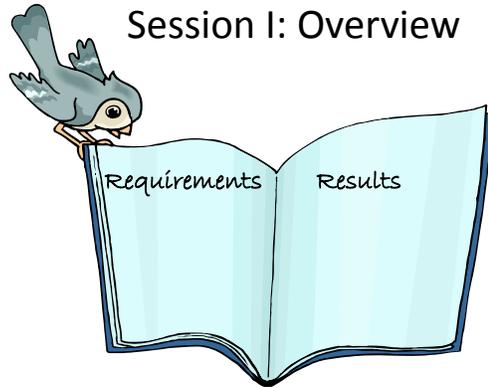


A Special Education Primer for Charter Schools

Session I: Overview



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Charter Schools and Students with Disabilities

Objectives:

- Review relevant laws and recent legal decisions related to requirements.
- Reference critical issues for students with disabilities in charter schools.
- Explore detailed checklist of areas to be addressed in starting and maintaining an effective special education program.
- Know related resources available.
- Provide opportunity to ask questions.



Special Education Lingo

- OSEP
- OCR
- IDEA
- MD
- UCA
- UCA
- IEP
- SLD
- DPHO
- LRE
- UPIPS
- ADA
- 504

Balancing Procedural Regulations and the Goal of Autonomy

The two central challenges for charter schools in providing special education for eligible students:

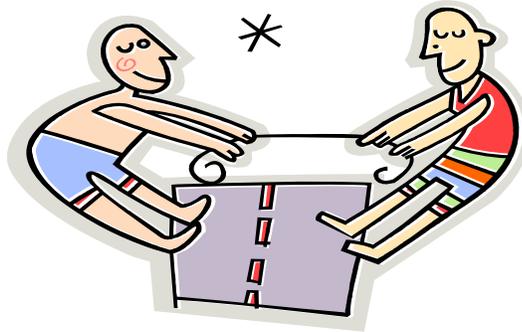
- a) conflict between the central premise of autonomy and special education regulation, and
- b) conflict between the requirement for team decision-making regarding a child's needs and the primacy of parental choice.

These constitute major elements of the climate within which charter schools are struggling to meet their obligations to implement special education.

– Project Search: Final Report of a Research Study, NASDE, 2001.

How are these tensions resolved?

- Think Win-Win
- How can we make the student the “winner”?



Begin at the beginning

- Understand the laws and regulations
- Know what the charter school is accountable for
- Respect the parents' right of choice
- Figure out how to have the elements of the two conflicts work together



Determining Charter School Responsibilities for Students with Disabilities

Three sources are needed:

- Federal Law
- State Law
- School Charter

-Equitable Enrollment for Students with Disabilities:
Understanding Recent Legal Challenges Mead & Thukral June 2012

Federal Law

- Individuals with Disabilities Education Act
- Section 504 /Americans with Disabilities Act
- Charter School Expansion Act

The Maze of Special Education Law

- Special Education is complex.
- Parental choice makes it more complex.
- Complexity increases when:
 - the school is an independent charter school.
 - the school is designed specifically for students with disabilities.

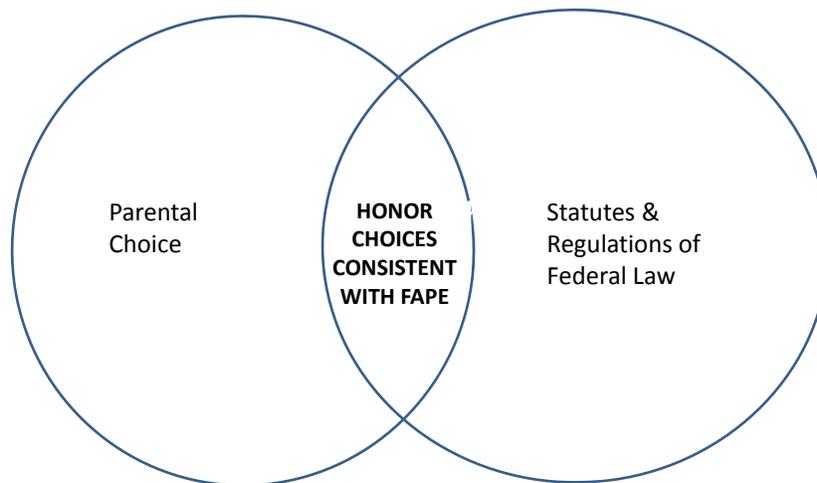


OSEP & OCR Letters & Decisions

- Statewide Open Enrollment
 - Letter to Nebraska (OSPEP 1990)
 - Letter to Evans (OSEP 1991)
 - Letter to Lugar (OSEP 1991)
 - Letter to Bina (OSEP 1991)
 - Fallbrook Union Elem. Sch. Dist. (OCR 1990)
- Magnet Schools
 - Chattanooga Public School District (OCR 1993)
 - San Francisco Unified School District (OCR 1990)
- Charter Schools
 - Letter to Bocketti (OCR 1999)
 - Letter to Gloeker (OSEP 2000)

