEA to identify effective strategies in helping students with disabilities to demonstrate progress.

For additional information, please see:

<https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/default.aspx>

The Department's website also contains the *Student Assessment Handbook*:

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Documents/Student%20Assessment%20Handbook%202014-2015%20FINAL%2092214.pdf>

For details on Georgia's alternate assessment see: <https://www.gadoe.org/Curriculum-Instruction-and->

How must students with disabilities be included in NCLB accountability reports?

Students with disabilities are one of the subgroups for which NCLB requires disaggregated reports of assessment results.

However, NCLB provides that a district or state may not use disaggregated data for one or more subgroups to report achievement results if the number of students in those subgroups is insufficient to yield statistically reliable information or if the results would reveal personally identifiable information about an individual student. Each state has established the minimum size (known as the “minimum n”) of the subgroup for these two purposes that must be met for inclusion in public reporting.

Are students with disabilities included in their state’s adequate yearly progress (AYP) requirements?

Yes. As stated in NCLB, AYP applies the same high standards of academic achievement to all public elementary and secondary school students in the state. The law also requires selected subgroups, one of which is students with disabilities, to be considered separately under certain conditions in determining whether a school has met AYP targets. An important part of the NCLB regulations, known as “the one percent rule” that applies to students with significant disabilities, was added to the NCLB regulations in December 2003. The Department of Education has issued a summary of that rule that is available at:

<https://www2.ed.gov/rschstat/eval/disadv/nclb-disab/nclb-disab.pdf>

In addition, another regulation, known as the “two percent rule” was added to NCLB in 2007 - see:

<https://www2.ed.gov/rschstat/eval/disadv/nclb-disab/nclb-disab.pdf>

Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding children with disabilities should authorizers recommend charter schools collect and report?

Data and documentation are two major accountability tasks. The responsibility for documentation resides with the LEA, but how the documentation occurs and who is responsible for data collection is negotiated between the charter school and the Authorizing LEA. Authorizers should ensure that charter school petitioners understand the content and timeframe for all required reporting.

Charter schools are generally obligated to collect and report much of the same information that traditional public schools must report, such as statistical data on students, results of standardized tests and financial information. Examples of special education data and documentation that a charter school must compile include student counts as well as more procedural documents that would be reviewed as part of special education monitoring.

At a minimum each charter school will need to be able to report assessment data on all of its students, disaggregated by the subgroups (one of which is students with disabilities, as outlined in NCLB and IDEA 2004). Keep these subgroups in mind as you are setting up your data collection and storage system, especially those related to assessments. When reports are required, the DOE issues guidance. Note: Test results for subgroups are not reported if the group size, known as the minimum N, is below 35. The minimum N size may change.

Monitoring

Special education monitoring is a formal process in which the federal Office of Special Education Programs (OSEP) monitors every state on its compliance with IDEA requirements. Each state must monitor how its LEAs (or equivalent organizations) comply. LEAs are responsible for ensuring that all their schools, including their charter schools, are in compliance with special education requirements.

Does a charter school's legal identity affect how the school is monitored for special education?

Yes, the manner in which charter schools are monitored for special education depends upon their legal status. Local Charter Schools are monitored when their LEA is monitored. Monitoring visits do not include all schools within an LEA every time, but rather a sample of schools. As a result, Local Charter Schools may or may not be visited as a part of the state monitoring of the district. However, the district will be held accountable for the policies and processes implemented at the charter school as demonstrated by the data the district maintains. Therefore, LEA Authorizers states must be prepared for the responsibility of collecting data on the implementation of special education in charter schools they oversee. State Chartered Special Schools will be monitored by the state in much the same manner any other LEA is monitored. In general, LEAs are monitored on a three- to five-year cycle.

What should authorizers know about the federal and state special education monitoring processes?

Charter schools are held accountable for special education in the same manner as all public schools: they must demonstrate that they comply with IDEA. The federal Office of Special Education Programs (OSEP) monitors

Charter Schools

every state on its compliance with IDEA requirements. In turn, each state must monitor how its LEAs comply. A common process used by state departments of education involves sending a team to review LEA procedures in order to ensure that LEAs comply with the requirements of special education law. 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. Authorizers should ensure that charter schools understand the level at which they will be involved in special education monitoring and their responsibilities for the process.

How is special education monitoring carried out in Georgia charter schools?

Special education monitoring activities are tied to a school's legal status. Authorizers should ensure that charter schools understand the level at which they will be involved in special education monitoring and their responsibilities for the process.

State Chartered Special Schools will be monitored in the same way as all other LEAs in the state. The process often starts with a self- assessment in which the charter LEA reviews its implementation of every special education requirement. The SEA reviews the data, followed by some type of validation process. This is usually done on a three- to five-year cycle and a report is written detailing the findings of the SEA. The State Chartered Special Schools must then develop an improvement plan to address any non-areas of compliance areas identified.

Local Charter Schools will be involved in the district's special education monitoring in the same manner as other schools of that LEA. The LEA is responsible for seeing to it that any non-compliance found in the charter school is corrected. Also, when the U.S. Department of Education monitors the state, the charter school might be one of the schools randomly selected for visitation.

Monitoring visits do not include all schools within an LEA every time, but rather a sample of schools. As a result, charter schools may or may not be visited as a part of the state monitoring of the district. However, the district will be held accountable for the policies and processes implemented at the charter school as demonstrated by the data the district maintains. Therefore, LEA Authorizers must be prepared for the responsibility of collecting data on the implementation of special education in the charter schools they authorize.

Georgia's Continuous Improvement Monitoring Process (GCIMP) is described on the Department's website:

[https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Georgia's-Continuous-Improvement-Monitoring-Process-\(GCIMP\).aspx](https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Georgia's-Continuous-Improvement-Monitoring-Process-(GCIMP).aspx)

What resources are available to prepare my charter school to be successful in special education monitoring?

Technical assistance in this area may be obtained from the Georgia Department of Education, other LEAs, the Southeast Regional Resource Center, or other charter schools and national organizations. One strategy could include the use of monitoring mentors where an experienced special educator can assist your charter school prepare for monitoring. The Georgia Department of Education and GLRSs meet on a regular basis and include LEA special education directors for this purpose. Charter school directors should participate in such meetings.

Charter Renewal

How is special education included in the charter renewal process?

As part of the charter renewal process, Authorizers are required to assess the degree to which the charter school is meeting its goals and objectives and its compliance with federal and state laws, including IDEA. Special education, especially 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 as an afterthought.

A key factor that Authorizers should assess when contemplating renewal is whether the charter school has been the subject of any informal or formal complaints related to special education service delivery or procedures. While complaints can arise from a variety of issues separate from the quality of special education services provided, multiple complaints should raise a red flag at renewal time. Multiple or persistent complaints may be an indication of a substantive failure to provide a Free Appropriate Public Education to students with disabilities. Low enrollment of students with disabilities in a charter school may serve as a "yellow flag" that triggers further inquiry regarding enrollment practices and questions regarding "counseling-out."

Could failure to meet special education requirements be cause for non-renewal or revocation of a school's charter?

Yes. Failure to comply with federal statutes, including those regarding special education, can result in revocation or non-renewal of a charter.

What do we do if a charter school receives multiple complaints about special education?

A charter school that is part of an LEA is subject to a review of its compliance with federal law by its authorizing LEA at any time. If the LEA finds multiple or uncorrected non-compliance with special education requirements, it should do a complete and timely examination of the response of the charter school and the corrective actions prescribed to correct the complaints. The authorizing LEA should consider revocation or non-renewal of the charter for that school if the non-compliance is not ended or if the school is not meeting all requirements related to the education of students with disabilities.

How do we know if our authorizer has specific renewal policies and processes that address special education?

Hopefully this is an area you discussed with your Authorizer during your planning, start-up and operational phases. However, if that did not happen, visit the GaDOE website or ask your LEA or the Georgia Charter Schools Association to find out what requirements your Authorizer will expect you to meet as a condition for renewal. Other charter schools that are authorized by the same entity may also be an invaluable source of information regarding renewal.

Non-renewal, Revocation, and Relinquishment

The non-renewal, revocation, or relinquishment of a charter requires the associated charter school to close. This is at best an unpleasant experience and at worst, highly contentious and politically charged. Regardless of how unlikely a school closure may appear, ensuring the proper transfer of student records and appropriate disposition of all assets in the event of closure, including those specifically for special education is a responsibility for which Authorizers must always be prepared.

Regardless of the environment in which a school closes, Authorizers are responsible for ensuring that the necessary steps are taken to protect students' rights to privacy and maintain the integrity of records. Establishing the procedures for closing a school, including special education considerations, should be incorporated into the initial charter contract to ensure that all parties are aware of their roles and responsibilities in the event of closure.

What do the terms *non-renewal*, *revocation* and *relinquishment* mean?

Specific conditions connected with each of these actions may be determined by the individual sponsor and should be clearly delineated in the contract between the sponsor and the community school.

- **Non-renewal** is what occurs when a charter school seeks renewal and the Authorizer does not grant the charter school a new charter (or renew its current

charter). As a result of not having its charter renewed, the charter school loses its authority to operate and can no longer exist as a public school.

- **Revocation** is what occurs when an Authorizer proactively (prior to a regular renewal process) removes or terminates a school's charter. Consequently, the school loses its legal authority to operate as a public school. In general, revocations occur when a charter school does not meet the obligations articulated in its charter or subsequent contracts with the Authorizer.
- **Relinquishment** is a voluntary release or surrender of an authorized charter by the charter school's governing board. Relinquishments may occur either prior to, or after, a school's opening.

Under what circumstances may a charter be terminated?

A charter may be terminated:

- If a majority of parents and guardians of enrolled students, OR a majority of faculty and instructional staff, vote to request that the state board of education terminate the charter.
- The state board finds that a school has failed to adhere to terms of its charter, has failed to comply with generally accepted standards of fiscal management, or has violated applicable laws.
- Upon the written request of a local board of education, provided that the local board provided reasonable notice to the school and an opportunity for a hearing.
- If the state board finds evidence that the continued operation of the school would be contrary to the best interests of the students or the community.

Please consult O.C.G.A Section 20-2-2068 for more details regarding the termination of a charter.

If our school ceases to exist, what do we need to consider relative to our students with disabilities?

When a charter school is closed, the charter school board has an obligation to ensure that student records are sent to the school to which students will be transferred. In instances where the charter school is part of the local education agency, the responsibility to maintain student records may revert to the district in which the charter school was located. Authorizers should work with boards of closed charter schools to ensure that records are handled appropriately. If there is no known school of transfer for the child, the Authorizer should seek counsel from the GaDOE regarding the appropriate transfer of student records.

