



SPECIAL EDUCATION AND CHARTER SCHOOLS

Presented by
The Texas Education Agency
The Division of Special Education

CHARTER SCHOOLS UNDER IDEA

WHAT'S THE IDEA? (2)

The **Individuals with Disabilities Education Act of 2004 (IDEA)** is the federal special education law. One of the main purposes of IDEA is to ensure that students with disabilities are provided with **Free Appropriate Public Education (FAPE)** that is tailored to their individual needs.

WHO IS A CHILD WITH A DISABILITY UNDER IDEA? (4)

A student with a disability is a student that is evaluated and has one or more specified disabilities and who, because of disability, needs special education and related services. Under IDEA, states provide special education and related services to eligible students with disabilities who reside in the state and who are within a state's mandatory age range for the provision of FAPE. Entitlement to FAPE begins at a student's third birthday, and continues through age 21.

WHAT ARE A CHARTER SCHOOL'S RESPONSIBILITIES UNDER IDEA? (8)

Charter schools that receive IDEA B funds must use them in accordance with Part B of IDEA.

The charter school's responsibilities include implementing child find and conducting evaluations and reevaluations, developing, reviewing, and revising **individualized education programs** (IEPs), and providing the required special education and related services in the student's **least restrictive environment** (LRE), affording eligible students and their parents procedural safeguards and due process rights, and complying with the confidentiality of information requirements.

FAPE AND PROVISION OF SERVICES

WHAT IS FAPE? (11)

Under IDEA, FAPE is defined to include special education and related services that:

- (a) are provided at public expense and without charge;
- (b) meet the standards of the state, including IDEA Part B requirements;
- (c) include an appropriate preschool, elementary school, or secondary school education; and
- (d) are provided in conformity with an IEP that meets the requirements under of IDEA. Further, each student with a disability is entitled to receive FAPE in the LRE.

HOW DO CHARTER SCHOOLS IMPLEMENT THE REQUIREMENT TO PROVIDE FAPE? (12)

All students with disabilities, who are eligible, must receive specialized instruction, related services, and supplementary aids and services in accordance with the student's IEP. The IEP is the written statement for a student with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324 and 19 TAC §89.1050

WHAT ARE A CHARTER SCHOOL'S RESPONSIBILITIES FOR SERVING A STUDENT WITH A DISABILITY ONCE THAT STUDENT IS ENROLLED? (13)

The charter school must have an IEP in place for each student on the first day of school. In general, once a student with a disability is enrolled in the charter school, the charter school must convene an IEP team meeting to develop, review, and revise the student's IEP.

Each student's IEP must include, among other things:

- a statement of the student's annual goals, including academic and functional goals, the special education, related services and supplementary aids and services, and the program modifications or supports for school personnel.
- The program of services set out in the student's IEP must enable the student to advance appropriately toward attaining his or her annual goals and to be involved and make progress in the general education curriculum, i.e., the same curriculum as for nondisabled students.
- Once the IEP is developed, the group charged with determining the student's placement, which includes other qualified professionals and the student's parents, must then determine how to implement the student's IEP in accordance with IDEA's LRE requirements.

ARE THERE LIMITS ON THE AMOUNT OR TYPE OF SPECIAL EDUCATION OR RELATED SERVICES THAT CAN BE PROVIDED TO STUDENTS WITH IEPS WHO ATTEND CHARTER SCHOOLS? (14)

- No. Students with disabilities attending charter schools and their parents retain all rights under Part B of IDEA, as they would in other public schools.
- A charter school may not unilaterally limit the services it will provide a particular student with a disability.
- When a student's IEP includes special education and related services that the charter school does not currently offer, the charter school has several options to address the student's needs. It *does not* have the option of refusing to ensure that the student is provided all necessary special education and related services at public expense and at no cost to the parents in accordance with the student's IEP.

**MUST STUDENT'S WITH DISABILITIES ATTENDING
CHARTER SCHOOLS BE INCLUDED IN GENERAL STATE
AND DISTRICTWIDE ASSESSMENT PROGRAMS? (18)**

Yes.

WHAT REQUIREMENTS APPLY TO STUDENTS WITH DISABILITIES ATTENDING CHARTER SCHOOLS WITH RESPECT TO THEIR PARTICIPATION IN EXTRACURRICULAR AND NONACADEMIC ACTIVITIES?

If a charter school provides programs or activities such as counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, and referrals to agencies that provide assistance to individuals with disabilities, to nondisabled students, it also must provide these services and activities to students with disabilities. Additionally, the student's IEP must include a statement of the supplementary aids and services that the student needs to participate in nonacademic and extracurricular services and activities offered at the charter school.

IF THE STUDENT'S IEP INCLUDES TRANSPORTATION, IS THE CHARTER SCHOOL RESPONSIBLE FOR PROVIDING THAT TRANSPORTATION? (21)

Transportation is included as a related service under the regulations in 34 CFR §300.34(a) and (c)(16). It includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. If a child with a disability requires transportation as a related service, then the charter school is responsible for providing that transportation.

**ARE STUDENTS WITH DISABILITIES WHO ATTEND
CHARTER SCHOOLS ENTITLED TO TRANSITION
SERVICES? (22)**

Yes.



