

NEW JERSEY PRIMER

on Special Education & Charter Schools



The New Jersey Department of Education
P.O. Box 500
Trenton, NJ 08625

Produced by

The New Jersey Department of Education
Office of Vocational-Technical, Career
and Innovative Programs

In cooperation with

The National Association of State Directors
of Special Education

ACKNOWLEDGEMENTS

This primer was developed under the TA Customizer Project, a federally funded project at the National Association of State Directors of Special Education (NASDE). It was designed to provide special education technical assistance to charter school developers, operators and state officials for resources, training, and other technical assistance related to special education in charter schools.

The charter school movement in New Jersey began 12 years ago with the passing of the Charter School Program Act of 1995. This law created the framework in which teachers, parents, community leaders, private entities, and institutions of higher education could take the lead in designing public schools that will create innovative approaches to fulfill the mandate of educational excellence and equity. While charter schools are designed to be unique and innovative, the provision of special education programs and services has presented great challenges to New Jersey's charter school operators. The intent of this document is to provide charter school developers, operators and state officials with a resource that can be utilized to assist them in better serving students with special needs.

Thank you to the team from across the state which provided the quality input which made this document possible. The New Jersey team consisted of: Barbara Gantwerk, Rochelle Hendricks, Melanie Schulz, Kathy Ambrosio, Donna Best, Maria Casale, Colleen Eskow, Jessani Gordon, Barbara Groff, Charles Kahil, Mary Jo Kapalko, Jennifer Langer, James Lennon, Howard Lerner, Gregory Margolis, Buzz Mingin, Gary Molenaar, Laura Monteith, Deborah Nataloni, Heather Ngoma, Nadine O'Reilly, Robert Pupchick, Kenneth Watts and John Worthington.

We would like to extend special thanks to the TA Customizer Project Project Team of Eileen M. Ahearn, Elizabeth A. Giovannetti, and Lauren Morando Rhim for their guidance and commitment to this special project. We would also like to express our sincere gratitude to Dean Kern, Director of the Charter School Program in the Office of Innovation and Improvement of the U.S. Department of Education for his support of this project and his dedication to the charter school movement.

TABLE OF CONTENTS

1 ACKNOWLEDGEMENTS

3 SECTION ONE:

New Jersey Primer on Special Education for Charter School Developers and Operators

- 4 Introduction
- 4 Pre-Authorization Stage
- 8 Checklist of Special Education Consideration for Charter School Operators
- 10 Preparing for Start-Up
- 13 Operating a Charter School
- 24 Accountability and Renewal
- 27 Corrective Action, Probation, Non-Renewal, Revocation, and Surrender of a Charter
- 29 New Jersey State Structures Supporting Special Education in Charter Schools

31 SECTION TWO:

New Jersey Primer for State Officials on Special Education in Charter Schools

- 32 Charter School Basics
- 35 Charter School and Special Education Basics
- 38 Key Policy and Procedural Issues on Charter Schools and Students with Disabilities
- 40 Key Special Education Policies for State Education Agency Personnel
- 41 Special Education Policy Questions for Consideration
- 44 State Education Agency Assistance During Charter School Development

50 CLOSING THOUGHTS

52 APPENDIX

Glossary of Terms for the New Jersey Primer on Special Education and Charter Schools

1

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

INTRODUCTION

This document has been developed by the New Jersey Department of Education with the assistance of the TA Customizer Project funded by the U.S. Department of Education Charter Schools Program (CSP) and conducted by the National Association of State Directors of Special Education (NASDSE). Its focus is on providing information and technical assistance related to special education and the education of students with disabilities for developers and operators of New Jersey's charter schools from pre-application through all the life stages of the charter school.

The New Jersey Charter School Program Act of 1995 (N.J.S.A. 18A:36A) recognizes only one authorizer for charter schools in the state — the Commissioner of Education. All application activities are managed through the Department of Education and each charter school is its own LEA for all matters pertaining to special education.

PRE-AUTHORIZATION STAGE

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

The pre-authorization planning phase — the time before you submit your application for a charter — is the ideal time to begin planning for all children who may become students in your charter including students with disabilities. As the charter school operator, you are assuming the role of administrator and operator as well as the instructional leader for your future faculty, parents and students. Although you obviously cannot plan for each child before you begin to enroll students, you can give consideration to children with disabilities as you are developing the initial plans for your school. The vision you have for your school will be seen, heard and implemented by others involved in the planning. Therefore, as you plan for your school, it is critically important you consciously plan for including students with disabilities in every aspect of your charter school. Doing this now will not only avoid future problems, but will also result in more effective educational opportunities for all of your 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?

It is critically important to consider children with disabilities when you are developing the mission and vision of your charter school. Since your school will be a public school that must accept all students who apply, you should expect that you will enroll students with many different kinds of needs including students with disabilities. If this possibility is carefully considered in the initial planning process, it is much more likely your mission and vision statements will be crafted so that you can accommodate a diverse array of students thus minimizing 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?

The following six major legal principles that embody the requirement in the Individuals with Disabilities Education Act (IDEA 2004) should be considered in your planning to include students with disabilities:

- Zero reject of children with disabilities
- Individualized Education Program (IEP)
- Free, appropriate public education (FAPE)
- Least restrictive environment (LRE)
- Procedural protections and parental involvement
- Non-discriminatory evaluation

Taking time to consider these principles and how they relate to New Jersey's requirements for charter schools will help you to develop a school that addresses the needs of all your students. Throughout your review, keep in mind that your school is its own LEA for special education and this legal identity carries with it requirements related to applying for entitlement and discretionary funds for special education (*N.J.A.C 6A:11-4.1*).

Do we have any responsibility regarding the recruitment of students in order to be in compliance with federal civil rights laws?

Yes. When announcing your charter school or conducting outreach, you may not discriminate against students with disabilities. You should recruit students from all segments of the community served by your school using strategies that will not exclude students with disabilities. (More details are available in the publication from the United States Department of Education Office for Civil Rights online at www.uscharterschools.org/pdf/fr/civil_rights.pdf).

What steps should we take when providing outreach information to parents?

You must make sure that a parent who might have a disability and/or who does not understand English has a meaningful opportunity to understand the outreach information given about your charter school as effectively as other parents. Appropriate auxiliary aids and services must be made available whenever they are necessary to ensure effective communication with parents with disabilities. For example, if outreach materials are made available to parents, you could help to ensure appropriate access to the content of the materials by offering the materials in Braille or on a tape. If you conduct public informational meetings with parents or community groups, those meetings must be physically accessible to individuals with disabilities. Qualified interpreters, translations, or another effective means of communication must be provided if requested.

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* and *N.J.S.A.18A:36A-7*, you may not categorically deny admission to students on the basis of disability. For example, you may not deny admission to a student with a disability because of that student's need for special education or related aids and services.

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

As you will soon learn from the specific information that follows, there are many issues to consider in developing and implementing your special education program. While they will vary from school to school, several are common to all schools, including funding, space and facilities, human resources, curriculum, service provision, professional development, administration, transportation and special considerations. The checklist at the end of this section poses questions designed to help you consider these important areas.

- Child Study Team services
- Location of students
- Identification of students
- Evaluation of students
- Determination of eligibility
- Individualized Education Program (IEP) development
- Special education placement options
- Implementation of IEPs
- Annual review of students
- Re-evaluation of students

You will also have to outline your policies and procedures for providing home instruction for students with a temporary illness or injury, your plans for discipline, suspension and expulsion of students with disabilities, how you will provide access for all students to all school facilities, courses, programs, activities and services, and how you will meet the needs of students with disabilities who are not eligible under IDEA 2004 through the use of *Section 504* Plans as required under the *Rehabilitation Act of 1973*, if eligible.

