

# The Facts on Charter Schools and Students with Disabilities

by Elaine Mulligan

With special thanks to Eileen Ahearn of the National Association of State Directors of Special Education (NASDSE) for her content expertise and advice

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November, 2011 | Resources updated, May 2013



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## **Alert! Alert!**

Because NICHCY's website will only remain online until September 30, 2014, most of its rich content has moved to a new home, the **Center for Parent Information and Resources** (CPIR), where it can be kept up to date.

The new address of *The Facts on Charter Schools and Students with Disabilities* at the CPIR is:

<http://www.parentcenterhub.org/repository/charters/>

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**Charter schools are fairly new in public education, and they've generated a lot of interest and inquiry.** For many families and educators, charter schools offer more options for how students will be educated. For others, charter schools are confusing — Why, for example, are some charter schools not open for enrollment to students who live nearby? And what about students with disabilities? May they go to charter schools? If so, is special education available in charter schools?

In this short document, **we answer 10 commonly asked questions** that families and educators of students with disabilities have about charter schools. We also offer links to state-specific resources that can help you better understand how charter schools work in your individual state.

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## **What is a Charter School?**

Charter schools are public elementary and secondary schools, just as traditional neighborhood schools are. Charter schools have existed in the United States for about 20 years, beginning with state legislation in Minnesota in 1991. In the 2010-2011 school year, there were 5,275 authorized charter schools nationwide.<sup>1</sup>

Each state has the authority to include charter schools in its state law as a way of offering students a public education. Most states have done just that and have written state charter laws that guide how charter schools operate.<sup>2</sup>

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## **How Do Charter Schools Differ From Traditional Public Schools?**

Important differences exist between traditional public schools and charter schools, including:

### **The School's Purpose or Mission**

People start charter schools for a variety of reasons. According to the first-year report of the National Study of

Charter Schools, the three reasons most often mentioned for starting a charter school are to:

- realize an educational vision
- gain autonomy
- serve a special population<sup>3</sup>

## Perceived Benefits

Families and teachers choose charter schools for a variety of reasons. Charter schools are considered ‘schools of choice’ that give families more options for their children’s public education. Charters claim high academic standards, small class size, and innovative approaches to teaching and learning.<sup>4</sup> On average, charter schools serve about 300 students.<sup>5</sup>

## Lack of Funding for Facilities

Charter schools typically do not receive funding from their school districts to purchase, lease, or improve facilities. Securing financing for the facility can be problematic for a charter school because some schools lack tangible assets and an operating history that lenders use when evaluating a mortgage loan application.

The U.S. Department of Education’s *Credit Enhancement for Charter School Facilities Program* provides grants to absorb some of the risk of making loans to charter schools. The *State Charter School Facilities Incentive Grant* program provides competitive grants to help states establish and enhance or administer “per-pupil facilities aid” for charter schools. Arizona, California, Colorado, the District of Columbia, Florida, Massachusetts, Minnesota, New Mexico, Pennsylvania, Tennessee, and Utah have a per-pupil facilities law in place, and Indiana and Hawaii have statutory language for a per-pupil facilities program.

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## Do Charter Schools Have to Meet the Same Accountability Standards as Traditional Schools?

State laws often grant charter schools *some* freedom from meeting certain state or local education regulations or policies. However, charter schools **must** follow all federal laws that apply to any other public school.<sup>6</sup> Currently, this includes ensuring that charter school data are included when reporting to the federal government every year on student progress. Data are broken out by race, ethnicity, gender, grade, and disability status, as required by the Elementary and Secondary Education Act of 2001.<sup>7</sup>

Public charter school data about students with disabilities are also included in the IDEA data<sup>8</sup> reports submitted by State Education Agencies (SEAs) each year to the Office of Special Education Programs at the U.S. Department of Education. These data include counts of children, educational environments, reasons for exiting special education, assessment participation and performance, personnel, dispute resolution, and discipline.

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## Are Charter Schools Required to Provide Services to Students with Disabilities?

**Yes.** The responsibility to make a free appropriate public education (FAPE) available to all students with disabilities applies to ALL public schools under the Individuals with Disabilities Education Act (IDEA).<sup>9</sup> Charter schools are public schools; therefore, they bear the same responsibility.

Who is actually responsible for ensuring that special education services are available to students with disabilities in a charter school? The answer depends on how the charter school is legally identified in the state.

If a charter school is considered to be an **independent Local Education Agency** (LEA) under its state's law, that charter school bears the exact same legal requirements for providing special education services as any other LEA (or district).

If a charter school is considered **part of an existing LEA**, the LEA (or district) retains most or all of the responsibility for special education in the charter school. The charter school is considered a school within that LEA and is responsible for following LEA policy.

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## How Are Charter Schools Funded?

