

## **AUTHORIZER PRIMER**

### **PRE-AUTHORIZATION/PLANNING**

#### **What is the pre-authorization phase?**

The pre-authorization phase encompasses the planning activities preceding the submission of a charter application to an authorizer. An orientation meeting may be offered for potential charter applicants that may include a discussion of their responsibility for special education and a brief introduction to the Individuals with Disabilities Education Act (IDEA), Section 504, ADA and other laws that relate to students with disabilities in charter schools. (See the Background Primer for details on these laws.) Charter developer groups often do not recognize the need to invest time in planning that includes special education issues and planning activities may be rushed due to application deadlines. Nevertheless, pre-authorization 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?**

Authorizer roles and responsibilities related to special education will vary with each LEA. Authorizers may encounter charter applicants with limited knowledge of their responsibilities related to students with disabilities. Authorizers should require that charter applicants demonstrate that they understand those responsibilities and can access the capacity to meet them.

#### **What does an authorizer need to know about basic IDEA concepts?**

It is important that an authorizer have a clear understanding of some basic special education concepts that are incorporated into 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 based on a written individualized education program (IEP). The "least restrictive environment" (LRE) is a requirement articulated in IDEA that stipulates that children with disabilities be educated in the general education classroom to the maximum extent appropriate and in the setting that they would be in if they did not have a disability unless the child's IEP requires otherwise. Where possible, students with disabilities are to be provided with supplemental aids and services to facilitate participation in regular education.

## **Can an authorizer grant charter school applicants waivers from federal special education requirements as part of their charter?**

No. The federal government does not permit any waivers from federal special education requirements for charter schools. Charter schools are public schools and must be open to, and serve the needs of, any student with a disability who attends the charter school.

## **What are my responsibilities as an authorizer related to the No Child Left Behind Act (NCLB)?**

Authorizers' responsibilities related to NCLB are determined by state charter school law. To be specific, the non-regulatory guidance provided by the U.S. Department of Education states that:

*"...a State's charter school law determines the entity within the State that bears responsibility for ensuring that charter schools comply with the Title I, Part A accountability provisions, including AYP. The charter authorizer is responsible for holding charter schools accountable for Title I, Part A provisions unless State law specifically gives the SEA direct responsibility for charter school accountability" (2003, p. 5)*

[www.ed.gov/policy/elsec/guid/charterguidance03.pdf](http://www.ed.gov/policy/elsec/guid/charterguidance03.pdf)

For general information about NCLB, see the U.S. Department of Education website at: <http://www.ed.gov/nclb/landing.jhtml>

## **Are there any existing models of how to address special education during the planning phase?**

A number of organizations (e.g., state education agencies (SEAs), local education agencies (LEAs), other authorizers, charter school support organizations) have developed documents and orientation series that include information regarding special education in charter schools. The following documents are examples of technical assistance materials related to special education for charter school developers in states where the LEA is an authorizer. These documents might be informative to Tennessee LEA authorizers interested in developing similar materials:

- **Colorado Department of Education, Charter Schools Guidebook**  
[http://www.cde.state.co.us/index\\_charter.htm](http://www.cde.state.co.us/index_charter.htm)
- **Building Blocks: Building a Foundation for Starting a Charter School in Florida**  
[http://www.charterschools.usf.edu/pdf\\_files/BuildingBlocks7.15.pdf](http://www.charterschools.usf.edu/pdf_files/BuildingBlocks7.15.pdf)
- **(Florida) Special Education: Information Briefs:**
- [http://www.charterschools.usf.edu/pdf\\_files/esebrief.pdf](http://www.charterschools.usf.edu/pdf_files/esebrief.pdf)

The checklist at the end of this section is a list of issues that applicants should consider related to special education. The list is not exhaustive, but rather a guide to key issues that potential charter applicants should take into account.

### **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 many state charter school laws and subsequent charter applications require applicants only to provide a general assurance that they will not discriminate or more specifically, an assurance to abide by IDEA, many applicants are not aware of what these assurances entail. However, 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 preempt 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?

*If we will be responsible for providing special education:*

- 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?
- 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?