Does the charter school law in New Jersey require me to describe how the charter school will meet the needs of special education students in accordance with federal and state statutes and regulations?

There are strict requirements for providing information pertaining to special education in your charter application. It is important that you obtain a copy of the *New Jersey Charter School Application*, prepared by the New Jersey Department of Education Office of Vocational-Technical, Career and Innovative Programs, that is updated each year with the most current application instructions as well as copies of the charter school law, regulations as well as other technical assistance information. (See www.state.nj.us/education). The following application information is taken from the *2006 New Jersey Charter School Application*.

You are required to provide a specific description of how you will ensure that all students with disabilities have available to them a free, appropriate public education (FAPE) and how your charter school will meet the needs of special education students in specific areas including:

In providing these details, reviewers of your application will want to see evidence of:

- A commitment to serving the needs of students with disabilities
- A plan that reflects an understanding of services and costs associated with providing support for all students
- Knowledge of the school's obligations regarding state and federal laws on special education and civil rights
- A plan to develop policies and programs that recognize and value diversity
- A plan for identifying students with disabilities and providing all necessary staffing and services for them

In essence, your application must contain evidence of how you will provide or access the capacity to meet your legal obligations toward students with disabilities under federal and state law. Careful thought to preparing this component of the application during the planning process will prepare you to be ready when a child with a disability applies to your school and you open your doors on the first day of school.

In addition, be sure to attend one of the technical assistance sessions conducted by the NJDOE for prospective charter applicants. The information regarding these sessions is found in the current charter school application posted on the web.

Summary and Key Points

The pre-authorization phase provides you with a valuable opportunity to explore different aspects of your future charter school as you prepare your application for a charter. In an effort to preempt potential problems associated with not complying with special education requirements, you should use the pre-authorization phase to, among other things; educate yourself and other critical players (e.g., board members) about special education. By educating yourself earlier rather than later, you will be able to include special education and children with disabilities into your school's vision rather than leaving it to become an add-on component. Once your charter school is authorized and operating, the pressures associated with start-up and day-to-day operations may limit your ability to "think outside the box." So, use the time you have available to design your school, making sure you include special education at every decision point.

CHECKLIST OF SPECIAL EDUCATION CONSIDERATIONS FOR CHARTER SCHOOL OPERATORS

Funding for special education

Is there a formula for determining how much special education funding to include in our budget?

- What is the formula and how is it determined?
- What funds will we receive for special education services?
 - federal
 - state
 - local funds
 - fundraising

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 (pullout) services?
- 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 the school remains accessible to students with disabilities?

Human Resources

- How many students will the school enroll?
- How many teachers will I need to hire?
- How many special education teachers will I need to hire?
- What kind of certification will the teachers need?
- Can I hire dual-certified teachers?
- Can I hire part-time or retired special education teachers?
- 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

- What curriculum will my school offer?
- How does our curriculum align with the state's suggested curriculum or standards for student learning?
- 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?

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

Service Provision

- How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)?
- What should our Child Find activities look like?
- How will we conduct student identification, evaluation and special education determination meetings?
- Who will participate in IEP development and implementation?
- What types of special staff or consultants will we need to implement our students' IEPs?
- How will we handle re-evaluations?
- How are we going to work with families?
 - How can we build partnerships?
 - What strategies can we use to be proactive in avoiding conflicts?

Professional Development

- How will we provide my 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?
- Does the LEA or the SEA operate a professional development program or network that I 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?
- 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?
- Can we create our own system to administer special education or do we need to adopt the policies/procedures dictated by my authorizer, local district, other administrative unit?

Transportation

- Will we provide students with transportation?
- Can we access district or state transportation dollars to offset costs?
- 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?

PREPARING FOR START-UP

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?

Hopefully, this is an issue you addressed during your pre-authorization activities as you developed your school's mission and considered potential accommodations that will help you to include students with disabilities in your school.

As you prepare for students, remember that 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 general education curriculum. New Jersey does not have a special education curriculum.

If your school's faculty need help in accommodating the needs of a student who has a disability, you need to make provisions for professional development. According to New Jersey state code, the case manager should coordinate the development, monitoring and evaluation of the effectiveness of the IEP, and review and revise as needed. (*N.J.A.C. 6A:14-3.2(b)*)

We are responsible for hiring our staff and faculty. How much flexibility do we have in special education?

Your charter school must follow the New Jersey requirement that all classroom teachers and professional support staff who work in charter schools must hold appropriate New Jersey certification. Changes to *IDEA* in 2004 require that special education teachers meet the "highly qualified" standards of the Elementary and Secondary Education Act amended in 2002 as the *No Child Left Behind Act (NCLB)*. Specifically, special education teachers who teach core subjects must meet those requirements in NCLB. It is

essential that charter school operators who hire such personnel understand these requirements.

It is important that the charter school abide by the decisions of the IEP team that has identified the type of services the child will need and consider the staffing implications for delivering those services. Information on the New Jersey specific requirements is available online at www.nj.gov/njded/educators/license/.

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

Yes. Being licensed/certified 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 2004* applies this *NCLB* requirement to special education teachers who teach core subjects. There is a partial exemption from the highly qualified requirements for teachers whose students are assessed by an alternate assessment based on alternate achievement standards. Further information about how these requirements apply to New Jersey educators is available from the New Jersey Department of Education (NJDOE).

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

In addition to the NJDOE's charter school office, you should become very familiar with the Office of Licensure and Credentials. Staff in this office will be able to interpret federal and state licensure requirements as they pertain to charter schools. Particularly during the early days of your school, don't assume you understand licensure requirements because you talked with a colleague in a neighboring state. There is extreme variability in licensure requirements across states.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

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

The needs of your students and staffing identified in their IEPs will determine whether your school will need a full or part time special education staff. Since most charter schools are small, it is highly unlikely that your charter school will have sufficient need to warrant hiring a full time special education teacher, child study team members, or related service providers. However, you will have to be creative and flexible in designing staffing loads. A few of the options include hiring faculty with dual licensure (in special and general education), or contracting for special education services via a collaborative agreement with the local school district, an educational services commission or other contractors. Be sure to consult the county supervisor of child study teams to insure that your child study team and related service providers are hired in compliance with New Jersey's regulations.

What should we do when a child with a disability applies to our school?

Charter school staff may not inquire into special education status of students who are applying prior to admission. 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 receives the records for a child who applies for admission from the child's previous school to ensure the IEP requirements are implemented immediately as required by New Jersey law. If you do not automatically receive the records, initiate a request to the previous school. Contacting the special education office of the previous LEA may also be helpful in securing the records. The County Office of Education through the Supervisor of Child Study can help if you are not able to obtain a response from the previous school or LEA.

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?

It would be appropriate to discuss the services and supports currently provided to students with disabilities and to explore potential strategies for meeting the needs of all students who attend your school. The initial focus should be on understanding the needed supports and services and identifying strategies for delivering them within the context of your school's framework. All issues about the appropriateness of the child's placement should be taken up with the child study and IEP teams. Additional information and clarification on appropriate strategies for addressing this issue may be found in the U.S. Department of Education Office for Civil Rights (OCR) document, *Applying Civil Rights Laws to Public Charter Schools: Questions and Answers*, available online at www.uscharterschools.org/pdf/fr/civil_rights.pdf

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

Yes. Charter schools in New Jersey may not deny persons with disabilities, including parents and students, the benefits of programs and activities offered at its schools 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.

