



## Charter Schools

Charter schools have long been touted as one of the most promising educational choice options throughout the U.S. public school system. For over twenty years, the U.S. Congress has provided funding to states through the Elementary and Secondary Education Act (ESEA) to create new charters. As recipients of federal funds under Section 504 of the Rehabilitation Act of 1973 (Section 504) and as state or governmental entities under Title II of the Americans with Disabilities Act (ADA), charter schools cannot discriminate against students with disabilities. Charters have an affirmative obligation under both statutes to provide meaningful and accessible outreach to ensure the fair recruitment of school-age children with disabilities and an equal opportunity for admission and a quality education. Under the Individuals with Disabilities Education Act (IDEA), eligible students have a right to free appropriate public education (FAPE) and cannot be excluded from "choice" programs as a result of their disability, nor can they be required to waive services for participation in a charter school.

COPAA recognizes the benefits that high quality charter schools may bring to communities and understands in certain instances, charters have produced innovative and successful instructional models. Yet, the quality of charter schools is quite mixed. There are significant concerns regarding students with disabilities being served by charters, which are predominantly, but not exclusively, located in urban, under-performing districts, and 20 percent of which are operated by charter-school management organizations (CMOs) controlling multiple entities. Charters also continue to struggle to enroll, retain and successfully educate students with disabilities.<sup>i</sup>

“Charter schools must be held accountable for ensuring access to all students, for providing meaningful teaching and instruction designed to improve educational outcomes. Regardless of the policy opinions driving the debate, the law is clear. Students with disabilities who are educated in public schools, either traditional or charter, must be provided FAPE in the LRE.”

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### Quick Facts on Charter Schools and Students with Disabilities

- There are approximately 5000 publicly funded charter schools in the U.S.<sup>ii</sup>
- On average, charter schools identify 8 percent of their population as having a disability, while traditional public schools *in states with charter schools* identify 11 percent<sup>iii</sup>
- Charter schools enroll fewer students with disabilities than traditional public schools<sup>iv</sup> and charters under-enroll students who have more significant disabilities and more resource intensive educational needs.<sup>v</sup>
- Research suggests that families' access to the 'choice' marketplace is unequally constrained by factors such as: connection with social media or other information networks; language barriers; socioeconomic status; and, the ability of parents to arrange transportation for their children
- Charters have generally not invested adequate resources to develop exemplary [instructional] programs.<sup>vi</sup>

- Although charter schools may be freed from some of the restraints placed on traditional educational institutions, they are not free from the requirements of the IDEA or Section 504.<sup>vii</sup>

## Recommendations on Charter Schools

- Congress should ensure that any federal legislation must equitably include students with disabilities in the recruitment, enrollment and retention efforts of charter schools receiving federal funds. Such laws must also require:
  - the State's applying entities include in its application an explanation of how it will work to meet the needs of students served, including students with disabilities
  - the State's applying entities provide new assurances that it will provide technical assistance to enroll, to recruit and also to *retain* traditionally underserved students at rates similar to non-charter public schools
  - eligible charter schools abide by all federal laws impacting the educational and civil rights of students with disabilities
  - high-quality charter schools to demonstrate student academic achievement and list an increase in graduation rates as an example of how a high charter school might accomplish such achievement.
- The U.S. Department of Education must provide technical assistance to states to ensure they can support local educational agencies (LEA) to the fullest extent possible. Research shows that the relationship between the charter school and the LEA as the most important factor affecting a charter school's compliance with IDEA and Section 504 in providing special education and related services.

*It is essential that charter schools are held accountable for ensuring access to all students, for providing meaningful teaching and instruction designed to improve educational outcomes that are not limited to test scores but the kind of knowledge and skills all students need to be college and career ready.*

### Related Resources:

- *Charter Schools and Students with Disabilities, Council of Parent Attorneys and Advocates, 2012*  
<http://c.ymcdn.com/sites/www.copaa.org/resource/collection/7D72B914-2EC7-4664-9124-A32598DA1ABE/Charter-Schools-and-Students-with-DisabilitiesFINAL.pdf>
- *Improving Access and Creating Exceptional Opportunities for Students with Disabilities in Charter Schools, National Center for Special Education in Charter Schools, 2013*  
<http://static.squarespace.com/static/52feb326e4b069fc72abb0c8/t/5399c1f8e4b0807b2cb79137/1402585592311/NAPCS-Disabilities-Report-03.pdf>

<sup>i</sup> GAO-12-543

<sup>ii</sup> U.S. Department of Education Office of Innovation and Improvement, <https://www2.ed.gov/about/offices/list/oii/csp/index.html?exp=7>

<sup>iii</sup> GAO-12-543

<sup>iv</sup> GAO-12-543

<sup>v</sup> GAO-12-543

<sup>vi</sup> National Center for Special Education in Charter Schools, [www.ncsecs.org](http://www.ncsecs.org)

<sup>vii</sup> Dear Colleague Letter, U.S. Department of Education, Office of Civil Rights, May, 2014