Authorizers will also need to ensure that there is a specific accounting for special education funds. Special education programs receive funding from federal, state and local sources. As such, dismantling a special education program requires careful accounting of how special education dollars were spent and the disposition of materials and equipment purchased with special education dollars. Federal guidelines also provide information on the disposition of equipment purchased with federal funds.

To ensure appropriate procedures will be followed in the event of a closure, Authorizers should require that specific responsibilities for student records and the allocation of other school property are addressed in the petition process and subsequently codified in the school's charter or contract with the Authorizer. An Authorizer may require other issues that must be addressed in that part of the charter petition, such as a plan to ensure that all special education records are protected until transferred to a new school or district.

In the case of school closure, how should we transfer special education records?

Charter school personnel are responsible for closing and preparing special education files for transfer. These files should be maintained separately from general student records and should be transferred to the person responsible for special education records in the receiving school or LEA. When requested by the next educating school, a student's special education records cannot be withheld under any circumstances.

All students' educational records are protected by the Family Educational Rights and Privacy Act (FERPA). This law provides guidance on requirements regarding the transfer of educational records that contain personally identifiable information on your students. Careful attention to requirements pertaining to disclosure of information without the "written consent" of the parent or eligible student will help alleviate future problems.

Information about FERPA is available online at <http://www2.ed.gov/policy/gen/guid/fpco/index.html>

Brochures for schools and parents are available at:

<https://www2.ed.gov/policy/gen/guid/fpco/brochures/parents.pdf>

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

Your responsibility is to send students' records to their new schools. Every effort should be made to ensure that the students have enrolled in a new school. After you have done everything you can to determine where a child is going and you still have no success, you should return all records to the child's LEA of residence or last known LEA. If you aren't able to determine this information, contact your Authorizer or the SEA for assistance.

In the case of revocation or relinquishment, how should we dispose of any special equipment that was purchased for our students with disabilities?

Georgia charter school law dictates how a charter school's assets are to be distributed should the school close. Authorizers should check state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

In general, special equipment purchased for a specific student with a disability should follow the child to his or her next public school placement. If this information is not known, or if the equipment was purchased for use in a special education program, it should be returned to the LEA that is the student's LEA of residence in the same manner as all other school equipment.

Do charter schools have any legal obligation to their students with disabilities after the school closes?

Charter schools' staff may be requested to participate in IEP staffing meetings at schools in which students enroll after leaving the charter school.

VIRTUAL SCHOOLS

The evolution of the computer age has facilitated growth in distance learning due to easy access to online programs and the availability of packaged curricula. Nowhere has the growth of virtual school opportunities been as robust as in the charter sector.

What is a “virtual school”?

The term “virtual school” refers to a wholly public educational organization that offers full-time instruction at the K-12 level at least partially through Internet-based methods, with time and/or distance separating the teacher and learner.

Virtual schools should be distinguished from traditional “brick and mortar” schools—traditional schools where instruction is delivered in a public school facility—as well as from several related forms of online and distance learning. For example, several brick and mortar public schools (chartered and traditional) integrate online learning in the conventional classroom setting, “e-learning” in a sense. Distance education programs may also incorporate computer-based instruction, but typically have few if any students enrolled full-time. Consequently, they are considered supplemental *programs* as opposed to *schools*. Virtual schools incorporate both the distance and online aspects of these programs into complete educational institutions that offer full-time instruction to students at the K-12 level.

Are all virtual schools the same?

No. Within the world of virtual schools, there is much variation along the range of time and distance as well as the extent of online instruction.

With regard to distance, for example, some virtual schools operate entirely remotely, with teachers working from their homes to lead instruction with students who are spread throughout a region or state. Others bring students together in a common facility where they participate in instruction on computers during traditional school hours and teachers monitor progress in person and/or online.

Similarly, virtual schooling programs vary tremendously in the amount of time they involve students in computer-based and online learning. Many virtual schools direct their elementary and middle school-aged students to spend only a small portion of their day on the computer and provide the majority of instruction through book reading, science experiments and other activities with materials shipped into the home. Other virtual schools, particularly at the high school level, engage their students primarily in instruction that occurs both on the computer and -online. When virtual school students receive the majority of their instruction at home, parents are typically very involved in their child's education, working closely with teachers to implement and tailor lessons for their child.

Finally, virtual schools vary according to how they deliver instruction ranging from asynchronously or synchronously:

- **Asynchronous instruction** occurs when the student is not receiving the instruction simultaneous to when the instructor is delivering it. This type of instruction is typically delivered via course management software, e-mail communications, and electronic discussion groups.
- **Synchronous instruction** (also referred to as real-time, live, or simultaneous instruction) occurs when the teacher is delivering content to students at the same time that students are receiving the content. Synchronous instruction that permits real-time interaction between teachers and students more closely resembles the experiences of students in traditional brick and mortar settings than asynchronous.

Virtual Charter Schools

What are “virtual charter schools”?

Virtual charter schools that operate under a charter granted in accordance with their state charter statute. Virtual charter schools, like traditional charter schools, receive freedom from various rules and regulations in exchange for greater accountability for meeting stated outcomes. Like other charter schools, if a virtual charter school fails to meet these outcomes; it may lose its charter and be closed down.

First and foremost, they are public schools. Therefore, they are required to abide by the same federal laws pertaining to students with disabilities as their brick and mortar public school peers. However, educating in a virtual environment is a somewhat radical departure from how we typically construct the notion of public schools. Consequently, carefully

constructed policies and practice are required to ensure that students with disabilities can access the opportunities afforded in virtual charter schools analogous to their peers.

The largest subset of virtual schools is virtual *charter* schools. As a subsector of U.S. public schooling, the charter school sector is fairly small (about four percent of all public schools) but makes up about 20 percent of all online learning schools. In 2006, virtual charter schools comprised about four percent of all charter schools and enrolled about six percent of all charter school students.

As with distance, time, and form of instruction, virtual schools also vary by their operational structure and legal status. Virtual schools may operate under a charter from a local district, state board, university or other authorizer under the state’s charter school law. The virtual charter school model is the most prolific form of virtual K-12 schooling, with 162 schools in operation in 2007. Arizona, Ohio, and Pennsylvania lead the states in the number of virtual charter schools authorized. This form of virtual school is discussed in greater detail in the next section.

Who authorizes virtual charter schools?

State charter school laws dictate who is permitted to grant a charter. Local education agencies (LEAs) are the most common types of authorizers although some states permit state education agencies, institutions of higher education and/or special purpose boards to grant charters. The state of Pennsylvania allows LEAs to grant charters but only the SEA is allowed to grant virtual charters.

Who may apply for and thereafter hold the legally binding charter for a virtual charter school?

Charters are typically awarded to nonprofit charter boards that are legally responsible for upholding the terms of the charter (typically a contract or memorandum of understanding). Most states permit charter boards to purchase a variety of services from external vendors, including whole school management provided by charter management organizations or education management organizations. The charter board is responsible for managing the contract with the service provider in accordance with the charter contract negotiated with their authorizer and both charter school and state procurement laws. There are multiple local, single-school virtual charter schools, but most virtual charter schools purchase their program from regional or national virtual school providers.

What is a Learning Management System?

A Learning Management System (LMS) is the core of most virtual learning environments. It is the platform through which schools provide their content electronically. According to the National American Council on Online Learning (NACOL), “learning management systems include tools that allow parents to view grades, completed or incomplete assignments, teacher feedback, and updates or announcements from teachers.

Potential Advantages and Challenges

Virtual charter schools are largely unknown among many parents and educators and are still widely misunderstood. Through their new modes of instruction, virtual charter schools have the potential to create new modes of delivery, governance and funding of public education. Yet, there is little definitive

research regarding these schools. These reforms may improve students, parents’ and educators’ opportunities, but they also raise several challenges.

Diversity of Students

While virtual charter schools may not appeal to all students, they can provide a learning environment that is appealing to many, especially those students who have been previously underserved by traditional public schools. Families who live in remote areas may also find it appealing to receive instruction at home; older students with work or extracurricular commitments may opt for virtual schooling due to its more flexible schedule. Students who are unable to attend school regularly due to health, behavioral or emotional problems may also find a good fit with a virtual charter school. In some states, the proportional enrollment of students with disabilities in virtual charter schools is relatively in line with national averages: in Pennsylvania, for example, 12% of students in virtual charter schools in 2001 were enrolled in special education programs, compared to 11.6% nationally according to the most recent national data.

Individualization

Virtual charter schools may offer a better fit than traditional public schools for many students not only because of their flexible location and schedule, but they may also allow greater opportunity for individualized instruction. Many virtual charter schools offer a wider variety of curricular and instructional options than traditional schools, including online and offline learning with graphics and animation, audio components and interactive exercises. Many school programs can also be personalized to an individual student's pace and ability, allowing them to advance through subjects and grades as quickly or slowly as they need.

Parent Involvement

Virtual charter schools can provide extensive opportunities for parents to be involved in their child's education—in many virtual settings the student learns exclusively from home. Strong teachers not only provide lesson plans but share pedagogical techniques individually with parents to help facilitate their child's experience. Parents of virtual charter school students tend to be very involved in their child's education on a day-to-day basis.

Technology

There can be several advantages to the increased use of technology in the virtual charter school. First, virtual charter schools often supply their students with computers, printers, an Internet connection and other supplies to connect with the online school community. In many cases, this is the first computer in a student's home or is a significant upgrade and allows the entire family access to the Web and other resources. Virtual charter schools' use of technology may also enhance students' attention and

engagement: many in today's younger generation are extraordinarily comfortable with technology and find it more stimulating than a traditional brick-and-mortar classroom. Finally, many computer-based instructional programs have built-in diagnostic assessments that allow teachers and parents to track progress and provide continuous feedback on a student's knowledge and skills.

Accountability

Like traditional charter schools, virtual charter schools are held accountable to specific outcomes for student learning (e.g., adequate yearly progress under the Elementary and Secondary Education Act (now referred to as the No Child Left Behind Act or NCLB)). But because the teachers, instructional delivery, and location of virtual charter school is typically quite different from traditional public schools, existing accountability measures often do not "fit" the virtual environment or provide adequate assurance of quality. And in many states, because virtual charter schools are still new, state laws and regulations offer little guidance about how to adapt existing accountability methods to the virtual charter model.