If we rent 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 that you seek legal counsel prior to signing any contracts to lease or purchase your facility.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

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

Yes. Generally for existing facilities, 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 ADA Title II regulations permit considerable 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. For new construction and alterations (i.e., construction began 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.

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 might 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 acquiring a facility to house the charter school.

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

In New Jersey, the local municipality and the Office of the County Superintendent of Schools can provide charter school leaders with requirements regarding accessibility for students with disabilities. Check with these offices for technical assistance in determining what modifications need to be made and the appropriate approach to accomplish your desired goal. Additional resources are available from OCR online at www.ed.gov/about/offices/list/ocr/index.html.

Summary and Key Points

Your activities during the start-up 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. It will assist each student regardless of his or her ability or disability. 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 public schools, The New Jersey Department of Education, the Charter School Resource Center, the Charter Public Schools Association and most importantly *N.J.A.C. 6A:14* (SpecialEducation).

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-authorization and planning for startup phases. If not, don't despair—but do 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. Funds available through the federal Charter Schools Grant Program may be used to obtain the services of a special education administrator to assist you in planning and putting in place the management and service delivery structure your charter school will need to be in compliance with special education laws and regulations. Information regarding the Federal Charter Schools Grant Program may be found on the NJDOE website at: www.nj.gov/njded/grants/

What is a New Jersey charter school's responsibility related to identifying students with disabilities?

As LEAs, New Jersey charter schools must comply with state rules and regulations regarding how to identify students who have special needs and refer those students for evaluation. Special education is a right for all students in traditional as well as chartered public schools. Charter schools are required to provide intervention and referral services for students with disabilities. In addition, charter schools in New Jersey are required to establish an Intervention and Referral Services Team. Information regarding these requirements may be found at: www.state.nj.us/njded/students/irs/

What types of disabilities qualify a child for services in New Jersey?

N.J.A.C. 6A:14-3.5 defines a child with a disability as one who is evaluated and found in need of special education in one of the following disability areas:

- Auditorily impaired
- Autistic
- Cognitively impaired
- Communication impaired
- Emotionally disturbed
- Multiply disabled
- Deaf/blindness
- Orthopedically impaired
- Other health impaired
- Preschool disabled
- Social maladjustment
- Specific learning disability
- Traumatic brain injury
- Visually impaired

A child who is identified as having a disability under *Section 504 of the Rehabilitation Act* may be entitled to accommodations, modifications or services. Identification under 504 is not limited to a prescribed set of disability categories.

What is an IEP?

An individualized education program (IEP) is a written statement for a child with a disability that is developed, reviewed and revised in accordance with the requirements of IDEA 2004 (the *Individuals with Disabilities Education Act*) and New Jersey state law and regulations (N.J.S.A.18A:46 and N.J.A.C. 6A:14). In New Jersey, the IEP team works collaboratively to develop the child's IEP. This team consists of child study team members, teachers (general education and special education), parents, students (where appropriate, and other individuals determined by the charter school or the parent. The procedures to be followed in your charter school should be clearly written in school policies. An excellent resource that explains the IEP process in detail is available on the New Jersey Department of Education website at: www.nj.gov/njded/specialed/stateplan/plan.doc

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

New Jersey does not have a mandated form, but the NJDOE provides a template for a model IEP form (www.nj.gov/njded/specialed/iep.htm) that would be helpful to charter operators. Developing an IEP form that meets legal requirements and is user friendly is an extremely complicated task and the use of the New Jersey model form will avoid "reinventing the wheel."

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 include the necessary special education and related services that will assist the child to succeed.

Who must be part of an IEP team?

The IEP team must include:

- The parent
- No less than one regular education teacher who must, to the extent appropriate, participate in the development, review, and revision of the student's IEP
- No less than one special education teacher or provider, as appropriate
- At least one child study team member who can interpret the instructional implications of evaluation results
- The case manager
- A representative of the responsible district
- At the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate
- The student where appropriate
- If the purpose of the meeting is to consider transition services, the student with disabilities and a representative of any other agency that is likely to be reasonable for providing or paying for transition services shall be invited to attend the IEP meeting.

(Note: for charter school purposes where special education code refers to district the word charter school should be substituted.)

The IDEA as amended in 2004 may allow 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 the child with a disability and the local educational agency 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 with parental consent.

What is a Child Study Team?

A child study team (CST) is composed of a school psychologist, a learning disabilities teacher-consultant and a school social worker. CST members, along with specialists in the area of disabilities, school personnel and parents as required by New Jersey special education law, are responsible for identification, evaluation, determination of eligibility, development and review of the individualized education program, and placement of students with disabilities. Specialists in the area of disability may include, but not be limited to, child study team members, as well as speech-language specialists, occupational therapists, physical therapists, audiologists, school nurses, advance practice nurses and physicians who are appropriately certified and/or licensed.

Child study team members or speech-language specialists when they act as members of the child study team are designated and serve as the case manager for each student with a disability. The case manager coordinates the development, monitoring and evaluation of the effectiveness of the IEP, facilitates communication between home and school and coordinates the annual review and reevaluation process. (See N.J.A.C. 6A:14-2.3 for CST and IEP team requirements.)

What special education services must a charter school provide in New Jersey?

A New Jersey charter school must ensure that each of its students with an IEP receives all special education instruction related services, supplementary aids and services, and modifications and accommodations identified in his or her IEP. The range of services and equipment may include speech therapy, occupational and physical therapy, orientation and mobility training, adapted physical education, transportation, and/or assistive technology. In general, schools will have to hire either part-time or full-time staff or contract out for services. Many charter schools have crafted creative solutions to providing services. Some of these include contracting with a district or an education

service commission or other public entity to provide specific services, hiring a consultant or forming a cooperative with other charter schools.

Does the NJ Department of Education have any documents to articulate parental rights and procedures related to special education?

The booklet, *Pocket PRISE* explains special education procedural safeguards for parents. It provides a brief, clear explanation of the process from referral through the IEP, dispute resolution options, and discipline procedures. This document also contains copies of forms that can be used to file a complaint with the state or request mediation or a due process hearing. Charter schools should be familiar with this document and must provide it to all parents at certain times. A copy of *Pocket PRISE* is available on the NJDOE web at www.nj.gov/njded/parights/.

Can charter schools in New Jersey collaborate and pool their special education resources or form a consortium in order to provide education and related services?

There are no statutory impediments limiting schools' ability to pool resources, although sharing resources entails careful collaboration. There are many factors that a charter school must take into consideration in using or joining outside groups for special education services. In New Jersey, a charter school can purchase services from a county Education Services Commission that provides child study teams and itinerant related services. However, charter schools may want to hire their own staff for such services to have more control, ongoing direct relationships with students and integration of these functions into the ongoing operation of the charter school. Pooling resources may enable individual charter schools to realize economies of scale, but combining funds would require careful budgeting and tracking of funds to ensure that individual schools can report on how federal and state dollars are allocated and expended.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

What should we do to make sure we will be able to include all students with disabilities in our charter school?

