
Improving Special Education in Charter Schools

Background

Since the early 1990s, charter schools have sought to provide a public school choice option for parents and students in communities across the country. Although still a publically funded school, charter schools have distinct characteristics which differ from traditional public schools, namely exemption from certain state/local rules and regulations in exchange for increased accountability requirements. Charter schools vary dramatically in their approach to educating all students with highly qualified educators.

Over the last two decades, 40 states and the District of Columbia have passed charter school laws. While the requirements of each law vary between states, as publicly funded schools, charter schools must comply with all federal education laws, including the Individuals with Disabilities Education Act (IDEA) and the Elementary and Secondary Education Act (ESEA). Charter schools are now serving 2 million students in 5,500 schools nationwide.

Currently, the federal government administers the Charter Schools Program (CSP), a competitive grant program which provides financial assistance for the planning, design and initial implementation of charter schools. In fiscal year 2012, this program received \$255 million. Expanding high-quality charter schools has been a cornerstone of the Obama Administration's school reform agenda, as seen in the Race to the Top requirements and the *Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act*.

In September 2011, the U.S. House of Representatives passed the *Empowering Parents Through Quality Charter Schools Act*, legislation CEC supported as it contained many longtime CEC recommendations, such as: requiring that State entities describe how they will ensure charters can meet the educational needs of students with disabilities; assuring that authorizing agencies ensure charter schools are meeting the obligations of IDEA and section 504; and assuring that State entities will adequately monitor and help charter schools to recruit, enroll, and meet the needs of all students with disabilities. This legislation is now pending in the Senate.

Charter Schools Serving Students with Disabilities

Over the last two decades, as charter schools have grown to serve more students, studies have exposed two trends of concern to CEC, first an underrepresentation of students with disabilities in charter schools, and second the growing number of disability-only charter schools.

Studies have shown that students with disabilities have been – and continue to be – underrepresented in charter schools¹. Furthermore, students with low incidence disabilities (disabilities which are less frequent) are further under-represented within the population of charter school students with disabilities. While there is little data available to explain this trend, one alarming explanation is that students with disabilities are being “counseled out” of enrolling in charter schools. In fact, a U.S. Department of Education study indicated administrators at one-fourth of charter schools reported having advised parents of children with disabilities that the school was not a “good fit” for their child². Such action is illegal and must be enforced by federal and state law. Charter schools must be ready, willing, and able to provide students with disabilities with the full range of supports and services necessary to succeed.

¹ Mron, G., J.L., Mathis, W.J., & Tornquist, E. (2010). *Schools without Diversity: Education Management Organizations, Charter Schools and the Demographic Stratification of the American School System*. Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit.

² Fiore, T.A., Harwell, L.M., Blackorby, J., & Finnigan, K.S. (2000). *Charter schools and students with disabilities: A national study* (Final Report). U.S. Department of Education.

While CEC supports the full LRE continuum and maximum access to the general education curriculum, CEC is concerned by the growing number of charter schools which seek to serve only students with disabilities. As public schools, charter schools must comply with the Individuals with Disabilities Education Act by promoting a free appropriate public education provided in the least restrictive environment for students with disabilities. IDEA was enacted, in part, because of a history of exclusion. One of its great successes has been increasing access to the general education curriculum for students with disabilities. The vast majority of students with disabilities, when given the appropriate accommodations, supports and specialized instruction, can succeed in a general education setting³. Currently, thirteen states and the District of Columbia have charter schools which cater to this limited population. Florida has the most number with 34.⁴

CEC Recommended Congressional Action

As Congress considers the reauthorization of the Elementary and Secondary Education Act, CEC recommends that Congress only support charter school policies that ensure:

- Access for all students by abiding by the same federal nondiscrimination and equal education opportunity laws that apply to traditional public schools; supporting policies that prevent discrimination based on disability status; supporting policies that do not inadvertently exclude children with disabilities.
- Students with disabilities receive a free appropriate public education provided in the least restrictive environment, pursuant to IDEA.
- Students with disabilities receive appropriate services and supports by supporting charter school policies that explicitly identify responsibility for providing and paying for services associated with educating students with disabilities, including building renovations and the provision of education and related services.
- Charter schools participate in the accountability system in the same way as traditional public schools.
- Charter schools and authorizers appropriately plan for identifying and serving students with disabilities by requiring charter school authorizers and applicants to provide detailed plans that include strategies to identify and serve students with disabilities and address recruitment and retention of highly qualified special education teachers and specialized instructional support personnel.
- Equitable participation of students with disabilities by monitoring charter schools to ensure their enrollment of students with disabilities is comparable with the local population. Charter schools must report data on the overall number of students with disabilities enrolled and disaggregate the data by IDEA eligibility criteria.
- Availability of research and technical assistance to promote high quality programs by authorizing and funding research on identifying and serving students with disabilities in the unique setting of charter schools; establishing a national technical center to assist charter schools in addressing the needs of students with disabilities through the dissemination of evidence-based practices, model authorizing documents, and other charter-specific information and resources.

³ Quenemoen, Rachel. (2009). *Students with Disabilities: Expectations, Academic Achievement, and the Critical Role of Inclusive Standards-Based Assessments in Improving Outcomes*. National Center on Educational Outcomes, University of Minnesota.

⁴ Mead, J., Ahern, E. *Primers on Implementing Special Education in Charter Schools: Special Report – Charter Schools Designed for Children with Disabilities: An Internal Examination of Issues and Questions Raised*. January 2008.