Charter Schools Are Public Schools that Are Required to Comply with the Individuals with Disabilities Education Improvement Act (IDEA)

When parents enroll their children in charter schools, they sometimes receive confusing information from the administration and staff at their school about the school’s obligation to educate and serve children with disabilities that interfere with educational progress. While a charter school may be organized and chartered in different ways to educate children, the obligation of each and every charter as a public school to comply with the Individuals with Disabilities Education Improvement Act (IDEA) is constant.

IDEA mandates that a free and appropriate public education (FAPE) be available to every child with a disability between the ages of 3 and 21. 20 U.S.C.A. §1412(a)(1)(A). To accomplish this, states must identify, locate, and evaluate children with disabilities residing within their borders. 20 U.S.C.A §1412(a)(3)(A). After a state has identified, located, and evaluated a child with a disability, it must develop, review, and revise an individualized education program (IEP) in order to ensure that the child receives a FAPE. 20 U.S.C.A. §1412(a)(4). Individualized Education Programs (IEPs) must allow children with disabilities to be educated with children who are not disabled to the maximum appropriate extent. 20 U.S.C.A. §1412(a)(5)(A).


California local education agencies develop policies and procedures to implement the above mandates as constituents of special education local plan areas (SELPAs). Cal. Educ. Code §56301(d)(1). Each SELPA must annually submit a local service plan to the Superintendent that includes a description of the type and physical location of the services each LEA will provide to students with disabilities. Cal. Educ. Code §56205(b)(2). Through written agreements with one another, LEA constituents within a SELPA then develop a coordinated system for the identification, referral, and placement of students with disabilities, procedural safeguards for parents and students in securing services, and regionalized services to local programs. Cal. Educ. Code §56195.7(a-c). Finally, each LEA must adopt policies and procedures for the implementation of the local plan and associated written agreements. Cal. Educ. Code §56195.8(a).
Federal law mandates that “children with disabilities who attend public charter schools and their parents retain all rights under [the IDEA].” CFR §300.209(a). California law reinforces this mandate: “Individuals with exceptional needs attending charter schools...shall be served in the same manner as individuals with exceptional needs in other public schools.” Cal. Educ. Code §56145.

While charter schools have different options for participation in the administration of the local service plan, their obligation to comply with IDEA remains paramount, regardless of the participation option chosen. Under one option, charter schools may elect to participate as an LEA within a SELPA. Cal. Educ. Code §47641. As an LEA, the charter school “is responsible for ensuring that the requirements of [the IDEA] are met.” 34 CFR §300.209(c). It may do so by submitting written policies and procedures, “which establish compliance with the IDEA, and implementing regulations” for approval by the State Board of Education. Cal. Educ. Code §56195.1(f). In turn, the charter school will receive funding in the same manner as other local education agencies within the SELPA.

If a charter school does not elect to administer the local plan independently, it is considered a school of the district or other LEA that granted its charter. The district or other LEA must “serve children with disabilities attending [charter schools that are public schools of the local education agency] in the same manner as the local educational agency serves children with disabilities in its other schools.” 20 U.S.C.A. §1413(a)(5)(A) & Cal. Educ. Code §47646 (a-b).

In order to comply with this mandate, districts and other LEAs condition charter grants on the school's compliance with the IDEA. They often specifically delegate to the charter school the responsibility for developing assessment plans upon parental request according to federal, state, and district timelines. See, e.g., David L. Brewer III & José J. Cole-Gutiérrez, Los Angeles Unified School District Charter Schools Division: Boilerplate Language Supplement (2008). They also generally require that charter schools implement Individualized Education Programs for each child assessed and deemed eligible for special education services. Because charter schools must agree to comply with these responsibilities in order to receive a charter grant, they can face closure if they do not follow district or other LEA policies and procedures.

Based on the foregoing, it is clear that charter schools, regardless of the contractual or legal arrangement through which they provide education to students, must comply with the requirements of IDEA.

Still have questions? Call Mental Health Advocacy Services at 213-389-2077, or Disability Right California at 800-776-5746 (voice) or 800-719-5798 (TTY)