Much like traditional public schools, charter schools are primarily funded by a **combination of federal, state and sometimes local funding**, based on the number of students they enroll or on total enrollment (census formula). The flow of funding to charter schools for special education varies based mainly on the LEA status of the charter school as follows:

1. **If the charter school is an LEA**, federal and state funding for students with disabilities enrolled in that school flow from the state to the school.
2. **If the charter school is a school within a traditional LEA**, the flow of funding varies greatly by state and may depend on the specific arrangement between the charter school and the district. The district retains responsibility for special education for the charter school's students, but the way special education is provided can vary from all services being delivered by LEA staff in the charter school, to all services being arranged by the charter schools with the charter school being reimbursed by the LEA. In some states there are negotiated arrangements that result in a variety of practices related to funding of special education services while in other states, funding procedures are the same for all charter schools.

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## Which States Have Charter Schools?

It might be easier to ask which states do not authorize charter schools as a option for public education in the state (yet)! Forty-one states and the District of Columbia have laws authorizing and governing charter schools. Only Alabama, American Samoa, Guam, Kentucky, Montana, Nebraska, North Dakota, Northern Mariana Islands, Puerto Rico, South Dakota, Vermont, Washington, and West Virginia do not have charter schools (as of August, 2011).

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## Are Charter Schools Required to Allow Students with IEPs to Enroll?

According to IDEA, **yes**. As was said above, the responsibility to make FAPE available to all students with disabilities applies to ALL public schools under federal law.<sup>10</sup> Charter schools are public schools; therefore, they bear the same responsibility.

However, if more students apply to the school than the charter can serve, the charter may use a random selection system to determine student enrollment. In this scenario, many charter schools use a lottery system.<sup>11</sup>

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## Are Certification Requirements for Teachers the Same for Charter Schools as for Other Public Schools?

Guidance from the U.S. Department of Education asserts that ALL students should be taught by a highly qualified teacher.<sup>12</sup> However, **state charter laws control local certification requirements**. In some states, the

answer is a simple yes or no, while others have more complicated rules. For example, New Jersey requires that all charter school teachers be certified, while Georgia does not. New York's policies are more complicated; in New York, a charter school may employ:

- uncertified teachers with at least three years of elementary, middle, or secondary classroom teaching experience;
- tenured or tenure-track college faculty;
- individuals with two years of satisfactory experience through the Teach for America program; and
- individuals with exceptional business, professional, artistic, athletic, or military experience.

New York's guidelines, however, limit how *many* noncertified teachers with the above qualifications may be hired. The total number may not be more than 30% of the teaching staff of the charter school, or five teachers, whichever is less.<sup>13</sup>

Wondering what your state's certification requirements are for teachers in charter schools? Visit the Education Commission of the States. You'll find a helpful chart of what different states require:

<http://mb2.ecs.org/reports/Report.aspx?id=93>

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## Are Charter Schools Responsible for Providing Transportation?

In some states, yes, charter schools are responsible for providing students with transportation to and from school. In other states, the district in which the school resides may be responsible for providing transportation.

To find out whether charter schools in your state are required to provide students with transportation, see the section just below called "What's My School's Charter School Policy?" Find your state, click on the link, and you'll go to your state's charter school law, which will include the specifics of your state's transportation policies for charter schools.

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## What's My State's Charter School Policy?

**Visit your state Department of Education's charter school page for specific information about charter schools in your state.** As we mentioned earlier, 41 states and the District of Columbia have charter school laws. Below are links to each state's charter school information pages:

Alaska: [http://www.eed.state.ak.us/Alaskan\\_Schools/Charter/](http://www.eed.state.ak.us/Alaskan_Schools/Charter/)

Arizona: <https://www.azed.gov/charterschools/info/>

Arkansas: <http://www.arkansased.org/divisions/learning-services/charter-schools>

California: <http://www.cde.ca.gov/sp/cs/>

Colorado: <http://www.cde.state.co.us/cdechart/index.htm>

Connecticut: <http://www.sde.ct.gov/sde/cwp/view.asp?a=2681&q=320438>

Delaware: <http://www.doe.k12.de.us/infosuites/schools/charterschools/default.shtml>

District of Columbia: <http://osse.dc.gov/service/public-charter-school-financing-and-support>

Florida: [http://www.floridaschoolchoice.org/Information/charter\\_schools/](http://www.floridaschoolchoice.org/Information/charter_schools/)

Georgia: <http://www.doe.k12.ga.us/External-Affairs-and-Policy/Charter-Schools/Pages/default.aspx>

Hawaii: <http://www.hcsao.org/>

Idaho: [http://www.sde.idaho.gov/site/charter\\_schools/](http://www.sde.idaho.gov/site/charter_schools/)

Illinois: <http://www.isbe.net/charter/Default.htm>

Indiana: <http://www.doe.in.gov/charterschools/welcome.html>

Iowa: [http://educateiowa.gov/index.php?option=com\\_content&task=view&id=487&Itemid=1334](http://educateiowa.gov/index.php?option=com_content&task=view&id=487&Itemid=1334)

