

Improving Access for Students with Disabilities: The Little Things That Make Big Differences

NATIONAL NETWORK FOR DISTRICT AUTHORIZING

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Who is the NN4DA?



National Network for District Authorizing

The National Network for District Authorizing (NN4DA, or “the Network”) supports state-level initiatives that strengthen the charter school authorizing practices of school districts. The Network has three state association members and plans to incorporate additional state-based partners soon. Current members include the California Charter Authorizing Professionals (CCAP), the Colorado Association of Charter School Authorizers (CACSA), and the Florida Association of Charter School Authorizers (FACSA).



Background

How can authorizers improve their practices so that students with disabilities have the right to exercise choice, including choosing charter schools?

How can charter schools and authorizers get past a “blame game,” and collaborate with one another to make progress?

Colorado Context

- 61% lack descriptions of how they enroll students with disabilities
- 45% lack descriptions of how they enroll students overall
- 63% don't describe how they educate students with disabilities
- 10% publish enrollment policies with elements that could be interpreted as exclusionary without anti-discrimination clauses
- 18% of application forms ask whether a student has a disability with no anti-discrimination clauses or statements of purpose to help parents understand how information might impact applications

Florida Context

48 Websites Reviewed

- 23% of these asked about their child's IEP status on the enrollment form.
- 27.1% requested behavioral records and did not specify if that information was used to determine eligibility for admission to the school.
- 8.3% of websites reviewed listed academic requirements as a condition of being admitted to the school.
- 45.8% lacked a description of how the school educates SWD
 - 12.5% included only a minimal description.
- 27.1% provided contact information for special education educators.
- 14.6% of the websites mentioned a challenging curriculum that was geared for serious students without identifying goals of equitable outcomes for all children.
- 68.8% lacked an anti-discrimination clause or statement about acceptance of SWD.

OCR Complaints in Colorado:

- 29 schools authorized by CSI and 21 districts
- Parallel complaint language across schools
- Filed by Disability Law Colorado (DLC)
- DLC searched school websites enrollment forms
- Based on 2016 Civil Rights Guidance from OCR
- DLC is currently using Sunshine Law to request forms not available online and plan to file additional complaints

2016 FAQ (Significant Guidance from OCR)

Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973

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

See pages 20-24 for specific questions about enrollment processes.

Question: During the charter school application process, is it permissible for school personnel to ask whether a prospective charter school student has a disability? Can school personnel ask about a disability after a charter school accepts a student for admission and upon the student's enrollment in the school?

Summary. During the application and admission process and before enrollment in the charter school, it is generally not permissible under Section 504 to ask a prospective student whether the student has a disability.⁶⁸ The exceptions to this prohibition, as discussed below, apply where the charter school is using that information solely to enhance the chances for a student with a disability to be admitted or enrolled for required remedial action or permissible voluntary action, or where a school is chartered to serve the educational needs of students with a specific disability and the school asks prospective students if they have that specific disability.⁶⁹ Although the same standard would apply to a traditional LEA, as described below, the process of applying and being admitted to a charter school is generally distinguishable from filling out paperwork necessary to enroll in a traditional LEA where enrollment is based only on residence and age.

Upon enrollment, it is permissible for the charter school to ask a student whether he or she has a disability in order to ensure that the school provides FAPE. Such information is protected under the Family Educational Rights and Privacy Act (FERPA).⁷⁰

Potential implications for inter-district choice and attendance area boundaries

Note 68: “Charter schools can also have attendance area boundaries that affect eligibility for admission, based, for example, on location of residence. As long as the attendance boundaries are not based on disability or utilized in a manner that results in disability discrimination, the requirements of Section 504 are not implicated.”

Impermissible Inquiries

Examples of **impermissible pre-enrollment inquiries** include

- **A direct pre-enrollment inquiry about disability** (such as a question about disability on an application).
- **An indirect inquiry about the results of a disability** (such as a request about other circumstances that result from a disability or disability-related needs, e.g., whether the student has an IEP, has a 504 plan, needs transportation as a related service).
- **An inquiry that elicits disability-related information** (such as a request that the student's current IEP or Section 504 plan be submitted with the application).
- Another example is an **informal pre-enrollment inquiry** (such as an inquiry about disability or IEPs or Section 504 plans by charter school staff in formal interviews or informal conversations with prospective students or their parents).

Includes districts that use current data on a student's disability status

“Prohibition against discrimination in charter school admissions process includes any discriminatory use of information about disability. A recipient might legitimately know that a student has a disability prior to a prospective student’s selection for admission to and enrollment in a charter school.

This could occur, for example, because the charter school is a school of a traditional LEA and the student currently is enrolled in another school of the LEA and has an IEP. In such a case, the recipient must not use information about the student’s disability to discriminate against the student in admission to and enrollment in the charter school. Similarly, Section 504 would not prohibit a parent from volunteering unsolicited information about a prospective student’s disability prior to a decision about admission, but Section 504 would prohibit the school from using the information about the student’s disability to discriminate against the student.”

What we are doing to make changes.....