Unfortunately, no rigorous studies are available that compare student learning in virtual charter schools to student learning in traditional public or charter schools. One study conducted in 2000 by the Florida Virtual High School (non-charter) compares student performance in traditional classroom settings to those in virtual courses taught by the same instructor and found that there were no apparent differences in the

grades they earned. Aside from this report and anecdotal evidence of performance in virtual charter schools, the majority of what we know about student learning comes from evaluations of distance education and online learning programs. For example, a 2005 meta-analysis of research studies in the online K-12 context found that students in distance education programs performed equally well or better academically in online learning environments than in traditional education programs. A 2004 analysis by the North Central Regional Educational Laboratory reported similar findings in distance education programs. Overall, the existing evidence of performance in virtual charter schools is far from conclusive.

Teacher Quality

Virtual charter schools struggle to fill many of the same teaching positions as traditional public schools, such as science, math and special education. But virtual charter schools face the additional challenge of recruiting candidates who can be successful outside the traditional school environment. Virtual instruction differs in several respects from teaching in a typical K-12 classroom: teachers must be comfortable with and skilled in several types of technology; they often work from home or in an office surrounded by other educators rather than students; their relationships with parents typically must be much more hands-on. While still relatively novel, a few teacher preparation and development programs have developed courses specially designed to train teachers in these new technologies and approaches. For instance, Boise State University offers a certificate in online teaching that includes strategies for integrating computers and instructional software into lesson-planning, engaging online learners and facilitating collaborative and interactive online-learning experiences. There is still concern, however, that virtual charter schools may find it difficult to hire a sufficient number of teachers who can work effectively in their unique environment.

Interpersonal Interaction

For some students, the lack of face-to-face interaction in the virtual environment may truly be something lost. Many virtual schools provide social opportunities such as field trips, sports teams and proms and mimic personal interactions through synchronous lessons, audio capabilities and chat sessions. However, it is difficult to replicate the social development that occurs in a traditional classroom environment—in the halls, at lunch and after school. It is still unclear whether virtual charter schools can develop similar opportunities for meaningful social interaction.

Funding

Starting and operating a virtual charter school can be expensive, requiring upfront and ongoing investment in technology equipment, software and other supplies, as well as staffing and program development. Virtual schools must also conduct onsite assessments for end-of-year tests (e.g., state assessments), which require funding for testing sites and personnel. On the other hand, because they typically do not require lease and maintenance of a physical school building, transportation, or food services, virtual schools can cost substantially less than brick and mortar schools. Discussions abound in every state with a virtual charter school about the proportion of education funding they should receive. Like traditional schools, virtual schools typically receive funding based on their enrollment, but many states are still working to define average daily “attendance” in the virtual context. States and districts are also still working through their responsibilities when large numbers of previously home-schooled students enroll in virtual charter schools and enrollment crosses traditional school district geographic boundaries.

Instructional Personnel

What is the definition of a highly qualified teacher in a virtual environment?

The definition of a highly qualified teacher in a virtual environment is the same as it is in a brick and mortar charter school. Furthermore, while parents may play an active role in monitoring delivery of academic content in a virtual charter school, they are not considered their child’s teacher. Rather, all students enrolled in virtual charter schools must be assigned to a highly qualified teacher for instruction in the core academic subjects.

The No Child Left Behind Act (20 U.S.C.A. § 6301-6578) defines a highly qualified teacher of a core academic subject as a teacher who has:

- (1) attained a bachelor’s degree or better in the subject taught;
- (2) obtained full state teacher certification; and
- (3) demonstrated knowledge in the subjects taught.

NCLB defines core academic subjects as English, reading/language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography.

NCLB contains a clause that defers the definition of a highly qualified teacher in a charter school to the definition outlined in the state charter law. Some states do not require charter school teachers to hold state teacher certification. However, charter school teachers in these states must hold a bachelor’s degree or higher and be able to demonstrate knowledge of the subjects they teach. In addition to the requirements of NCLB, IDEA and related state regulations require special education teachers to hold appropriate credentials.

Where do virtual charter school teachers report to work each day?

Unless dictated by state law, individual virtual charter schools determine where their teachers—general and special education—physically work. Some virtual charter schools require all of their teachers to report to a central location to teach, whereas others permit teachers to work from their homes.

Providing teachers with a common central location can foster collegial interactions and build accountability because administrators can easily observe teachers and participate in regular meetings. In contrast, if teachers work at home, they may be more accessible to students from a larger geographic region.

How many students can a teacher in a virtual school teach in a single class?

Public school general education class size is typically dictated by state or district policies. In the absence of such policies, class size is determined at the school level based primarily on enrollment, teacher supply and space availability. Unless otherwise specified in state law, virtual charter schools are subject to state and charter school authorizer policies related to class size.

Special education teacher caseloads may also be dictated by state, district, authorizers or school policies. These policies may outline general parameters about case load or dictate maximum caseloads by particular special education credentials (e.g., teachers of the hearing or visually impaired or teachers of students with severe emotional disturbances).

Do teachers working in the virtual environment need to develop specialized skills?

Yes. Teachers working in virtual schools need to be comfortable using technology to deliver content. In addition, they need to be comfortable working in a nontraditional environment. For instance, teachers may not have the opportunity to interact with colleagues on a day-to-day basis. Furthermore, they need to be comfortable working in close partnership with parents who play a more prominent role in their child's education than they might in a traditional brick and mortar school.

While not yet commonplace, multiple colleges and universities offer a certificate in online teaching that focuses on preparing teachers to work in a virtual environment (e.g., Appalachia State University, Boise State University, University of California, University of Florida, University of Illinois and University of Wisconsin).

What role do parents play in delivering the content in virtual charter schools?

Children enrolled in virtual schools are assigned a teacher or a course with a teacher analogous to a traditional public school.

However, unlike a traditional school, their parent will most likely play a central role in supporting and monitoring the child's instruction. The parent is not the teacher and not responsible for delivering content. Rather, parents should be considered the equivalent of a paraprofessional or coach responsible for

helping teachers deliver the content and individualize lessons as appropriate. The role of parents evolves as students progress through school. Younger students, especially those students who cannot read and are not computer literate, will need more assistance than older students who may require very little involvement on the part of their parents.

Do virtual schools need to employ related services professionals?

Students enrolled in virtual schools are entitled to related services if these services are determined by the IEP team to be required for the student to access the general education curriculum. Virtual schools may opt to hire full-time personnel or contract with an external provider (e.g., local school district or private provider) to purchase related services.

Virtual schools that serve students dispersed across an entire state will need to plan to establish contacts with related service providers across the state to ensure they can provide services to all of their students with disabilities as outlined in students' IEPs.

Special Education in Virtual Charter Schools

Educating students with disabilities in virtual schools entails not only molding state charter school laws to fit a specialized type of charter school, but also adapting federal and state special education guidelines aimed at providing special education in traditional brick and mortar settings.

Two primary points for consideration in virtual charter schools are enrollment of students with disabilities and navigating the intersection of the complex laws and regulations.

Ensuring that children with disabilities can enroll and succeed in virtual charter schools requires that school operators have a clear understanding of their responsibilities under IDEA and the capacity to provide the required special education and related services. Beyond simply understanding the definition of special education in virtual charter schools, authorizers and charter school operators will need to address the unique educational requirements of students with disabilities. The aspects of these requirements most relevant to virtual charter schools are presented below according to school development, enrollment, Individualized Education Programs, service provision, discipline, transportation, monitoring and accountability, and transitions. It is important to note that virtual charter school operators and/or their special education staff must understand their responsibilities as contained in federal laws such as the IDEA, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) as well as any state laws and regulations that govern the implementation of special education in public schools.

Applicable Laws and Regulations

There are no federal education laws specifically addressing special education in virtual schools. Yet, as public schools, virtual charter schools are required to abide by all federal education statutes, including the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act (ADA) and the Fourteenth Amendment of the U.S. Constitution. A virtual charter school's specific responsibilities for carrying out special

education requirements depends on its legal status—specifically, whether it falls under the jurisdiction of the local or regional school district or is considered its own local education agency (LEA) by the state. Most virtual charter schools, like many traditional charter schools, function as independent LEAs under state law. Consequently, they are responsible for abiding by all special education rules and regulations, including conducting special education student identification and evaluation, developing individual education programs (IEPs) and providing individualized support, curricular modifications, and adaptations as well as related services such as occupational, physical and speech therapy.

While virtual charter schools may in many ways be an excellent fit for students with disabilities, it can be challenging to meet state and federal special education requirements in the virtual environment. Virtual school administrators may have had little experience with special education programs and be unaware of the services to which students with disabilities are entitled. In 2006, for example, a state audit revealed that two virtual charter schools in Colorado had failed to assess the needs of their students who had been previously identified as having a disability, failed to develop IEPs for the students and had no documentation of providing related services. Related services, particularly occupational and physical therapy, may be especially difficult for virtual charter schools to provide to students spread throughout a wide geographic area.

Are virtual charter schools required to abide by the Individuals with Disabilities Education Act (IDEA)?

Yes. All charter schools, regardless of whether they deliver their program in a brick and mortar or virtual environment, are publicly funded schools. They must be free and open to the public, including students with disabilities. Consequently, virtual charter schools must abide by IDEA and related regulations.

Responsibility for educating students with disabilities is outlined in IDEA and varies according to a school's legal identity (i.e., an LEA or part of an existing LEA). The exact nature of a charter school's identity for purposes of special education is relevant because, under federal requirements, an LEA has many more programmatic and financial responsibilities than a school that is part of a larger, multi-school LEA. While the state is ultimately responsible for the education of all its resident children, states delegate responsibility to LEAs. For example, states typically assign the responsibility to their LEAs for providing a Free Appropriate Public Education (FAPE). LEA status also influences how funds for special education will flow to the charter school with LEA charter schools receiving most of their funds directly from the state. Virtual charter schools that are part of a local district may have to negotiate with their LEA regarding whether they will receive funds to purchase services or alternatively, the LEA will retain funds and provide special education and related services to students with disabilities who enroll in the school.

Are virtual charter schools required to provide a full continuum of placements to students with disabilities?

A virtual school's responsibility for placement depends on its legal identity under state law and the charter contract. If a virtual charter school is a separate LEA, it is required to provide a full continuum of placements. By contrast, that responsibility lies with the traditional LEA if the charter school is part of that LEA.

Some aspects of the notion of placement are different, however, for virtual charter schools. In traditional public schools, a full continuum of placements ranges from instruction in a general education classroom through a series of settings that represent progressively increasing amounts of time removed from the "general education" location, up to and potentially including a private residential setting. In a virtual environment in which students are typically instructed in their homes, the home is the general education classroom and there are not "removals" for periods of time other than possibly the delivery of related services, such as therapies, in another setting.