*If an LEA will be responsible for all, or part of, special education in our school:*

- Will the school be required to contract with an LEA for the purposes of special education?
- If our school needs to work with an LEA, how do we negotiate with the LEA to ensure our students will receive appropriate services?

### 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?

- Does the district or the state operate a professional development program or network that we can utilize?

### ADMINISTRATION

- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- Can we create our own system to administer special education or will we adopt the policies/procedures dictated by our authorizer, local district, or other administrative unit?
- 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

*If we will be responsible for special education evaluations and services:*

- 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 the facility have space for a nurse to store and administer medications or use medical equipment?

### TRANSPORTATION

*If we are responsible for special education services:*

- How will our school meet transportation needs of students who receive transportation as a related service articulated on their IEP?

## AUTHORIZATION

### **What occurs during the authorization phase?**

The authorization phase incorporates the stage in which the applicant completes the formal written application and seeks a charter. The Tennessee application process is detailed in the state charter school law. (A copy of that law is available online. Click [here](#) and enter 49-6-107 in the search field.)

In addition to the topics related to all other aspects of the proposed charter school, an application must include the following:

- A plan for compliance with federal laws and regulations;
- A narrative description of how students with disabilities will benefit from the proposed teaching methods; and,
- Signed assurances including one that states the applicant “will provide special education,” and another in which the applicant promises to “follow laws and court orders in the LEA.”

Charter applicants should also contact their LEA for possible additional requirements related to the application process.

### **When reviewing charter applications, in what areas should I anticipate or require information regarding an applicant's plan to incorporate students with disabilities?**

- Administration
- Curriculum, instruction and assessment
- Enrollment
- Specialized personnel (e.g., certified special education teachers, administrators, related services personnel)
- Budget
- Facility
- Transportation

### **What should we, as authorizers, ask applicants about their plans to provide special education services to students with disabilities?**

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 to authorizers that they have a well conceived, feasible plan to access the capacity they will need to meet their legal responsibilities. In addition, in accordance with the specific level of responsibility the charter school will have according to its legal status as part of an LEA, authorizers should ask applicants to provide some or all of the following plans during the application and authorization phase:

- plan to evaluate and identify children with disabilities;
- plan to develop, review and revise IEPs;
- plan to integrate special education into the general education program;
- plan to deliver special education and related services (e.g., in-house or contract out?);
- projected cost of special education program (e.g., percent of operating budget);
- plan to access and account for special education funds;
- anticipated sources for ongoing legal guidance related to special education;
- plan to ensure that the school facility meets the requirements of other related laws such as the Americans with Disabilities Act (ADA) and Section 504;
- plan for enrollment/IEP transition procedure;
- plan for IEP development and review meetings;
- plan to address student discipline;
- plan to handle programming disputes involving parents;
- plan to ensure confidentiality of special education records;
- plan to purchase services from special education vendors; and
- plan to secure technical assistance and training.

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

An LEA authorizer is responsible for ensuring that charter schools serve students with disabilities in the same manner as any other school of that district. Tenn. Code Ann. 49-13-111(a)(4) requires charter schools to “provide special education services for students as provided in chapter 10 of this title.” In other words, charter schools should be treated exactly like any other school within the LEA for purposes of special education monitoring, service provision, funding, etc. Issues related to special education should be included in the written charter agreement that is developed when the charter is approved. The Tennessee charter school law describes this document as follows: “The approval by the chartering authority of a public charter school application shall be in the form of a written agreement signed by the sponsor and the chartering authority, which shall be binding upon the governing body of the public charter school. The charter agreement for a public charter school shall be in writing and contain all components of the application” [Tenn. Code Ann. § 49-13-110(a)].

### **What are some issues the LEA as authorizer should monitor related to discrimination against students with disabilities?**

As public schools, charter schools are not allowed to discriminate against students with disabilities. All placement decisions for students with disabilities must be made in the forum of an IEP meeting and must be based on an individual student's educational needs.

