

Minnesota Department of Education

Special Education Primer for Charter Schools

Minnesota Department of
Education 

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INTRODUCTION

The purpose of this document is to provide information and resources on special education for charter school authorizers and charter school directors.

This document is the result of collaborative input from individuals who work in and with charter schools in Minnesota.

It also represents the collaborative efforts of the following divisions of the Minnesota Department of Education (MDE) who work to ensure the provision of a free and appropriate education for children and youth with disabilities attending Minnesota charter schools:

- Education Equity and Innovation.
- Special Education.
- Compliance and Assistance.
- School Finance.

This document was developed in conjunction with the Technical Assistance Customizer Project supported through funds awarded to the National Association of State Directors of Special Education (NASDSE) by the U.S. Department of Education, Office of Elementary and Secondary Education Charter Schools Program (Grant #U282U030007).

The Minnesota Department of Education acknowledges the members of the Minnesota Special Education Primer for Charter Schools Workgroup for their contributions to this primer:

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DISCLAIMER FOR THE PRIMER

This document was originally developed in 2009 by a group of Minnesota state and local education officials and public charter school leaders with the assistance of the Technical Assistance Customizer Project supported through funds awarded to the National Association of State Directors of Special Education (NASDSE) by the U.S. Department of Education Charter Schools Program (Grant #U282U030007). It is intended as a resource on implementing special education in the state's charter schools. However, the opinions expressed herein do not necessarily reflect the position of the U. S. Department of Education and no official endorsement by the USDE or the Minnesota Department of Education should be inferred.

The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive resource or an answer to specific legal questions.

MINNESOTA AUTHORIZER PRIMER

SECTION 1: PRE-AUTHORIZATION PHASE

What is the pre-authorization phase?

The pre-authorization phase encompasses the activities preceding the submission of a charter application to an authorizer. This stage generally starts out very informally and grows increasingly structured as potential charter school applicants work to turn their vision of a school into a concrete plan that can be implemented. This stage is frequently abbreviated or rushed due to application deadlines. Nevertheless, it is a critical stage in the creation of a charter school. This is the stage when authorizers have a unique opportunity to urge developers to incorporate special education into their overall planning rather than add it later to existing policies and procedures.

What is an authorizer's role during pre-authorization related to special education in charter schools?

Authorizers should be knowledgeable about the Minnesota charter school statutes and all federal and state special education laws. It is important that authorizers know that charter schools must provide special education and have processes in place to do so from the first day of operation. Authorizers should inform the applicants that special education is a consideration in evaluating applications and that the state's application requires attending to this aspect of their program.

In addition, authorizers should be aware that they are required to sign an affidavit that includes an assurance that the authorizer-authorized charter school will comply with state and federal laws. Thus, authorizers must be aware of the applicant's plan for special education. After the school is chartered, the authorizer must submit a copy of the school's contract with the authorizer, and that contract must confirm that the school will follow Minnesota's special education law. See Minnesota Statutes, section 124D.10, Subdivision 6(11). It is therefore wise for an authorizer to familiarize itself with the school's intentions and capabilities as regards special education early in the pre-authorization process.

It is helpful if authorizers provide resources such as an Operators' Primer that can inform the application process. At a minimum it is recommended that authorizers encourage developers to discuss special education with a special education director at this point in the process.

What does an authorizer need to know about the basic concepts of the Individuals with Disabilities Education Action (IDEA)?

While the school is the entity that will actually be providing special education to students, it is important that an authorizer have a clear understanding of some basic concepts that are incorporated into state and federal laws.

A "free appropriate public education" (FAPE) refers to special education and, if required, related services designed to meet the individual needs of students with disabilities. These services must be provided at public expense and without charge, by both charter and traditional public schools. FAPE is defined in the federal rules that govern special education. See 34 CFR § 300.17.

An "individualized education program" (IEP) is a written, individualized program for a child with a disability that is developed with an IEP team that includes parents, teachers, and other specialists. See 34 CFR § 300.22-23.

The "least restrictive environment" (LRE) is a requirement in IDEA that states that children with disabilities be educated in the general education classroom to the maximum extent appropriate and that special classes or separate schooling only occurs if the nature of the disability is such that education in regular classes with the use of supplemental aids cannot be accomplished. See 34 CFR § 300.114.

Schools must obtain informed consent from the parent prior to both evaluation and services. See 34 CFR § 300.300. Finally, child find," the legal obligation to identify, locate, and evaluate all children with disabilities, is a requirement for charters and traditional public schools in Minnesota pursuant to Minnesota Rule subpart 3525.1100.

MDE's website contains resources that assist districts in achieving compliance with special education mandates and funding requirements. Local education agencies must develop their own policies and procedures regarding special education, including a Total Special Education System (TSES) Manual. See Minnesota Rule subpart 3525.1100, which describes the requirements a school's TSES must incorporate.

How can I introduce potential charter school applicants to the rationale behind special education laws?

Introducing charter developers to the reasons underlying special education may help lower barriers to implementing special education programs. It is important to understand that access to equal educational opportunity and due process was a hard-fought battle for children with disabilities and their families. For most of the nation's history, children with disabilities were not given a right to the same educational opportunities as their nondisabled peers. Children with disabilities could be excluded from a public education, and it was not until the 1950s that these educational practices that had been in place for more than a century were successfully challenged. In the late 1960s and early 1970s, several federal and state court decisions struck down state laws that denied an equal educational opportunity to students now covered by federal disability laws including the Individuals with Disabilities Education Act (IDEA) originally passed in 1975 and Section 504 of the Rehabilitation Act of 1973. Some resources that an authorizer could make available to charter applicants are found on the [National Charter Resource Center website](http://www.charterschoolcenter.org/priority-area/primers) (<http://www.charterschoolcenter.org/priority-area/primers>).

What issues should I encourage charter applicants to consider during the pre-authorization phase to plan appropriately to provide special education and related services?

When working with charter applicants, authorizers are wise to advise applicants of the value of the old adage, "an ounce of prevention is worth a pound of cure." When applied to developing a school that can educate students with disabilities, the "ounce of prevention" requires adequate planning during the charter development and start-up phases. Authorizers should encourage applicants to communicate with MDE for additional resources. For MDE special education contact and resource information, see the [MDE website](http://education.state.mn.us/MDE/JustParent/SpecEdStu/index.html) (<http://education.state.mn.us/MDE/JustParent/SpecEdStu/index.html>).

Can an authorizer exempt the charter schools it authorizes from complying with state and federal special education requirements as part of their charter?

No. Under Minnesota's charter school law, charter schools must follow all state and federal special education laws. Charter schools are public schools and must be open to, and serve the needs of, any student with a disability seeking enrollment. See Minnesota Statutes, section 124D.10, Subdivision 12.

How does an authorizer evaluate whether a charter school applicant has provided adequate information about special education?

According to Minnesota Statutes, section 124D.10, Subdivision 3, applicants must "document the school developer's mission statement, school purposes, program design, financial plan, governance and management structure, and background and experience, plus any other information the authorizer requests. This application also shall include a 'statement of assurances' of legal compliance prescribed by the commissioner." Thus, authorizers should ask applicants at a minimum to articulate a rudimentary plan regarding governance, service delivery and financing of special education. It is critical that applicants demonstrate in their application that they have a well-conceived, feasible plan to access the capacity they will need to meet their legal responsibilities related to special education services.

Summary and Key Points

The pre-authorization phase provides charter school authorizers the critical opportunity to inform potential applicants about their responsibilities related to special education. While Minnesota charter law requires applicants to provide a general assurance and describe how the school will provide services to students with disabilities, many applicants are not aware of what these assurances and provisions entail. Once charter schools are authorized and have evolved to the operating phase, the pressures associated with start-up and day-to-day operations frequently limit operators' ability and available options to create an effective and efficient special education program.

In an effort to pre-empt potential problems associated with not complying with IDEA requirements, charter authorizers can take advantage of applicants' planning phase to educate applicants about special education. By educating applicants earlier rather than later, authorizers can encourage applicants to build special education into their vision of a school rather than simply add special education after the school model is developed.

Issues for Charter Applicants to Consider During the Planning Phase

HUMAN RESOURCES

- How many students with disabilities should we estimate that our school will enroll?
- How many special education teachers will we need to employ?
- What kind of certification will the special education teachers need?
- How does our state define “highly qualified” teachers according to NCLB and “qualified personnel” under IDEA?
- Can our school hire dual-certified teachers?
- Can we hire part-time or retired special education teachers?
- Can a special education teacher serve a dual role as a special education director?
- Will we need to hire staff for health-related issues?
- What are the implications for salaries and benefits if we hire full- versus part-time employees?

CURRICULUM AND ASSESSMENT

- What curricula and instruction will our school offer?
- How will we modify the curriculum and instructional delivery to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?
- How will our school include children with disabilities in required assessments or develop alternate assessment?
- How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?

PROFESSIONAL DEVELOPMENT

- How will our school provide teachers with professional development?
- Will teachers need any specialized professional development related to educating and including children with disabilities?
- What resources does the MDE have for professional development?

ADMINISTRATION

- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- How will our school handle student records and other school property appropriately in the event of closure of the charter school?

SPECIAL EDUCATION FUNDING

- How will federal, state and local special education dollars flow?
- What does our school need to budget for special education during the first year of operation?
- Do we need to prepare financially to enroll a student with significant special needs?

FACILITIES

- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential student records?
- Where will we provide pullout services?
- Where can related services personnel meet with individual students?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals—including adults—with physical disabilities?
- Does our facility have space for a nurse to store and administer medications or use medical equipment?

TRANSPORTATION

- How will our school meet transportation needs of students who receive transportation as a related service articulated on their IEP?
- How will we provide transportation for a student in a wheelchair?

SECTION 2: PRE-APPROVAL, PRE-OPERATIONAL PLANNING PERIOD

What is the process for approval of the application to establish and operate a charter school?

Prior to authorizing schools, a potential authorizer must be approved by the Department of Education. According to Minnesota Statutes, section 124D.10, Subdivision 3(c): “An eligible authorizer must apply to the commissioner [Minnesota Commissioner of Education] for approval as an authorizer before submitting any affidavit to the commissioner to charter a school...The commissioner must approve or disapprove an application within 45 business days of the application deadline. If the commissioner disapproves the application, the commissioner must notify the applicant of the specific deficiencies in writing and the applicant then has 20 business days to address the deficiencies to the commissioner’s satisfaction. After the 20 business days expire, the commissioner has 15 business days to make a final decision to approve or disapprove the application. Failing to address the deficiencies to the commissioner’s satisfaction makes an applicant ineligible to be an authorizer.”

After an authorizer is an approved authorizer, it may begin the process of submitting new school affidavits to the Department to charter a school. Once an authorizer receives a charter application from a school developer, the authorizer must file an affidavit with the commissioner stating its intent to charter a school before the operators may establish and operate a charter school. As set forth in Minnesota Statutes, section 124D.10, Subdivision 4(b): “...An authorizer must file a separate affidavit for each school it intends to charter. The affidavit must state the terms and conditions under which the authorizer would charter a school and how the authorizer intends to oversee the fiscal and student performance of the charter school board of directors...”The forms for a new school affidavit can be found on the [MDE website](http://education.state.mn.us/MDE/StuSuc/EnrollChoice/CharterSch/) (<http://education.state.mn.us/MDE/StuSuc/EnrollChoice/CharterSch/>). Pursuant to statute, the Commissioner has 60 business days to approve or disapprove the affidavit. See Minnesota Statutes, section 124D.10, Subdivision 4(b).

Following approval from the Commissioner, the charter school moves into its pre-operational planning period.

What information about special education should be included in the contract?

In the contract between the authorizer and the charter school, there must be language which states that the charter school will comply with state and federal special education laws (Minn. Stat. § 124D.10, Subd. 12).

Requirements for a charter school contract, including the special education requirements, can be found at Minnesota Statutes, section 124D.10, Subdivision 6.

What occurs during the pre-operational planning period?

The pre-operational planning period typically lasts from 12 to 18 months. The school's governing board is formed during this time and guides the planning activities. This is the time when the charter school is generating detailed plans to implement each area addressed in the application. The State of Minnesota requires that all school districts, including charter schools, have a TSES in place. Since Minnesota law requires all school districts have a director of special education, it is in this period that the charter school identify who will serve as their director of special education.

What is a TSES Manual?

The TSES Manual is Minnesota's framework for compliance with federal and state special education laws and must be developed by each district or charter school. It does not include generic policies—local education agencies must develop their own policies and procedures. All school districts, including charter schools, are required to develop a plan that addresses each area in the TSES. At a minimum, a TSES plan involves the following:

- Child study procedures for the identification and evaluation of students or other persons suspected of having a disability beginning at birth that include a plan for receiving referrals from parents, physicians, private and public programs, and health and human services agencies.
- Method of providing the special education services for the identified pupils. The district shall have, as part of the district's TSES plan, a description of the full range of available educational service alternatives.
- A description of the sites available at which services may occur. Sites describe the building or other location where special education occurs.
- A description of the available instruction and related services.
- Administration and management plan to assure effective and efficient results, including due process procedure assurances available to parents.
- Operating procedures of interagency committees required in statute.
- Interagency agreements the district has entered.

See Minnesota Rule 3525.1100

Who can serve as a director of special education in a charter school?

Any licensed director of special education can serve in this role (Minn. R. 3512.4000). Charter schools use many different mechanisms to meet this requirement. Some contract with local school district or cooperative while others have contracted with

independent consultants. One of the authorizer's roles is to confirm that the charter school has a licensed director prior to opening. The special education director may not also serve as a special education teacher (Minn. R. 3525.2405, subp.1).

What is my responsibility as an authorizer to ensure that charter schools serve children with disabilities?

Pursuant to Minnesota Statutes, section 124D.10, Subdivision 3(d)(5), an authorizer is required to maintain and follow "a process ...for providing ongoing oversight of the school ... that assures that the schools chartered are complying with both the provisions of applicable law and rules ..." Failure to provide such oversight can result in corrective action, including terminating an authorizer's ability to charter a school, pursuant to Minnesota Statutes, 124D.10, Subdivision 3(j). Therefore, an authorizer must have systems in place that ensure that the schools it authorizes comply with special education law.

In addition, as per Minnesota Statutes, section 124D.10, Subdivision 6(7), the authorizer must conduct a performance evaluation prior to renewing a charter school contract. That performance evaluation should include an assessment of how the school has served children with disabilities.