Charter schools must offer open enrollment. No pre-screening or prerequisite testing is allowed in New Jersey. Charter schools are not permitted to ask applicants if they have a disability prior to acceptance for admission in the charter school. If there are more applicants than spaces available, your charter school must use a random selection process for student admission.

For each student with a disability who enrolls at your charter school, all special education requirements must be met. In each case, the involvement of your charter school staff with the special education staff including the child study team and 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 all students with or without identified disabilities.

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 become familiar with them.

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.

A student with a significant disability has enrolled in our school. What should we do?

As an LEA, your charter school has to provide services to a child who is identified as eligible. Just as any other public school is expected to do if a child moves in with an existing IEP; your charter school must implement the child's IEP. Enrollment in a charter school is not a change of placement but rather a transfer.

The charter school staff must review the existing IEP, which should be part of a student's records and analyze existing capacity to deliver the instruction and related services as described. If the charter school can meet the goals and objectives, the instructional and related services in that IEP should be implemented immediately. Alternatively, if that does not appear to be possible or there are any concerns about the existing IEP, your IEP team must meet immediately to discuss appropriate options. One strategy that charter schools have found effective is incorporating into the IEP a provision for close tracking of the student's adjustment in the first 30 days at the charter school with a set date for the full IEP team to review progress and make any necessary revisions.

If the student transfers from an out-of-state school, the charter school would need to conduct any needed assessments and within 30 days of enrollment develop and implement a new IEP.

It is also helpful to check with the NJDOE and charter school organizations in your area to determine if there is a cooperative that can provide support.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

Do I need policies and procedures for special education in charter schools?

Yes. The charter school board of trustees should develop policies and procedures once the charter is granted. The application contains assurances, but once the charter is granted, the board needs to develop and adopt special education policies and procedures which must be submitted to the County Office of Education for approval.

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

No. Consistent with special education and 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 a range of nonacademic or extracurricular programs and activities offered at your charter school. This opportunity must be extended to students placed out of district.

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 in New Jersey must have an IEP that is developed by an IEP team following the procedural requirements of IDEA 2004 and New Jersey'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, binding document for all special education related services provided to a child who has been found to be eligible for special education.

Can a student with a disability be suspended or expelled?

Yes. Discipline procedures for students with disabilities are dictated by federal and state special education law. School authorities can suspend a child with a disability from his or her current placement for not more than 10 consecutive or cumulative days for any violation of school rules if non-disabled children would be subjected to removal for the same offense. Removal of the child for more than 10 consecutive days is automatically a change in placement and requires a consideration as to whether the behavior is a manifestation of the child's disability. In addition, a removal of more than 10 cumulative days that results in a pattern of exclusion may also be a change in placement requiring the school to conduct a manifestation determination. Charter school personnel should be carefully trained on the specific requirements related to such removals so that correct procedures can be consistently followed in compliance with the law. Additional details are available on the NJDOE website and in the booklet, *Pocket PRISE* which is available at: www.nj.gov/njded/parights/.

What is categorical aid and is it available for a charter school?

Categorical aid is the term used for funds generated for students with specific needs or characteristics who are eligible for and receive the services covered under the funding source. Such funds are available to LEAs in addition to the state per-pupil allotment. In the budget submitted with your application for a charter, you will include amounts for categories such as special education, Title I, bilingual aid and others based on the probability that your charter school will have an enrollment similar to the district in which you are located. After opening, these funds will be based on actual counts of students served in the targeted programs.

What state funding is available for students with disabilities?

The amount of state aid a school receives for each student is based on the student's eligibility criteria, and, in some cases, the services described in the student's IEP. Funding is divided into four tiers:

- **Tier I** provides \$310 for each related service a student receives, up to a maximum of \$1,240 per year per student. This aid is provided in addition to Tier II, III or IV aid.
- **Tier II** provides \$3,260 for students with a Specific Learning Disability, Traumatic Brain Injury, Social Maladjustment, Mild Cognitive Impairment, and those who are Preschool Disabled, who do not meet Tier IV criteria.
- **Tier III** provides \$5,975 for students classified Emotionally Disturbed, Moderate Cognitively Impaired, Orthopedically Impaired, Communication Impaired, Auditorily Impaired, and Multiply Disabled, who do not meet Tier IV criteria.
- **Tier IV** provides \$13,037 for students classified Autistic or Severe Cognitive Impairment. It also includes all students whose IEP describes "intensive services" such as extended school year instruction in excess of 210 days; 6 or more hours of related services per week; nursing services; pupil/staff ratio of 3:1 or less; one to one aid for 60% or more of the school day; or intensive assistive technology.

Is our school responsible for the cost of a placement in a private school if a student with disability who attends our school requires such a placement?

No. New Jersey law provides that such tuition for a private school placement is the responsibility of the child's district of residence. The section of the law is as follows:

18A:36A-11(b). A charter school shall comply with the provisions of chapter 46 of Title 18A of the New Jersey Statutes concerning the provision of services to handicapped students; except that the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence.

Placement in a private school is to be considered only after all less restrictive options are explored and found to be inappropriate for that student. Students who are enrolled in an out-of-district placement are still considered part of the charter school population and the charter school must reserve a space for the student who continues to be considered part of the total count in the charter school.

Is extra financial aid available for very high cost students with disabilities who attend our charter school?

Yes, under certain conditions. Special Education Extraordinary Aid is available when the cost of providing education for an individual classified student in an LEA exceeds \$40,000 in a single fiscal year. For example, if a charter school places a child in another public placement at a cost that exceeds \$40,000, then that charter school could apply, through the district of residence, for the cost above that amount.

Must we provide transportation to students who attend our charter school?

Students who attend a charter school are entitled to transportation in accordance with the following section of the New Jersey Administrative Code:

Subchapter 3. Charter School Transportation

6A:27-3.1 General provisions

- (a) Transportation or aid in lieu of transportation shall be provided to charter school students pursuant to N.J.S.A. 18A:39-1 et seq. A charter school shall be considered a public school offering a specialized program.
- (b) The transportation of students to and from a charter school shall be the responsibility of the board of education of the school district in which each student resides. Students who reside less than remote from their charter school are eligible for transportation in accordance with the policies of the district board of education in which they reside.
- (c) Eligible students shall receive transportation or aid in lieu of transportation based upon the date of receipt of the applications for charter school transportation by the district boards of education in which the students reside.
- (d) Charter school students who reside in the district or region of residence in which the charter school is located shall be provided with transportation in the same manner as transportation is provided to other public school students residing within the district in which the charter school students reside.
- (e) The expenditure for the transportation of charter school students who reside outside of the district or region of residence in which the charter school is located is limited to the annual nonpublic school maximum statutorily established expenditure per student in accordance with N.J.S.A. 18A:39-1.
- (f) Transportation shall be provided to students in accordance with the charter school calendar.

6A:27-3.2 Eligibility requirements

- (a) Students in kindergarten through grade eight who reside more than two miles and students in grades nine through twelve who reside more than two and one-half miles from the charter school that they attend are eligible for transportation services.
- (b) Special education students attending a charter school shall be eligible for transportation services if they meet the distance requirements of (a) above, or transportation is required in the student's Individualized Education Program (IEP).