## **What is the best process for making placement decisions in charter schools?**

To ensure that decisions regarding enrollment are 1) made based upon each individual child, as opposed to groups of children with particular disabilities and 2) made based upon the best interests of the child as opposed to the convenience of the charter school, decisions regarding appropriate placement must be made by an IEP team rather than a single individual. Given the unique nature of some charter schools' programs, not all charter schools are going to be appropriate for all children with disabilities (i.e., children with an official IEP or 504 plan) while meeting the goals and objectives outlined in their charter. However, there is a fine line between discrimination and determining that a particular program may not be an appropriate setting for a child with a particular disability. Determining whether a particular educational environment is the best placement is not discrimination if conducted in an appropriate manner (i.e., by an IEP team) and based on the individual child's needs. It is part of the process of ensuring that a child with a disability receives a free appropriate public education in the least restrictive environment.

## **Are charter schools required to modify their programs to accommodate a student with a disability?**

Yes, charter schools are responsible for implementing a student's IEP including modifications and accommodations. However, Tennessee charter schools are part of an LEA. If an IEP team determines that the student cannot be appropriately served at the charter school, the IEP team will determine an appropriate placement.

For a more detailed explanation regarding access to charter schools for students with disabilities, see the OCR document *Applying Federal Civil Rights Laws to Charter Schools*, at [http://www.uscharterschools.org/pdf/fr/civil\\_rights.pdf](http://www.uscharterschools.org/pdf/fr/civil_rights.pdf)

## **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;
- research-based academic interventions
- 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; and
- using assistive technology devices.

Assessment accommodations may also be needed for students with disabilities. The state assessment program and the use of accommodations are described in a document available on the state website at

<http://www.state.tn.us/education/speced/pdfs/seiepci05-06.pdf>

More information related to classroom adaptations, accommodations and modifications is available from the National Dissemination Center for Children with Disabilities online at <http://www.nichcy.org/pubs/bibliog/bib15txt.htm>

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

Authorizers should require applicants 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 key component of reasonable accommodations is a school culture that incorporates a commitment to offering accommodations to individuals with disabilities while guarding against substantively changing the nature of the school's mission. Authorizers should scrutinize charter schools' admission policies to ensure that the policies don't block enrollment for particular students or groups of students.

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

No. The core tenet of the IDEA is that children eligible under the law are treated as individuals with unique abilities and disabilities that need to be addressed by providing specially designed instruction and services which are explicitly articulated in an IEP. Even if the school plans to provide all children with individualized learning plans loosely analogous to IEPs that address each student's unique cognitive and physical abilities and disabilities, the learning plan for a student who is eligible for special education services must be an IEP and must conform to all of the requirements of IDEA. To determine whether these learning plans or other curricula approaches meet IDEA procedural requirements, charter operators must be aware of district and state special education requirements. 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.

### **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 an appropriate education.

### **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?**

Examples of approaches charter schools are using to increase their special education capacity include: 1) hiring qualified professionals to work at the charter school; 2) contracting with a local education agency; 4) contracting with qualified 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 they need.

### **Do charter schools have to hire licensed special educators?**

Yes. Authorizers should refer charter applicants to the information available on the Tennessee Office of Teacher Licensing website at <http://.state.tn.us/education/lic>

### **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 credentialed special education and related services professionals. Six strategies that charter schools commonly use are:

- hiring faculty with dual licensure (e.g., elementary education and special education);
- hiring consultants to provide special education services;

- hiring retired teachers to work part-time;
- developing collaborative agreements with an LEA;
- developing collaborative agreements with other charter schools to share special education teachers; and
- forming partnerships with a local non-profit entity (e.g., a hospital) or a post-secondary institution that employs related professionals.

### **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 amount a charter school will need to allocate to these categories and the degree to which these expenses may be shared with another entity depends on the policy of the LEA authorizer and the arrangements between the charter school and the LEA.

### **What is excess cost as it relates to special education?**

Excess costs are the costs a school or district incurs as a result of providing special education services that are not covered by state or federal special education funding sources. Tennessee provides special funding for high cost children. The criteria for providing such extra funds to LEAs include a formula that determines what constitutes high cost. For details, see the information provided on this topic on the state website at <http://www.state.tn.us/education/speced/pdfs/seaddfunds.pdf>

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

Legal requirements regarding accessibility are extremely complex and 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>
- Section 504 of the Rehabilitation Act of 1973
- <http://www.504idea.org/Select504.pdf>
- ADA and Section 504, Kids source
- <http://www.kidsource.com/kidsource/content3/ada.idea.html>

### **What should authorizers advise charter schools about accessible facilities?**

Negotiating the parameters of the ADA and 504 is challenging and authorizers should strongly encourage the schools they authorize to seek legal counsel regarding their obligations associated with accessibility. Authorizers also should obtain counsel, to be familiar with the requirements themselves.