What does it mean to have the capacity to provide special education services?

Special education capacity entails having the human, fiscal and legal resources required to fulfill the responsibilities articulated in IDEA. At a minimum, capacity includes the ability to implement existing IEPs, refer eligible students to special education, conduct evaluations, develop IEPs and provide special education and related services for all entitled students enrolled in the school. Authorizers need to be confident that applicants either have established, or can access, the capacity they will need to meet their special education responsibilities. This could involve securing services from an outside source.

Why is it important for authorizers to ensure that charter applicants have the capacity to provide special education services?

By ensuring that charter schools have the capacity to provide special education services, authorizers can help operators avoid potential liability and ensure that all students who enroll have the opportunity to obtain a free appropriate public education. In addition, authorizers are charged with providing ongoing oversight of the charter school and may be subject to corrective action if they fail to do so,

When does a charter school need to have the capacity to provide special education services and comply with federal and state laws?

Charter schools need to have the capacity to meet their legal responsibility for special education and comply with federal and state laws on the first day they open and thereafter for as long as they operate.

How are charter schools developing the capacity to deliver special education services in the school?

Building special education capacity may entail various arrangements. Examples of approaches charter schools are using to increase their special education capacity include: 1) hiring appropriate professionals to work at the charter school; 2) contracting with a local education agency; 3) contracting with a regional education agency or cooperative; 4) contracting with individuals or organizations qualified to provide special education services; or 5) some combinations of these approaches. As long as charter schools can ensure that children with disabilities enrolled in their schools have access to a free appropriate public education, they may utilize a variety of strategies to amass the capacity.

In addition, trainings and resources are available through MDE and other agencies (see the last section of this document for a list of resources).

As an authorizer, am I, or is my organization, liable if charter schools I authorize do not serve children with disabilities or otherwise do not implement special education properly?

No, the state charter school law indemnifies the authorizer and the Minnesota Department of Education to any legal action. Minnesota Statutes, section 124D.10, subdivision 25(c) states: *“The commissioner, an authorizer, members of the board of an authorizer their official capacity, and employees of a authorizer are immune from civil or criminal liability with respect to all activities related to a charter school they approve or authorize.”* However, the authorizer is bound through the affidavit they signed in the application process to provide oversight and report according to what is required by state law. The authorizer is required by Minnesota Statutes, section 124D.10, subdivision 15 to submit an evaluation report in the final year of a contract. Should the authorizer fail to provide proper oversight as regards special education or any other issue, the authorizer can be subject to corrective action, including terminating an authorizer’s ability to charter a school. See Minnesota Statutes, section 124D.10 subdivision 3(j).

How can an authorizer assist with ensuring their charter schools do not discriminate?

Reviewing the charter school’s application and enrollment materials to ensure they are not discriminatory is a basic step in ensuring that the charter school understands its responsibilities relative to the civil rights of students and their families. Charter schools cannot ask about special needs on the application and authorizers can assist charter schools in understanding this requirement.

Can a charter school "counsel-out" a student with a disability?

As public schools, charter schools are not allowed to discriminate against students with disabilities. An issue that arises in both charter schools and traditional public schools is "counseling-out" students with disabilities. Counseling-out is the process of subtly or not-so subtly "counseling" a child with a disability to influence an enrollment decision inappropriately based on the child's disability. This is prohibited. Charter schools are public schools and as such, they are legally required to maintain open enrollment policies. Advising students with disabilities that they are not allowed to attend, or that the school cannot provide the modifications or accommodations necessary to enable them to attend, is discriminatory and illegal. All placement decisions for students with disabilities should be made in the forum of an IEP meeting and must be based on an individual student's educational requirements. The federal Office for Civil Rights (OCR) is charged with investigating issues raised about discrimination against students with disabilities.

What if my school is an online charter school?

Online charter schools must follow the same rules regarding special education as any other charter school.

To what degree are charter schools required to modify their programs to accommodate a student with a disability?

Minnesota charter schools are solely responsible for providing FAPE and LRE to all students who are enrolled. Though they are solely responsible, many opt to contract with existing educational agencies, consultants, or private organizations for some of the services provided to meet the educational needs of the student. No matter who actually provides the services, the charter school is programmatically responsible and financially responsible for providing special education and must modify their programs accordingly. Charter schools, no matter their size or capabilities, must provide the full range of special education services to all students.

What are examples of appropriate classroom adaptations, accommodations and modifications offered to children with disabilities?

Examples of appropriate classroom adaptations, accommodations and modifications that enable a child to access the curriculum include:

- Changing the manner in which material is presented.
- Creating personalized study guides.
- Adapting textbooks.
- Arranging the classroom environment to enhance student learning.
- Altering task requirements.
- Selecting an alternate task for a classroom assignment.
- Managing classroom behavior.
- Promoting social acceptance.
- Using assistive technology devices.

More information on classroom adaptations, accommodations and modifications is available from the [National Information Center for Children and Youth with Disabilities](http://nichcy.org/schoolage/accommodations) online (<http://nichcy.org/schoolage/accommodations>).

What is my role in ensuring that charter schools fulfill their mission while complying with their obligation related to adaptations, accommodations and modifications required by IDEA?

Authorizers should require developers to articulate their mission explicitly and ensure that the charter school is prepared to offer reasonable accommodations to children with disabilities who elect to attend the school. A charter school's mission cannot be structured in such a fashion where it precludes full participation of children with disabilities, as charter schools are public schools.

Can a charter school's curriculum alone meet the needs of students with disabilities?

In general, any policy that aims to treat all children with disabilities the same way should raise a red flag to authorizers assessing applications. When reviewing charter applications, authorizers can request additional information regarding how the charter school plans to ensure that its particular curriculum or instructional approach can address the unique individual needs of students with disabilities. An IEP must, by definition, be individually tailored to the specific needs of each student. The federal regulations, at 34 CFR 300.320 provide an explanation of how an IEP must be structured to ensure that each child with a disability receives an appropriate education. Requirements include that each child's present level of achievement is assessed, how the child's disability affect's the child's progress in the general education curriculum, a statement of measurable, individualized progress goals for the child, and what specific educational and related resources must be supplied for the child.

Do charter schools have to hire licensed special educators and must those special education educators be highly qualified?

Yes. Under Minnesota law, all teachers providing instruction in a charter school must be licensed to teach in Minnesota. See Minnesota Statutes, section 124D.10 subdivision 11. In addition, Minnesota's rules require that a special education teacher undergo specific training and additional licensure. See Minnesota Rule 8710.5000.

Under the 2001 No Child Left Behind Act (NCLB), all teachers, including special education teachers, who teach core academic subjects must meet the requirements to demonstrate federal "highly qualified" status. See 20 U.S.C. § 6319. NCLB defines the following as core academic subjects: English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. See 20 U.S.C. § 9101. Along with NCLB, IDEA requires all

special education teachers to be “highly qualified” in the core academic subjects they teach to children with disabilities. See 20 U.S.C. § 1401 (10). Minnesota law defines “highly qualified” teachers at Minnesota Statutes, section 122A.16.

For specific language regarding “highly qualified,” please refer to 34 CFR § 300.18. The [Minnesota Department of Education website](http://education.state.mn.us/MDE/EdExc/Licen/HighQualTeach/) also contains information about educator licensing and the highly qualified teacher requirements (<http://education.state.mn.us/MDE/EdExc/Licen/HighQualTeach/>).

Given the current shortage of special education teachers nationwide, what strategies can charter schools use to hire teachers and related-services professionals?

Charter schools can employ creative strategies to access licensed special education and related services professionals. Seven strategies that charter schools can use are:

- Hiring faculty with dual licensure (e.g., elementary education and special education).
- Hiring consultants to provide special education services.
- Hiring fully licensed retired teachers to work part-time.
- Developing collaborative agreements with an LEA.
- Developing collaborative agreements with other charter schools to share special education teachers.
- Forming partnerships with a local non-profit entity (e.g., a hospital) or a post-secondary institution that employs related professionals.
- Accessing the [Minnesota Teacher Recruitment Center](https://education.state.mn.us/MTRC/) (MTR), a key place for prospective employers and employees to post and research K-12 teaching and related services vacancies. The Minnesota MTR provides links to several sites that specialize in recruitment of school administrators. (<https://education.state.mn.us/MTRC/>).
- Obtaining Board of Teaching (BOT) permission and rule exceptions.

What are the major expenses associated with special education?

Expenses associated with special education fall into four general categories: personnel, equipment, facility modifications and transportation. The charter school will be required to enter the special education expenses into the state’s Electronic Data Reporting System (EDRS). In fulfilling their oversight role, authorizers must confirm that charter schools are reporting as required. If the data is not entered into the system in a timely manner, special education aid will not flow causing funding issues. For additional information on EDRS and charter school requirements in this area, see the [MDE website](http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/index.html) (<http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/index.html>).

How can charter schools plan for their expenses related to special education?

In Minnesota, approximately 13.6 percent of the public school population is identified as eligible for special education services. Charter developers should examine the special education incident rate in the area the school is located to identify more

accurate estimates. The school's mission also plays into the proportion of students with disabilities that can be anticipated. Schools with a mission that seeks to attract a certain core of disabled students (such as autism-focused schools) should ensure that adequate funding is available to provide specialized services for a large number of students.

How do charter schools pay for the costs associated with providing special education services?

The [Special Education Funding and Data section of the MDE website](http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/StateFund/) consists of information on state and federal special education funding for school districts including charter schools (<http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/StateFund/>).

What is the legal basis for requirements related to public school facilities' accessibility to students with disabilities?

Legal requirements regarding accessibility stem from the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act. To read these laws and see documents regarding their implementation in public schools please see the following websites:

- [Americans with Disabilities Act of 1990](http://www.usdoj.gov/crt/ada/adahom1.htm)
<http://www.usdoj.gov/crt/ada/adahom1.htm>
- [Section 504 of the Rehabilitation Act of 1973](http://www2.ed.gov/about/offices/list/ocr/504faq.html)
<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

The [Minnesota Department of Education website](http://education.state.mn.us/MDE/StuSuc/StuRight/Sect504/) also maintains a comprehensive list of resources (<http://education.state.mn.us/MDE/StuSuc/StuRight/Sect504/>).

What should authorizers advise charter schools about accessible facilities?

Schools should seek legal counsel regarding their obligations associated with accessibility. Authorizers also should be familiar with the requirements. Charter schools will only qualify for lease aid under Minnesota Statutes, section 124D.11 if they meet the above requirements, as Minnesota's charter school law requires compliance with all federal, state, and local laws regarding accessibility.

If a charter school is required to make its facility accessible to an individual with a disability, whose responsibility is it to make the building accessible?

Responsibility to modify a facility—even in the event of unforeseen needs—should be articulated prior to signing a lease between the charter school and the owner of the facility. The lease will govern which entity is responsible, and such modifications can, at times, be a significant expense. Charter schools should seek experienced legal

counsel prior to signing any contracts to lease or purchase a facility for their school. It is recommended that the authorizer review the lease prior to their charter school signing.

What responsibility do charter school authorizers have for monitoring accessibility of charter school facilities?

Given that charter authorizers are ultimately responsible for ensuring that charter school operators fulfill their obligations outlined in their charter and comply with all applicable laws, authorizers would be well-advised to take a proactive role in ensuring that facilities are accessible to individuals with disabilities in accordance with federal and state laws. The authorizer should know the facility standards for schools and should include these in their oversight of the school. Some schools include a facility checklist when conducting site visits to ensure their charter school is meeting the standards. Authorizers should also be aware of relevant zoning laws and the requirements to obtain materials such as certificates of e-occupancy for educational buildings.

Where can authorizers and charter schools find information on accessibility requirements?

- Municipal websites: most cities and counties post their municipal code, including regulations pertaining to implementing ADA, on their website. Authorizers should familiarize themselves with county building and municipal codes.
- The State of Minnesota's statutory scheme contains specific accessibility requirements, which can be found at Minnesota Statutes, section 471.464-471.
- [United States Department Of Education Office For Civil Rights](http://www2.ed.gov/about/offices/list/ocr/disabilityoverview.html) (<http://www2.ed.gov/about/offices/list/ocr/disabilityoverview.html>)

Do charter schools have to provide transportation to students with disabilities?

Yes. Minnesota's charter school law provides information about the transport of charter school students. See Minnesota Statutes, section 124D.10 subdivision 16. The [MDE website](#) (<http://education.state.mn.us/MDE/SchSup/SchFin/Trans/>). The charter school is ultimately responsible for providing transportation to and from school for students. They can work with the school district in which the charter school is located to arrange transportation. In that case, the state's transportation funds flow directly to the school district. Alternatively, the charter school may contract with a licensed transportation provider and provide their own transportation. When this choice is made, transportation dollars flow to the charter school.

Transporting children with disabilities is a separate issue because transportation can be a related service provided as a component of a child's IEP. If transportation is identified as a related service, the responsibility for that transportation is part of a

charter school's special education costs. The Department's transportation material at the link above provides specific information on transportation of special education students that attend charter schools outside their district of residence.

What is the authorizer's responsibility at the end of the planning period?

It is the authorizer's responsibility to monitor progress toward opening throughout the planning period. In all cases, the authorizer should review the charter contract and ensure the charter school has met all requirements, including special education requirements, and is ready to open.

Summary and Key Points

The pre-approval/preoperational, planning stage is critical to the development of successful charter schools. Building on the foundation established during the application phase, the authorization process provides authorizers the opportunity to verify potential operators' knowledge about their responsibilities and to assess the degree to which an applicant is capable of fulfilling these responsibilities. Knowledge about all aspects of special education will enable authorizers to ensure that: 1) charter applicants fully understand and are prepared for their responsibility to educate students with disabilities and 2) charter applicants integrate their plan to provide adequately for special education within their application. By providing charter developers early guidance on how to anticipate and adequately address the application process, authorizers can help charter schools preempt a variety of issues that will emerge once a child with a disability enrolls in the charter school.

SECTION 3: OVERSIGHT, ACCOUNTABILITY AND RENEWAL

What is an authorizer's role to hold charter schools accountable in the area of special education after the school has opened?

Once the charter school doors open and students arrive, charter authorizers' responsibility shifts from pre-operational oversight to operational oversight of the schools and continuing to hold them accountable for the goals and objectives outlined in the charter contract and state and federal special education laws. The charter is a performance contract and the authorizer is responsible for ensuring that charter operators fulfill their responsibilities articulated in the contract. It is important that each charter school's specific level of responsibility for special education be included in the charter school accountability plan. Pursuant to Minnesota Statutes, section 124D.10 subdivision 3(j), the Commissioner may take corrective action against an authorizer, including terminating an authorizer's ability to charter a school, for unsatisfactory performance. Satisfactory authorizer performance includes ensuring that charter schools understand their special education obligations.

