

## **Q&A: Charter Schools and Students with Disabilities**

### **Can students with disabilities apply to charter schools?**

Yes. Students with disabilities have the right to attend any charter school. Charter schools may not discriminate against students based on their disability.

### **Can charter schools have requirements for admissions?**

Yes, but the Charter Schools Act [C.R.S. 22-30.5-104 (3)] and State Board Rule 1 CCR 301-88, Sections 2.02(D)&(E), prohibit discrimination based on a student's academic ability. As with other public schools, a charter school may create baselines of eligibility for enrollment that are consistent with their area of focus or grade levels, but the school's methods for determining eligibility cannot be designed, intended, or used to discriminate based on a child's knowledge, skills, or disability.

**For example**, a charter high school may deny admission to a student not completing the 8th grade, but it cannot deny admission to a student who has an "unsatisfactory" score on state assessments.

### **Do charter schools have to meet the same accountability standards as traditional schools?**

Charter schools may be exempt from some state or local education regulations or policies. However, charter schools must follow all federal laws that apply to any other public school, such as the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act (Section 504). This includes ensuring that charter school data is included when reporting to the federal government every year on student progress and in the IDEA data reports submitted by State Education Agencies (SEAs) each year to the Office of Special Education Programs at the U.S. Department of Education. This also includes reporting data to the Office for Civil Rights at the U.S. Department of Education for the Civil Rights Data Collection.

### **Do charter schools need to make reasonable accommodations to their policies?**

Yes. Charter schools must make reasonable accommodations, including reasonable changes to policies and practices, to enable students with disabilities to participate fully at the school. A charter school's policies may not be applied in a discriminatory manner under any circumstances.

### **What does enrollment discrimination look like?**

Some examples of enrollment discrimination are when a school "counsels out" or dissuades student from attending. Additionally, enrollment discrimination can occur when a school tells a student it does not have appropriate teachers, service providers, programming, or placement, or that he or she does not fit school's model or would be better served by another school. These practices are not allowed.

### **Who initiates an initial evaluation of a child?**

A child's parents or guardians, a professional within the school or school district, a physician, a nurse, a psychologist, a social worker, or an administrator of a social agency may all refer a child for an evaluation for special education services. If a parent requests an evaluation, the school must give the child an evaluation. However, the school can ask for a withdrawal of the referral. If a school suspects a child has a disability and needs special education, they must evaluate the child. Written notice must be given to a parent if a public agency refuses to evaluate a child. For more information, see [Evaluations](#).

### **Does a doctor's diagnosis of a condition automatically mean the student is eligible for services?**

No. A doctor's diagnosis of a condition is not enough to confer special education eligibility on a child, but this diagnosis can be considered alongside the other components in an evaluation.

### **What happens if a parent brings up a private evaluation?**

Evaluations provided by the school come at no cost to families. However, parents may seek an independent private evaluation at their own expense, but these are often very costly. School districts must consider these evaluations but are not required to follow the exact recommendations of outside evaluators.

Parents also have the right to request an Independent Education Evaluation if they disagree with the school's evaluation. More information can be found [here](#).

### **Who is responsible for developing and implementing students' IEPs and 504 Plans?**

Charter schools are responsible for developing and implementing IEPs and Section 504 plans for students with disabilities attending their schools. Section 504 plans are not substitutes for Individualized Education Plans (IEPs). Students attending charter schools have the right to receive all programs and services on their IEPs or 504 plans.

### **What role do charter schools play in developing and reviewing students' IEPs and 504 Plans?**

If a student is participating in a general education class at a charter school, the general education teacher must participate in the IEP meeting. In addition, at least one of the student's special education teachers or related services providers must participate in the IEP meeting. IEPs must be reviewed once a year. If a student has a 504 plan, a "group of knowledgeable people" must develop and review the plan.

### **When are disciplinary protections triggered at charter schools?**

Under both IDEA and Section 504, the same requirements apply for disciplinary protections as apply in other settings. More information can be found in the following handouts: [Expulsion](#), [MDRs](#), and [FBAs and BIPs](#).

### **Can charter schools insist that parents/guardians obtain payment from their insurance company?**

No. The school district must provide a Free and Appropriate Public Education (FAPE) to all students. Thus, the school or district is responsible for paying for a child's special education services.

### **Can parents/guardians object to services provided by an IEP?**

Yes. Parents have the right to request changes to their child's IEP whenever it is not working for their child. Parents may agree to some, all, or none of the services offered by the school district and may contest the school's decisions if deemed necessary. More information about dispute resolution options can be found [here](#).

Additionally, [recent changes by the Colorado Department of Education](#), require a student's IEP Team to discuss the location where a student will receive services and why a charter cannot serve a student. You can read more [here](#).

### **Where can I go for more information?**

- If you need help or have questions about your rights, you can contact [Disability Law Colorado](#).
- [U.S. Department of Education FAQs about Charter Schools & Section 504](#)
- [U.S. Department of Education FAQs about Charter Schools & IDEA](#)
- [Special Education Toolkit: Guidance for Charter School Authorizers](#)
- [Rubric for Assessing Special Education in Charter Schools \(LEA Schools\)](#)
- [Rubric for Assessing Special Education in Charter Schools \(Part of LEA Schools\)](#)
- [Know your rights: Students with Disabilities in Charter Schools](#)
- [The Facts on Charter Schools and Students with Disabilities](#)