If a student requires placement in a private day or residential setting, the responsibility of the virtual school depends on the legal identity of that school. For example, if the virtual charter school is part of an LEA, the traditional LEA may be responsible for private placements as it would be for any school in the district.

When creating a virtual charter school, what factors should developers consider related to educating students with disabilities?

Virtual charter schools are required to abide by the same IDEA requirements and related state regulations as traditional brick and mortar charter schools. Any variation in the way these requirements are implemented in a virtual, as opposed to a brick and mortar learning environment, should be described in the charter contract. A state may have specific regulations or policies that address questions that arise pertaining to educating students with disabilities in the virtual environment.

Similar to all charter schools, virtual charter schools need to integrate the development of a high quality special education program into their initial application. Areas of the application that should incorporate the applicant's plan to include students with disabilities are:

- administration
- curriculum, instruction, and assessment
- enrollment
- specialized personnel (e.g., certified special education teachers, administrators, and related services personnel)
- budget
- facility; and
- transportation

Enrollment

Several studies of online programs report that they are a popular option among students who have been underserved in traditional schools, including students with disabilities. Many virtual charter schools are able to offer instructional methods that are attractive to students with various disabilities, such as individualized pacing, frequent and immediate feedback, a variety of presentations formats and personalized instruction. The flexibility of time and space also allows families more control over their child's learning environment, an important consideration for many students.

Despite emerging findings about the popularity of virtual charter schools among students with disabilities, we know very little about the extent to which these students are served in virtual charter schools. In one 2004 study, virtual schools in several states reported enrolling a significant percentage of students with disabilities, though proportionately less than traditional public schools. For example, one school serving 11,700 students reported that 775 were students with disabilities; another served 1,700 students with IEPs out of a total of 18,000. One state reported that approximately 600 students with disabilities were served in virtual schools out of a total of 7,000. In 2001, a state audit found that total special education enrollment in Pennsylvania's virtual schools was approximately 12 percent of the state's total virtual school population. National estimates of the number of students with disabilities enrolled in virtual charter schools are unavailable.

The lack of data regarding the number of students with disabilities in virtual charter schools is symptomatic of a larger dearth of research about virtual schools' service to students with disabilities in general. With regard to computer-based and web-based

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instruction, several older studies suggest that students with disabilities perform better as a result of these methods than in traditional special education environments, in part due to the individualized pacing, frequent and immediate feedback, and personalized instruction possible in the electronic environment. There is no research available that evaluates the success of students with disabilities in virtual as compared to traditional public schools. There is a great need for this type of research and enormous potential to learn from current virtual charter schools where staff tells inspiring stories of success with their special education populations.

Do virtual charter schools have to accept students with disabilities?

Yes. As public schools, virtual charter schools are required to maintain open enrollment policies and may not discriminate against students with disabilities in enrollment in accordance with all state charter school laws. If the school is overenrolled, it is required to conduct a lottery to fill spaces.

Are students with disabilities choosing to enroll in virtual charter schools?

There has been virtually no research published regarding the enrollment or education of students with disabilities in virtual charter schools. However, there is some evidence and anecdotal information that parents of students with disabilities are attracted to the individualized nature of the academic program provided by virtual schools.

Charter school authorizers and operators should anticipate that they will enroll approximately the same proportion of student with disabilities as other public schools (roughly 12%) and plan accordingly. Examples of steps a virtual charter school applicant can take to plan for students with disabilities are to set aside funds for early intervention services, special education teachers and assistive technology.

Who is responsible for ensuring that a virtual school is accessible to a student with a disability?

Virtual schools that operate brick and mortar buildings for staff or students are required to comply with the American's with Disabilities Act (ADA) to ensure that these public spaces are accessible to individuals with disabilities. However, a personal residence where a child attends a public school program is a unique mix of public and private space.

Most students with disabilities presumably live in homes that are accessible to them. Nevertheless, the question of accessibility may arise for a child who experiences a change in mobility. Although subject to state regulations, virtual schools would at a minimum be responsible for ensuring that those elements of the learning environment that the child uses to access his schooling are accessible. In practice, this may include provision of specialized equipment and services such as, but not limited to: assistive technology, physical therapy, occupational therapy and mobility training.

Is there a standard virtual charter schools should strive to meet to ensure that their school is accessible to students with disabilities?

To ensure that the instructional program is accessible to students with a variety of disabilities, operators should follow guidelines regarding Universal Design for

Learning (UDL). UDL is a research-based framework for creating instructional programs that are not only accessible to individuals with multiple physical and cognitive disabilities, but also reflect the high standards of programs provided to all students. In order to meet the UDL standards, programs must include:

- multiple means of representation, to give learners various ways of acquiring information and knowledge;
- multiple means of expression, to provide learners alternatives for demonstrating what they know; and
- multiple means of engagement, to tap into learners' interests, offer appropriate challenges, and increase motivation

For more information, see: <http://www.cast.org/>

A critical aspect of UDL is that programs are initially developed to ensure universal access rather than retrofitted after having been designed without consideration of universality of access.

How do virtual school personnel learn that a child who has enrolled in their school has a disability that qualifies him/her for special education services?

Virtual schools may use multiple means to learn that a student already has an IEP. Virtual schools should request student records for all students who are accepted and enrolled from the student's prior school. It is best practice to obtain a form signed by the parent to send to the former school with that request.

It is important to understand that some parents may be hesitant to provide information about their child's IEP out of fear that they may not be allowed to enroll or because they want to give their child the opportunity to drop the special education label. Given the newness and unique nature of the virtual school, parents may not understand the school's responsibilities related to IDEA. Schools can ask parents to indicate on the application or registration form if their child had an IEP at the previous school. However, such application questions should be written to make certain that the applicant is aware that the information is being requested to ensure that the school can plan to provide services. This is in contrast to language that could communicate that the response regarding a student having an IEP could negatively impact enrollment.

Besides the actual written application/registration process, virtual schools may schedule in-person registration meetings or orientation sessions to provide school personnel the opportunity to meet students prior to the start of school. The general purpose of these meetings is to introduce parents and students to the virtual school. The meetings also provide school personnel with an opportunity to build rapport with new students and their parents. Parents who are not comfortable providing information about their child's disability during the application phase may be more comfortable sharing details about their child's special needs in person.

If the student was home schooled prior to enrolling in the charter school, the parents may inform the school that their child has a disability and received special education, but they may not have paperwork documenting details about the child's disability or the services they have received to date.

Individualized Education Programs (IEPs)

Is an IEP for students with disabilities enrolled in a virtual school different from an IEP in a traditional public school?

Basically, all IEPs are required to conform to the provisions of IDEA and state special education requirements and must outline specialized services that will be provided to a child in order to support their access to the general education curriculum. The IEP for a student in a virtual charter school must describe how the school delivers its instruction and its special education services, so the IEP may appear to be different from an IEP for a child who attends a brick and mortar school. For instance, the IEP may need to more clearly spell out how the student is going to access the curriculum and how the general and special education teachers will collaborate to support the student given that the teachers may not physically go to the same place on a regular basis. In short, the IEP should reflect the virtual school model.

Authorizers may require all charter schools to use a standard IEP form. Absent such requirements, virtual schools may develop their own IEP forms in compliance with IDEA and state regulations.

How do virtual schools determine whether a student needs an IEP?

Virtual schools must follow the same procedures as traditional public schools to determine whether a student needs an IEP. IDEA requires each state to “have in effect policies and procedures to ensure that all children with disabilities residing in the State who are in need of special education and related services are identified, located, and evaluated” [CFR §300.125(a)1(i)]. States develop procedures that their LEAs must follow to carry out these responsibilities. IDEA also clearly establishes that children who attend charter schools are included in its requirements: “Children with disabilities who attend public charter schools and their parents retain all rights under this part” [34 CFR §300.209].

The charter contract should describe clearly how responsibilities under special education will be met in the charter school. If your charter school is its own LEA for special education, you must follow state procedures just like any other LEA in your state. However, a charter school does not have jurisdiction over a geographical area as most traditional LEAs do, so the actual implementation of Child Find responsibilities by charter schools will differ. Charter schools are responsible for children only when they are actually enrolled in the charter school. It is clear that all charter schools must conduct Child Find activities for their full student population so that children who may need special education are appropriately identified and, if necessary, referred for evaluation. (For more information about Child Find, see CFR §300.125(a)1(i) or <http://www.wrightslaw.com/info/child.find.mandate.htm>) A state may have developed specific instructions for charter schools with regard to Child Find that the school operator must learn, understand and follow.

Parents and teachers must be given clear information about the procedures that will be followed in charter schools concerning the rights of a child to an evaluation for special education. Parents and teachers must also be fully aware of other services schools provide (e.g., a student assistance team to provide help) prior to a formal special education evaluation referral. Federal and state law and regulations contain numerous specific requirements related to procedural safeguards that should be the subject of appropriate training for teachers, parents and board members.

Every charter school should have clear procedures in place for attending to the needs of a child who is not progressing or is presenting other kinds of problems. Putting such procedures in place should be a part of planning before start-up so that they do not have to be developed in a crisis situation. Given that virtual charter school personnel may have limited in-person contact with students, they will need to ensure that they have created tangible means (e.g., specific formative assessments and a tracking system) to assess how students’ are progressing in order to detect that a child may have a disability that might indicate a need for services under IDEA.

Where do virtual charter schools have their IEP meetings?

IDEA dictates who must participate in IEP meetings, but the law does not prescribe where the meeting must be held. If the charter school has a central office that is geographically proximate to the student and convenient to the

other members of the IEP team, the IEP meeting may occur in person at the central office. However, if this is not the case or for other reasons of the convenience of the team members, the meeting may be conducted via a conference call or a video conference call.

Virtual schools can use technology that enables synchronous communication to post their IEP forms online so that meeting participants can collaborate to complete the form, even if they are not physically in the same place. If parents are uncomfortable with technology, the virtual school may need to send a staff member to the student's home to help the parent participate in the virtual IEP meeting.

After the conference call, participants will need to follow-up with faxes and e-mails to ensure that the paper work is processed with the correct signatures and returned to a secure storage location in accordance with the Family Educational rights and Privacy Act (FERPA).

If a student has an IEP, does enrollment in a virtual school require revision to the IEP?

In general, given the significant change in how instruction is delivered, enrollment in a virtual charter school will require some changes to the IEP. However, the degree to which enrollment changes the IEP depends upon the child's disability and where the student was enrolled prior to the virtual charter school.