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

IDEA 2004 requires each state to "have in effect policies and procedures to ensure that all children with disabilities residing in the state who are in need of special education and related services are identified, located, and evaluated" (CFR §300.125(a)1(i)). States develop procedures that their LEAs must follow to carry out these responsibilities. Because your charter school is its own LEA for special education, you must follow New Jersey procedures just like any other LEA. However, a charter school does not have jurisdiction over a geographical area as most traditional LEAs do, so the actual implementation of Child Find responsibilities by charter schools will differ. Charter schools are responsible for children only when they are actually enrolled in the charter school. It is clear that 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. New Jersey has developed specific instructions for charter schools with regard to Child Find that you as the school operator must learn, understand and follow.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

How many special education forms and reports do we have to complete?

New Jersey charter schools are their own LEAs and therefore required to complete all the appropriate state and federal reporting for special education. More information about these forms is available from your County Office of Education which is the key point of contact. You may also access the forms at: www.nj.gov/njded/specialed/form/.

New Jersey schools are required to maintain a student register that reflects enrollment. Funding is based on the number of days a student is enrolled. Other paperwork responsibilities include financial/funding, staffing, enrollment count, identification and evaluation data, IEP development and monitoring, and student progress. Deciding who will be responsible for what paperwork (followed by training to do this) will help to ensure completion of all requirements by competent, qualified individuals.

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. 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. New Jersey law dictates that "All records to be forwarded shall be sent to the superintendent or designee of the school to which the student has transferred within ten days after the transfer has been verified by the requesting school district" (N.J.A.C. 6A:32-7.1).

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

In many parts of the country, demand for educators (particularly special educators) exceeds the supply. 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 you are in frequent contact with your special educators to gauge satisfaction and/or frustration and explore strategies to minimize areas of difficulties.

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

Charter schools need to provide professional development opportunities to a variety of different types of individuals. Clearly all of your instructional staff (including paraprofessionals) must 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. For a list of potential technical assistance providers, see the matrix of the New Jersey TA network at the end of this section.

What type of professional development would benefit our board members and other volunteers?

Charter school boards of trustees have the same responsibilities as traditional public school boards and New Jersey requires that board members must receive training within a year of joining a board. Specific board training is available for a fee through the New Jersey School Boards Association (www.njsba.org/). In addition, your charter school board members should be appropriately included in other professional development opportunities. They will benefit from very focused, ongoing training in the charter school's responsibilities for students with disabilities as well as educational management and liability issues related to special education.

Given the strong charter school focus on parental involvement, it is important to reach out to family members of students with disabilities to ensure they are part of the activities that involve all parents and meet their needs for information. In addition, other volunteers who are involved in your school need to be appropriately involved in awareness and training activities to ensure their understanding of special education and the needs of students with disabilities. Equally important, you, the operator, should take time to participate in ongoing professional development.

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 will be useful to you during the planning and operation of your charter school.

Governmental Agencies and Offices:

- **New Jersey Department of Education:** The NJ Department of Education (www.nj.gov/education) is a rich source of general information regarding special education and specific important information related to special education in charter schools. The state website includes a designated web page for charter

schools (www.state.nj.us/njded/chartsch/), and a web page for special education: www.nj.gov/njded/specialed/)

- **Educational Training Centers (ETTC):** These centers are state-funded county-based resource centers that offer professional development related to the use of technology in implementing New Jersey's core curriculum content standards. (www.nj.gov/njded/techno/ettc/)
- **Division for the Deaf and Hard of Hearing:** The New Jersey Division of the Deaf and Hard of Hearing (DDHH) advocates for people in New Jersey who are deaf or hard of hearing and assists them in numerous ways to gain access to programs, services and information routinely available to people upon request. (www.state.nj.us/humanservices/ddhh/about_ddhh.html)
- **Recording for the Blind and Dyslexic:** This organization is part of a national network that supports programs such as RFB&D's AudioPlus® Digital Talking Textbook Campaign and educational outreach programs that provide educational opportunity for students with print disabilities. (<https://custhub.rfbid.org/SearchCatalog.asp#top>)
- **Division for the Blind:** The New Jersey Commission for the Blind and Visually Impaired promotes and provides services in the areas of education, employment, independence and eye health through informed choice and partnerships. (www.state.nj.us/humanservices/cbvi/about_cbvi.html)
- **Local Education Agencies:** Traditional LEAs generally offer their schools technical assistance in the form of documents and training. Many districts maintain websites with abundant resources related to special education. District special education technical assistance can be invaluable to charter developers interested in learning more about special education and charter schools may be able to negotiate access to such training.

- **Educational Information and Resource Centers:** EIRC is a public agency specializing in education-related programs and services for parents, schools, communities, nonprofit organizations and privately held businesses throughout New Jersey. Services include gifted and special education services, creative problem solving, nationally validated programs in science, mathematics and geography, child care and child assault prevention, web development, graphics and printing, computer instruction and teacher in-service and curriculum design and international exchange programs. (www.eirc.org/)
- **Regional Technical Assistance Networks:** See the chart entitled New Jersey State Structures Supporting Special Education in Charter Schools at the end of this section.
- **Regional Resource Centers (RRFC):** The Regional Resource Centers and the Federal Resource Center are federally funded projects under the U.S. Department of Education Office of Special Education (OSEP) that provide consultation, technical assistance and training to state educational agencies and through them to local educational and other appropriate entities. You can access links to the Federal Resource Center and to each Regional Resource Center at www.rrfcnetwork.org

- **U.S. Department of Education (USDOE):** Many parts of the U.S. Department of Education website can be helpful to charter school applicants. The Office of Special Education Programs (OSEP) maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education at www.ed.gov/about/offices/list/osers/osep/index.html

Another United States Department of Education office that has more general resources for charter schools is the Office of Innovation and Improvement at www.ed.gov/about/offices/list/oii/index.html?src=mr

Information about the No Child Left Behind Act (NCLB), a law that all charter schools must understand is available at www.ed.gov/nclb/landing.jhtml?src=pb

National Special Education Networks:

- **National Association of State Directors of Special Education (NASDSE)** has a website that contains 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, documents on critical issues in special education produced by Project Forum and a wide variety of information on special education recruitment and retention from The Personnel Center project. (www.nasdse.org)
- **Council for Exceptional Children (CEC)** 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. (www.cec.sped.org)

- **National Dissemination Center for Children 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. (www.nichcy.org)
- **Parent Advocacy Coalition for Educational Rights (PACER)** 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 resources to assist parents of children with disabilities and may be helpful in informing charter school operators of their obligations to parents of children with disabilities. (www.pacer.org)
- **Special Education News:** This private newsletter provides in-depth, up-to-date news related to educating students with disabilities. (www.specialednews.com)

National Charter School Networks:

- **Charter School Leadership Council (CSLC)** provides assistance to state charter school associations and resource centers, develops and advocates for improved public policies, and serves as the united voice for the charter school movement. (www.charterschoolleadershipcouncil.org)
- **National Association of Charter School Authorizers (NACSA):** This organization renders support and technical assistance to those who sponsor or authorize charter schools. (www.charterauthorizers.org)
- **U.S. Charter Schools Website:** This site contains the most complete set of reports and materials related to charter school at the state and national levels. (www.uscharterschools.org)
- **Center for Education Reform (CER)** A charter school advocacy center that provides current national and state data on charter schools. (www.edreform.com)

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 in your local school district, state education office, and the various technical assistance sources listed in this document. Taking time to address students with disabilities in a proactive and positive manner will have significant payoffs for your students, school and the community.

ACCOUNTABILITY AND RENEWAL

Introduction

Accountability refers to the policies and procedures that charter schools must abide by as required by federal and state special education and state charter school rules and regulations. Charter schools are generally obligated to collect and report the same information that traditional public schools 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 student enrollment and attendance reports as well as more procedural documents such as IEPs that would be reviewed as part of a state special education audit.