Do authorizers have any obligation to complete paperwork related to special education in the charter schools they authorize?

No. This is solely the responsibility of the charter school.

Are there some oversight strategies that can assist the authorizer in reviewing the school's progress?

Some authorizers require quarterly reports of progress towards reaching the school's goals or a review of status. The reports often include attendance, achievement, retention and curriculum data. A report of this type is a good vehicle for receiving information from the charter school on the special education program and students' progress.

Other authorizers require annual reviews including site visits. It is important that special education be reviewed at that time. Authorizers can require a copy of special education related policies and can also request formal special education complaints information from MDE that may have been filed against the charter school.

All charter schools are required to submit an annual report each year pursuant to Minnesota Statutes, section 124D.10 subdivision 14. Some authorizers require that all data in the annual report be disaggregated by special education status. Parents of students with disabilities can be interviewed during the annual review process, providing another perspective.

Authorizers will also receive copies of the school's special education monitoring report from the Department. Charters, like other public schools, are routinely monitored on a five-year cycle for compliance with all special education laws. See the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/Monitoring/index.htm) (<http://education.state.mn.us/MDE/SchSup/ComplAssist/Monitoring/index.htm>).

Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding children with disabilities are required?

Charter schools are required to maintain and submit the same data as traditional school districts. They are required to maintain and report to MDE essential data elements on students, staff and educational programs as required by Minnesota Statutes, section 125B.07, subdivision 6 and maintain and report financial data. A school should consider these requirements as it establishes its record-keeping systems. It is critical that the software that the school chooses provides all data items needed both locally and for state reporting.

It is important to include provisions for special education in the development of data collection and management information systems. This will strengthen your infrastructure and prepare you to provide effective special education services that meet the mandates of the laws.

What should authorizers know about the federal and state special education monitoring processes?

The federal Office of Special Education Programs (OSEP) monitors every state on its compliance with IDEA requirements. In turn, each state must monitor how its districts comply. Charter schools are held accountable for special education in the same manner as all Minnesota school districts and must demonstrate that they comply with IDEA. For details about Minnesota's special education monitoring processes and requirements, see the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/Monitoring/index.htm) (<http://education.state.mn.us/MDE/SchSup/ComplAssist/Monitoring/index.htm>). The Department monitors for both program and fiscal compliance with special education laws.

Authorizers, charter school directors, and special education directors of charter schools are notified by MDE when a charter school will be monitored for compliance with special education laws and each party receives a copy of the final monitoring report.

Other Minnesota Resource Links:

- [Question and Answer Special Education Guidance](http://education.state.mn.us/MDE/SchSup/ComplAssist/QA/index.htm) developed by the Department (<http://education.state.mn.us/MDE/SchSup/ComplAssist/QA/index.htm>).

- [Minnesota Statutes, chapter 125A](https://www.revisor.leg.state.mn.us/statutes/?id=125A&view=chapter) – Minnesota’s statute governing the provision of special education services in public schools (https://www.revisor.leg.state.mn.us/statutes/?id=125A&view=chapter).
- [Minnesota Rule 3525](https://www.revisor.leg.state.mn.us/rules/?id=3525&view=chapter) – Minnesota’s rules established to implement related Minnesota special education statutes (https://www.revisor.leg.state.mn.us/rules/?id=3525&view=chapter).
- [MDE Special Education Funding](http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/index.html) (http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/index.html).

Additional Resource Links:

- [Federal IDEA Regulations](http://www.access.gpo.gov/nara/cfr/waisidx_07/34cfr300_07.html) – Federal regulations related to implementing the provisions of IDEA, including the provision of a free and appropriate public education (http://www.access.gpo.gov/nara/cfr/waisidx_07/34cfr300_07.html).
- [Office of Management and Budget \(OMB\) circular A-87](http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html) – Information from the federal government regarding allowable costs and personnel activity reporting requirements (http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html).
- [OMB A-133](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf) – Information from the federal government regarding purchasing and inventory management requirements (http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf).
- [Education Department General Administrative Regulations \(EDGAR\)](http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html) – Content includes general fiscal accountability requirements for public schools (http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html).

Should authorizing agencies consider special education part of the charter renewal process?

Minnesota charter school law requires authorizers to sign assurances that they will oversee the terms of the contract, one of which is implementation of the policies and services according to special education law. Thus, special education, and specifically the performance of students with disabilities, should be considered explicitly as a regular part of the school's progress toward meeting its overall goals and not an afterthought. Failure to fulfill obligations related to special education could be a criterion contributing to non-renewal.

A key factor that authorizers may want to assess when contemplating renewal is whether charter schools have been the subject of any informal or formal complaints related to special education service delivery or procedures. While complaints can arise from a variety of issues separate from the quality of special education services provided, multiple complaints should raise a red flag at renewal time. Multiple or

persistent complaints may be an indication of a substantive failure to provide a free appropriate public education to students with disabilities. Low enrollment of students with disabilities in a charter school may serve as a "yellow flag" that triggers further inquiry regarding enrollment practices and questions regarding "counseling-out."

Summary and Key Points

Accountability is a core tenet of the charter school concept and one of the critical responsibilities of all charter school authorizers. State charter school laws generally provide broad guidelines regarding how charter schools will be held accountable for fulfilling the goals and objectives articulated in their charters while leaving authorizers the discretion and responsibility to develop an adequate renewal decision-making process. Charter schools must participate in federally required monitoring and accountability processes. Authorizers should use existing accountability mechanisms such as the charter contract and the state monitoring process for overseeing special education.

SECTION 4: NON-RENEWAL AND TERMINATION

If a charter school ceases to exist, what has to be considered relative to students with disabilities?

Authorizers are required to embed in their contracts with charter schools a detailed plan for the orderly closing of the school pursuant to Minnesota's nonprofit laws. See Minnesota Statutes, section 124D.10 subdivision 6(13). Authorizers must ensure that the school properly transfers student records to students' resident districts.

In the case of termination, how should charter schools dispose of any special equipment that was purchased for students with disabilities?

Charter schools must follow the same state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money as other public schools in Minnesota.

In the case of school closure, are there special procedures for handling special education files?

All students' educational records are protected by the Family Educational Rights Privacy Act (FERPA) 20 U.S.C. 1232g, et. seq.; 34 C.F.R. Part 99 that stipulates how the records are to be handled appropriately. Charter school personnel are responsible for closing and preparing files for transfer to either the next school or the LEA or SEA special education office in accord with these regulations. [Information about FERPA](http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html) is available online (<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>). [Information specifically for schools and parents](http://www2.ed.gov/policy/gen/guid/fpco/brochures/parents.html) is also available (<http://www2.ed.gov/policy/gen/guid/fpco/brochures/parents.html>).

Do charter schools have any legal obligation to their students with disabilities after the school closes?

Charter schools are obligated to transfer records. Charter schools' staff may be requested to participate in IEP staffing meetings at schools in which the students enroll after leaving the charter school.

Summary and Key Points

Ensuring the proper transfer of student records and appropriate disposition of all assets in the event of closure, including those specifically for special education, is a responsibility for which authorizers must always be prepared. Authorizers are responsible for ensuring that the necessary steps are taken to protect students' rights to privacy and maintain the integrity of records. Establishing the procedures for closing a school, including special education considerations, must be incorporated into the initial charter contract to ensure that all parties are aware of their roles and responsibilities in the event of closure.

SECTION 5: TECHNICAL ASSISTANCE AND RESOURCES

Technical Assistance and Resources

Providing special education in charter schools, not unlike traditional public schools, is challenging for a variety of reasons, and amassing the capacity to deliver special education requires early and ongoing technical assistance related to the complex requirements stemming from IDEA. Although they vary in how they perceive their relationship to the schools they charter, authorizers can play a critical role in not only informing charter schools of their responsibilities related to special education, but also in serving as a source of information regarding where charter schools can obtain technical assistance. Charter schools can tap into a variety of networks to learn more about special education in general and issues related to special education in charter schools specifically. Following is a partial list of resources that authorizers should be familiar with and to which they may direct potential charter applicants.

State Department of Education

The Minnesota Department of Education website contains extensive resources relevant to charter school operations. It is particularly important that authorizers and charter school operators check often on information on the special education section of the [MDE website](http://education.state.mn.us/MDE/SchSup/SpecEdComp/index.html) (<http://education.state.mn.us/MDE/SchSup/SpecEdComp/index.html>).

Local Education Agencies

Under IDEA, both the state agency and local education agencies (LEAs), known in Minnesota as districts, have a responsibility to provide a free appropriate public education for students with disabilities. In Minnesota, each charter school functions as its own district and is therefore responsible for acting as the LEA. Many traditional districts maintain websites with abundant resources related to special education. See, for example, [Minneapolis' special education website](http://speced.mpls.k12.mn.us/) (<http://speced.mpls.k12.mn.us/>). While not catering specifically to charter schools, district special education technical assistance can be invaluable to charter developers interested in learning more about special education.

U.S. Department of Education

Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants. The Office of Special Education (OSEP) maintains a [website that provides links to a variety of resources related to special education](http://www2.ed.gov/about/offices/list/osers/osep/index.html) (<http://www2.ed.gov/about/offices/list/osers/osep/index.html>) and a [website developed to provide resources related to the 2004 IDEA law and regulations](http://idea.ed.gov/explore/home) (<http://idea.ed.gov/explore/home>).

National Charter School Authorizer Network

(NACSA) is a nonprofit membership association of educational agencies across the country that authorize and oversee public charter schools. Created in 2000 by a diverse group of charter school authorizers nationwide, NACSA is dedicated to supporting and strengthening the capacities of authorizers (authorizers) to charter successful schools. It provides many resources of significant value to charter school authorizers through its [website](http://www.qualitycharters.org/) (<http://www.qualitycharters.org/>). NACSA also provides specific special education information in [issue briefs](http://www.qualitycharters.org/images/stories/publications/Issue_Briefs/IssueBriefNo14_SpecialEd_Part_II.pdf) (for example: http://www.qualitycharters.org/images/stories/publications/Issue_Briefs/IssueBriefNo14_SpecialEd_Part_II.pdf).

National Special Education Networks:

- [National Association of State Directors Of Special Education \(NASDSE\)](http://www.nasdse.org) provides a wide range of information regarding special education including research reports and technical assistance documents pertaining to special education in charter schools (<http://www.nasdse.org>).
- [National Information Center for Children and Youth With Disabilities \(NICHCY\)](http://www.nichcy.org) is an information and referral center that provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus (<http://www.nichcy.org>).

National Charter School Networks:

- The [National Charter School Center](http://www.charterschoolcenter.org) contains extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools (<http://www.charterschoolcenter.org>). [Their website also contains information specific to special education](http://www.charterschoolcenter.org/resources/90) (<http://www.charterschoolcenter.org/resources/90>).
- [Center For Education Reform](http://www.edreform.com) provides up-to-date information about state charter school laws (<http://www.edreform.com>).

MINNESOTA CHARTER SCHOOL DIRECTOR PRIMER

SECTION 1: PRE-APPROVAL PHASE

As a charter school developer, what is my role related to special education as I work with our planning team during this phase?

The pre-approval planning phase – the time before a planning team submits an application for a charter – is the ideal time to begin planning for all children who may become students in the school, including students with disabilities. As leader of the founding team, you are expected to plan for administrative and instructional needs for your future faculty, parents and students. Although the team obviously cannot plan for each child before beginning to enroll students, they can give consideration to children with disabilities as they are developing the initial plans for the school. As the plans develop, it is critically important to plan consciously for including students with disabilities in every aspect of the charter school. Doing this now will strengthen the application for a charter and provide for more effective educational opportunities for all potential students.

Is it important to include students with disabilities as part of the discussion when we are developing the mission and vision of our school?

Yes, it is critically important to consider children with disabilities when developing the mission and vision of the charter school. The school will be a public school that must accept all students and the team should expect to enroll students with many different kinds of needs including students with disabilities. The careful consideration of special education in the initial planning process ensures that the mission and vision statements will reflect an ability to successfully serve a diverse array of students and minimize the likelihood of subsequent problems.

How can we plan for students with a wide variety of different disabilities?

During your initial planning, it is important to give some thought to how your school's purpose and mission can be relevant to a wide range of students. For example, how can it be made relevant to students with learning disabilities, physical disabilities, or students who present behavioral challenges?

There are six major legal principles contained in the Individuals with Disabilities Education Act (IDEA) that must be considered in your planning to include students with disabilities:

- Zero rejection of children with disabilities.
- Individualized education program (IEP).
- Free appropriate public education (FAPE).
- Least restrictive environment (LRE).
- Due process and parental involvement.
- Nondiscriminatory evaluation.

Taking time to consider these principles and how they relate to your charter school will result in a school that addresses the needs of all students who enroll.

What should we consider in preparing our state application for a charter school?

Applicants for a charter must describe how the school will provide services to students with disabilities. These four areas will provide a framework within which to respond to that question in the application:

- Describing clear awareness of the responsibilities entailed in assurances to meet special education requirements.
- Articulating your plan regarding governance, service delivery and finance of special education.
- Explaining plans to:
 - Identify, evaluate and serve children with disabilities.
 - Develop, review and revise IEPs.
 - Integrate special education into the general education program.
 - Deliver special education and related services.
- Projecting the school's cost of special education including those for:
 - Child find, student identification, evaluation and planning.
 - Providing special education services.

Summary and Key Points

The pre-approval phase provides a valuable opportunity to explore different aspects of what it means to develop a charter school. In an effort to preempt potential problems associated with not complying with special education requirements, the planning team should use the pre-approval phase to, among other things; educate all critical players (e.g., board members, potential staff, etc.) about special education. Developing an understanding of students with disabilities will prepare all members of the team earlier rather than later how to include special education into the school's vision rather than leaving it to become an add-on component. Once the charter school is approved, the pressures associated with start-up and day-to-day operations may limit your ability to "think outside the box." So, use the time available to design the school with great care, making sure to reach out to available resources (e.g., a person or organization with special education expertise, state department of education, etc.) in order to include special education at every decision point.