Examples of common changes necessitated by the enrollment change include:

- removing language regarding specialized classroom seating (e.g., front of room);
- modifying language regarding interaction with peers or buddies; and
- adding language regarding assistive technology required to support online program.

In addition, students enrolled in virtual schools may not require all the same related services (e.g., specialized daily bus transportation) or may access these services differently (e.g., speech therapist may visit the home or services may be provided via online service). Textbox 3 is a fictitious example of an excerpt of an IEP for a student with a disability who attends a virtual charter school.

Service Provision

If the authorizer is the local school district, what if any role does the authorizer play in provision of services to students with disabilities in a virtual charter school?

The extent of an authorizer's responsibility related to provision of services to students with disabilities who enroll in virtual charter schools ranges from total responsibility to no responsibility. The level of responsibility is determined by the state charter statute that dictates the legal status of charter schools (i.e., part of an LEA or its own LEA) and the subsequent agreement negotiated as part of the charter authorization process.

Aside from actual provision of services, all authorizers have a responsibility to conduct a rigorous authorization process and thereafter develop appropriate monitoring and accountability processes to ensure that they can assess the degree to which the school is meeting the obligations outlined in the charter; including the obligation to provide a Free Appropriate Public Education (FAPE) to students with disabilities who enroll in the school.

What is the definition of Least Restrictive Environment (LRE) for a student with a disability in a virtual school?

According to the IDEA regulations, Least Restrictive Environment (LRE) means:

“(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are non-disabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

[34 CFR §314(2)]

Although there are a variety of types of virtual schools ranging from 100% in the home, to a hybrid model where students may take some classes in a brick and mortar building, to 100% in a school that delivers instruction online, most students enrolled in virtual charter schools receive their instruction in their home. Consequently, for most virtual schools, the student’s home is the Least Restrictive Environment.

How do virtual schools adapt or modify their program to accommodate the unique requirements of students with disabilities?

The core requirement of special education is an Individualized Education Program (IEP) developed to ensure that students with disabilities receive the accommodations, modifications, and specialized services chosen for them on an individual basis by their IEP team. Virtual charter schools are required to provide services as dictated by a student’s IEP.

While acknowledging the need to ensure the delivery of prescribed special education, there are some basic accommodations and modifications not automatically provided to all students in a traditional school environment that are characteristic of education provided in a virtual charter school. They are:

- extended time on lessons and tests;
- flexibility in start and end dates;
- continuous means of communication;
- opportunities to revise and resubmit;
- parent communication of progress;
- prepared notes / reviews;
- clear rubrics;
- appropriate placements by skill levels;
- working in a closely supported environment;
- varied activity formats;
- screen readers and talking browsers;
- daily lesson planning with the student; and
- just-in-time remediation.

Do virtual charter schools provide specialized equipment to students for use in their homes?

Most virtual schools provide students with a computer, printer, Internet access and a fax machine. Desktop computers are standard, but schools may also provide laptops if students have mobility issues or require use of a computer to accommodate their disability.

Virtual schools are also required to provide a range of assistive technology devices as dictated by students’ IEPs.

What are examples of the types of assistive technology devices that virtual charter schools can offer students with disabilities?

Assistive technology is not unique to virtual schools, but the primacy of computer technology elevates the need for provision of assistive technology by the school. Following are a list of assistive technologies that virtual schools may need to utilize:

- on-screen keyboards;
- grammatical support tools;
- Braille embosser and text to Braille conversion;
- animated signing characters (signing avatars);
- switches;
- alternative mouse systems;
- word prediction;
- accessible online learning tools;
- alternative key boards;
- display-based personal data assistants; and
- voice recognition systems.

There are a variety of online glossaries that describe adaptive technologies and provide other information about these devices.

For example, see the Adaptive Technology Resource Center at the University of Toronto (<http://atrc.utoronto.ca/>) and the Center for Adaptive Technology at Southern Connecticut State University (<https://www.southernct.edu/student-life/academic-success/center-adaptive-technology/>).

Do virtual schools need to allocate resources to training students and parents how to use the technology required accessing the online program?

Yes. Virtual schools typically provide an orientation for students and their parents at the beginning of the year to introduce them to the technology provided. Parents of students

with disabilities who require additional assistive technology may require additional training.

What if any are the unique challenges or opportunities that virtual schools experience when developing appropriate special education programs?

Virtual schools use a different mode to provide instruction, but for the most part their responsibilities are very similar to traditional brick and mortar schools when it comes to abiding by the requirements outlined in the federal IDEA and state special education requirements. Similar to the experiences of traditional public schools and brick and mortar charter schools, virtual schools may struggle to recruit and retain qualified special education professionals.

Who typically serves as the “case manager” of a student with a disability in virtual schools?

Virtual charter school special education teachers manage a case load of students analogous to their peers in a brick and mortar school. Depending on individual students’ IEPs, the special education or related services teacher may provide services directly to individual students with disabilities and/or may consult with a general education teacher who has regular contact with the student.

The number of students an individual special education teacher can manage is dependent upon the severity of students' disabilities and other factors that influence the delivery of services. Some states regulate special education caseloads and dictate the maximum number of students with disabilities an individual teacher may manage.

Who provides special and related services (e.g., speech/language services) to students enrolled in virtual schools and how do they do it?

Analogous to traditional public schools, qualified related services personnel provide prescribed related services to children with disabilities who enroll in virtual charter schools.

The services may be provided (1) in person at home; (2) at the therapist's office; or (3) via synchronous or asynchronous online communication.

1. If students reside close to speech therapists and parents are comfortable with the therapist providing the services in the home, the school may arrange for a therapist to provide these services at home.
2. Alternatively, the virtual charter school may make arrangements for the child to be transported to an office outside of their home to receive services. This arrangement requires that the virtual school secure appropriate transportation for the student and possibly the parent and would be described on the IEP as a part of the related services provided by the school.

3. Telepractice, also referred to as teletherapy, is therapy provided to students via electronic communication devices when the student and therapist are not in the same physical location. While still viewed as a relatively emerging field, telepractice may improve students' access to therapists in fields with shortages (i.e., speech and language) and provide access for students in remote rural locations.

How are nonacademic needs met for students with disabilities (e.g., functional skills, study or organizational skills, behavioral interventions, social skills, etc.) in a virtual environment?

Non-academic needs can be a challenge for virtual charter schools, especially for virtual schools serving students dispersed across a large geographic area. Nevertheless, if the IEP team determines that a child with a disability needs to improve social or other skills, the virtual school is required to provide these services. Examples of these services may be field trips or social functions that require the student to interact appropriately with peers. Virtual schools personnel may organize regular picnics, gathering at local parks, or attendance at cultural events in the community.

Discipline Issues

How do virtual schools address disciplinary issues given their unique environment? Attending school at home removes many of the situations in which discipline problems arise in traditional brick and mortar schools. If discipline issues should arise for a student with a disability enrolled in a virtual charter school, the school must abide by discipline due process procedures outlined in IDEA. If the virtual charter school is part of a local district, it is typically required to adopt the discipline policies of the district. If the school is its own LEA, it may be extended the authority to develop its own policies and procedures within the broader parameters defined in IDEA.

A discipline issue that may be of particular concern in virtual schools is truancy. Virtual schools should develop policies to document, monitor and report daily attendance. If truancy becomes a problem, the school will need to report the student in the same manner a traditional public school would report issues of truancy.

Can a student be suspended and/or expelled from a virtual school? If so, what about the procedural protections for students with disabilities?

Yes, a child can be suspended or expelled from a virtual school. In the case that a school determines that a child needs to be suspended or expelled from the virtual school, the child would be extended the same procedural protections of any child with a disability in a public school.

What about Functional Behavioral Assessments (FBAs) and Behavior Intervention Plans (BIPs)?

Analogous to traditional public schools, virtual charter schools may need to conduct Functional Behavioral Assessments and Behavior Intervention Plans as needed. The virtual environment does not necessitate different procedures.

Transportation

Are virtual charter schools required to provide transportation to students with disabilities if those students are required to leave their house to obtain supports or services?

Yes. If transportation is part of the student's IEP, the virtual school is required to provide it. The transportation may be provided in a variety of ways. For example, the virtual school can contract with parents to drive their child and reimburse them the cost of the travel or the school may provide funds for the student to take public transportation or secure private transportation. There are inherent legal liabilities associated with obtaining private transportation. If a virtual school is going to hire a driving service or a taxi cab, school personnel will need to ensure that the child is safe. For example, if the child is traveling alone, additional safeguards for the child, such as checking the fingerprints of the driver, would be necessary.

Thus, if the child requires transportation in order to access related services, the virtual charter schools is required to ensure that the parents can access transportation at no charge. Questions regarding transportation must be guided by a commitment to ensuring that transportation is not a barrier to receiving services and that transportation does not put the child at risk.

Do the transportation responsibilities change depending on the charter school's catchment area (e.g., local neighborhood versus entire state)?

No. If the student is enrolled in the charter school, the school is required to provide any transportation needed to provide services outlined on the IEP.

Monitoring

What procedures do virtual charter schools implement to monitor the quality of instructional and specialized services provided to students?

Virtual charter schools, like all charter schools, are responsible to their authorizers for implementing their program appropriately for all students enrolled in their schools. In addition, charter schools are included in the monitoring procedures their state must carry out for special education as required by IDEA. The way in which the charter school participates in the state monitoring process depends on the legal status of the charter school (i.e., an independent LEA or part of an LEA).

Virtual school providers may use a variety of processes to ensure that they conform to the requirements of their monitoring entities. Similar to supervising teachers in traditional schools, administrators of virtual charter schools need to supervise teachers using appropriate strategies.

The virtual environment provides the added opportunity to monitor teachers' written work and instruction delivered online. Online computer programs can allow school administrators to monitor the quality and quantity of interactions between teachers and students. Some virtual schools employ lead teachers responsible for providing guidance and monitoring of teachers by content or grade level.

The state of Pennsylvania has developed the Pennsylvania System of Cyber Charter Review (PSCCR) to support and monitor all cyber schools in the state. According to the Department's website, the goal of the PSCCR instrument is to make "the oversight process one of growth and improved educational quality for all students." The process is guided by a set of principles and consists of six components which are aligned with the Department's broader strategic plan and school improvement process:

- data
- focus/vision/mission
- quality leadership
- quality teaching
- artful use of infrastructure
- continuous Learning Ethic

How are charter school authorizers monitoring performance of students with disabilities who enroll in virtual charter schools?

Authorizers should monitor the performance of the students and related data on the operation of the virtual charter school. Examples of practices authorizers are using to monitor special education in charter schools are audits, observations and reviews for renewal of a school's charter.