## **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?**

In Tennessee, charter schools are responsible for ensuring that their building is accessible. The way a charter school carries out this responsibility may depend on a number of factors including whether the charter school owns or rents the building and what is contained in their agreement with their authorizing LEA.

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

In the process of monitoring their schools, LEAs must ensure that their charter schools have appropriate certificates of occupancy and an LEA may check on other aspects of accessibility. Charter schools are obligated to make their building accessible in accordance with federal and state requirements.

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

As to transportation to and from school, the Tennessee charter school law provides the following: "If a public charter school elects to provide transportation for its pupils, the transportation shall be provided by the school or by agreement with the local education agency within the district in which the school is located in the same manner it would be provided if the students were enrolled in any other school within the local education agency. If a public charter school elects not to provide transportation for its pupils, the school shall not receive the funds that would otherwise have been spent to do so [Chap. 850, Section 15(a)].

However, if transportation is identified as a related service in the child's IEP, the responsibility for transporting the child is assigned on the basis of the contract or a negotiated agreement between the charter school and the LEA.

## **Summary and Key Points**

The authorization stage is critical to the development of successful charter schools. Building on the foundation established during the pre-authorization 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. This basic knowledge 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.

## **Oversight, Accountability and Renewal**

### **What is my role as an authorizer to hold charter schools accountable in the area of special education?**

The LEA authorizer is responsible for the charter school's compliance with all requirements including special education requirements. Once the charter school doors open and the students arrive, charter authorizers' responsibility shifts from granting charters to overseeing the schools and holding them accountable for the goals and objectives outlined in the charters. 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.

### **Who is responsible for statistical reporting on students with disabilities in charter schools?**

In Tennessee, a charter school is part of an LEA and the charter school must provide to its LEA the special education data needed for reporting to the state.

### **Where or when is my role related to accountability formally articulated to the charter schools I authorize?**

An LEA may require that its charter schools submit an accountability plan. It may also be developed by both parties jointly.

### **Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding children with disabilities should authorizers recommend that charter schools collect and report?**

Data and documentation are two major accountability tasks. Charter schools are obligated to collect and report much of the same information that all public schools must report, such as statistical data on students, results of standardized tests and financial information. Examples of special education data and documentation that a charter school must compile include student counts as well as more procedural documents that would be reviewed as part of special education monitoring.

### **How are charter schools involved in special education monitoring?**

As part of an LEA, charter schools participate in the state's monitoring of their LEA in the same manner as other schools of that LEA. Special education monitoring is a formal process in which the federal Office of Special Education Programs (OSEP) monitors every state on its compliance with IDEA requirements and each state must monitor how its districts comply. LEAs are responsible for ensuring that all their schools, including their charter schools, are in compliance with special education requirements.

Authorizing LEAs should ensure that charter schools understand the level at which they will be involved in special education monitoring and their responsibilities for the process. Monitoring visits do not include all schools within an LEA every time, but rather a sample of schools. As a result, charter schools may or may not be visited as a part of the state monitoring of the district. However, the district will be held accountable for the policies and processes implemented at the charter school as demonstrated by the data the district maintains. Therefore, LEA authorizers must be prepared for the responsibility of collecting data on the implementation of special education in the charter schools they authorize.

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

Yes. 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.

### **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 are also required to participate in federally required monitoring and accountability processes. As with most issues, the manner in which charter schools are held accountable for educating students with disabilities and participating in federal and state monitoring processes is dictated by individual states and specifically by the charter school's legal status and linkage to an LEA.

## **Non-Renewal, Revocation, and Relinquishment**

### **What is the meaning of the terms non-renewal, revocation and relinquishment as used in this Primer?**

- NON-RENEWAL is what occurs when a charter school seeks renewal and the authorizer does not grant the charter school a new charter (or renew its current charter). As a result of not having its charter renewed, the charter school loses its authority to operate and can no longer exist as a public school.
- REVOCATIONS occur when an authorizer proactively (prior to a regular renewal process) removes or terminates a school's charter and consequently, its legal authority to operate as a public school because the charter school has failed to meet the obligations articulated in its charter or contract with the authorizer.
- RELINQUISHMENT is a voluntary release or surrender of an authorized charter by the charter school's governing board, in contrast to a revocation, which is initiated by an authorizer. Relinquishments may occur either prior to, or after, a school's opening.

