



STUDENTS WITH DISABILITIES ATTENDING PUBLIC CHARTER SCHOOLS

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice

1. What is a public charter school?

In Pennsylvania, charter schools are public schools created by agreement ("a charter") with a local school board. They must be operated as non-profit organizations, be free to students and parents, and cannot teach religion. Charter schools can be created and operated by parents, teachers, community members, business people, museums, nonsectarian colleges, universities and others, and must include the words "charter school" in their name.

Charter schools are schools of "choice" and are considered alternatives to traditional public schools. Charter schools are exempt from some -- but not all -- of the laws and regulations that govern other public schools. Charter schools must provide at least 180 days of instruction and are required to participate in Pennsylvania's state assessment system. Charter schools must comply with laws protecting civil rights and student health and safety. Charter schools must obey state law when they suspend or expel students, and must obey federal special education laws.

2. *Who can enroll in a charter school?*

Any student who is a resident of Pennsylvania is eligible for admission to a charter school. First preference must be given to students who reside in the district where the charter is located. If more students apply than there are spaces at the charter, qualified students must be selected randomly (for example, by lottery). Students who are not residents of the school district may be admitted if space permits.

3. *Can a charter school limit admission to a particular group or exclude some students?*

Charter schools **cannot** limit admission on any basis that would be illegal if used by a school district. Charter schools also **cannot** limit admission on the basis of intellectual or athletic ability, measures of achievement, English proficiency, or disability. A charter school cannot deny enrollment or otherwise discriminate in its admission policies or practices on the basis of a student's disability or the student's need for supplementary aids or services. A charter school must admit students regardless of the nature and severity of their disability, as long as they meet the other general requirements for enrollment.

Charter schools **are permitted** to limit their enrollment to a particular grade level or area of concentration (the arts, mathematics, or science). Charter schools may establish reasonable criteria to evaluate prospective students, but the criteria must be outlined in the charter agreement. Charter schools **may** also limit admission to a targeted group of "at risk" students. At risk students include students who risk educational failure because of lack of English proficiency, poverty, community factors, truancy, academic difficulties or economic disadvantage. Charter schools **may** give preference to students of parents actively involved in the creation of the charter school, and to siblings of enrolled students.

4. *Do charter schools have to comply with special education laws?*

Yes. Charter schools must comply with all federal disability laws, including the Individuals with Disabilities Education Act, §504 of the Rehabilitation Act, and the Americans with Disabilities Act, and must provide eligible students with all of their federally mandated rights and protections. Students with disabilities enrolled in charter schools are entitled to a free appropriate public education, including appropriate related services and all of the procedural protections guaranteed to students and parents by federal law. Charter schools do not have to comply with Pennsylvania's special education regulations known as Chapters 14 and 15, or with Chapter 16 (governing gifted education).

5. *Who supervises charter schools' compliance with federal disability laws?*

The Pennsylvania Department of Education is responsible for monitoring charter schools' compliance with federal disability laws. Charter schools must comply with the Department's monitoring requirements, provide information requested by the Department, and complete all corrective action required by the Department. Charter schools are also required to file an annual report with the Department that includes the number, age, and disability of enrolled children who receive special education services, the programs and services being implemented by the charter school, including those provided by charter school staff, outside contractors, an intermediate unit, any staff training and technical assistance provided by the Department, the certification of staff providing services to children with disabilities, and other information.

6. *Who pays for special education services provided by a charter school?*

Funding for special education services is transferred from the student's school district to the charter school. Charter schools may also use Medical Assistance and other public and private sources to fund special education services.

7. *Do all charter schools have to be accessible to students with disabilities?*

Yes. Charter schools must comply with the Americans with Disabilities Act and

§504 of the Rehabilitation Act and ensure that students with disabilities have access to the programs and benefits of the charter school.

8. *Who is responsible for evaluating students enrolled in charter schools to determine if they are eligible for special education services?*

The charter school must locate, identify, and evaluate all students it suspects may have a disability and who need special education services. When a parent requests an evaluation of a student enrolled in a charter school, the charter school must conduct the evaluation *or* notify the parents that they can request a special education due process hearing to determine whether the student is in need of the evaluation.

9. *Do charter schools have to provide "special education" for gifted students?*

No. Students who are gifted are entitled to special education services under Chapter 16 of the Pennsylvania School Code. These regulations are "waived" for charter schools. A charter school may choose to provide such services, but is not required to do so.