Reminders: The USOE pays for every LEA to have access to LRP Special Ed Connections where current case law and many other resources are available. Check with your school director for access codes.

Integrating Equal Educational Opportunity and Choice



Areas of Concern

Access

- Issues of access related to the extent parents of students with disabilities enjoy the same choices as parents of students without disabilities.



Programming

- Issues related to appropriate programming involve what happens after access to the school of choice is achieved.



Foundation Concepts

- Students must be able to get FAPE at public schools.
- Parents cannot be asked to waive FAPE in order to get choice.
- Choices must be consistent with FAPE.



Principle 1



CHARTER
SCHOOLS
ARE
PUBLIC SCHOOLS!!!!

“The term “charter school” means a **public school** that -

- (G) 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**, and **part B of the Individuals with Disabilities Education Act”**

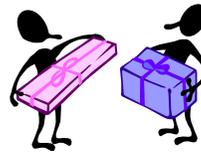
– (20 U.S.C. 7221i; NCLB, Title V, Part B)

Principle 2

- Students can get FAPE at Public Schools!

Parents and students should not have to trade FAPE to get “choice.”

No public school may allow such a trade.



Access: Case in Point

United States v. Nobel Learning Communities,
676 F.Supp.2d 379 (E.D.Pa. 2009).

- Court allowed ADA suit to go forward concerning ***pattern and practice*** of failing to enroll or dis-enrolling children with disabilities.

Note:

- Hearing officers, courts, and OCR will examine both

policies and procedures of the LEA

and

actual practices of the LEA.



LEA or not LEA?

In Utah, there are two types of charter schools with regard to special education responsibility:

1. charter schools that are public schools of the local educational agency [LEA]"
20 U.S.C. 1413(a)(5).
2. charter schools that are designated as LEAs independent of any larger district. 20 U.S.C. 1413(e)(1)(B).

SEA Responsibilities



The **State** is the ultimate guarantor of FAPE:

“A State is eligible for assistance ... if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that ... A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school” (20 U.S.C. 1412(a)).

LEA Responsibilities

“A local educational agency is eligible for assistance ...if such agency submits a plan that provides assurances to the State educational agency that [it]...has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section [1412].”

-(20 U.S.C. 413(a)).

- Identify, locate and evaluate all eligible students (Child Find).
- Make FAPE available through special education and related services.
- Include students with disabilities in large scale assessments.
- Establish written policies and procedures for implementing Federal and State law.

In other words....



- Each LEA has an affirmative obligation to identify and serve appropriately all eligible students with disabilities within its jurisdiction and to have written policies and procedures in place to effect that result.

Child Find: Case in Point

B.R. v. District of Columbia (D.D.C. 2011)

- Parent filed suit alleging a charter school and DCPS failed to identify her child as a child with a disability.
- Court held that since charter school elected to be its own LEA, it was solely responsible for any child find violation.

School Charter



- The school charter may contain provisions that add to or describe how obligations will be met.
- The school staff needs to understand these provisions specific to special education responsibilities.
- However, school charter provisions may not violate either State or Federal law.

State Charter School Board Responsibilities

Ensure compliance of charter contract.

- Failure to serve children with disabilities could become an issue of revocation and/or nonrenewal of the charter.
- Failure to take reasonable steps to ensure compliance may create legal vulnerability for the Charter School Board.



Charter Schools Designed for Children with Disabilities

- Same LRE standards apply as for any public school.
- Provide opportunities for interaction with non-disabled students to maximum extent appropriate based on individual needs
- Ensure that each student requires a more restrictive placement (if such separation is part of the school environment)
- Think through what will be provided for students who are no longer eligible for special education

Programming Issues: Case in Point

R.B. v. Mastery Charter School, 762 F.Supp.2d 745 (E.D.Pa. 2010).