The best way to prepare to be accountable is to be thinking about it before the charter school opens its doors on the first day. 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) management information 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, privacy of confidential materials, and other critical data/reports.

The NJDOE website contains links to many important documents related to charter school reporting (www.nj.gov/njded/chartsch/important.shtml) including a chart of due dates for all state reports that must be submitted during the school year and required forms.

How are charter schools held accountable annually in New Jersey?

Charter schools must submit an annual report August 1st of each year of school operation. The NJDOE website contains an annual report content guide (www.state.nj.us/njded/chartsch/annrep/) and the NJDOE conducts technical assistance sessions to help charter schools in their completion of the report.

One area of the report is the school's assessment of how well it is geared up to deliver instruction effectively to students with disabilities, any problems the school is encountering and any plans to deal with the problems. Required data include the number of classified students, the source of the school's child study team services, the programs provided (resource room(s), self-contained classes, etc.), the number and certification of staff and aides delivering special education services and assessment results for all students disaggregated by required subgroups.

In addition to the annual report, each charter school must undergo an annual external audit as well as spot checks associated with verifying enrollment.

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

Most charter schools are required to submit essentially the same data and statistical reports as traditional school districts. Examples include enrollment accounting, program accounting, student performance data and financial reporting. You will need to be able to report assessment data on all of your students disaggregated by the subgroups, one of which is students with disabilities, as outlined in NCLB and IDEA 2004. (Note: Test results for subgroups are not reported if the group size, known as the minimum N, is below 35. The minimum N size may change.) Keep these subgroups in mind as you are setting up your data collection and storage system, especially

those related to assessments. When reports are required, the DOE issues guidance.

Even if your charter school has not begun enrolling students with disabilities, 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. Operators must understand that charter schools have an added level of formal accountability related to special education. The U.S. Department of Education carries out an extensive monitoring of SEAs, and then SEAs must develop and carry out a formal monitoring process for each of its LEAs. As an LEA, your charter school will be monitored by the New Jersey Department of Education through the Office of Special Education Programs in the same manner as districts in the state.

How is special education monitoring carried out in New Jersey?

In New Jersey, the monitoring process is on a six-year cycle that starts with a year long self-assessment in which the LEA reviews its implementation of every special education requirement and develops a report that includes a plan of improvement for any area of non-compliance the charter school has identified. In the second year the state reviews the data submitted in the self-assessment and carries out a validation visit to the school. A report is written detailing the findings of the NJDOE. The charter school must then develop an improvement plan to address any identified areas of non-compliance.

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

The NJDOE, Office of Special Education Programs maintains information about monitoring on its website at www.state.nj.us/njded/specialed/mon/. This website includes copies of all previous monitoring reports. During the self-assessment year, you can consult with the monitors assigned to your school. The state provides reimbursement money for supplies and overtime payment associated with preparing for the monitoring. Schools can assign a committee or work with consultants to assist in preparing for the self-assessment. The special education coordinators are typically responsible for leading the self-assessment process.

Technical assistance in this area may be obtained from the NJDOE, learning resource centers, other charter schools, local districts and national organizations. One strategy could include the use of monitoring mentors where an experienced special educator can assist your charter school prepare for monitoring.

How do students with disabilities participate in the NCLB accountability system?

NCLB specifically includes students with disabilities and special education programs in school assessment and accountability systems. Students receiving special education services, including those with the most significant disabilities who participate in an alternate assessment system, will “count” in the accountability formulas and the computation of measures of adequate yearly progress (AYP). Not only do they count, but they can make a difference in your school’s ability to meet AYP criteria and state-specific performance measures under the NCLB law. Talk with your colleagues and the NJDOE to identify effective strategies in helping students with disabilities to demonstrate progress.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

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

Throughout your renewal process, the NJDOE will review evaluations of your special education practices as contained in your annual reports. The New Jersey charter school renewal process provides that, "the Commissioner shall grant a five-year renewal of a charter following the initial four-year charter." The decision to renew a charter for another five years will be based on a comprehensive review guided by the demonstration of results, the viability of the school, the fiscal solvency of the school and the school's compliance with all state and federal laws and its charter www.state.nj.us/njded/chartsch/app/renewal/. A copy of the renewal application form is also available on that website. 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 or state statutes (including special education) may result in or contribute to revocation or non-renewal of a charter.

Summary and Key Points

Accountability has become a cornerstone of school improvement efforts and it is a basic principle of the New Jersey charter school movement. At a minimum, accountability involves monitoring, files/data management, record keeping, procedural (special education) compliance, state charter law compliance and charter school contract compliance. Based on New Jersey statute, you will work directly with your county education office and the SEA in matters related to accountability requirements. At the heart of this is a school's ability to demonstrate student progress, maintain qualified personnel and document sound instructional and financial practices. As valued members of your school, students with disabilities and their programs and staff will be involved in all components of this phase. Explicitly preparing for their involvement in all aspects of your school will avoid problems and enhance the quality of your accountability plan.

CORRECTIVE ACTION, PROBATION, NON-RENEWAL, REVOCATION, AND SURRENDER OF A CHARTER

Introduction

Hopefully your school will never be faced with corrective action, probation, non-renewal, revocation, or surrender of your charter. However, it is important to have a plan in place to be activated if your school closes so that you and your board members understand and are prepared to meet their responsibilities for the students with disabilities who are enrolled in your school at that time.

What do these terms mean?

- **Corrective Action** occurs when noncompliance has been documented. According to New Jersey Administrative Code, a corrective action plan must be developed and submitted to the NJDOE through the county office for approval. The corrective action plan shall include, but not be limited to, objectives and strategies for correcting each noncompliance item cited, including resources needed; and the dates by which noncompliance will be corrected. The NJDOE through its county office shall review the corrective action plan and notify the school if it is acceptable. An appeal of the denial of approval of a corrective action plan, imposition of sanctions or determination of noncompliance may be made to the Commissioner of Education according to New Jersey Administrative Code 6A:3. (www.state.nj.us/njded/code/current/title6a/chap14.pdf)
- **Probation** occurs when systemic issues have been documented. The New Jersey charter school law states that the Commissioner may revoke a school's charter if the school has not fulfilled any condition imposed by the Commissioner in connection with the granting of the charter or if the school has violated any provision of its charter. The Commissioner may place the charter school on probationary status to allow the implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be summarily revoked (18A:36A-17). Charter school regulations provide that a school may be on probation for 90 days which can be extended and, during this time, the school must submit a remedial plan which is to be approved by the NJDOE. At the end of probation, the Commissioner will make a determination of the school's status ranging from extended probation, removal from probation or revocation. (N.J.A.C. 6A:11-2.4. See www.state.nj.us/njded/code/current/title6a/chap11.pdf)
- **Non-renewal** occurs when a charter school seeks renewal to operate after either its initial 4-year or subsequent 5-year period. The Commissioner will notify the school of the non-renewal. The notification to a charter school that is not granted a renewal shall include reasons for the denial. If the charter is not renewed the school loses its authority to operate and exist as a public school. (N.J.A.C. 6A:11-2.3)
- **Revocation** of a charter involves a proactive decision by the Commissioner to remove a school's charter and its legal authority to operate as a public school. The Commissioner may revoke a school's charter following review by the NJDOE for any condition imposed by the Commissioner in connection with the granting of the charter which has not been fulfilled by the school, violation of any provision of its charter by the school or failure of the remedial plan to correct the conditions which caused the probationary status. The Commissioner will notify a charter school in writing of the revocation and may allow a charter school up to a maximum of 60 days from the receipt of the revocation notice from the Commissioner to cease its operations.
- **Charter Surrender** is a voluntary release of an authorized charter by a charter school board of trustees.