CHILD FIND/EVALUATION

WHAT HAPPENS IF A CHARTER SCHOOL SUSPECTS THAT ONE OF ITS STUDENTS MAY BE A STUDENT WITH A DISABILITY? (23)

The child find requirements in IDEA require Texas, school districts, and charter schools to have policies and procedures in effect to ensure that all students with disabilities residing in the state who need special education and related services are identified, located, and evaluated, regardless of the severity of the disability.

If a student is enrolled in a charter school, the charter school is responsible for implementing child find requirements as outlined at 34 CFR §300.111 and within the timelines outlined at 19 TAC §89.1011.

HOW MAY A CHARTER SCHOOL IMPLEMENT A RESPONSE TO INTERVENTION (RTI) FRAMEWORK AS PART OF ITS CHILD FIND PROCESS? (24)

The charter school may implement a multi-tiered instructional framework, often referred to as Response to Intervention (RTI), prior to referring a student for an evaluation under IDEA; however, it is critical that the child find process occurs in a timely manner and that no procedures or practices result in delaying or denying this identification.

A parent may request an initial evaluation at any time to determine if the student is a student with a disability, regardless of whether the student participated in an RTI framework. The charter school may not reject a referral or delay provision of an initial evaluation on the basis that a student has not participated in an RTI framework.

See 19 TAC §89.1011 for more information.

PLACEMENT AND LRE REQUIREMENTS

WHAT IS A CHARTER SCHOOL'S OBLIGATION TO EDUCATE ELIGIBLE STUDENTS WITH DISABILITIES UNDER IDEA WITH THEIR PEERS WITHOUT DISABILITIES? (26)

The LRE provisions require, to the maximum extent appropriate, that students with disabilities attending public schools, including public charter schools, be educated with students who are nondisabled. Further, special classes, separate schooling, or other removal of students with disabilities from the regular education environment can occur 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.

Under IDEA, placement decisions must be determined annually on an individual basis, depending on each student's unique needs and circumstances and based on the student's IEP. The recognition that no one single type of placement or service is appropriate for every student with a disability is reflected in the requirement that LEAs make available a range of placement options, known as a continuum of alternative placements, to meet the needs of students with disabilities for special education and related services. See also 19 TAC §89.63 instructional arrangements.



PROCEDURAL SAFEGUARDS AND DISCIPLINE

HOW DOES AN IEP TEAM ADDRESS THE NEEDS OF A STUDENT WITH A DISABILITY ATTENDING A CHARTER SCHOOL IF THE STUDENT'S BEHAVIOR IMPEDES THE STUDENT'S LEARNING OR THAT OF OTHERS? (33)

In the case of a student whose behavior impedes the student's learning or that of others, the IEP Team must consider and, include in the IEP the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

In a Dear Colleague Letter issued on August 1, 2016, addressing positive behavioral interventions and supports in IEPs, Office of Special Education and Rehabilitative Services (OSERS) clarified that the failure to consider and provide for needed behavioral supports through the IEP process is likely to result in a student not receiving a meaningful educational benefit or FAPE.

In addition, a failure to make behavioral supports available throughout a continuum of placements, including in a regular education setting, could result in an inappropriately restrictive placement and constitute a denial of placement in the LRE.

PROCEDURAL SAFEGUARDS AND DISPUTE RESOLUTION

WHAT PROCEDURAL SAFEGUARDS MUST BE PROVIDED TO STUDENT WITH DISABILITIES ATTENDING CHARTER SCHOOLS AND THEIR PARENTS UNDER IDEA? (32)

IDEA accords parents of students with disabilities the procedural safeguards and due process rights set out in 34 CFR §§300.500 through 300.506.

If a parent disagrees with a decision of the charter school on any matter regarding the identification, evaluation, or educational placement of the student, or the provision of FAPE to the student, the parent may request IEP facilitation, seek to use the mediation process, request a due process hearing, or may file a complaint alleging that a charter school has violated a requirement of IDEA.

DO SPECIAL EDUCATION TEACHERS, PARAS, AND SERVICE PROVIDES NEED TO HAVE CERTIFICATION AND/OR LICENSURE? (TEA PPT)

Every Student Succeeds Act (ESSA) removed the "highly qualified teacher" requirement. However...

19 TAC §89.1131. Qualifications of Special Education, Related Service, and Paraprofessional Personnel. *(in part)*

- All special education and related service personnel must be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 Code of Federal Regulations, §300.156; the Texas Education Code, §§21.002, 21.003, and 29.304; or appropriate state agency credentials.

Therefore, charter schools have the same certification, endorsement, and licensing requirements for special education providers as all other public schools.

RESOURCES FOR MORE INFORMATION:

Find OSEP Policy Documents Regarding the Education of Children and Youth with Disabilities at
<https://www2.ed.gov/policy/special/guid/idea/letters/revpolicy/tpchar.html>

See OSERS *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act* at:
<https://sites.ed.gov/idea/files/policy/special/guid/idea/memosdcltrs/faq-idea-charter-school.pdf>

For more information on procedural safeguards and dispute resolution, see the *Questions and Answers on the IDEA Part B Dispute Resolution Procedures* available at:
<https://www2.ed.gov/policy/special/guid/idea/memosdcltrs/accombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf>

OSERS's *Questions and Answers on Discipline Procedures, Revised June 2009* is available at:
<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C7%2C>