



## CHARTER SCHOOLS AND STUDENTS WITH DISABILITIES

### **Are students with disabilities rights protected in a charter school setting?**

**YES!** Students who attend charter schools do not waive their rights under federal and state laws. This includes the Individual with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act (ADA), and Colorado's Exceptional Children's Educational Act (ECEA).

### **Are students with disabilities who are currently eligible for supports under IDEA and/or 504 entitled to a free appropriate public education in the charter school?**

**YES!** Students with disabilities continue to have a right to a free appropriate public education (FAPE) in the least restrictive environment while attending a charter school. Under the IDEA, students have a right to services that are designed to meet their unique needs in light of their circumstances so that they receive educational benefit. Under Section 504, students continue to have the right to equal access to education which includes accommodations that ensure equal access is equal to the charter school education. **These rights are not waived if a student enrolls in a charter school.**

### **Are charter schools required to identify students with disabilities under the Child Find mandate that requires schools to evaluate students suspected of a disability?**

**YES!** Charter schools are responsible for identifying students with disabilities under both IDEA and Section 504's Child Find mandates. This means that if school staff suspects a student of having a disability that impacts their access to education, the school must request consent from the parent to initiate evaluations to determine eligibility under either Section 504 or IDEA.

If the student is found eligible for educational services, then the school must provide the supports, accommodations, and/or services necessary to meet their legal obligations under either of these educational laws.

**Example:** A student continues to violate school policy by getting up out of her chair and wandering around the room, ignoring the teacher's directives to sit at a desk and pay attention to the classroom instruction. The student is suspended multiple times for not following directions and continues to have trouble sitting still and focusing on the classroom activities. The charter school determines that that student should be removed from the charter school and placed in a district school setting. In this example, the charter has failed to follow through on identifying this student through an evaluation process. Rather than disenroll the student, the charter should have requested consent to evaluate the student for eligibility under either Section 504 or IDEA. Once determined eligible, the charter school must provide the supports and services necessary to provide access to the student's education in a non-discriminatory manner.

### **Must a charter school conduct a manifestation determination review if a student with a disability is suspended or expelled?**

**YES!** Charter schools must follow all laws that protect students with disabilities, including the procedural safeguards that protect students during a disciplinary action that removes the student from school for more than 10 days. The IEP team will determine if the student's behavior was related to their disability, or to the charter school's failure to implement the student's IEP or the Section 504 plan.

**Can a charter school claim that they cannot serve students with disabilities?**

**NO!** Charter schools must allow all students, including students with disabilities, the opportunity to enroll in their charter school program. A charter school cannot discriminate against a student with a disability with discriminatory practices such as the claim that the school does not have the resources to support the student's needs. If a student has a disability and requires special education under an Individualized Educational Program (IEP) or accommodations under a Section 504 Plan the charter school must provide the services and accommodations defined in the plan. In addition, a charter school cannot require notice of a disability in the enrollment process. After a student has been accepted into the charter school, the charter school staff should meet with the student's IEP or Section 504 team and discuss what types of accommodations and supports and services the student will need and discuss how the charter school could provide the supports. After careful consideration of the resources within the school, the charter school will make a determination as to whether the student is able to receive a free appropriate public education within the charter school program.

**Is there a complaint process available to parents when there is a dispute with the charter school?**

**YES!** The same IDEA dispute resolution processes that are available to students in a district public school are also available to students enrolled in a charter school. In addition to IDEA complaint processes, the Office of Civil Rights under the U.S. Department of Education accepts complaints that are covered under Section 504, which includes harassment, bullying, and disability discrimination.

**Resources:**

U.S. Department of Education FAQ's about Charter Schools & Section 504

<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>

U.S. Department of Education FAQ's about Charter Schools & IDEA

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/faq-idea-charter-school.pdf>

Know your rights: Students with Disabilities in Charter Schools

<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-charter-school.pdf>

950 Street Cherry Street, Suite 1100 Denver, Colorado 80246

Phone 303-831-7733 Fax 303-839-5178

**advocacydenver.org**