Checklist of Special Education Considerations for Charter School Developers

Funding for special education

- What is the Minnesota funding formula? Funding information for Minnesota's special education programs can be found on the [MDE website](http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/index.html) (<http://education.state.mn.us/MDE/SchSup/SchFin/SpecEd/index.html>).
- What funds will we receive for special education services and how will those funds flow during the course of the fiscal year?
 - Federal.
 - State.
 - Local funds/tuition billing.

Space and facilities

- Are the school buildings that we are considering ADA compliant?
- Can the school buildings that we are considering support the continuum of special education services for students with disabilities?

Staffing

- How many students will the school enroll?
- How many teachers will we need to hire?
- What resources have we identified to ensure appropriate special education staffing?

Curriculum

- What curriculum will our school offer?
- How will we ensure that our curriculum will be accessible to students with disabilities?

Child Find

- What should our Child Find activities look like?
- How will we conduct student identification, evaluation and special education determination meetings?

Professional Development

- How will we provide teachers with professional development?
- What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support children with disabilities?
- How will we provide training for our Board regarding special education?

Administration

- Have you considered who will serve as your director of special education as required by Minnesota Rule 3525.2405?
- Have you reviewed the resources to determine how you will meet the requirement for a director of special education?
 - Minnesota Association for Charter Schools.
 - Center for School Change.
 - MDE website list of special education directors.
 - MASE/MASA/MASBO.
 - Minnesota Recruitment Center.
 - Other organizations.

Accountability

- How will our charter school work with our authorizer to develop an accountability plan that includes special education for the charter school contract?

Transportation

- Will our school directly provide transportation or access district transportation?
- How will we meet transportation needs of students who receive transportation as a related service that is required by their IEP?
- How will we arrange transportation for a student in a wheel chair?

SECTION 2: PRE-OPERATIONAL PHASE

What is our obligation to make sure that student applicants with disabilities are treated in a nondiscriminatory manner in admissions?

Under Section 504 of the Rehabilitation Act of 1973 and Title II (of the Americans with Disabilities Act), public charter schools may not categorically deny admission to students on the basis of disability. Additionally, Minnesota's charter school statute (Minn. Stat. § 124D.10, Subd. 9) states that a "charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability." Charter schools are therefore prohibited from inquiring, via application or any other portion of the admission process, as to whether a student has an IEP or needs specialized accommodations.

What issues need to be considered as we plan to provide effective special education services?

There are many issues to consider in developing and implementing a special education program. While they will vary from school to school, several are common to all schools, including funding, space and facilities, staffing, curriculum, child find, professional development, administration, transportation and special considerations. The checklist at the end of this section poses questions designed to help the planning team consider these important areas.

We have concerns about our ability to deliver instruction to students with disabilities that will be in keeping with our curriculum. What should we do?

In preparing for students, remember that federal law requires that a charter school implement the current IEP for students with disabilities who enroll in the school. IDEA regulations state as follows:

IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either--

- (1) Adopts the child's IEP from the previous public agency; or*
- (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§ 300.320 through 300.324.*

34 C.F.R. 300.323(f).

Critical in this process is open communication between the school and the parents regarding how the IEP will be implemented, relying on your special education director for guidance. Concerns about instruction should be discussed at the time of the child's IEP meeting and described in the child's individualized education program (IEP) so that all members of the team can contribute to, and understand, how the student will have access to the curriculum that is required by special education law. If the school's faculty needs help in accommodating the needs of a student who has a disability, it will be necessary to make provisions for professional development. One strategy that charter schools have found effective is incorporating into the IEP a provision for close tracking of the student's adjustment at the charter school with the option of reconvening the IEP team to review progress. Remember – it is appropriate to call for the review of a student's program at any time.

As a school district, a charter school in Minnesota is responsible for hiring its own staff and faculty. How much flexibility do we have in special education?

First, your charter school must follow [Minnesota's law and regulations regarding faculty licensure](https://www.revisor.leg.state.mn.us/rules/?id=8710) (https://www.revisor.leg.state.mn.us/rules/?id=8710). Changes to the IDEA law in 2004 and its regulations in 2006 require that special education teachers meet the "highly qualified" standards of NCLB (34 C.F.R. § 300.18) It is essential that charter school directors who hire personnel understand the requirements that Minnesota has established. The decision of the IEP team identifies the type of services the child will need and there may be staffing implications for delivering those services.

Do we have to hire full-time special educators in our charter school?

Whether full-time special educators are hired depends on the needs of your students and staffing identified in their IEPs. As charter schools often have limited resources, you will have to be creative and flexible in designing staffing loads to meet the needs of the students who enroll in the school. A few of the options include hiring faculty with dual licensure (in special and general education), hiring consultants on an hourly basis, or contracting for special educators via a purchase of service with the local school district or other schools or a contracted service agreement with an outside agency. Organizations such as [Innovative Special Education Services](http://www.isesmn.org) (ISES, http://www.isesmn.org) provide a number of special education-related services for charter schools.

Is there a difference between licensed educators and highly qualified educators?

Yes. Being licensed is only one part of the requirements in the No Child Left Behind Act (NCLB) designed to ensure that teachers of core academic subjects be highly qualified. The IDEA applies this NCLB requirement to special education teachers who teach core subjects. There are temporary exceptions from licensure for teachers in public schools. The [Minnesota Board of Teaching](http://education.state.mn.us/MDE/EdExc/BoardTeach/index.html) can provide clarification for specific requirements (http://education.state.mn.us/MDE/EdExc/BoardTeach/index.html).

Where can I obtain specific information on my state's licensure requirements pertaining to special education in charter schools?

MDE and the Minnesota Board of Teaching staff will be able to interpret federal and state licensure requirements for public schools. Particularly during the early days of your school, don't assume you understand licensure requirements.

How do we find out whether a student is a student with a disability at the time of enrollment?

Since charter schools may not discriminate on the basis of a disability in determining eligibility for admission, your considerations for students with disabilities are to be the same as for students without disabilities.

It is critical that your charter school requests records including the Minnesota Automated Reporting Student System (MARSS) Student Identification number at the time of enrollment to ensure that the charter school is prepared to implement students' IEPs ([Minn. Stat. § 120A.22, Subd. 7](#)). This request must include the general education cumulative file, the special education IEP file and each individual student's MARSS number. If you do not automatically receive the records, initiate a request to the previous school. Contacting the special education office of the previous school or school district may also be helpful in securing the records.

If we have concerns about our ability to meet the needs of a specific student with a disability, can we recommend other programs or schools?

No. As a charter school in Minnesota, your school is considered a public school for all purposes related to special education. The charter school is not permitted to "counsel out" students or suggest that another program may be more appropriate.

Are there requirements for physical access that apply when selecting the facilities that will house our charter school?

Yes. A charter school may not deny persons with disabilities, including parents and students, the benefits of programs and activities offered at its school because of inaccessible facilities. The selection of the facility for your charter school may not result in excluding or limiting enrollment of people with disabilities from any school program or activity.

We lease our school building. Whose responsibility is it to make our school accessible?

Responsibility to modify a facility should be articulated in the lease between your school and the owner of the facility. It is very important you seek legal counsel prior to signing any contracts to lease your facility. MDE is unable to resolve disputes or assign responsibility as regards the lease, as the lease is a private contract between the charter school and the landlord.

Are there different legal requirements that apply to charter schools located in existing facilities as compared to newer facilities?

Yes. Generally for existing facilities that pre-date 1977, a charter school's programs and activities, when viewed in their entirety, must be readily accessible to individuals with disabilities. Both the Section 504 and Americans with Disabilities Act (ADA) Title II regulations permit some flexibility in meeting this legal standard. For example, structural changes are not required in existing facilities if nonstructural methods are effective in achieving program accessibility. See 34 CFR § 104.22, which provides that compliance may be achieved through means such as alteration of existing facilities and noting that structural changes are not required if other methods are effective in achieving compliance. That same section notes, however, that in choosing how to comply, schools must give priority to whichever methods best serve handicapped individuals in the most integrated setting.

For newer construction and alterations (i.e., construction begun since June 1977), Section 504 and ADA Title II require that a new or altered facility (or the part that is new or altered) must be readily accessible to, and usable by, individuals with disabilities. See 34 CFR § 104.23.

What impact will these requirements have on our operations?

You must make sure that a child with a physical disability has access to every part of the new building or the parts that are newly altered. For example, if your charter school is in a new building, all parts of the building—including a third-floor chemistry lab—must be accessible for use by persons with disabilities. In contrast, if your charter school is in an existing facility, you may be able to meet the program accessibility requirement by locating at least one chemistry lab in an accessible location like the first floor. However, the specific federal, state and local requirements on this issue are very complicated and you should obtain legal counsel when leasing a facility to house the charter school.

Where can we obtain information and technical assistance in making our school accessible?

MDE and the U. S. Department of Education Office for Civil Rights (OCR) dictate who is responsible for ensuring that public facilities are accessible. Check with these

organizations for technical assistance in determining what modifications might need to be made and the appropriate approach to accomplish your desired goal. Additional resources are available from [OCR online](http://www.ed.gov/about/offices/list/ocr/index.html) (<http://www.ed.gov/about/offices/list/ocr/index.html>).

Summary and Key Points

Your activities during the pre-operational period will provide the foundation for the day-to-day operation of your school. As you prepare for the opening, keep children with disabilities in mind. Every time you, your board and your staff get ready to make a decision, ask yourselves if this decision will help every potential student. Cultivate your resources so you can draw on their expertise and experiences. Remember there are many sources of information and support available to you, including other charter and traditional schools, MDE, the [Minnesota Association of Charter Schools](http://www.mncharterschools.org/) (MACS, <http://www.mncharterschools.org/>) and other individuals and organizations.

Checklist for Pre-Operational Phase

Space and facilities

- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential student records?
- Where will we provide services and meet other student needs in accordance with their IEP outside of the general education environment?
- Where can related services personnel meet with individual students?
- Where will we store supplies and equipment used by students with disabilities (e.g., educational, medical, mobility, assistive technology)?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals, including adults, with physical disabilities?
- Who will make repairs to ensure school remains accessible to students with disabilities?*

Staffing

- What kinds of licensure will staff need?
- Can we hire dual-licensed staff?
- Can we hire part-time or retired special education staff?
- Have we hired/contracted with a special education director?
- Can we use student teachers from area universities?
- What type of related services personnel will we need?
- How will we obtain these services and contract with these individuals?
- What other types of services will our school need?
 - Legal counsel with special education expertise.
 - Accountants/bookkeepers/number crunchers.

Curriculum

- How will we determine the need for supplementary curriculum materials?
- How will we modify the curriculum to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum for children with disabilities in inclusive classrooms?
- What types of assistive technology will be needed by our students?

Service Provision

- How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)?
- Who is required to participate in IEP development and implementation?
- What types of special staff or consultants will we need to implement our students' IEPs?

Administration

- Who will be responsible for collecting, managing and reporting data including data related to children with disabilities?
- Who will administer the special education program?
- What equipment/supplies/programs will be needed to collect and store data and records? How will we obtain these? What training will be needed to use these efficiently and appropriately?

*Note: Classrooms and other facilities in which students receive special education instruction, related services, and supplementary aids and services must be essentially equivalent to the regular education program; provide an atmosphere that is conducive to learning; and meet the students' special physical, sensory, and emotional needs. The necessary special equipment and instructional materials must be supplied to provide special education instruction, related services, and supplementary aids and services.

SECTION 3: OPERATING A CHARTER SCHOOL

Introduction

This section provides an overview of critical issues and activities related to serving students with disabilities that you and your colleagues should address during day-to-day operation of your charter school. These may include curriculum implementation, staff and faculty hiring, student enrollment, fiscal issues and school accessibility. Ideally, you considered each of these issues during your pre-approval and operational phases. If not, you **MUST** analyze your situation as soon as possible. You still have the opportunity to build on what you have in place so that your school can support all students including those with disabilities.

What special education services must a charter school provide?

Every Minnesota school district, including charter schools, is required to have a Total Special Education System (TSES) Further information about the obligations of a TSES can be found at Minnesota Rule 3525.1100.

As a district, a charter school must ensure that each of its students with an IEP receives all special education supports identified in the student's IEP. The range of services and equipment may include related services, e.g., occupational and physical therapy, orientation and mobility training, adapted physical education, transportation, or assistive technology. This is not to say that the school must hire staff specifically to provide the services. Some charter schools have addressed these services and staffing needs by contracting with a local school district to provide specific services, or hiring an outside individual or organization.

What is a Parent Advisory Council and why is it important?

A parent advisory council is a special education advisory council that provides input on special education issues to its local school district (including charter schools) or in cooperation with other districts of the same cooperative. Minnesota Statutes, section 125A.24, requires this council to be established for individual school districts, including charter schools or as a subgroup of an existing board, council or committee. At least half of the members must be parents of students with disabilities. Each council must meet no less than once each year. The number of members, frequency of meetings and operational procedures can be determined by the charter school.

Our curriculum was selected specifically for students with a particular disability (e.g., deafness). What should we do to make sure we can include students with other disabilities or those who do not have a disability?

If students who enroll have disabilities different from what your school expected, each one must be considered individually so that their needs can be met. In each case, the involvement of your charter school staff with the IEP team is critical. The need for prior planning to obtain special education capacity is obvious. Although it is impossible for a charter school to plan for every contingency prior to initial enrollment of students, general plans for a new charter school must include a grade-appropriate curriculum to be available for students without identified disabilities. Then, if a population with disabilities is targeted, adequate delivery strategies, personnel, tools and materials must be added for the expected needs.

A student with a significant disability has enrolled in our school. No one on our faculty has experience in this area. What should we do?

The first step is for your charter school staff to review the child's special education records, especially the IEP, and analyze your existing capacity to deliver the instruction and related services as described. Just as any other public school is expected to do if a child moves in with an existing IEP, your charter school must try to implement the child's IEP or, if that does not appear to be possible, must convene the IEP team immediately to discuss how your school will meet the needs of the student.

May we limit the participation of students with disabilities to certain aspects of our school's program?

No. Consistent with civil rights laws, students with disabilities must be provided a range of choices in programs and activities that is comparable to that offered to students without disabilities. This includes an opportunity to participate in the nonacademic or extracurricular programs and activities offered at your charter school.

We plan to develop Individual Learning Plans for all of our students. Do we still have to develop IEPs for students with disabilities?

Yes. All students receiving special education services must have an IEP that is developed by a multidisciplinary team following the procedural requirements of IDEA and Minnesota's special education law and regulations. The IEP may complement the plans your school will develop for all students. However, the IEP will be the legal, guiding document for all special education services provided to a child who has been found to be eligible for special education.