Kansas: <http://www.ksde.org/Default.aspx?tabid=449>

Louisiana: <http://www.doe.state.la.us/divisions/charters/default.html>

Maine: <http://www.maine.gov/education/charterschools/index.html>

Maryland: [http://www.marylandpublicschools.org/MSDE/programs/charter\\_schools/](http://www.marylandpublicschools.org/MSDE/programs/charter_schools/)

Massachusetts: <http://www.doe.mass.edu/charter/>

Michigan: [http://michigan.gov/mde/0,1607,7-140-6530\\_30334\\_40088—,00.html](http://michigan.gov/mde/0,1607,7-140-6530_30334_40088—,00.html)

Minnesota:

[http://education.state.mn.us/MDE/Academic\\_Excellence/School\\_Choice/Public\\_School\\_Choice/Charter\\_Schools/index.html](http://education.state.mn.us/MDE/Academic_Excellence/School_Choice/Public_School_Choice/Charter_Schools/index.html)

Mississippi: <http://www.mde.k12.ms.us/docs/policy-manual/1900.htm?sfvrsn=2>

Missouri: <http://dese.mo.gov/divimprove/charterschools/>

Nevada: [http://www.doe.nv.gov/Charter\\_Schools\\_Resources/](http://www.doe.nv.gov/Charter_Schools_Resources/)

New Hampshire: [http://www.education.nh.gov/instruction/school\\_improve/charter/index.htm](http://www.education.nh.gov/instruction/school_improve/charter/index.htm)

New Jersey: <http://www.nj.gov/education/chartsch/>

New Mexico: <http://www.ped.state.nm.us/charter/index.html>

New York: <http://www.p12.nysed.gov/psc/>

North Carolina: <http://www.dpi.state.nc.us/charterschools/>

Ohio: <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEPrimary.aspx?page=2&TopicRelationID=662>

Oklahoma: <http://www.ok.gov/sde/oklahoma-charter-schools-program>

Oregon: <http://www.ode.state.or.us/search/results/?id=124>

Pennsylvania: [http://www.portal.state.pa.us/portal/server.pt/community/charter\\_schools/7356](http://www.portal.state.pa.us/portal/server.pt/community/charter_schools/7356)

Rhode Island: <http://www.ride.ri.gov/commissioner/charterschools/default.aspx>

South Carolina: <http://tinyurl.com/a55egmn>

Tennessee: <http://www.tn.gov/education/fedprog/fpcharterschls.shtml>

Texas: <http://www.tea.state.tx.us/charters.aspx>

Utah: <http://schools.utah.gov/charterschools/>

Virginia: [http://www.doe.virginia.gov/instruction/charter\\_schools/index.shtml](http://www.doe.virginia.gov/instruction/charter_schools/index.shtml)

Wisconsin: <http://dpi.wi.gov/sms/csindex.html>

Wyoming: [http://edu.wyoming.gov/Programs/schools/charter\\_schools.aspx](http://edu.wyoming.gov/Programs/schools/charter_schools.aspx)

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## Bottom Line

A charter school is a public school. There are state-specific rules around who can start a charter, who oversees the charter, and how the funding flows, and they are responsible for serving students with disabilities in keeping with state law and the charter school's status as an LEA or a school of an LEA. If you have issues or concerns, get to know your state's charter school law.

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## Helpful Websites

Center for Education Reform's Choice & Charter Schools page: <http://www.edreform.com/issues/choice-charter-schools/>

Education Commission of the States: <http://www.ecs.org/html/issue.asp?issueid=20>

National Alliance for Public Charter Schools:  
<http://dashboard.publiccharters.org/dashboard/schools/page/overview/year/2010>

National Association of Charter School Authorizers : <http://www.qualitycharters.org/index.php>

National Charter School Resource Center: <http://www.charterschoolcenter.org/>

U.S. Department of Education's Office of Innovation and Improvement's *Welcome to Charter Schools Program*:  
<http://www2.ed.gov/about/offices/list/oii/csp/index.html>

U.S. Department of Education's Questions and Answers on NCLB and Charter Schools:  
<http://www2.ed.gov/nclb/choice/charter/charter-faq.html>

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## References

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**<http://projectforum.org/docs/Synthesisof2ReportsonCriticalIssuesforSpecialEducationinCharterSchool.pdf>**

3 | U.S. Department of Education. (1997). *A study of charter schools: First year report* (Executive Summary). Retrieved from <http://listserv.ed.gov/archives/edinfo/archived/msg00265.html>

4 | U.S. Department of Education. (2007). *No Child Left Behind and charter schools: Giving parents information and options*. Retrieved from <http://www2.ed.gov/nclb/choice/charter/nclb-charter.html>

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8 | Data Accountability Center. (2011). *Part B data & notes*. Retrieved from <https://www.ideadata.org/PartBData.asp>

9 | Individuals with Disabilities Education Improvement Act of 2004. 20 U.S.C. § 1400. Retrieved from <http://idea.ed.gov/explore/view/p/%2Croot%2Cstatute%2C>

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