



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Know Your Rights: Students with Disabilities in Charter Schools

This document is designed to help parents, students, and the charter school community better understand the rights of students with disabilities under Federal disability-related laws.

Section 504 of the Rehabilitation Act of 1973 (Section 504), which the Office for Civil Rights enforces, prohibits disability-based discrimination.

The Individuals with Disabilities Education Act (IDEA), administered by the Office of Special Education and Rehabilitative Services, provides Federal funds to States, and through them, local educational agencies, to assist in providing special education and related services to children with disabilities.

Section 504

- Charter school students with disabilities (and those seeking to attend) have the same Section 504 rights as other public school students with disabilities. Among other things, these rights include:
 - a free appropriate public education (FAPE), which under Section 504 is regular or special education and related aids and services designed to meet the individual educational needs of a student with a disability as adequately as the needs of nondisabled students are met;
 - equal treatment and nondiscrimination in nonacademic and extracurricular activities such as counseling services and sports; and
 - accessibility (such as entrance ramps for people who use wheelchairs).
- Section 504 requires charter schools to conduct any recruitment activities and provide the opportunity to apply to a charter school on an equal basis.
- Section 504 FAPE requirements for placements are separate from requirements related to admission procedures. Section 504 provides that a charter school's admission criteria may not exclude or discriminate against individuals on the basis of disability, and that a school may not discriminate in its admissions process.
 - During the admissions process, a charter school generally may not ask a prospective student if he or she has a disability. Limited exceptions include that, if a school is chartered to serve students with a specific disability, the school may ask prospective students if they have that disability.
 - When a student with a disability is admitted to and enrolls in a charter school, the student is entitled to FAPE under Section 504. After enrollment, a charter school

may ask if a student has a disability, which includes, e.g., whether a student has an individualized education program (IEP) or Section 504 plan.

- A charter school may not *counsel out*, i.e., try to convince a student (or parents) that the student should not attend (or continue to attend) the school because the student has a disability.

IDEA

- The primary purpose of the IDEA Part B program is for States and school districts to make FAPE available to eligible children with disabilities and to ensure that IDEA's rights and protections are afforded to eligible children and their parents.
- Students with disabilities attending charter schools and their parents retain all rights and protections under Part B of IDEA that they would have if attending other public schools.
- Under IDEA, all students with disabilities, including charter school students with disabilities, must receive FAPE through the provision of special education and related services in conformity with a properly-developed IEP.
- A charter school may not unilaterally limit the services it will provide a particular student with a disability. The responsible charter school LEA, or the LEA that includes the charter school, must provide a program of FAPE for the student in the least restrictive environment (LRE) in which the student's IEP can be implemented.
- States must ensure that charter school LEAs and LEAs that include charter schools meet all their responsibilities under Part B of IDEA, including the LRE requirements. In this context, the LRE provisions require that, to the maximum extent appropriate to their needs, students with disabilities attending public charter schools be educated with nondisabled students.

Resources

The U.S. Department of Education has issued the following documents that address these rights in more detail.

- *Joint OCR-OSERS Dear Colleague Letter*, Dec. 28, 2016, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-charter-school.pdf>;
- *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973*, Dec. 28, 2016, <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>;
- *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act*, Dec. 28, 2016, <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/faq-idea-charter-school.pdf>.

If you want to learn more about your rights, or if you believe that your school is violating Federal law, you may contact the U.S. Department of Education, Office for Civil Rights, at (800)

421-3481, (800) 877-8339 (TDD), or ocr@ed.gov. You may also file a complaint online at www.ed.gov/ocr/complaintintro.html. If you have questions regarding IDEA, please send them to the Office of Special Education and Rehabilitative Services by email at ideacharterschools@ed.gov or by phone at 202-245-7468, (800)-877-8339 (TDD).