We need to report the federal instruction setting for our K-graduation students on IEPs. What is that?

Federal IDEA settings are determined by the degree to which a student with a disability is educated with non-disabled peers and by the extent to which the learner receives special education and related services outside the general education classroom. The program in which a student is placed, the building in which the educational services are accessed, and the location of the general education classroom does NOT determine federal IDEA settings.

Federal Instructional Settings for Students K-Graduation or through age 21

Federal Instructional Setting Code	Definition
01	Learners receiving the majority of their education program in regular class. Includes students with disabilities receiving special education and related services outside the regular classroom for less than 21 percent of the school day.
02	Learners receiving education programs in resource room. Includes students with disabilities receiving special education and related services outside the regular classroom for 21-60 percent of the school day.
03	Learners receiving education programs in a separate class that includes students with disabilities receiving special education and related services outside the regular classroom for more than 60 percent of the school day. This DOES NOT include students who receive education programs in public or private separate day or residential facilities.
04	Learners receiving education programs in public separate day school facilities, including students with disabilities receiving special education and related services in public separate day school facilities for greater than 50 percent of the school day. <i>Note: This must be a specially designed facility/program for special education students only.</i>
05	Learners receiving education programs in private separate day school facilities at public expense for greater than 50 percent of the school day. <i>Note: This must be a specially designed facility/program for special education students only.</i>
06	Learners receiving education programs in public residential facilities for greater than 50 percent of the school day. <i>Note: This must be a specially designed facility/program for special education students only, i.e. State Academy for the Deaf and State Academy for the Blind.</i>
07	Learners receiving education programs in private residential facilities at public expense for greater than 50 percent of the school day <i>Note: This must be a specially designed facility/program for special education students only.</i>
08	Learners receiving education programs in homebound/hospital placement. Includes students with disabilities placed in and receiving education in hospital programs or homebound programs.

Are there special strategies we might use to attract and retain our personnel who work with children with disabilities?

While there is no special "fix," several strategies have proved effective in reducing turnover. These include creating a mentor system for new special educators, implementing a peer support program and implementing an open-door discussion practice. Increasingly, research shows that the primary reasons special educators leave their positions are paperwork responsibilities, feelings of isolation from colleagues, high caseloads and multiple responsibilities. Specific upfront discussions about their individual roles in fulfilling the school's mission will help them to understand your school and their ability to help you meet your goals. It is extremely important that the school provide opportunities for special educators to participate in regional and state networks and trainings. Minnesota Statutes, section 124D.10, subdivision 20 also provides that "[i]f a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years." Therefore, recruiting teachers from traditional school districts is an option for charter schools, although such practices will only solve staffing issues in the short term.

What types of special education professional development should we offer our special education staff?

Charter schools need to provide professional development opportunities to a variety of different types of individuals. Clearly your instructional staff (including paraprofessionals) need to have ongoing access to training specifically focused on linking instruction, curriculum, and the school's mission to the individual needs of students. Successful practices in personnel retention also stress the importance of involving the staff members in the planning of their own professional development programs. The [MDE website](http://education.state.mn.us/MDE/EdExc/ProDev/SpecEdRecRev/) offers training opportunities for special education personnel (<http://education.state.mn.us/MDE/EdExc/ProDev/SpecEdRecRev/>).

A valuable resource on issues related to English learners (ELs) who may enroll in your charter school is available on the [MDE website](http://education.state.mn.us/MDE/SchSup/EngLearnSup/EngLearnEducGuide/) (<http://education.state.mn.us/MDE/SchSup/EngLearnSup/EngLearnEducGuide/>). Specific information about the interface of special education and EL is included.

What type of professional development would benefit our general education staff, board members and other volunteers?

Your charter school board members and other volunteers should be appropriately included in professional development opportunities. They will benefit from targeted, focused and ongoing training in the charter school's responsibilities for students with disabilities including identification, evaluation and provision of ongoing services as well

as educational management issues. Given the strong charter school focus on parental involvement, it is important to reach out to parents and family members of students with disabilities to ensure they are part of the activities that involve all parents and meet their needs for information. Equally important, you, the director, should take time to participate in ongoing professional development.

Following is a partial list of resources that will be useful to you during the planning and operation of your charter school.

Governmental Agencies and Offices

[Minnesota Department of Education](http://education.state.mn.us)

<http://education.state.mn.us>

- [Charter School Center](http://education.state.mn.us/MDE/StuSuc/EnrollChoice/CharterSch/index.html)
<http://education.state.mn.us/MDE/StuSuc/EnrollChoice/CharterSch/index.html>
- [Special Education](http://education.state.mn.us/MDE/StuSuc/SpecEdProg/index.html)
<http://education.state.mn.us/MDE/StuSuc/SpecEdProg/index.html>
- [Compliance and Assistance](http://education.state.mn.us/MDE/SchSup/ComplAssist/index.html)
<http://education.state.mn.us/MDE/SchSup/ComplAssist/index.html>

[North Central Regional Resource Center](http://www.rrfcnetwork.org/content/blogsection/9/55/)

<http://www.rrfcnetwork.org/content/blogsection/9/55/>

[Institute On Community Integration](http://ici.umn.edu/)

<http://ici.umn.edu/>

United States Department of Education: Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants.

The Office of Special Education Programs (OSEP) maintains a [Technical Assistance and Dissemination website](http://www.ed.gov/about/offices/list/osers/osep/index.html) that provides links to a variety of resources related to special education (<http://www.ed.gov/about/offices/list/osers/osep/index.html>).

Another education office that has more general resources for charter schools is the [Office of Innovation and Improvement](http://www.ed.gov/about/offices/list/oii/index.html?src=mr) (<http://www.ed.gov/about/offices/list/oii/index.html?src=mr>).

National Special Education Networks

The following is a list of networks to learn more about special education in general and issues related to special education in charter schools specifically.

[National Association of State Directors of Special Education \(NASDSE\) website](#) provides a wide array of special education resources including a copy of the final report of Project SEARCH, a national study on special education in charter

schools and documents on critical issues in special education produced by NASDSE's Project Forum (<http://www.nasdse.org>).

[Council for Exceptional Children \(CEC\)](http://www.cec.sped.org) is the largest international professional organization dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities and/or the gifted. CEC sets professional standards, provides professional development and helps professionals obtain conditions and resources necessary for effective professional practice (<http://www.cec.sped.org>).

[National Information Center for Children And Youth With Disabilities \(NICHCY\)](http://www.nichcy.org) is an information and referral center that provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus (<http://www.nichcy.org>).

[Parent Advocacy Coalition for Educational Rights \(PACER\)](http://www.pacer.org) is a parent advocacy organization dedicated to expanding opportunities and enhancing the quality of life of children and young adults with disabilities and their families, based on the concept of parents helping parents. PACER's website has a variety of resources developed to assist parents of children with disabilities and may be helpful in informing charter school operators regarding their obligations to parents of children with disabilities (<http://www.pacer.org>).

[Special Education News](http://www.specialednews.com) provides in-depth, up-to-date news related to educating students with disabilities (<http://www.specialednews.com>).

National Charter School Networks

[National Alliance for Public Charter Schools](http://www.publiccharters.org/) increases public support and political understanding of charter schools and develops policies that support high-quality public education options for families (<http://www.publiccharters.org/>).

[National Association of Charter School Authorizers](http://www.qualitycharters.org) renders support and technical assistance to those who authorize or authorize charter schools (<http://www.qualitycharters.org>).

[United States Charter Schools](http://www.uscharterschools.org) website, a rich resource supported by the United States Department of Education (<http://www.uscharterschools.org>).

How am I able to recover the costs related to the provision of special education in my charter school?

It is illegal to deny services to a child who is eligible for special education, regardless of lack of funds.

Charter schools recover their costs related to providing special education services through the following funding mechanisms:

- General education revenue.
- Third party billing.
- State special education aid.
- IDEA federal Part B, Sections 611 and 619.

Tuition adjustment to state special education aid for the unreimbursed costs of providing special education services not covered by state special education aid.

What provisions should we consider to ensure the transportation of students with disabilities?

Charter schools are responsible for ensuring that all students residing in the district in which the charter school is located are provided transportation to and from school either through their local district or by providing this service directly. The specific requirements are detailed in [subdivision 16 of the Minnesota charter school law \(https://www.revisor.leg.state.mn.us/statutes/?id=124D.10\)](https://www.revisor.leg.state.mn.us/statutes/?id=124D.10). There is no obligation to provide transportation for those students attending in the charter school who reside outside of the district where the charter school is located.

Your school's standard mode of transportation may not meet the needs of a student with a disability. If an IEP team identifies special transportation as a related service on a child's IEP, then your school will need to arrange for transportation services whether the student lives within or outside of the district where the charter school is located. As your IEP team considers a student's special need for transportation, it is critical that team members understand the difference between a student's need for transportation to get to school (common for all students) and a student's need as a result of a disability (which results in the need for a related service).

What are our responsibilities to conduct "Child Find" activities?

IDEA requires each state to have in effect policies and procedures to ensure that "all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated." [34 C.F.R. § 300.111(a)(1)(i)].

A charter school must follow state child find procedures just like any other school district. All charter schools must conduct Child Find activities for their full student population so that children who may need special education are appropriately identified and, if necessary, referred for evaluation.

What should we do if a teacher or parent suspects a child might benefit from special education?

Parents and teachers must be given clear information about the procedures that will be followed in your charter school concerning the rights of a child to an evaluation for special education. Parents and teachers must also be fully aware of other services your school provides (e.g., a student assistance team to provide help) prior to a formal special education evaluation referral. Federal and state law and regulations contain numerous specific requirements related to procedural safeguards and your teachers, parents and board members should be made familiar with them. Further information and many procedural forms can be found on the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/Forms/index.html) (<http://education.state.mn.us/MDE/SchSup/ComplAssist/Forms/index.html>).

Every charter school should have clear procedures in place for attending to the needs of a child who is not progressing or is presenting other kinds of problems. Putting such procedures in place should be a part of planning before start-up so that they do not have to be developed in a crisis situation.

What are the charter school's responsibilities regarding special education reporting requirements?

Each charter school has reporting requirements to MDE and, in most cases, to their authorizer organization. Such reporting includes financial/funding, staffing, child count. Charter school administration should work together with their special education director to ensure that they understand and fulfill all reporting requirements regarding special education.

Who is responsible for development and revision of student IEPs?

The charter school is responsible for IEP development.

Who should be involved in the development of a student IEP?

IDEA requirements provide that IEPs are to be developed by a team whose membership includes:

- A parent of the child with a disability.
- One regular education teacher of the child.
- One special education teacher of the child.
- An administrative representative of the school.
- Individuals who can interpret the instructional implications of evaluation results.
- Other individuals with knowledge and expertise regarding the child.
- The child (as appropriate).

IDEA allows that a member of the IEP team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the charter school agree in writing that the attendance of such member is not necessary. The law also allows for participation in a meeting by conference call or other electronic means.

What does the IEP need to include?

According to IDEA, an IEP for each child with a disability must include:

- A statement of the child's present levels of academic and functional performance, including how the child's disability affects the child's involvement and progress in the general curriculum.
- A statement of measurable annual goals and benchmarks or objectives.
- A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child and a statement of the program modifications or supports for school personnel that will be provided for the child.
- An explanation of the extent, if any, to which the child will not participate with non-disabled children in the general education class.
- A statement of any individual accommodations that are needed to measure performance and, if the IEP team determines that the child will not participate in a particular state or district-wide assessment, a statement of why that assessment is not appropriate for the child and how the child will be assessed.
- The projected date for the beginning of the services and modifications and the anticipated frequency, location and duration of those services and modifications.
- A statement of how the child's progress toward the annual goals will be measured; how the child's parents will be regularly informed of their child's progress toward the annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- Beginning at age 14 or grade nine (whichever comes first), a statement of the student's needs for transition from secondary services to postsecondary education and training, employment and community living. Goals, objectives and services necessary to meet the student's secondary transition needs must also be documented on the student's IEP on an annual basis.

- By age 17, documentation that the student and student's parents have been informed of the rights that will transfer to the student at age 18.
- A statement of the student's need for and the specific responsibilities of a paraprofessional, if applicable.
- Documentation of any conditional procedures or behavioral interventions used with the student.
- At least annually, the IEP team's determination of whether or not the student is in need of Extended School Year (ESY) services.

The IEP is not to be a curriculum for the child. Rather, it is to serve as a guide for how to "open the doors" to improve access to the general education curriculum and the necessary special education and related services that will allow the child to progress.

Is there a specific form that must be used for IEPs?

No. Every district can select their own IEP form as long as it meets with state requirements. MDE has developed model forms, including the IEP form, which can be found on the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/Forms/index.html) (<http://education.state.mn.us/MDE/SchSup/ComplAssist/Forms/index.html>).

For additional forms as well as guidance for using the IEP form, see the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/Forms/index.html) (<http://education.state.mn.us/MDE/SchSup/ComplAssist/Forms/index.html>).

Do we have to develop an IEP for every child with a disability?

Yes. An IEP must be developed for every child found eligible and in need of special education services under IDEA and Minnesota Rules.

What is our school's responsibility when a child with a disability transfers to another school?

As with any other child, when a student with a disability transfers to another school, you must ensure timely transfer of all records (Minn. Stat. § 120A.22, Subd. 7). At the point that the child is formally no longer enrolled in your charter school, your school no longer has a responsibility to provide services to the child.

Summary and Key Points

As you move through the day-to-day operation of your school, you will find that often you have to focus on a "challenge of the moment" related to students with disabilities. If you have planned carefully to put strategies in place for handling special education issues, they will not reach the crisis stage. Occasionally, you should take the time to revisit your mission and vision and have specific discussions on how all of your students and staff are doing. Remember to consult with resources available. Taking time to address students with disabilities in a proactive and positive manner will have significant payoffs for your students, school and the community.

SECTION 4: ACCOUNTABILITY

Introduction

Accountability refers to the policies and procedures that charter schools must abide by, including federal and state special education law, the Minnesota charter school law and authorizer requirements. While state charter laws may release charter schools from some state requirements, charter schools are generally obligated to collect and report the same information that every public school must report, such as statistical reports regarding students, standardized tests, and budgets. This includes data regarding special education as part of the general statistical reports that are often used to generate state and federal categorical funds for special education. Examples include staff licensure and assignment reporting and child count reports as well as more procedural documents such as IEPs that would be reviewed as part of state special education monitoring.