10. *Are charter schools required to serve pre-school students with disabilities?*

Yes, if the charter school chooses to serve students below school age, it must also serve students with disabilities within the same age group *and* provide them with all of the special education services and procedural protections guaranteed by federal law.

11. *If a student has an Individualized Education Program (IEP) from a Pennsylvania school district when she enrolls in the charter school, does the charter school have to implement the IEP?*

Yes. The charter school must either adopt and implement the IEP the student has at the time of enrollment in the charter school, or must develop at an IEP meeting

a new IEP with which the family agrees. Charter schools must provide all of the special education and related services listed on a student's agreed-to IEP. If the school and the family cannot reach an agreement, the family can request mediation or request an impartial special education hearing. For more information on special education dispute resolution options, see ELC's Fact Sheet *How to Resolve Special Education Disputes*. This and other ELC fact sheets and manuals can be obtained from ELC's website or the telephone phone numbers listed below. If a dispute arises between the school and the family over what should be in the child's IEP, the charter school should provide services that approximate, as closely as possible, those listed in the IEP the child had when she enrolled in the school.

12. *Who can teach students with disabilities in charter schools?*

Pennsylvania's charter school law requires only 75 % of the teachers in charter schools to be certified teachers. However, persons who provide special education or related services to children with disabilities in charter schools must have special education certification and have to meet the "highly qualified" teacher requirement that applies to teachers in public schools.

13. *Does the student's school district of residence have any responsibility for the special education needs of a student enrolled in a charter school?*

No, the responsibility to provide special education passes along with the funding to the charter school. The charter school becomes the student's "local educational agency" or "school district" for purposes of special education.

14. *Who is responsible for transporting students to and from charter schools?*

Districts must provide free transportation to resident students who attend a charter school located within the district, a regional charter school of which the school district is a part, or a charter school that is located within 10 miles of the district's borders. This is true whether or not the district transports students attending other district schools. For example, a district would have to provide

transportation to a high school student who attends a charter school within the district even if the district does not transport students to its own high schools. Additionally, a school district must provide transportation to charter school students when the charter school is in session, whether or not it provides transportation to its own students during those dates and times.

If the Pennsylvania Department of Education determines that a school district is not providing the required transportation to students who attend a charter school, the Department will pay the charter school to transport these students (the Department will deduct the cost of this transportation from funds it provides to the district.) Districts that transport students to charter schools in other districts will be eligible for some reimbursement from the Department.

Students who are eligible for special education are entitled to free transportation to school that takes account of their disability. So if the child needs special transportation such as a lift bus, that service must be listed on the child's IEP and must be provided.

15. Can a charter school suspend or expel a student with a disability?

Generally, charter schools must at minimum provide students enrolled in the charter school with the same protections that apply to students within other public schools, including notice of the misconduct and an opportunity to challenge the decision to exclude the student. Charter schools must give students who are eligible for special education the additional special disciplinary protections mandated by federal law, including determining whether the behavior for which the student is being punished is related to the student's disability. The procedures for disciplining students are different for students with mental retardation and for students who bring weapons or drugs to school or who have seriously hurt others in the school setting. For more details on this complicated topic, see ELC's Fact Sheet *School Discipline and Students with Disabilities*.

16. Can a parent withdraw a student from a charter school at any time?

Yes. Charter schools are schools of choice. A parent may withdraw a student

at any time and re-enroll the student in the local school district or elsewhere. However, if the student has been expelled from the charter school for a "weapons" offense, the receiving school district *may* refuse to place the student in the regular educational program, and instead may place the student in an alternative assignment or provide alternative educational services.

17. *When parents feel that charter schools are violating a student's right to special education services, where do the parents complain?*

Parents should first complain to the director of the charter school and try to resolve the problem. If this is not successful, parents can request Mediation or a Due Process Hearing by calling the Office for Dispute Resolution (1-800-992-4334). Students enrolled in charter schools have all of the due process protections guaranteed to parents by federal special education laws, including the right to file an administrative complaint with the Pennsylvania Department of Education by calling the ConsultLine (1-800-879-2301) or the federal Office for Civil Rights (215-656-8541).

The Pennsylvania Department of Education has also published a parent's guide to Special Education in Charter Schools. You can obtain a copy by contacting one of the Pennsylvania Training and Technical Assistance Network (PaTTAN) regional offices (Harrisburg: 800-360-7282; Pittsburgh: 800-446-5607; King of Prussia: 800-441-3215) or by visiting their web page at <http://www.pattan.k12.pa.us/files/Parent/CS-ParentGuide.pdf>.

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