SECTION ONE

NEW JERSEY PRIMER ON SPECIAL EDUCATION FOR CHARTER SCHOOL DEVELOPERS AND OPERATORS

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

The NJDOE has developed a dissolution plan which outlines steps mandated when a school closes. Ideally, your school will be in a situation to facilitate the transfer of all funds, records (including student and financial) and equipment (instructional and adaptive) for all students, including those with disabilities. Federal guidelines also provide information on property disposal.

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

When a charter school closes, its board of trustees must dissolve all assets, pay creditors and conduct a final audit accounting for all funds spent by your school. The school should appoint a “point person” who will handle aspects related to the school closure. The NJDOE determines the specific nature of these activities and the ultimate destination of reports. Be sure to be in touch with the County Office of Education and the NJDOE to avoid the possibility of legal ramifications.

We don't know where specific children are going. What do we do with their records?

Charter schools are obligated to work with the county office to ensure a smooth transition from the charter school to the new school. Within 48 hours, records must be transferred to the child's new school or to the county office if that school is unknown.

How should we transfer student records?

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) provides guidance on requirements in the transfer of educational records that contain personally identifiable information on your students. For details about the law, see 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?

The charter school's equipment and supplies must first be offered to the district of residence. If equipment was purchased for one specific student, it should be forwarded to the student's new school. If this information is not known, or if the equipment was purchased for use in a special education program, it should be handled in the same manner as all other school equipment. New Jersey's requirements for disposal/transferring of equipment purchased with federal or state funds will be provided in the dissolution plan.

Summary and Key Points

Activities during this phase may be charged with emotion and politics. Despite such pressures, you and your board of trustees 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 authorization activities. If not, do so now to ensure that everyone involved has a clear understanding of roles and responsibilities.

NEW JERSEY STATE STRUCTURES SUPPORTING SPECIAL EDUCATION IN CHARTER SCHOOLS

Agency/ Organization	Role/Service Provided	Cost/Funding Source	Number of Offices	Relationship to Department of Education	Professional Staffing
County Offices of Education	Oversight, compliance, & technical assistance. Reviews applications, budgets, facilities & programs; First point of contact for the Department of Education on operational issues once the charter has opened.	County, state and federally funded	21	Acts as an arm of the Department of Education in each of the 21 counties.	County superintendent, general education specialist, special education specialist and business administrator
Learning Resource Centers	Training, technical assistance, dissemination of special education information, libraries, speakers, vans circulating materials and information for parents.	Funded through federal IDEA 2004 funds	4	Arm of the Department of Education Special Education Program for technical assistance.	Special ed coordinator, pre-school specialist and librarian
Special Service School Districts	Services and consultation on students with low incidence disabilities and emotional disabilities, outreach, special class programs onsite and in other districts, related services, child study team evaluations, itinerant services, transition and assistive technology.	Fee for service tuition and county contribution	8	Part of County government; they are their own LEA, monitored by state	Similar structure to a regular school district
Education Services Commissions	Services to students with disabilities, outreach, related service providers, child study team evaluations, special education transportation (through the district), related service providers, regional day schools and home instruction.	Fee for service tuition and county contribution	11	Part of County government; monitored by the state	Mostly itinerant, Child Study Team members, related service providers, and teaching staff
New Jersey Professional Education Port (PEP)	Virtual academy for parents and educators, onsite technical assistance, website support.	Department of Education funded	1	Part of Department of Education	Manager and three program specialists

NEW JERSEY STATE STRUCTURES SUPPORTING SPECIAL EDUCATION IN CHARTER SCHOOLS (continued)

Agency/ Organization	Role/Service Provided	Cost/Funding Source	Number of Offices	Relationship to Department of Education	Professional Staffing
Charter School Resource Center	Technical assistance and training.	Fee for service, and grants	1	None	Executive Director and affiliated program staff
Charter School Association	Smarter Charters Grant program, advocacy and liaison services. No responsibility for special education in charters.	Charter school membership fees and grant foundation funds.	1	None	Executive Director and program manager
Department of Education Office of Vocational-Technical, Career and Innovative Programs/Charter School Office	Compliance, oversight, TA and authorizer functions.	State and federal	1	Part of Department of Education	Director, manager, and three program specialists
Department of Education Office of Special Education	Responsible for the implementation of federal and state laws and regulations regarding students with disabilities.	State and federal	1	Part of Department of Education	Student Services Director and Appropriate Staff
Department of Education Office of School Funding	Technical assistance, compliance, application review, fiscal analysis and renewal oversight as these pertain to funding.	State funded	1	Part of Department of Education	Finance division reporting to an Asst. Commissioner

2

SECTION TWO

NEW JERSEY PRIMER FOR STATE OFFICIALS ON SPECIAL EDUCATION IN CHARTER SCHOOLS

CHARTER SCHOOL BASICS

Background

In the early 1990's, charter schools were a new concept being implemented by a few states and communities across the country. Today there are approximately 3,600 charter schools operating in 40 states and the District of Columbia. The growth of the charter school movement has compelled personnel in state education agencies (SEA) to get "up to speed" in understanding what charter schools are and how they affect the responsibilities of SEA personnel. Understanding what charter schools are and how they impact SEA responsibilities is particularly important as it relates to special education as special education needs and operations often cut across many departments.

This Primer prepared for state officials on special education in charter schools is intended to give SEA personnel an overview of charter schools by answering some of the most basic questions about the history of charter schools and how they are defined. As charter school law is specific to each state, there is great variability among the states. Consequently, SEA personnel should be knowledgeable about their own state law and understand how it defines or influences their professional responsibilities. Other sections of this primer delineate issues relevant for SEA personnel specific to charter schools and special education. This section focuses on providing general background on charter schools in order to provide a larger context for SEA personnel.

Why do SEA personnel need to know about charter schools?

Because charter schools are public schools, SEAs are responsible for these schools as they are for any other public schools. Because state-level special education needs cut across several departments, SEA personnel in transportation, finance, monitoring, accountability, special education and many other areas need to know what their responsibilities are in relation to charter schools. This primer for state officials provides some basic information for those who are not familiar with the underlying charter school concept.

How are charter schools defined?

Section 5210(1) of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the No Child Left Behind Act of 2001 (NCLB) defines the term "charter school" to mean a public school that:

- in accordance with specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of the Federal definition
- is created by a founder(s) as a public school, or is adapted by a founder from an existing public school, and is operated under public supervision and direction
- operates in pursuit of a specific set of educational objectives determined by the school's founder(s) and agreed to by the authorized public chartering agency
- provides a program of elementary or secondary education, or both
- is nonsectarian in its programs, administration policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution
- does not charge tuition

- complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Part B of the Individuals with Disabilities Education Act
- is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated
- agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program
- meets all applicable Federal, State, and local health and safety requirements
- has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter school pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

What is the history of charter schools?