The best way to prepare to be accountable is to think about it with your authorizer prior to charter school application and well before your school opens. It will be essential to get oriented to the data requirements related to special education that you are expected to collect and any required means of collecting and storing such data. A comprehensive electronic information management system and consistent, detail-oriented staff are two effective ways to handle this responsibility. The type of data you will need to compile includes demographic information on students, academics, IEPs (content and timelines), attendance records, enrollment data and assessment information. A secure filing system to store the paper documents is also critical to ensure security and privacy of confidential and other critical data/reports.

What type of special education accountability provisions do we need to consider?

First and foremost, you need to address federal and state requirements. Stay in close contact with your director of special education and MDE to learn of updates in IDEA, and NCLB implementation and implications for your charter school. At a minimum, you will also need to be able to document specific outcomes of students with disabilities, fiscal practices related to special education, timelines related to development and implementation of special education services, qualifications of faculty and staff and resolution of parent complaints.

What types of data should we collect so we are able to complete required reports?

Charter schools are required to maintain and submit essentially the same data and statistical reports as traditional school districts. They are required to maintain and report to MDE essential data elements on students, staff and educational programs as required by Minn. Stat. § 125B.07, Subd. 6 and maintain and report financial data. A school should consider these requirements as it establishes its record-keeping

systems. It is critical that the software that the school chooses provides all data items needed both locally and for state reporting.

It is important to include provisions for special education in the development of data collection and management information systems. This will strengthen your infrastructure and prepare you to provide effective special education services that meet the mandates of the laws.

Is there added accountability specifically for special education?

Yes. Charter school directors must understand that all schools have an added level of formal accountability related to special education. The U.S. Department of Education carries out an extensive monitoring of states and states must develop and carry out a formal monitoring process for each of its local districts.

How is special education monitoring carried out in Minnesota?

In Minnesota, all districts, including charter schools, are monitored on a regular basis by MDE. (For more information on Minnesota special education monitoring, see the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/index.html)

(<http://education.state.mn.us/MDE/SchSup/ComplAssist/index.html>).

Charter schools are responsible for seeing to it that any non-compliance found in the charter school is corrected. Also, when the U.S. Department of Education monitors Minnesota, your school might be one of the schools randomly selected for visitation. Authorizers, charter school directors, and special education directors of charter schools are notified by MDE when a charter school will be monitored for compliance with special education laws and each party receives a copy of the final monitoring report.

What resources are available to prepare my charter school to be successful in special education monitoring?

Technical assistance in this area may be obtained from your special education director and MDE.

[Question and Answer Special Education Guidance documents](http://education.state.mn.us/MDE/SchSup/ComplAssist/QA/index.html) have been developed by the Minnesota Department of Education (MDE) Division of Compliance and Assistance to provide technical assistance to districts that have raised particular questions

(<http://education.state.mn.us/MDE/SchSup/ComplAssist/QA/index.html>).

Summary and Key Points

Accountability has become a cornerstone of school improvement efforts and it is a basic principle of the charter school movement. At a minimum, these include monitoring, files/data management, record-keeping, procedural (special education) compliance, state charter law compliance and charter school contract compliance. Charter schools should work with their authorizer to create an accountability plan for their school that includes special education. At the heart of this is a school's ability to demonstrate student progress, maintain qualified personnel and document instructional and financial practices.

SECTION 5: RENEWAL, NON-RENEWAL AND TERMINATION

Introduction

At the end of your contract term, the three options for your authorizer are: renewal, non-renewal and termination. *Note: an authorizer may terminate a contract for cause at any time.*

What do these terms mean?

- *Renewal* occurs at the end of the contract term. A contract can be renewed for up to five years.
- *Non-renewal* occurs when a charter school seeks renewal to operate after its approved period and the authorizer does not grant a new charter. As a result of not having its charter renewed, the school loses its authority to operate and exist as a public school.
- *Termination* of a charter involves a proactive decision by an authorizer or the commissioner to remove a school's charter and its legal authority to operate as a public school. In general, termination occurs when a charter school does not meet the obligations articulated in the application or subsequent contracts with the authorizer (See Minn. Stat. § 124D.10, Subd. 23).

How will special education be included in the renewal of our school's charter?

The renewal process will include some evaluation of your special education practices. The renewal will also focus on financial, academic, personnel, facilities and data systems. Having your special education infrastructure in place and operating smoothly will prepare you well for your renewal activities.

Could failure to meet special education requirements be cause for not renewing our charter?

Yes. Lack of compliance with federal statutes (including special education) can result in revocation or non-renewal of a charter.

How do we know if our authorizer has specific renewal policies and processes that address special education?

If you're not sure.....ask! Your charter school contract contains information as to how your school will provide special education and a description of the financial parameters within which your school will operate in providing those services. This is an area you discussed with your authorizer during your planning, start-up and operational phases. However, if you're not sure, find out what requirements your authorizer will expect you to meet as a condition for renewal. Other charter schools that are authorized by the same entity may also be an invaluable source of information regarding renewal.

If our school ceases to exist, what do we need to consider relative to our students with disabilities?

Legally your school will be required to facilitate the transfer of all funds, records (including student and financial) and equipment (instructional and adaptive) for all students, including those with disabilities. Check with your special education director, your authorizer and MDE about specific guidelines and policies in your state. Federal guidelines also provide information on property disposal. Finally, your contract with your authorizer contains a specific closing plan that provides information as to each step you should take if your school closes.

What is our legal obligation after our charter school has closed?

After the school closes, there will be requirements to conduct a final accounting of all funds spent by your school pursuant to Minnesota Statutes, section 124D.11. Be sure to be in touch with the appropriate authorities and legal counsel to avoid the possibility of legal ramifications.

What is the charter school's responsibility for transferring student records upon closure?

Upon closure, the charter school has 10 business days to transfer all student records back to the district of residence or the enrolling school/district, including the general education cumulative file, the special education file and IEPs and the student's MARSS number. (Minn. Stat. § 124D.10, subd. 24)

Perhaps the most important consideration in records transfer is ensuring the privacy of student information, The [Family Educational Rights and Privacy Act](#) (FERPA) (20 U.S.C. 1232g et. seq.) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students (<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>). Careful attention to sections pertaining to disclosure of information without the written consent of the parent or eligible student will help alleviate future problems.

How should we dispose of any special equipment that was purchased for our students with disabilities?

In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or alternatively, be returned to the local district that is the student's district of residence. Disposing of equipment purchased with federal special education dollars is dictated by federal requirements that may be different from what is typically articulated in a charter contract. Check with state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

Summary and Key Points

You and your Board of Directors have legal responsibilities to safeguard the rights of students, the privacy of records and the security of equipment. Hopefully, you clarified your responsibilities with your authorizer during your initial and subsequent contracts. If not, do so now to ensure that everyone involved has a clear understanding of roles and responsibilities.

MINNESOTA SPECIAL EDUCATION PRIMER GLOSSARY

SECTION 1: INTRODUCTION AND PURPOSE

The purpose of this document is to provide charter school authorizers, directors, staff and parents an easy to use glossary on special education terms, acronyms, and definitions.

Special education is a complex component of the public education system. It is the hope of the developers of this document that this tool will providing a quick and easy reference to terms associated with the delivery of special education and related services in Minnesota.

SECTION 2: ACRONYMS

- **504** Section 504 of the Rehabilitation Act of 1974
- **ADA** Americans with Disabilities Act
- **ADD** Attention Deficit Disorder
- **ADHD** Attention Deficit Hyperactivity Disorder
- **ASD** Autism Spectrum Disorders
- **AT** Assistive Technology
- **AURAL** Deaf Education Teacher licensure option under Minnesota Rules
- **AYP** Adequate Yearly Progress
- **B/VI** Blind Visually Impaired
- **CEC** Council for Exceptional Children
- **CEIS** Coordinated Early Intervening Services
- **CFR** Code of Federal Regulations
- **CSP** Charter Schools Program (U.S. Department of Education)
- **DAPE** Developmental Adapted Physical Education
- **DB** Deaf-Blind
- **DCD** Developmental Cognitive Disability
- **DD** Developmental Delay
- **DHH** Deaf and Hard of Hearing
- **DOE** U. S. Department of Education
- **EBD** Emotional or Behavioral Disorders
- **ECSE** Early Childhood Special Education
- **ED** Emotionally Disturbed
- **EDRS** Electronic Data Reporting System
- **EIS** Early Intervention Services
- **EL** English learners
- **ESEA** Elementary and Secondary Education Act
- **ESY** Extended School Year
- **FAPE** Free appropriate public education
- **FERPA** Family Educational Rights and Privacy Act
- **HIPAA** Health Insurance Portability and Accountability Act of 1996. Also known as Public Law 104-191
- **HQ** Highly Qualified
- **HOUSSE** High Objective and Uniform State System of Evaluation
- **IDEA** Individuals with Disabilities Education Act
- **IDEAS** Integrated Department of Education Aids System
- **IEP** Individualized Education Program
- **IFSP** Individualized Family Service Plan
- **LEA** Local Education Agency
- **LEP** Limited English Proficient
- **LRE** Least Restrictive Environment
- **MACS** Minnesota Association of Charter Schools
- **MARSS** Minnesota Automated Reporting Student System
- **MASE** Minnesota Administrators for Special Education
- **MASA** Minnesota Association of School Administrators

- **MASBO** Minnesota Association of School Business Officials
- **MDE** Minnesota Department of Education
- **NACSA** National Association of Charter School Authorizers
- **NAEP** National Assessment of Education Progress
- **NAPCS** National Alliance for Public Charter Schools
- **NASDSE** National Association of State Directors of Special Education
- **NCLB** No Child Left Behind Act
- **NICHCY** National Information Center for Children and Youth with Disabilities
- **NRT** Norm-referenced test
- **OCR** Office for Civil Rights
- **OHD** Other Health Disabilities
- **Oral/Aural** Deaf Education Teacher licensure options under Minnesota Rules
- **OSEP** Office of Special Education Programs
- **PAYS** computerized MDE system used to distribute and report on the federal funds
- **PACER** Parent Advocacy Coalition for Educational Rights
- **PI** Physically Impaired
- **PPST** Pre Professional Skills Test (also see PRAXIS I) and academic skills assessments
- **PRAXIS I** Pre Professional Skills Test and academic skills assessment (also see PPST)
- **PRAXIS II** Principals of Teaching & Learning Skills assessment
- **RRC** Regional Resource Center
- **RTI** Response to Intervention
- **SEA** State Education Agency
- **SEAP** Special Education Advisory Panel
- **SLD** Specific Learning Disability
- **SMI** Severely Multiply Impaired
- **SPL** Speech or Language Impairments
- **SRBI** Scientific, Research-Based Intervention
- **STAR** Staff Automated Reporting
- **TBI** Traumatic Brain Injury
- **TSES** Total Special Education Services
- **UFARS** Uniform Financial Accounting and Reporting Standards
- **VI** Visually Impaired

SECTION 3: DEFINITIONS

504

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute that assures individuals will not be discriminated against based on their disability. All school districts, because they receive federal funding, are responsible for implementation of this law. Any learner with a physical or mental impairment that significantly impacts a major life activity, whether or not [s]he receives special education services, is protected by this law [34 C.F.R. 105 § 504].

AMERICANS WITH DISABILITIES ACT (ADA)

The ADA gives civil rights protections to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications [42 U.S.C. § 12101].

ACCOMMODATIONS

Accommodations are changes in the administration of an assessment, such as setting, scheduling, timing, presentation format, response mode, or others, including any combination of these, that do not change the construct intended to be measured by the assessment or the meaning of the resulting scores. Accommodations are used for equity, not advantage, and serve to level the playing field for a student with a disability. To be appropriate, assessment accommodations must be identified in the student's Individualized Education Program (IEP) or Section 504 plan and used regularly during instruction and classroom assessment.

ACHIEVEMENT TEST

An achievement test is an instrument designed to efficiently measure the amount of academic knowledge and/or skill a student has acquired from instruction. Such tests provide information that can be compared to either a norm group or a measure of performance.

ADEQUATE YEARLY PROGRESS (AYP)

AYP is the minimum level of improvement that states, school districts and schools must achieve each year. It is an individual state's measure of yearly progress toward achieving state academic standards required by the No Child Left Behind (NCLB) Act.

AGGREGATION

The total or combined performance of all students for reporting purposes.

ALIGNMENT

Alignment is the similarity or match between or among content standards, curriculum, instruction, and assessments in terms of knowledge and skill expectations.

ALTERNATE ASSESSMENT

Alternate Assessment is the term used for tests that gather information on the standards-based performance and progress of students whose disabilities preclude their valid and reliable participation in general assessments. Alternate assessments measure the performance of a relatively small population of students who are unable to participate in the general assessment system, with or without accommodations, as determined by the IEP team. There are different types of alternate assessments a state may adopt under the NCLB requirements. First, states must make available an alternate assessment based on grade level achievement standards. Then, there are two other alternates states may develop: the "alternate assessment based on alternate achievement standards" designed for students with the most significant cognitive disabilities and the "alternate assessment based on modified achievement standards" for students who cannot be expected to achieve grade level standards within one school year and who need a less complex assessment to demonstrate their knowledge of those standards.

ASSESSMENT

Assessment is the process of collecting information about individuals, groups, or systems that relies upon a number of instruments, one of which may be a test. Assessment is a more comprehensive term than test.

ASSISTIVE TECHNOLOGY DEVICE

An assistive technology device is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability [Minn. Stat. § 125A.57]. The term does not include a medical device that is surgically implanted, or the replacement of such device [34 CFR § 300.5].

ASSISTIVE TECHNOLOGY SERVICE

An assistive technology service is any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device [34 CFR § 300.6]. It includes evaluation, purchasing, training and other services related to the acquisition and use of such devices.

ATTENTION DEFICIT (HYPERACTIVITY) DISORDER (ADHD or ADD)

ADHD and ADD are conditions with the principal characteristics of inattention, hyperactivity, and impulsivity. It becomes apparent in some children in the preschool and early school years and can continue into adulthood. These symptoms appear early in a child's life. Because many normal children may have these symptoms, but at a low level, or the symptoms may be caused by another disorder, it is important that the child receive a thorough examination and appropriate diagnosis by a well-qualified professional. Under the Individuals with Disabilities Education Act (IDEA), a child may be eligible for special education under the category of other health impairment [34 CFR §300.8(c)(9)] or Other Health Disabilities [Minn. R. 3525.1335].