- Conversion charter school
- Dispute between parent and school caused parent to keep child home.
- School “dis-enrolled” her.
- Court considered school’s action a change of placement under IDEA – all procedural safeguards kick in.

Starting & Maintaining Effective Special Education Programs

11 Points to Ponder



1-Accept all students who are drawn from the lottery.

- Or siblings as required by State code.
- Regardless of disability or other protected class status.





Possible Hang-ups

Utah Case

- OCR found that LEA had procedures and practices that systematically excluded students with disabilities from open enrollment.
- “Depending on the nature of any future related complaints and/or reviews, OCR may interpret charter school lottery and annual re-enrollment requirements, as a form of “open enrollment practices.” Letter from Gomez, 6/5/12, USOE.

Results

- Revision of policies and practices
- OCR oversight of individual applications for open enrollment

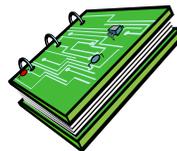
Positive Outcomes



- In future all students have equitable access to programs.
- Enrollment decisions are based on individual student needs.
- No discrimination based on disability.

2-Develop, revise, & know your LEA special education policy manual

- Each LEA has a Special Education Policy and Procedures Manual aligned with State Rules and submitted to the USOE for review and approval during the first year of operation.
- Periodically, LEAs may decide to revise these manuals and resubmit them for approval.
- Each staff member in LEA is required to follow the procedures in the manual.





Possible Hang-ups

Staff is not trained on content of manual.

Example-

- Some schools in a district misunderstood what the SLD eligibility method selected by the LEA meant for them leading to inconsistent identification of students with disabilities.

Positive Outcomes



- Students within LEA are treated equitably.
- Staff follow State rules and LEA policies and procedures.
- Everyone is on the same page.

3-Obtain files for transfer students

- Follow the transfer checklist procedures in the FORMS on USOE website.
- Be persistent.
- Serve all eligible students appropriately based on accepting or IEP Team revising the current IEP.



Possible Hang-ups

- “ We had trouble getting the previous LEA to forward the file so we didn’t start serving student until October 1.”
- “We couldn’t get the parent to return a signed release of records so we couldn’t start services.”

Positive Outcomes



- Student receives services as written on IEP.
- Student makes progress on IEP goals and in general curriculum.

4-Organize files

- Decide on organizational plan.
- Keep documents filed in proper sections.
- Ensure that all documents are in file.

When you own the student you own the file.





Possible Hang-ups

- LEA staff and/or USOE monitors cannot locate required documents.
- Some required documentation missing.
- Difficulty tracking timelines and student results.

Positive Outcomes



- Easy to locate information.
- Time for file reviews reduced.
- Maintain confidentiality with all documents in one place.

5-Choose forms

- Select a set of forms that suits your needs and preferences.
- Use additional forms from the USOE website as needed.



Train case managers on correct use of forms.



Possible Hang-ups

- Using forms not aligned with Utah Rules.
- LEA case managers using forms from different sources.
- Required documentation lacking.

Positive Outcomes



- Forms help ensure that all requirements are considered and met.
- Files are consistent.
- Forms are filled out completely and accurately.
- Student needs are addressed to promote success.

6-Confidentiality



- FERPA requires protection of privacy of educational records.
- Everything in special education file is part of the education record.
- Files locked up.
- Access authorization for appropriate LEA staff.
- Record of access in each file.
- Storage and destruction.



Possible Hang-ups

- “Back fence” or unedited talk.
- Special education records or information lying around.
- Incorrect access authorization posted.

Positive Outcomes



- Privacy of student and parent information protected.
- Teachers and staff have access to what they have a “need to know.”

7-English Language Learners

- Document primary home language in file.
- Assess language proficiency of all students with a primary home language other than English as reported by parents/guardians.
- Address any identified language needs as well as needs based on disability.



Possible Hang-ups

- False positives of students with limited English proficiency being identified as students with disabilities.
- Testing students in English who are not proficient in that language.
- No interpreter at meetings with parents who are not proficient in English.
- Denying parents opportunity to participate.

Positive Outcomes



- Students who actually have disabilities are identified.
- Students with English language needs receive appropriate services.
- Special education funds are used for eligible students.

8-Funding

- Know sources of funding:
 - Federal
 - State
 - Local
- Ensure funds are used for allowable costs.
- Coordinate with school director & business manager for budgeting and expenditures.