Assessments

Are virtual schools required to administer state assessments to students with disabilities?

Yes, virtual charter schools are required to administer the same state assessments as traditional public schools.

Where do virtual charter schools administer state assessments?

Virtual charter schools that do not maintain a brick and mortar school building must secure appropriate sites to administer tests. Examples of places where tests may be administered are: hotel conference rooms, colleges or universities, public libraries, private schools and church conference rooms.

If a student with a disability requires testing accommodations that are not feasible in the testing site, the test may be administered at the child's home. Virtual schools should assign two adults to administer the test to verify the integrity of the testing conditions. As with any adult who works directly with children in a public school setting, proctors most likely need to undergo a background check and be fingerprinted in accordance with state education laws.

Securing appropriate sites and adequately trained test proctors can be a considerable expense for virtual schools and should be part of their budget planning process.

Transitions

What if anything should virtual charter schools do to help students with disabilities transition from a traditional brick and mortar school to a virtual charter school environment?

The transition from attending a traditional brick and mortar school to a virtual school may be relatively seamless for students comfortable with computer technology. Other students and their parents, will need assistance learning about the technology and adjusting to learning in a virtual environment.

Virtual charter schools generally offer orientation sessions for new students and their parents. In addition, they typically employ guidance counselors who are charged with helping students select their course of study.

Students with disabilities who use specialized equipment may need additional assistance with the transition process.

Resources

Where can virtual charter schools go for assistance or guidance related to educating students with disabilities in the virtual environment?

State charter school laws and special education rules and regulations are the basis of all policies related to educating students with disabilities in charter schools. Policy makers and practitioners should be familiar with the relevant laws and policy guidance produced by their state department of education. All state departments of education publish information and related policy guidance about special education requirements on their websites.

While the virtual charter school environment is unique, these schools are first and foremost public schools and therefore general guidance related to special education can be a valuable tool that virtual charter school operators should not overlook.

Charter school authorizers can also provide a wealth of information regarding special education rules and regulations although, given the relative newness of virtual charter schools, many authorizers have limited experience with these schools. In these instances, virtual charter school operators should anticipate devoting time to demystifying the idea of a virtual learning environment for their authorizers both during the application stage and once the schools open.

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What role can state departments of education or charter school authorizers take to help virtual schools understand their responsibilities and, thereafter, build capacity to educate students with disabilities?

State departments of education and charter authorizers may provide a variety of supports and assistance to help virtual charter schools fulfill their requirements related to IDEA. Given the newness of virtual charter schools, many states have not yet developed such resources. As a default, existing guidance regarding implementation of IDEA should serve as a guide for new virtual charter school operators.

Some state departments of education that also serve as charter school authorizers have taken proactive steps to help virtual charter schools build capacity. For instance, the Pennsylvania Department of Education has developed a Basic Education Circular (BEC) related to virtual charter schools that is available on the state's website: http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/cyber_charter_schools/507354
<file:///C:/Users/aarti.sharma/Downloads/Cyber%20Charter%20School%20Use%20of%20Physical%20Facilities.pdf>

The Department's website notes that the purpose of the BEC is to provide "guidance for charter schools and school districts." (See Textbox 6.) The BEC includes guidance on every aspect of operating a virtual school ranging from, but not limited to, the application process to oversight, accountability, renewal, attendance, discipline, funding, and special education. The section on special education is relatively short and general, but other aspects of

the BED provide concrete guidance that also applies to educating students with disabilities. For instance, the BEC identifies special education student records and IEPs as one of multiple items that schools should provide to the Department as part of periodic site visits and details the importance of developing safeguard protocols to protect student records. SEA officials reportedly involved a variety of stakeholders in the development of this BEC.

To address emerging policy questions, the state of Colorado formed a task force on special education in online schools. In response to multiple questions about enrollment in virtual charter schools, the task force drafted a flow-chart to track the various decision parents and schools face when enrolling in a virtual charter school.

What resources are available for charter school authorizers and operators interested in learning more about virtual schools and special education in virtual schools?

In the overall public education sector, virtual charter schools are still relatively new and only limited technical assistance for these schools is readily available. The following organizations maintain websites that authorizers and charter operators may find informative as they contemplate special education issues.

- Adaptive Technology Resource Center, University of Toronto. Extensive information about latest developments in assistive/adaptive technology: <http://atrc.utoronto.ca/>
- American Speech, Language, and Hearing Association: <http://www.asha.org/publications/>
- Center for Applied Special Technology (CAST): Develops innovative, technology-based educational resources and strategies based on the principles of Universal Design for Learning (UDL): <http://www.cast.org/>
- National Association of Charter School Authorizers: Published set of issue briefs about virtual charter schools: <http://www.qualitycharters.org/i4a/pages/Index.cfm?pageID=3372> and <http://www.qualitycharters.org/i4a/pages/Index.cfm?pageID=3373>
- North American Council on Online Learning (NACOL): Nonprofit organization dedicated to fostering a learning landscape that promotes student success and lifelong learning. <http://www.nacol.org/>
- Pennsylvania Department of Education Basic Education Circular: Cyber Charter Schools: http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/cyber_charter_schools/507354
- Pennsylvania Department of Education: Pennsylvania System of Cyber Charter Review (PASCCR): <file:///C:/Users/aarti.sharma/Downloads/Cyber%20Charter%20School%20Use%20of%20Physical%20Facilities.pdf>

General Issues to Address During the Charter Application Phase Regarding Educating Students with Disabilities

- 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 curriculum and instruction.
- 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.
- Anticipated sources for ongoing legal guidance related to special education.
- 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 student discipline.
- Plan to handle programming disputes involving parents.
- Plan to ensure confidentiality of special education records.
- Plan to purchase services from special education vendors.
- Plan to secure technical assistance and training; and
- Plan to maintain confidentiality of all records according to IDEA and FERPA.

Specific Questions to Consider During Application Phase Regarding Educating Students With Disabilities in a Virtual Charter School

Given the unique nature of virtual schools, developers should consider a host of issues that need special consideration given the manner in which these schools deliver their instructional program.

- What type of virtual program will the school offer (e.g., all virtual or hybrid virtual with brick and mortar component, asynchronous or synchronous)?
- Does the curriculum/provider have established guidance regarding adaptations and modifications for students with disabilities?
- Will teachers meet students in person before school starts?
- How will the school identify students who may be eligible for special education and related services given the limited in-person contact?
- Does the state consider enrollment in a virtual school a change of placement for a student with a disability?
- When will IEP meetings be held?
- Where will IEP meetings be held?
- Will the IEP meetings require specialized technology to accommodate members in different locations?
- What, if any role, will parents play in delivering the content?
- How will the school train parents and students with disabilities to use required technology, including specialized equipment to help students with disabilities access online material?
- What will be the relationship between general education personnel, special education personnel and parents?
- How will students with disabilities be provided related services (e.g., speech and occupational therapy)?
- How will students be transported if they need to obtain related services out of their home?
- How does the school plan to recruit and retain qualified special education and related services professionals willing to work with students in multiple locations?
- Will the school offer specialized training to prepare teachers to work in a virtual environment?
- Where will the school administer state assessments and how will the school ensure the facility is appropriate and accessible to students with disabilities?



RESOURCES ON SPECIAL EDUCATION IN CHARTER SCHOOLS

Providing special education in charter schools, like traditional public schools, is challenging for a variety of reasons. Amassing the capacity to deliver special education requires early and ongoing technical assistance related to the complex requirements stemming from IDEA. Charter schools can tap into a variety of networks to learn more about special education in general and issues related to special education in charter schools specifically.

GOVERNMENTAL AGENCIES AND OFFICES

U.S. Department of Education (ED)

Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school petitioners.

The Office of Special Education Programs (OSEP) is responsible for special education.

- The website maintained by OSEP contains extensive information about special education and the implementation requirements that all public schools must meet. The web page also provides links to a many resources related to special education: <http://www2.ed.gov/about/offices/list/osers/osep/index.html>
- OSEP funded research on special education in charter schools under the Intersect Project, which examined features of charter school laws, characteristics of charter schools, and

the nature and type of special education technical assistance and infrastructures: <http://www2.ed.gov/policy/speced/guid/idea/letters/revpolicy/tpchar.html>

The Office of Innovation and Improvement is another ED office that has more general resources for charter schools: <http://sites.ed.gov/oii/>

Georgia Department of Education (GaDOE)

The GaDOE is a rich source of general information regarding special education and, in some cases, specific information regarding special education in charter schools: <http://www.gadoe.org/Pages/Home.aspx>

The Charter School office of the GaDOE hosts a web page for charter schools that provides valuable information on many charter school issues: <http://www.gadoe.org/External-Affairs-and-Policy/Charter-Schools/Pages/default.aspx>

The state also maintains a web page for special education with extensive information and links to laws, regulations, forms and other important aspects of special education: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/default.aspx>

The special education website also contains information about Parents' Rights: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Parent-Rights.aspx>

Other State Education Departments

Authorizers may also find additional resources at the websites maintained by other states. The websites of other states can be accessed through the National Association of State Directors of Special Education:
www.nasde.org

Regional Education Service Agencies (RESAs)

Georgia's Regional Education Service Agencies provide professional development, technical assistance, and school improvement activities to member LEAs and their schools, including charter schools. A wide variety of professional expertise and assistance is available through this network.

For more information, see:
[http://www.gadoe.org/Pages/Regional-Education-Service-Agencies-\(RESAs\).aspx](http://www.gadoe.org/Pages/Regional-Education-Service-Agencies-(RESAs).aspx)

Georgia Learning Resource System (GLRS)

The Georgia Learning Resource System provides professional learning, technical assistance and school improvement activities specifically in the area of special education to LEAs, schools, teachers, and parents:
<http://www.glr.org>

Resource Centers

The Federal -and Regional- Resource Centers are federally funded projects that provide consultation, technical assistance and training to state and local educational agencies. Georgia is part of the Southeast Regional Resource Center (SERRC)

Federal Resource Center:
<http://www.dssc.org/>

Southeast Regional Resource Center (SERRC):
<http://www.seresc.net/>

NATIONAL SPECIAL EDUCATION NETWORKS

National Association of State Directors of Special Education (NASDSE)

National Association of State Directors of Special Education (NASDSE) provides a wide range of information and resources regarding special education including research reports and technical assistance documents pertaining to special education in charter schools. See:
<http://www.nasdse.org>.