CACSA Standard Charter School Application & Rubric

- Added material on students with disabilities;
- Incorporated materials from NACSA/Center for Learner Equity Guidebook;
- Extensive treatment of issues related to students with disabilities:
 - Human Resources
 - Curriculum and Assessment
 - Professional Development
 - Administration
 - Facilities
 - MTS/Rti

CACSA and CSO Collaboration on Charter Staff Training

- ❑ Materials to address talking points and FAQ
- ❑ Video (in production) modeling how to communicate

Communication should accomplish the following purposes:

AFFIRM COMMITMENT

Affirm the charter school's commitment to WELCOME & not discriminate against SwDs

PROVIDE DIRECTION

Direct families that have questions about special education to knowledgeable and trained staff at the school

+

OFFER RESOURCES

Provide high-quality resources from the state and other authorities to help them navigate school choice

COMMUNICATE CLEARLY

Clearly communicate to families about the details of the enrollment process without creating any unintended obstacles

Ultimately,
AVOID
miscommunicating,
discouraging
enrollment, or asking
for learning plans or
plan details **PRIOR** to
enrollment.

Front Office Talking Points...

Instead of..

“We are not a good fit for all students”

Align to your school’s
**ANTI DISCRIMINATION
STATEMENT**

“Charter schools are public schools. Like all charter schools, (insert school name) doesn’t discriminate against students in any “protected subgroup/list”. We welcome applications from all students, including students with disabilities! That means we don’t discriminate on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services.”

Front Office Talking Points...

Instead of..

“We are a charter school, we don’t have to do what the district does”

Alignment to
STATE & FEDERAL LAWS

“Like all charter schools, (insert school name), is a public school. (Insert school name) educates students with disabilities and English Language Learners and provides services to students as required by state and federal law. In most cases, we can provide the services required for a student with a disability as outlined in their IEP.”

Front Office Talking Points...

Instead of..

“We individualize education for every kid, so a lot of kids don’t need their old IEP.”

Align to

STATE & FEDERAL LAWS

“Under IDEA, students with disabilities are entitled to a Free and Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE). The services a student requires under IDEA are described in an Individualized Education Program (IEP). The details of that program are addressed by a student’s IEP team, of which you (a parent) are a member.”

Front Office Talking Points...

Instead of..

“We don’t have kids with that level of need at our school, the district serves them.”

Align to

STATE & FEDERAL LAWS

“Under Colorado law, the provision of FAPE and specific services required by a student’s IEP are a joint responsibility of the charter school and its authorizing school district (or the Charter School Institute). After a student with an IEP is initially admitted, an IEP team meeting, which would include the parent, (and the student and their representative as appropriate), may be used to review the IEP with the family and to determine if additional support from the LEA is required.

Front Office Talking Points...

Instead of..

“I don’t think we do that”

or

*“We haven’t done that
since I was hired”*

Directions to your school’s
SPECIAL EDUCATION LEAD

*“If you have more questions about how we
serve students with disabilities, I can get you in
touch with our (insert appropriate
title/director of special education).”*

CACSA Standard Charter School Application & Rubric

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Website Checklist:

- An anti-discrimination statement on the main page or on the enrollment page of the website.
- Language stating that the school serves students with disabilities.
- Either mission statement that includes language indicating the intention to serve all students, or if the mission statement does not indicate an explicit inclusive orientation, a link to the anti-discrimination statement and commitment to serving students with disabilities.
- Clear description of the process for enrolling students in general and for enrolling students with disabilities.
- If the school participates in a centralized, district-administered open enrollment process, a statement explaining the school's participation in the district system and links to the district's relevant website and materials.
- Pre-admission forms (such as intent to enroll forms, and registration forms if there are no web-linked application materials) that only ask for the minimum required information and do not ask about disability status or status as another protected class unless it is for purposes of a weighted lottery or the school is chartered to serve students with a particular disability. If the school uses information on disability status for such purposes, the forms must include statements clarifying the purpose and limited application of such information.

Anti-Discrimination Statement:

Should be visible on the front page. Its purpose is to affirm the school's responsibility to not discriminate and to provide special education services.

Insert school name does not discriminate on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, need for special education services, or any other grounds prohibited by law. *Insert school name* serves students with disabilities and English Learners and provides services to students as required by state and federal law. *(Include link to the page where the additional information is posted.)*

Examples

Democracy Prep schools are schools of choice. It is our privilege to educate all scholars regardless of identity, socioeconomic status, religion, citizenship, previous academic record, disability, and intellectual ability. Continue reading to learn how to join the Democracy Prep Family!

Examples

Can Montessori accommodate gifted children?

What about children with other special learning needs?

An advantage of the Montessori approach—including multi-age classrooms with students of varying abilities and interests—is that it allows each child to work at her own pace. Students whose strengths and interests propel them to higher levels of learning can find intellectual challenge without being separated from their peers. The same is true for students who may need extra guidance and support: each can progress through the curriculum at his own comfortable pace, without feeling pressure to “catch up.”

We might note that from a Montessori perspective, every child is considered gifted, each in her own way. For every child has his own unique strengths—it is all a matter of degree.

QUESTIONS