Possible Hang-ups

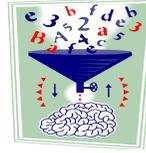
- Spending on non-special education items or services
- Lack of alignment between program and budget

Positive Outcomes



- Use general education funds to provide special education needs of individual students
- Funds available for all IEP services, supplies, assistive technology, and so on.

9-Data



- Send in all State and Federal reports on time.
- Many are included in the UCA or UPIPS.
- Examine child count data carefully.
 - Does the number of students with disabilities seem about right?
 - Any patterns that seem questionable?



Possible Hang-ups

- Students with disabilities under- or over-identified.
 - Regular classroom interventions effective?
 - More training needed?
 - Referral process need more standardization?
 - Evaluation and eligibility procedures adequate?
 - Child find working?
- Untimely or inaccurate reports

Positive Outcomes



- Students receive needed services based on effects of their disabilities.
- Student academic and social success.
- Positive APR report to School Board and patrons.

10-Monitoring

- Self Assessment
- Verification Visits
- Ongoing compliance
- Program improvement
- Results for students

UPIPS





Possible Hang-ups

- Problems not addressed promptly
- Not meeting timelines for any year of UPIPS
- Corrections not timely

Positive Outcomes



- LEA addresses any issues in timely manner
- Child find appropriate
- Students receive FAPE
- Procedural safeguards in place
- Students make academic and social progress

11-Discipline

Follow procedures for students with disabilities:

- Suspend for up to 10 days during school year without services
- 11th day and more is placement change
 - Need IEP Team meeting
 - Need manifestation determination



Possible Hang-ups

- No plan for Interim Alternative Educational Settings (IAES)
- Expelling a student with disabilities
- Dis-enrolling a student who is hospitalized for condition related to his disability

Positive Outcomes



- Students receive FAPE
- Funds are used for program and not for legal costs

Special Education Program Checklist

What is the plan for the special education program in your school?

See complete checklist in
Special Education Primer for
Charter Schools at

www.schools.utah.gov/SARS



Begin with the end in mind.



Planning ahead prevents behind-ness.

A. Students and Staff

- Caseload of students with disabilities
- Special education teachers
- Paraprofessionals
- Contracted related services



B. Curriculum



- General education curriculum
- Universal design principles
- Accommodations for students with disabilities
- Modifications
- Assistive technology
- Include students with disabilities in State- and schoolwide assessments
- Develop alternate assessments as needed

C. Professional Development

- Differentiate curriculum for students with disabilities in general
- Specific needs of each student with disabilities
- Child find
- General education interventions
- Behavior intervention plans
- Roles in IDEA process



D. Special education program

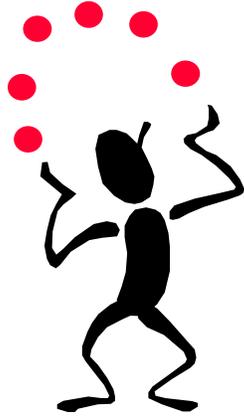
- Child find and referral process
- Special education program generally
- Full range of placement options
- Secondary transition
- Space for evaluation and team meetings
- Storage of confidential special education records
- Space for instruction in small groups
- Physical access to classrooms, common areas
- Medications stored, administered
- Supplies and equipment storage
- Transportation-wheelchair if related service



E. Administration

- Who will administer program and supervise/evaluate employees
- LEA representative for team meetings
- Data collecting and reporting
- Funding and budgeting
- Fiscal preparedness for students with more complex needs

Special Ed requires a lot of juggling!



Proficient



Not yet proficient



Well begun

is half done!

-Granny

Resources

- <http://www.nasdse.org/Portals/0/Documents/ProjectSearch.pdf>
Research on special education in charter schools.
- http://www.charterschoolcenter.org/sites/default/files/2114%20Start-Up%20Guide%20WEB%20d1_0.pdf Guide for starting a special education program in charter schools.
- http://www.charterschoolcenter.org/sites/default/files/2114%20Start-Up%20Guide%20WEB%20d1_0.pdf Webinar on special education in charter schools.
- <http://www.charterschoolcenter.org/resource/equitable-enrollment-students-disabilities-understanding-recent-legal-challenges>
Powerpoint, Charter school conference June 19 2012 Minneapolis.
- www.schools.utah.gov/SARS. Special Education Data Manual; Fiscal Manual; Forms; Reports; UPIPS.