AUTHORIZER

An authorizer is the office or organization that accepts applications, approves, exercises oversight and, after the period of approval, decides on renewal or revocation of a charter school. In Minnesota, the term used for the entity that exercises the authorizer function is an authorizer

AUTISM SPECTRUM DISORDERS (ASD)

ASD means a range of pervasive developmental disorders, with onset in childhood, that adversely affect a pupil's functioning and result in the need for special education instruction and related services. ASD is a disability category characterized by an uneven developmental profile and a pattern of qualitative impairments in several areas of development, including social interaction, communication, or the presence of restricted, repetitive, and stereotyped patterns of behavior, interests and activities. These core features may present themselves in a wide variety of combinations that range from mild to severe, and the number of behavioral indicators present may vary. ASD may include Autistic Disorder, Childhood Autism, Atypical Autism, Pervasive Developmental Disorder Not Otherwise Specified, Asperger's Disorder, or other related pervasive developmental disorders [Minn. R. 3525.1325]. Referred to as Autism in federal language [34 CFR §300.8(c)(1)(i)].

BIAS (test bias)

Bias, when used in a statistical context, is a systematic error in a test score. In discussing test fairness, bias is created by not allowing certain groups into the sample, not designing the test to allow all groups to participate equitably, selecting discriminatory material, testing content that has not been taught, etc. Bias usually favors one group of test takers over another, resulting in discrimination.

CHARTER SCHOOLS

Charter schools are independent public schools designed and operated by educators, parents, community leaders, educational entrepreneurs and others. They are authorized/sponsored by designated local or state educational organizations that monitors their quality and effectiveness, but allows them to operate outside of the traditional system of public schools.

CHILD FIND

Child find is a continuous process of public awareness activities, screening and evaluation designed to locate, identify, and refer as early as possible all children with disabilities who are in need of special education and related services under IDEA [34 C.F.R § 300.111].

CHILD WITH A DISABILITY

A child with a disability is a child who has been evaluated in accordance with IDEA regulations §§ 300.304 through 300.311 and is determined to have mental retardation, a hearing impairment, a speech or language impairment, a visual impairment, a serious emotional disturbance, an orthopedic impairment, autism,

traumatic brain injury, other health impairment, a specific learning disability, deaf blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services [34 CFR §300.8(a)(1)]. (See also STUDENT WITH A DISABILITY).

COORDINATED EARLY INTERVENING SERVICES (CEIS)

CEIS are services provided to students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral supports to succeed in a general education environment. The IDEA [20 U.S.C. §1413(f)(2)] and its regulations [34 CFR §300.226(b)] identify the activities that may be included as CEIS: (1) professional development for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and (2) providing educational and behavioral evaluations, services and supports, including scientifically based literacy instruction.

CRITERION-REFERENCED TESTS (CRT)

CRTs are tests that measures specific skill development as compared to a predefined absolute level of mastery of that skill.

CURRICULUM-BASED ASSESSMENTS (CBM)

CBMs are assessments that mirror instructional materials and procedures related to the curriculum resulting in an ongoing process of monitoring progress in the curriculum and guiding adjustments in instruction, remediation, accommodations or modifications provided to the student.

DEAF-BLIND (DB)

DB means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness [34 CFR §300.8(c)(2)] and [Minn. R. 3525.1327].

DEAF AND HARD OF HEARING (DHH)

DHH means a diminished sensitivity to sound, or hearing loss that is expressed in terms of standard audiological measures. Hearing loss has the potential to affect educational, communicative, or social functioning that may result in the need for special education instruction and related services [Minn. R. 3525.1331]. Referred to in federal language as deafness and hearing impairment [34 CFR §300.8(c)(5)]

DEVELOPMENTAL ADAPTED PHYSICAL EDUCATION (DAPE)

DAPE is specially designed physical education instruction and services for pupils with disabilities who have a substantial delay or disorder in physical development.

Developmental adapted physical education: special education instruction for pupils age three through 21 may include development of physical fitness, motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, individual and group games, and sports. Students with conditions such as obesity, temporary injuries and short-term or temporary illness or disabilities are termed special needs students.

Special needs students are not eligible for developmental adapted physical education: special education. Provisions and modifications for these students must be made within regular physical education [Minn. R. 3525.1352]. Referred to in federal language as Special physical education [34CFR §300.8].

DEVELOPMENTAL COGNITIVE DISABILITY (DCD)

DCD means a condition resulting in significantly below average intellectual functioning and concurrent deficits in adaptive behavior that adversely affects educational performance and requires special education and related services. DCD does not include conditions primarily due to a sensory or physical impairment, traumatic brain injury, autism spectrum disorders, severe multiple impairments, cultural influences, or inconsistent educational programming. [Minn. R. 3525.1333]. Referred to as mental retardation in federal language [34 CFR §300.8(c)(6)].

DEVELOPMENTAL DELAY (DD)

DD means a child with a disability for children aged three through nine who is experiencing developmental delays, as defined by the state and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, needs special education and related services [34 CFR §300.8(b)] and [Minn. R. 3525.1351].

In addition: A state that adopts a definition of developmental delay under 34 C.F.R. §300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five). A state may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction. If an LEA uses the term developmental delay for children described in §300.8(b), the LEA must conform to both the state's definition of that term and to the age range that has been adopted by the state. If a state does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part [34 CFR §300.111(b)] and [Minn. R. 3525.1351].

DISAGGREGATE

Disaggregate means to separate a whole into its parts. Under NCLB, this term means that test results are sorted into groups of students who are economically disadvantaged, from racial and ethnic minority groups, have disabilities, or have limited English fluency.

EARLY CHILDHOOD SPECIAL EDUCATION (ECSE)

ECSE is a Minnesota licensure category – a licensed teacher of special education: early childhood is authorized to provide specifically designed instruction to children, birth through age six, who exhibit a broad range of developmental delays or disabilities or medical complications and to collaborate and consult with families, other classroom and special education teachers, and specialized service providers in designing and implementing individualized education program plans for students. [Minn. R. 8710.5500].

ECSE is also one of three types of classroom settings: (1) Home includes the home of the pupil and parent or relative, or a licensed family child care setting in which the pupil is placed by the parent. (2) District ECSE classroom includes classrooms that are located in district schools or community center buildings housing elementary students or preschool-aged children who do not have disabilities. (3) Community-based programs include licensed public or private nonsectarian child care programs other than a family child care setting, licensed public or private nonsectarian early education programs, community cultural centers, Head Start programs, and hospitals. A school district must provide direct or indirect special education services by district special education staff to a pupil attending a community-based program [Minn. R. 3525.2335].

EARLY INTERVENING SERVICES (EIS)

EIS is a new section of the 2004 reauthorization of the IDEA that provides that an LEA may use not more than 15 percent of the amount the LEA receives under Part B of the IDEA in combination with other amounts (which may include amounts other than education funds) to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment [34 CFR §300.226].

EARLY INTERVENTION SERVICES

The term early intervention is used to describe the programs and services provided to infants and toddlers under Part C of IDEA who are experiencing developmental delays or have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

EMOTIONAL OR BEHAVIORAL DISORDER (EBD)

EBD means an established pattern of one or more of the following emotional or behavioral responses: withdrawal or anxiety, depression, problems with mood, or

feelings of self-worth; disordered thought processes with unusual behavior patterns and atypical communication styles; or aggression, hyperactivity, or impulsivity. The established pattern of emotional or behavioral responses must adversely affect educational or developmental performance, including intrapersonal, academic, vocational, or social skills; be significantly different from appropriate age, cultural, or ethnic norms; and be more than temporary, expected responses to stressful events in the environment. The emotional or behavioral responses must be consistently exhibited in at least three different settings, two of which must be educational settings, and one other setting in the home, child care, or community. The responses must not be primarily the result of intellectual, sensory, or acute or chronic physical health conditions. [Minn. R. 3525.1329]. Referred to as emotional disturbance in federal language [34 CFR §300.8(c)(4)(i)].

ERRORS OF MEASUREMENT

Errors of measurement are the differences between observed scores and the theoretical true score, the amount of uncertainty in reporting scores, the degree of inherent imprecision based on test content, administration, scoring, or examinee conditions within the measurement process that produce errors in the interpretation of student achievement.

EVIDENCED-BASED PRACTICES (See Scientific, Research-based Intervention)

EXTENDED SCHOOL YEAR (ESY)

ESY is special education and related services that are provided to a child with a disability beyond the normal school year of the public agency and in accordance with the child's IEP, at no cost to the parents of the child and meet the standards of the State Education Agency (SEA) [Also see Minn. Stat. § 125A.14 and Minn. R. 3525.0755].

EXTENDED STANDARDS

Extended standards are content standards that have been expanded while maintaining the essence of the standards, thereby ensuring that all students with significant cognitive disabilities have access to, and make progress in, the general curriculum.

FLEXIBLE LEARNING YEAR

A flexible learning year program means any district plan approved by the commissioner that utilizes buildings and facilities during the entire year or that provides forms of optional scheduling of pupils and personnel during the learning year in elementary and secondary schools or residential facilities for children with a disability [Minn. Stat. § 124D.121].

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

FAPE is special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the SEA; include an appropriate preschool, elementary school, or secondary school education in the state involved; and are provided in conformity with an IEP that meets the requirements of IDEA regulations 34 CFR §§ 300.320 through 300.324 [34 CFR §300.17].

HIGH STAKES TESTING

A test for which important consequences are attached to the results for students, teachers, schools, districts and/or states. Consequences may include promotion, graduation, rewards or sanctions.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Public Law 104-191 or HIPAA has several parts. A major component within Title II, Subtitle F mandates measures to protect the security and privacy of personally identifiable health care information.

HIGHLY QUALIFIED (HQ)

HQ means a qualified teacher is one holding a valid license perform the particular service for which the teacher is employed in a public school. For the purposes of NCLB, a highly qualified teacher is one who holds a valid license to perform the particular service for which the teacher is employed in a public school or who meets the requirements of a highly objective uniform state standard of evaluation (HOUSSE) process [Minn. Stat. § 122A.16]. Also see Appendix A.

HIGH OBJECTIVE AND UNIFORM STATE SYSTEM OF EVALUATION (HOUSSE)

HOUSSE is Minnesota's evaluation system designed as a means for educators to demonstrate subject matter competence to meet federal highly-qualified requirements.

INCLUSION

Under special education, inclusion is an approach that stresses educating students with disabilities, regardless of the type of severity of that disability, in the regular classrooms of their neighborhood schools and delivering special education and related services within the classroom to the extent possible.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

An IEP is a written statement for a child with a disability that is developed, reviewed and revised in a meeting in accordance with IDEA regulations.

INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

An IFSP is a written plan for providing early intervention services to infants and toddlers eligible under Part C of IDEA.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

IDEA is the major federal law related to special education that provides funding to states and sets specific procedural requirements for the identification and education of students with disabilities.

INTEGRATED DEPARTMENT OF EDUCATION AIDS SYSTEM (IDEAS)

IDEAS is the Minnesota computerized system used to distribute and report on the state funds provided to Minnesota school districts, charter schools and cooperatives.

LEARNING YEAR

A learning year program provides instruction throughout the year on an extended year calendar, extended school day calendar, or both. A pupil may participate in the program and accelerate attainment of grade level requirements or graduation requirements. A learning year program may begin after the close of the regular school year in June. The program may be for students in one or more grade levels from kindergarten through grade 12 [Minn. Stat. §124D.128].

LEAST RESTRICTIVE ENVIRONMENT (LRE)

LRE is a requirement of IDEA requires that, to the maximum extent appropriate, school districts must educate students with disabilities in their least restrictive environment. For example, in the regular classroom with appropriate aids and supports along with their non-disabled peers in the school they would attend if not disabled, unless the student's IEP requires some other arrangement. [34CFR 300 §§ 114 through 120].

LINKAGE

Linkage is the type of connection that is mandated by state law or voluntarily established between a charter school and a traditional LEA.

LOCAL EDUCATION AGENCY (LEA)

The LEA is a public institution (often referred to as a school district) that has administrative control and direction of one or more public elementary or secondary schools. The term includes a public charter school that is established as an LEA under state law.

MATRIX SAMPLING

Matrix sampling is a measurement technique organizing a large set of test items into a number of relatively short item subsets, each of which then is administered to a subsample of test takers, thereby avoiding the need to administer all items to all examinees.

MINIMUM *n*

Under NCLB, "minimum *n*" is either the smallest number of students a state has determined can produce statistically reliable results for a subgroup, or the smallest number of students to be included in public reporting that will not violate the requirements of confidentiality for the students involved.

MINNESOTA AUTOMATED REPORTING STUDENT SYSTEM (MARSS)

MARSS is Minnesota's individual student record system that collects enrollment and demographic data on each public school student. Data collected via MARSS is used for a variety of purposes including state and federal funding, accountability, and meeting federal reporting requirements.

MODIFICATION

Modification is a change to the testing conditions, procedures, and/or formatting so that measurement of the intended construct is no longer valid and the score cannot be aggregated with scores from tests administered under standard conditions.

NATIONAL ASSESSMENT OF EDUCATION PROGRESS (NAEP)

NAEP is the only nationally representative and continuing assessment of what American students know and can do in various subject areas. Students with disabilities participate according to [NAEP criteria](http://nces.ed.gov/nationsreportcard) (<http://nces.ed.gov/nationsreportcard>).

NEW TO THE PROFESSION

Based upon the *No Child Left Behind* Act non-regulatory guidance issued by the United States Department of Education, Minnesota considers a teacher to be new to the profession until he/she has taught a minimum of one year. The Minnesota Department of Education identifies teachers who are new to the profession by using data reported by school districts via the Staff Automated Reporting System (STAR) each October 1. A teacher would be considered new to the profession the first time he/she is reported on STAR as new to the profession. In addition, the Regulations for the 2004 *Individuals with Disabilities Education Improvement Act* identify a fully licensed general education teacher who subsequently becomes fully licensed as a special education teacher as a "new" special education teacher when first hired as a special education teacher. [34 CFR 300.18(g)(2)].

NO CHILD LEFT BEHIND ACT (NCLB)

NCLB is the most recent reauthorization of the Elementary and Secondary Education Act.

NORM-REFERENCED TESTS (NRT)

An NRT is a standardized test designed, validated and implemented to rank a student's performance by comparing that performance to the performance of that student's peers.

OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP)

OSEP is that section of the U. S. Department of Education that is responsible for the implementation of the IDEA. It carries out activities related to state eligibility for IDEA funds and monitoring state compliance with IDEA requirements.

ORAL/AURAL

Teacher of oral/aural deaf education is a Minnesota teacher licensure separate from a teacher of deaf or hard of hearing who provides services for students only in oral/aural deaf education programs or itinerant services and only for students who do

not require American Sign Language or other signed systems for their language of instruction [Minn. R. 8710.5250 and Minn. R. 8710.5200].

OTHER HEALTH DISABILITIES (ODH)

OHD means having limited strength, endurance, vitality, or alertness, including a heightened or diminished alertness to environmental stimuli, with respect to the educational environment that is due to a broad range of medically diagnosed chronic or acute health conditions that adversely affect a pupil's educational performance [Minn. R. 3525.1335, subp. 1]. Referred to as other health impairment in federal language [34 CFR §300.8(c)(9)].

OUT-OF-LEVEL TESTING

Out-of-level testing is a term applied to the administration of a test designed for a level above or below a student's present grade level to enable the student to be assessed at the level of instruction rather than the level of enrollment. This type of test is **not** allowed under NCLB requirements.

PAYS

PAYS is the Minnesota computerized system used to distribute and report on the federal funds provided to Minnesota school districts, charter schools and cooperatives and for the school nutrition funds distributed to nonpublic schools.

PHYSICALLY IMPAIRED (PI)

PI means a medically diagnosed chronic, physical impairment, either congenital or acquired, that may adversely affect physical or academic functioning and result in the need for special education and related services. Referred to as orthopedic impairment in federal language [34 CFR §300.8(c)(8)]

PORTFOLIO ASSESSMENT

Portfolio assessment is an organized collection or documentation of student-generated or student-focused work typically depicting the range of individual student skills that is evaluated and graded according to an established set of criteria.

PRE PROFESSIONAL SKILLS TEST (PPST)

The PPST is a basic skills examination covering reading, writing and mathematics that is required of all new teachers

PRAXIS I

The PRAXIS I is another name for the PPST. A basic skills examination covering reading, writing and mathematics that is required of all new teachers

PRAXIS II

The PRAXIS II is a Principles of Teaching and Learning skills assessment; a subject assessment that measures knowledge of specific subjects that K-12 educators will teach, as well as general and subject-specific teaching skills and knowledge.

QUALIFIED PERSONNEL

Under IDEA, qualified personnel means personnel who have met SEA-approved or SEA-recognized certification, licensing, registration or other comparable requirements that apply to the area in which the individuals are providing special education or related services. Also see Appendix A.

RELATED SERVICES

Related services means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training [34 CFR §300.34(a)].

RESPONSE TO INTERVENTION (RTI)

RTI is a practice of providing high-quality instruction and intervention matched to student needs using data on the child's learning rate and level of performance to make important educational decisions about the necessity for more intense interventions or as part of evaluating eligibility for special education.

RELIABILITY

Reliability is the consistency of the test instrument; the extent to which it is possible to generalize a specific behavior observed at a specific time by a specific person to observations of similar behavior at different times or by different behaviors.

SCIENTIFIC, RESEARCH-BASED INTERVENTION (SRBI)

SRBI is research and evidenced-based educational approaches such as Response to Intervention, School-Wide Positive Behavior Intervention and Supports and others.

SEVERELY MULTIPLY IMPAIRED (SMI)

SMI means a pupil who has severe learning and developmental problems resulting from two or more disability conditions determined by an evaluation [Minn. R. 3525.2710]. Referred to in federal language as multiple disabilities [34 CFR §300.8(c)(7)].

SPECIAL EDUCATION

Special education means specially designed instruction, provided at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education. Special education may also include speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under state standards including travel, training and vocational education [34CFR §300.39(a)].

SPECIAL EDUCATION ADVISORY PANEL (SEAP)

SEAP is a panel comprised of twenty appointed members. A majority of the members must be individuals with disabilities or parents of children with disabilities. The members shall be representative of the state population and composed of individuals involved in, or concerned with the education of children with disabilities.

SPECIFIC LEARNING DISABILITY (SLD)

SLD is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. This includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The disorder is manifested by interference with the acquisition, organization, storage, retrieval, manipulation or expression of information. This results in the child not learning at an adequate rate for the child's age or to meeting state-approved grade-level standards when provided with the usual developmental opportunities and instruction from a regular school environment. It is demonstrated primarily in academic functioning, but may also affect other developmental, functional and life adjustment skill areas; and may occur with, but cannot be primarily the result of: visual, hearing or motor impairment; cognitive impairment; emotional disorders; or environmental, cultural, economic influences, limited English proficiency or a lack of appropriate instruction in reading or math [Minn. R. 3525.1341]. Federal citation [[34 CFR §300.8(c)(10)].

SPEECH OR LANGUAGE IMPAIRMENTS (SPL)

SPL are a fluency disorder which means the intrusion or repetition of sounds, syllables and words; prolongations of sounds; avoidance of words; silent blocks; or inappropriate inhalation, exhalation or phonation patterns. These patterns may also be accompanied by facial and body movements associated with the effort to speak. Fluency patterns that are attributed only to dialectical, cultural or ethnic differences or to the influence of a foreign language must not be identified as a disorder [Minn. R. 3525.1343]. Federal citation [34 CFR §300.8(c)(11)].

STANDARDIZED TEST

A standardized test is a test is administered with the same directions and under the same conditions (time limits, etc.) and is scored in the same manner for all students to ensure the comparability of scores. Standardization allows reliable and valid comparison to be made among students taking the test. The two major types of standardized tests are norm-referenced and criterion-referenced.

STANDARDS

There are multiple definitions of the term standards. As used under the NCLB law and regulations, there are two types of standards:

1. *academic content standards* - the basis of the general education curriculum covering what all students are expected to know and be able to do. These standards apply to all types of assessment for NCLB including alternate assessments.
2. *academic achievement standards* - the degree of proficiency students demonstrate

about what they know and are able to do in each of the content areas.

There are three subtypes of academic achievement standards:

a) *grade level* achievement standards;

b) *alternate* achievement standards for students with the most significant cognitive disabilities (performance criteria for a small percent of students) ;and

c) *modified* achievement standards (performance criteria for an additional group of students who can make progress toward grade-level achievement standards but may not reach them in the same timeframe as other students).

STANDARDS-BASED ASSESSMENTS

Standards-based assessments are assessments constructed to measure how well students have mastered specific content standards or skills.

STANDARDS-BASED IEP

A standards-based IEP is a process and a document that is framed by state standards and contains goals aligned with, and chosen to facilitate the student's achievement of, state grade-level academic standards.

STAFF AUTOMATED REPORTING (STAR)

STAR is a Minnesota web-based system used by school districts to report Employment and Assignment information to the Department of Education. This system is also used by districts to access the Licensure/Assignment Discrepancy Report and to complete "Highly Qualified" reporting.

STATE EDUCATION AGENCY (SEA)

An SEA is the component of state government that is primarily responsible for the state supervision of public elementary and secondary schools.

STUDENT (CHILD) WITH A DISABILITY

In the Individuals with Disabilities Act, a child with a disability is defined as "a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services." Section 504 of the Rehabilitation Act of 1973 defines a "handicapped person" [*outdated terminology*] as "any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment."

TRANSITION SERVICES

A coordinated set of activities for a child with a disability that are designed to be within a results-oriented process and focused on improving the academic and functional achievement of the child with a disability in order to facilitate the child's movement from school to post-school activities. This includes multiple areas and is based on the individual child's needs, strengths, preferences and interests. It includes instruction,

related services, community experiences, employment and other post-school adult living objectives and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation [34CFR §300.43].

In Minnesota, by grade nine or age 14, whichever comes first, the first IEP in effect shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment and community living and will be updated annually [Minn. R. 3525.2900]. Thereafter, the IEP must include-(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals [34 CFR § 300.320(a)(7)(b)].

TRAUMATIC BRAIN INJURY (TBI)

TBI is an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that may adversely affect a pupil's educational performance and may result in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as: cognition, speech/language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions and information processing. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma [Minn. R. 3525.1348]. Federal citation [34 CFR §300.8(c)(12)].

UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS (UFARS)

UFARS is Minnesota's legally prescribed set of accounting standards for all school districts.

VALIDITY

Validity is the extent to which a test measures what it was designed to measure.

Multiple types of validity exist. Common types of validity include the following:

Construct validity: The extent to which the characteristic to be measured relates to test scores measuring the behavior in situations in which the construct is thought to be an important variable.

Content validity: The extent to which the stimulus materials or situations composing the test call for a range of responses that represent the entire domain of skills, understandings or behaviors that the test is intended to measure.

Convergent validity: The extent to which the assessment results positively correlate with the results of other measures designed to assess the same or similar constructs.

Criterion-related validity: The extent to which test scores of a group or subgroup are compared to other criterion measures (ratings, classifications, other tests) assigned to the examinees.

Face validity: Concept based on a judgment concerning how relevant the test items appear to be, it relates more to what a test appears to measure than to what the test actually measures.

VISUALLY IMPAIRED (VI)

VI is a medically verified visual impairment accompanied by limitations in sight that interfere with acquiring information or interaction with the environment to the extent that special education instruction and related services may be needed [Minn. R. 3525.1345]. Referred to as visual impairment including blindness in federal language [34 CFR §300.8(c)(13)].

SECTION 4: ACKNOWLEDGEMENTS

The Primer definitions were compiled from many sources. Some of the assessment terms were quoted with permission from a publication of the Council of Chief State School Officers' ASES SCASS Project.

Additional reference sources include:

[The Individuals with Disabilities Education Act](http://idea.ed.gov)

<http://idea.ed.gov>

[Minnesota Office of the Revisor of Statutes](https://www.revisor.leg.state.mn.us/pubs)

<https://www.revisor.leg.state.mn.us/pubs>

[Minnesota Department of Education](http://education.state.mn.us)

<http://education.state.mn.us>

[The No Child Left Behind Act](http://www.ed.gov/nclb/landing.jhtml)

<http://www.ed.gov/nclb/landing.jhtml>

[Special Education Technical Assistance for Charter Schools Project Team](http://www.nasdse.org/Projects/CharterSchoolsandSpecialEducation/tabid/416/Default.aspx)

<http://www.nasdse.org/Projects/CharterSchoolsandSpecialEducation/tabid/416/Default.aspx>

Appendix A: Connecting Federal/Minnesota Disability Categories and Teacher Licensure

Federal Disability Category	Federal Citation	Minnesota Disability Category	Minnesota Citation	Licensure Requirement	Age to which it Applies
Autism	34 C.F.R. § 300.8	ASD Autism Spectrum Disorders	Minn. R. 3525.1325	Refer to #1 in the chart on page 2	Birth-21
Special Physical Education	34 C.F.R. § 300.108	DAPE Developmental Adapted Physical Education	Minn. R. 3525.1352	Developmental Adapted Physical Education (DAPE)	Pre-K-21
Deaf-blindness	34 C.F.R. § 300.8	DB Deaf-Blind	Minn. R. 3525.1327	Refer to #1 in the chart on page 2	Birth-21
Mental Retardation	34 C.F.R. § 300.8	DCD Developmental Cognitive Disability a) mild-moderate b) moderate to severe	Minn. R. 3525.1333	Developmental Disabilities (DD)	K-21
Developmental Delay	34 C.F.R. § 300.8	DD Developmental Delay	Minn. R. 3525.1351	Early Childhood Special Education	Age 3-6
Deafness and Hearing Impairment	34 C.F.R. § 300.8	DHH Deaf and Hard of Hearing	Minn. R. 3525.1331	Deaf or Hard of Hearing (DHH)	Birth-21
Emotional Disturbance	34 C.F.R. § 300.8	EBD Emotional or Behavioral Disorders	Minn. R. 3525.1329	Emotional Behavioral Disorders (EBD)	K-21
Infant or toddler with a disability (part C)	34 C.F.R. § 300.25	DD Developmental Delay	Minn. R. 3525.1350	Teacher of Special Education - Early Childhood	Birth through 2
Other Health Impairment	34 C.F.R. § 300.8	OHD Other Health Disabilities	Minn. R. 3525.1335	Refer to #1 in the chart on page 2	Birth-21
Orthopedic Impairment	34 C.F.R. § 300.8	PI Physically Impaired	Minn. R. 3525.1337	Physical and Health Disabilities (P/HD)	Pre-K-12
Specific Learning Disability	34 C.F.R. § 300.8	SLD Specific Learning Disability	Minn. R. 3525.1341	Learning Disabilities (LD)	K-21
Multiple Disabilities	34 C.F.R. § 300.8	SMI Severely Multiply Impaired	Minn. R. 3525.1339	Refer to #1 in the chart on page 2	Birth-21
Speech or Language Impairment	34 C.F.R. § 300.8	SPL Speech or Language Impairments	Minn. R. 3525.1343	Speech/Language Pathologist (Sp/L)	Pre-K-21
Traumatic Brain Injury	34 C.F.R. § 300.8	TBI Traumatic Brain Injury	Minn. R. 3525.1348	Refer to #1 in the chart on page 2	Birth-21
Visual Impairment Including Blindness	34 C.F.R. § 300.8	BVI Blind Visually Impaired	Minn. R. 3525.1345	Blind or Visually Impaired (BVI)	Birth-21
Limited English Proficient	PL 107-110 Section 9101(25) A-D	LEP Limited English Proficiency (ELL English Language Learners)	Minn. R. 8710.4400	English as a Second Language (ESL)	K-12
Highly Qualified	34 C.F.R. § 300.18	HQ Highly Qualified	Minn. Stat. § 122A.16	Refer to #2 in the chart on page 2	K-12

Appendix A: Connecting Federal/Minnesota Disability Categories and Teacher Licensure

Note	Explanation
1	<p>Minnesota does not have a license in this area. However, teachers are still required to be licensed in a special education area. Several institutions of higher education (IHEs) have ASD Certificate programs. Additionally, there are multiple ongoing staff development opportunities to build skill and confidence to serve students in these disability areas. NOTE: For a licensed special education teacher working with a student with autism, it is expected that a teacher is knowledgeable in autism.</p>
2	<p>Special education teachers teaching in core academic areas must meet "Highly Qualified" requirements. The following are core academic areas: English, reading, language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography.</p>