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

The Tennessee Charter School Law provides as follows:

(1) Upon dissolution of a charter school for any reason or if a charter is not renewed, any unencumbered public funds from the charter school shall revert to the local education agency. In the event that a charter school is dissolved or otherwise terminated, all LEA property and improvements, furnishings and equipment purchased with public funds shall automatically revert to full ownership by the LEA, subject to complete satisfaction of any lawful liens or encumbrances.

(2) If a charter school is dissolved for any reason or a charter is not renewed, the charter school is responsible for all debts of the charter school. The LEA may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the LEA and the governing body of the school and that may not reasonably be assumed to have been satisfied by the LEA [Tenn. Code Ann. § 49-13-110(a)].

To ensure appropriate procedures will be followed in the event of a closure, authorizers should require that specific responsibilities for student records and the allocation of other school property are addressed in the school's charter or contract with the authorizer. When a charter school is closed, the charter school board has an obligation to ensure that student records are sent to the school to which students will be

transferred, The responsibility to maintain student records reverts to the LEA authorizer. Authorizers should work with boards of closed charter schools to ensure that records are handled appropriately.

Authorizers will also need to ensure that there is a specific accounting for special education funds. Special education programs receive funding from federal, state and local sources. As such, dismantling a special education program requires careful accounting of how special education dollars were spent and the disposition of materials and equipment purchased with special education dollars.

**In the case of revocation or relinquishment, how should charter schools dispose of any special equipment that was purchased for 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. Authorizers should check state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

**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; 34 CFR 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 is available online at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

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

At a minimum, 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**

The non-renewal, revocation, or relinquishment of a charter is at best an unpleasant experience and at worst, highly contentious and politically charged. Regardless of how unlikely a school closure may appear, 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. Regardless of the environment in which a school closes, 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, should be incorporated into the initial charter contract to ensure that all parties are aware of their roles and responsibilities in the event of closure.

## **Technical Assistance and Resources**

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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.

#### **Tennessee Department of Education**

Extensive resources about public education are contained in the education section of the state website at <http://tennessee.gov/education>

#### **Regional Resource Centers**

The Special Education Division of the Tennessee Department of Education maintains regional centers and other assistance sources. For contact information, see <http://state.tn.us/education/speced/secontacts.shtml#regional>

#### **Local Education Agencies**

States delegate their responsibility for providing a free appropriate public education for students with disabilities to local education agencies. As part of this responsibility, LEAs generally offer district schools technical assistance in the form of documents and training. Many districts maintain websites with abundant resources related to special education. 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.

#### **Regional Technical Assistance Networks**

Many states operate regional technical assistance networks designed to provide, among other services, special education technical assistance. Examples of these networks are the Education Service Centers in Texas, Intermediate School Districts in Michigan and Boards of Cooperative Education Services (BOCES) in Colorado. As public schools, charter schools should have access to these networks. Contact the Tennessee special education division for information regarding regional technical assistance structures.

### **Tennessee Resource Center**

The Tennessee Resource Center has been re-established and will be developing a website in the near future.

### **U.S. Department of Education**

Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants. OSEP maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education <http://www.ed.gov/about/offices/list/osers/osep/index.html?src=mr> Another 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=oc>

### **National Charter School Authorizer Network**

The National Association of Charter School Authorizers (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 to charter successful schools. It provides many resources of significant value to charter school authorizers through its website at <http://www.charterauthorizers.org>

### **National Special Education Networks**

- The National Association of State Directors of Special Education (NASDSE) 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>
- The National Information Center For Children And Youth With Disabilities (NICHCY) 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.kidsource.com/NICHCY>

### **National Charter School Networks**

- The US Charter Schools website contains extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools <http://www.uscharterschools.org>
- The Center For Education Reform provides up-to-date information about state charter school laws <http://www.edreform.com>