The website includes a copy of the final report of Project SEARCH (Special Education as Requirements in Charter Schools), a qualitative research study of how the nation's public charter schools are implementing special education policies. Project SEARCH looked at the ways charter schools interpret the laws and regulations governing the education of children with disabilities, especially as defined under IDEA. Project SEARCH was the first piece of research to identify (1) the important policy issues regarding how charter schools fit into the national education system and (2) the importance of the LEA status of charter schools and its relationship to the ability of schools to serve students with disabilities.

Information on Project SEARCH can be found at:
<http://www.nasde.org/Portals/O/Documents/ProjectSearch.pdf>

Resources on Special Education in Charter Schools

Council for Exceptional Children (CEC)

CEC is the largest international professional organization dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities and/or the gifted. CEC sets professional standards, provides professional development and helps professionals obtain the resources necessary for effective professional practice:

<http://www.cec.sped.org>

The Georgia CEC website is

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

National Dissemination Center for Children with Disabilities (NDC/NICHCY)

The National Dissemination Center for Children with Disabilities (formerly known as the National Information Center for Handicapped Children and Youth) is an information and referral center that provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus. See: <http://www.nichcy.org>.

The NICHCY website provides a helpful guide to understanding the basics of special education that school leaders and special education managers should review, understand, and be prepared to implement prior to opening day.

- Module 1: Top 10 Basics of Special Education:
<http://www.parentcenterhub.org/repository/partb-module1/>

NICHY also provides a resource containing a collection of disability and special education acronyms presented in alphabetical order for easy reference and use. This tool is clear, user friendly, and easy to understand. It may serve as a helpful desk reference in schools or a supportive tool for parents.

- Disability & Special Education Acronyms - <http://www.parentcenterhub.org/repository/acronyms/>

Another very useful tool found on NICHCY's website outlines the basic steps in the identification, evaluation, IEP creation, and service delivery process. This tool is organized by a clear flowchart with narrative explanations for the activities that happen at each point in the process. It also provides further links within the document to flesh out terms that are commonly used when discussing special education.

- The Basic Special Education Process under IDEA 2004:
http://www.parentcenterhub.org/wp-content/uploads/repo_items/10steps.pdf

Lastly, a review of research on the connection between social skills and academic achievement is available online as part of NICHCY's Evidence for Education series (volume 3, issue 2). This piece includes a definition of social skills, a review of the research, examples of social skills for use in schools, and additional information and references, including links to PBS Online Academy at the University of Kansas, which presents intervention strategies designed to support social skills. See:

<http://www.parentcenterhub.org/repository/social-skills/>

Parent Advocacy Coalition for Educational Rights (PACER)

PACER is a parent advocacy organization dedicated to expanding opportunities and enhancing the quality of life of children and young adults with disabilities and their families, based on the concept of parents helping parents. PACER's website has a variety of resources developed to assist parents of children with disabilities and may be helpful in informing charter school operators regarding their obligations to parents of children with disabilities. See: <http://www.pacer.org>.

Parent to Parent of Georgia (P2P)

Parent to Parent of Georgia is the state's Parent Information Training Center (PTI) under IDEA. It serves families who live in Georgia and provides support and information to parents of children with disabilities. Assistance is also available for parents who speak Spanish. www.p2pga.org or call (800) 229-2038.

Special Education News

This private newsletter provides in-depth, up-to-date news related to educating students with disabilities. See: <http://www.specialednews.com>

National Charter Schools Resource Center (NCSRC)

The National Charter School Resource Center serves as a national center to provide on-demand resources, information, and technical assistance to support successful planning, authorizing, implementation, and sustainability of high-quality charter schools; to share evaluations on the effects of charter schools; and to disseminate information about successful practices in charter schools.

Resources on Special Education in Charter Schools

The NCSRC website is a rich resource containing extensive information about all aspects of charter schools, including research reports, state contacts and upcoming events related to charter schools:

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

Georgia Parent Mentor Partnership

The mission of the Georgia Parent Mentor Partnership is to build effective family, school, and community partnerships that lead to greater achievement for students, especially those with disabilities. Nearly 100 parents raising a child who receives special education services work directly for local school systems across Georgia. Parent mentors work in a variety of different ways. The Parent Mentor website lists districts with parent mentors. See:

www.parentmentors.org

NATIONAL CHARTER SCHOOL NETWORKS

Center for Education Reform

The Center for Education Reform is the leading voice for structural and sustainable changes that can dramatically improve educational opportunities for decades to come. Its guiding purpose is to improve the accuracy and quality of discourse and decisions about education reform, leading to fundamental policy changes that make a difference long after news and election cycles have ended.

See: <http://www.edreform.com>

National Alliance for Public Charter Schools

The National Alliance for Public Charter Schools is a national advocacy organization that provides information about the charter schools movement. It also provides assistance to strengthen the number and quality of charter schools. See:

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

National Association of Charter School Authorizers (NACSA)

National Association of Charter School Authorizers is a nonprofit membership association of educational agencies across the country that authorizes and oversees public charter schools. Created in 2000 by a diverse group of charter school Authorizers nationwide, NACSA is dedicated to supporting and strengthening the capacities of Authorizers to charter successful schools. It provides many resources of significant value to charter school Authorizers through its website at: www.qualitycharters.org



GLOSSARY

Accommodations	Changes in the administration of an assessment, such as setting, scheduling, timing, presentation format, to response mode, 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. To be appropriate, assessment accommodations must be identified in the student's Individualized Education Program (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.
Adequate Yearly Progress (AYP)	An individual state's measure of yearly progress toward achieving state academic standards. Adequate Yearly Progress is the minimum level of improvement that states, school districts, and schools must achieve each year according to the No Child Left Behind Act.
Aggregation	The total or combined performance of all students for reporting purposes.
Alignment	The similarity or match between or among content standards, performance standards, curriculum, instruction, and assessments in terms of knowledge and skill expectations.
Alternate Assessment	An instrument used in gathering information on and measuring the standards-based performance and progress of students whose disabilities preclude their valid and reliable participation in general assessments.
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.

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 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.

Assistive Technology Service

Any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. It includes evaluation of the child's needs, purchase of the device, training and other aspects of the use of the device. [IDEA 2004 §602(1) & (2)]

Asynchronous Instruction

Student and teacher do not interact at the same time but rather, teacher delivers and stores content that student thereafter accesses. This type of instruction is typically delivered via course management software. E-mail communication is one means of asynchronous communication that teachers may use to instruct students.

Attention Deficit (Hyperactivity) Disorder (ADD/ADHD)

Attention Deficit (Hyperactivity) Disorder is a condition with the principal characteristics of inattention, hyperactivity, and impulsivity. It becomes apparent in some children in the preschool and early school years and can continue into adulthood. These symptoms appear early in a child's life. Because many normal children may have these symptoms, but at a low level, or the symptoms may be caused by another disorder, it is important that the child receive a thorough examination and appropriate diagnosis by a well-qualified professional.

Auditorily Impaired

An inability to hear within normal limits due to physical impairment or dysfunction of auditory mechanisms.

Autism

Autism is a developmental disability, generally evident before age three, that adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines.

The term of autism may also include students who have been diagnosed with Pervasive Developmental Disorder, Asperger's Disorder, Rett's Disorder, or Childhood Disintegrative Disorder provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements. Autism may exist concurrently with other areas of disability but does not apply if a student's educational performance is adversely affected primarily because the student has an emotional and behavioral disorder. [See 34 CFR 300.7(c)(1)(i)]

Bias (Test Bias)

In a statistical context, bias is a systematic error in a test score. In discussing test fairness, bias is created by not allowing certain groups into the sample, not designing the test to allow all groups to participate equitably, selecting discriminatory material, testing content that has not been taught, etc. Bias usually favors one group of test takers over another, resulting in discrimination.

Charter

A performance based contract between a charter petitioner and an Authorizer. By entering into a charter, the charter petitioner and charter Authorizer shall be deemed to have agreed to and be bound by all the provisions of Georgia's charter school law (The Charter Schools Act of 1998) as if such terms were set forth in the charter.

- Charter Authorizer** An entity authorized under the Charter Schools Act to review applications, decide whether to approve or deny applications, enter into charter contracts with petitioners, oversee public charter schools, or decide whether to renew, not renew, or revoke charter contracts.
- Charter School** An independent public school, operating under the terms of a charter, that is designed and operated by educators, parents, community leaders, educational entrepreneurs and others. They are authorized 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.
- Charter Petitioner** A local school, local board of education, private individual, private organization, or state or local public entity that submits a petition for a charter.
- Charter System** A local school system that is operating under the terms of a charter pursuant to Code Section 20-2-2063.1.
- Child With a Disability** A child evaluated in accordance with IDEA as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), serious 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.
- (See also STUDENT WITH A DISABILITY)
- Commission Charter School** A start-up charter school authorized by the Commission and that is operating under the terms of a charter between a charter petitioner and the commission.

Conversion Charter School	A charter school that existed as a local school prior to becoming a charter school.
Cognitively Impaired	A disability that is characterized by significantly below average general cognitive functioning existing concurrently with deficits in adaptive behavior; manifested during the developmental period that adversely affects a student's educational performance. Cognitively impaired corresponds to mental retardation in the federal eligibility categories.
Criterion-referenced Competency Tests	A test that measures specific skill development as compared to a predefined absolute level of mastery of that skill.
Communication Impaired	A language disorder in the areas of morphology, syntax, semantics and/or pragmatics/discourse which adversely affects a student's educational performance and is not due primarily to an auditory impairment.
Curriculum-based Assessments	Assessments that mirror instructional materials and procedures related to the curriculum resulting in an ongoing process of monitoring progress in the curriculum and guiding adjustments in instruction, remediation, accommodations, or modifications provided to the student.
Deafblind	Deafblind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. This is the federal eligibility category.

Deaf/Hard of Hearing

A student who is deaf or hard of hearing is one who exhibits a hearing loss, whether permanent or fluctuating that interferes with the acquisition or maintenance of auditory skills necessary for the normal development of speech, language, and academic achievement. [Refer to 34 CFR 300.7 (3), (5)]

1. A student who is deaf can be characterized by the absence of enough measurable hearing (usually a pure tone average of 66-90+ decibels American National Standards Institute without amplification) such that the primary sensory input for communication may be other than the auditory channel.

2. A student who is hard of hearing can be characterized by the absence of enough measurable hearing (usually a pure tone average range of 30-65 decibels American National Standards Institute without amplification) such that the ability to communicate is adversely affected; however, the student who is hard of hearing typically relies upon the auditory channel as the primary sensory input for communication.

Disaggregated

“Disaggregate” means to separate a whole into its parts. Under NCLB, this term means that test results are sorted into groups of students who are economically disadvantaged, from racial and ethnic minority groups, have disabilities, or have limited English fluency.

Dyslexia

A specific learning disability that is neurological in origin; a language-based disorder characterized by difficulties with accurate and fluent word recognition and by poor spelling and decoding abilities, usually associated with insufficient phonological processing abilities.

Emotional Behavioral Disorder

The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that 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. The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance. [34 CFR §300.7(c)(1)]

Errors of Measurement

The differences between observed scores and the theoretical true score; the amount of uncertainty in reporting scores; the degree of inherent imprecision based on test content, administration, scoring, or examinee conditions within the measurement process that produce errors in the interpretation of student achievement.

Extended Standards

A content standard that has been expanded while maintaining the essence of that standard, thereby ensuring that all students with significant cognitive disabilities have access to, and make progress in, the general curriculum.

Free Appropriate Public Education (FAPE)

Special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state; include preschool, elementary school, or secondary school education and are provided in conformity with an Individualized Education Program (IEP).

Governing Board

A school-level decision-making body at a charter school that is a party to the charter contract and is responsible for ensuring the implementation and compliance of the contract.

Governing Council	A school-level council of parents, teachers, administrators, and others at a system charter school who are involved in school-level governance within a charter system.
High Stakes Testing	A test for which important consequences are attached to the results for students, teachers, schools, districts, and/or states. Consequences may include promotion, graduation, rewards, or sanctions.
Immersion Program	A program where non-native English speaking students are given instruction only in a non-native language.
Inclusion	Inclusion is a special education approach that stresses educating students with disabilities, regardless of the type of severity of that disability, in the regular classrooms of their neighborhood school to ensure that they have access to the general education curriculum. The construct of inclusion includes appropriate supports, modifications and accommodations that allow students with disabilities to access the general education curriculum.
Individualized Education Program (IEP)	An individualized education program (IEP) is a written statement for a child with a disability that is developed, reviewed and revised in a meeting in accordance with IDEA regulations.
Individualized Family Service Plan (IFSP)	The Individualized Family Service Plan (IFSP) is a written plan for providing early intervention services to infants and toddlers eligible under Part C of IDEA.
Individuals with Disabilities Education Act (IDEA)	The Individuals with Disabilities Education Act (IDEA) is the major federal law related to special education that provides funding to states and sets specific procedural requirements for the identification and education of students with disabilities.

Intellectual Disabilities (Mental Retardation)

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 §300.7(c)(6)]

Learning Disability (LD)

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 mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage. [34 CFR §300.7(c)(10)]

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 (LRE), 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 Individualized Education Program (IEP) requires some other arrangement.

Linkage

The type of connection that is mandated or voluntarily established between a charter school and a traditional LEA.

Local Board

A county or independent board of education exercising control and management of a local school system pursuant to Article VII, Section V, Paragraph II of the Constitution.

Local Charter School A start-up or conversion charter school that is operating under the terms of a charter between the charter petitioner, the local board, and the state board of education.

Local School	A public school in Georgia that is under the management and control of a local board
Local Education Agency (LEA)	A Local Education Agency (LEA), often referred to as a school district, is a public institution or agency that has administrative control and direction of one or more public elementary or secondary schools in a distinct geographic region. The term includes Local Charter Schools (charter schools that are established as an LEA under state law).
Matrix Sampling	A measurement technique organizing a large set of test items into a number of relatively short item subsets, each of which then is administered to a subsample of test takers, thereby avoiding the need to administer all items to all examinees.
Minimum n	The smallest number of students a state has determined can produce statistically reliable results for a group while protecting the confidentiality of the student within the group.
Modification	A change to the testing conditions, procedures, and/or formatting so that measurement of the intended construct is no longer valid.
The National Assessment of Education Progress (NAEP)	The National Assessment of Education Progress (NAEP), conducted since 1969, is the only nationally representative and continuing assessment of what American students know and can do in various subject areas. Students with disabilities participate according to NAEP criteria. (For a copy of the criteria, see: http://nces.ed.gov/nationsreportcard/about/criteria.asp)
Norm	Norms represent average or typical performance of students on a test based upon the actual performance of students of various grades or ages in the standardization group for the test.

Norm-referenced Test

A standardized test designed, validated, and implemented to rank a students' performance by comparing that performance to the performance of that student's peers.

Office of Special Education Programs (OSEP)

The Office of Special Education Programs (OSEP) is that section of the U. S. Department of Education that is 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. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). [34 CFR §300.7(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, and sickle cell anemia; and (ii) Adversely affects a child's educational performance. [34 CFR 300.7(c)(9)] Some states include special mention of eligibility criteria for children with ADHD under this category.

Petition

A proposal or application to establish a charter school or a charter system.

- Petitioner** Under Georgia law, a petitioner means a local school, private individual, private organization, or state or local public entity which submits a petition for a charter. The term 'charter petitioner' does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools.
- Phoneme** The smallest units of sound in spoken language that makes a difference in the meaning of words. When added together, phonemes create syllables, which allows the creation of words
- Phonics** The understanding that there is a predictable relationship between phonemes (the sounds of *spoken* language) and graphemes (the letters and spellings that represent those sounds in *written* language). Also known as letter-sound or sound-symbol correspondences.
- Portfolio Assessment** An organized collection or documentation of student-generated or student-focused work typically depicting the range of individual student skills.
- Pull-out** A program model in which the resource teacher pulls students from their classes for small-group instruction or individual work.
- Qualified Personnel** Under IDEA, qualified personnel means 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. The NCLB Act also defines highly qualified teachers for those who teach core academic subjects.

- 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, and includes speech-language pathology and audiology 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. The term also includes school health services, social work services in schools and parent counseling and training.
- Reliability** The consistency of the test instrument; the extent to which it is possible to generalize a specific behavior observed at a specific time by a specific person to observations of similar behavior at different times or by different behaviors.
- School Level Governance** The decision making authority in personnel decisions, financial decisions, curriculum and instruction, resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations.
- Section 504** 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.”
- Special Education** Specially designed instruction that is provided, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals, in institutions and in other settings; related services; travel training; vocational education and instruction in physical education.

Significant Developmental Delay

The term significant developmental delay refers to a delay in a child’s development in adaptive behavior, cognition, communication, motor development or social development to the extent that, if not provided with special intervention, it may adversely affect his/her educational performance in age-appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage or lack of experience in age appropriate activities. The SDD eligibility may be used for children from ages three through five, and in no instance later than the end of the school year in which the child turns six. [Refer to 34 CFR 300.7(b)(1) and (2)]

Special Education

Specially designed instruction that is provided, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals, in institutions and in other settings; related services; travel training; vocational education and instruction in physical education.

Specific Learning Disability (SLD)

The term means 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 mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage. [34 CFR §300.7(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 §300.7(c)(11)]

Standardized Tests	An established procedure that assures that a test is administered with the same directions and under the same conditions (time limits, etc.) and is 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.
Standards	<p>There are two types of standards, <i>content</i> and <i>performance</i>.</p> <p><i>Content standards</i> are statements of the subject-specific knowledge and skills that schools are expected to teach students, indicating what students should know and be able to do.</p> <p><i>Performance standards</i> are indices of qualities that specify how adept or competent a student demonstration must be and that consist of the following four components: 1. levels that provide descriptive labels or narratives for student performance (i.e., advanced, proficient, etc); 2. descriptions of what students at each particular level must demonstrate relative to the task; 3. examples of student work at each level illustrating the range of performance within each level; and 4. cut scores clearly separating each performance level.</p>
Standards-based Assessments	Assessments constructed to measure how well students have mastered specific content standards or skills.
Start-up Charter School	A charter school that did not exist as a local school prior to becoming a charter school
State Board of Education (SBOE)	The constitutional authority which defines education policy for the public K-12 education agencies in Georgia.

State Chartered Special School

A charter school created as a special school that is operated under the terms of a charter between the charter petitioner and the state board of education. State Chartered Special Schools act as their own public LEA for accountability purposes.

State Education Agency (SEA)

The agency, or other component of state government, that is primarily responsible for the supervision of public elementary and secondary schools in that state.

Student with a Disability

In the Individuals with Disabilities Education Act, a student with disabilities is defined as “a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other 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."

Synchronous Instruction

Instruction that occurs with both student and teacher at the same time. Also known as live or real-time instruction.

System Charter School

A school within a charter system

Teletherapy

Therapy provided online from a different location (e.g., speech therapy delivered via a webcam)

Transition Services For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, the IEP must contain a statement of the transition service needs of the student that focuses on the student’s courses of study and, beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. IDEA describes the components as services that promote movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

The IDEA Regulations issued in August 2006 define transition vices as follows:

(a) Transition services means 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;

Transition Services (continued)

- (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.*

(b) 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. [34 CFR §300.43]

In addition, the regulations provide that transition services must be included *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. [34CFR §300.320]*

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. The term 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. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. [34CFR§300.7(c)(12)].

Universal Design for Learning

A framework for designing an academic program that enables all individuals to gain knowledge, skills, and enthusiasm for learning. UDL provides supports for learning and reduces barriers to the curriculum while maintaining high achievement standards for all. Universal Design for Learning calls for:

- multiple means of representation, to give learners various ways of acquiring information and knowledge;
- multiple means of expression, to provide learners alternatives for demonstrating what they know; and
- multiple means of engagement, to tap into learners' interests, offer appropriate challenges, and increase motivation.

For more information, see: <http://www.cast.org/>

Validity

The extent to which a test measures what it was designed to measure. Multiple types of validity exist. Common types of validity include the following:

Construct validity: The extent to which the characteristic to be measured relates to test scores measuring the behavior in situations in which the construct is thought to be an important variable.

Content validity: The extent to which the stimulus materials or situations composing the test call for a range of responses that represent the entire domain of skills, understandings, or behaviors that the test is intended to measure.

Convergent validity: The extent to which the assessment results positively correlate with the results of other measures designed to assess the same or similar constructs.

- Validity (continued)** *Criterion-related validity:* The extent to which test scores of a group or subgroup are compared to other criterion measures (ratings, classifications, other tests) assigned to the examinees.
- Face validity:* Concept based on a judgment concerning how relevant the test items appear to be, it relates more to what a test appears to measure than to what the test actually measures.
- Virtual School** A charter school that does not serve students at a physical facility but delivers instruction primarily through computer technology and the internet
- A comprehensive educational program delivered primarily through distance learning that may include a continuum of means of delivery of content.
- 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 §300.7(c)(12)]



Georgia Primer on Special Education in Charter Schools



Georgia Department of Education

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"Educating Georgia's Future"

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