The charter school movement has roots in a number of other education reform ideas, including alternative schools, site-based management, magnet schools, public school choice, privatization and community parental empowerment. The term “charter” may have originated in the 1970’s when New England educator Ray Budde suggested that small groups of teachers be given contracts or “charters” by their local school boards to explore new approaches. Albert Shanker, former president of the American Federation of Teachers, then publicized the idea, suggesting that local boards could charter an entire school

with union and teacher approval. In the late 1980’s, Philadelphia started a number of schools-within-schools and called them “charters.” Some of them were schools of choice. The idea was further refined in Minnesota, where the concept of charter schools was expanded to include three basic values: opportunity, choice and responsibility for results. In 1991, Minnesota passed the first state charter school law, with California following suit in 1992. By 1995, 19 states had enacted laws allowing for the creation of charter schools, and by 2003 that number increased to 40 states plus the District of Columbia. (This information is taken from the U.S. Department of Education website, www.uscharterschools.org)

What are some typical characteristics of charter schools?

Charter schools start after the passage of laws by individual state legislatures that specifically permit their existence as part of the public school system in that state. There is wide variability among the states in how charter schools are defined. One common feature of all charter school laws is that a charter school must be authorized by a specific entity or entities designated in the law. In most states, charter school law stipulates that a charter school must be authorized by an entity such as a local or county school board, state board of education, college or university, municipal body, special-purpose board, or (in two states in 2003) a nonprofit organization meeting certain criteria. The charter school is approved for a set period—most often three to five years—and the authorizer typically has oversight responsibility that is tied to a charter school’s renewal of its charter for operation.

SECTION TWO

NEW JERSEY STATE OFFICIALS PRIMER ON SPECIAL EDUCATION IN CHARTER SCHOOLS

How are charter schools funded?

As public schools, charters are not allowed to charge tuition, and they are funded according to enrollment. In some states, such as Alaska, Colorado, Minnesota and New Jersey, they receive less than 100 percent of the funds allocated to their traditional counterparts for the operation of public schools. In other states, like California, additional funds or loans are made available to them. In most states, charters do not receive capital funds for facilities. They are entitled to federal categorical funding for which their students are eligible, such as Title I and special education monies. Funds are available to help charters with start-up costs through grants to all states that have charter school laws. For further information on the Federal Charter Schools Program, see www.ed.gov/programs/charter/index.html.

some of the regulations required for other public schools, although the degree of freedom varies greatly from state to state.

- Third, charter schools are often allowed autonomy for many, if not all, areas related to operating a school.
- Fourth, an essential element of the charter concept is that charter schools will be held accountable for performance goals defined in their charter or their performance contract with their authorizing agency. If they fail to meet those goals and do not operate in compliance with relevant laws and regulations, they may be closed. These expectations may be quite specific to the charter school, or they may be more general and similar to, or the same as, the accountability requirements for other public schools in their district or state.

How many states have charter school laws and how many students are enrolled?

As of June 2005, 40 states plus the District of Columbia had passed charter school laws. Although only about one percent of America's public school students were enrolled in charter schools during the 2004-2005 school year, the charter school movement remains a high-profile component of the public education system in the United States.

Do students with disabilities attend charter schools?

Yes. Students with disabilities may not be discriminated against or refused entry into any charter school on the basis of their disability status. Recent estimates suggest that approximately 12 percent of charter school students are served under the Individuals with Disabilities Education Act (IDEA 2004), but this average masks the wide variation that exists between and within states. Some charter schools report that 100 percent of their students are served by special education (schools that target a special population), while others have very few, if any, students with disabilities enrolled.

Do all states have the same number of charter schools operating in their states?

No, the number of charter schools varies greatly by state.

What are the major differences between charter schools and other public schools?

There are four major ways in which charter schools differ from other public schools.

- First, charter schools are schools of choice where parents choose to enroll their children rather than enrolling them by district assignment.
- Second, charter schools are typically exempt from

What other resources provide information about charter schools?

The U.S. Department of Education's charter school website provides extensive information about charter schools. (www.uscharterschools.org) Another valuable site is the National Association of Charter School Authorizers. (www.charterauthorizers.org)

CHARTER SCHOOLS AND SPECIAL EDUCATION BASICS

Background

Implementing special education in charter schools is often a daunting experience for charter school operators and staff. Personnel at the state education agency (SEA) often become central resources as charter schools build their capacity to address the needs of students with disabilities. While many may believe that only the state's special education division needs to understand charter schools and the issues relating to special education, in reality all SEA personnel who interface in any way with charter schools need to understand how charter schools and special education laws intersect. Special education touches many different divisions within an SEA including finance, transportation, licensing, curriculum and instruction, among others. This topic brief focuses on basic information about special education as it relates to charter schools.

Why is it important for SEA personnel to understand special education in charter schools?

Charter school operators have numerous tasks and responsibilities as they open their schools. They often must find facilities, choose or develop curriculum, hire staff and determine their educational delivery model, among other demands. They do this with limited personnel and resources and often limited experience in each of the areas. Consequently, SEA personnel are frequently called upon to assist both charter school operators and authorizers in understanding their responsibilities and the state's requirements. Just as important, SEA personnel need to understand how charter schools and special education relate because individuals starting charter schools often are unaware of their obligations in this area and SEA officials are often the first resource contacted by charter operators, authorizers and LEAs working with charter schools.

In addition, often SEA personnel understand special education as it relates to traditional public schools, but are less aware of how special education laws relate to their state's charter schools. Understanding the basic tenets of special education and how these apply to charter schools is critical to an SEA providing the needed resources and assistance to charter school operators and authorizers.

Can charter schools waive their responsibilities for special education?

No, charter schools are public schools and, as such, cannot waive their responsibilities under federal laws. They must comply with all federal education laws including the Individuals with Disabilities Education Act (IDEA 2004), Section 504 of the Vocational Rehabilitation Act of 1973 ("Section 504") and Title II of the Americans with Disabilities Act (ADA). A state may waive portions of its own state laws and regulations that go beyond federal requirements or the requirement to abide by school district regulations concerning special education, but no waiver is possible from federal requirements pertaining to students with disabilities enrolled in charter schools. However, New Jersey does not permit any waiver of special education requirements.

It is very important that SEA officials involved with charter schools are aware of the federal laws that impact the implementation of special education in charter schools, and the important basic concepts of LEA identity and linkage between a charter school and an LEA.

What are the major legal concepts that underlie special education statutes, regulations and case law?

There are six tenets generally considered the underlying concepts of special education law:

- **Zero Reject:** Federal law requires that all children are afforded an equal education opportunity and states may not deny that on the basis of a disability.
- **Individualized Education Program:** IDEA 2004 requires that a written plan called an Individualized Education Program (IEP) be developed in accordance with IDEA 2004 regulations for all students identified as having a disability and in need of special education services. In general, the IEP includes the student's current educational level, annual goals, specific educational objectives, special education and related services to be provided (this may include transportation needs), dates for initiation of service, anticipated duration of service and evaluation criteria. Under certain circumstances, there are other requirements such as a plan for transition services for students ages 14 and older.
- **Free, Appropriate Public Education (FAPE):** What is deemed "appropriate" is not specifically defined in IDEA 2004. Court decisions over the years have helped define the term in specific instances. What constitutes an appropriate program for an individual student is to be determined on a case-by-case basis depending upon the unique needs of that student; however, the program provided must be meaningful and beneficial to the student.
- **Least Restrictive Environment (LRE):** The IDEA provides that students with disabilities must be educated to the maximum extent appropriate with their non-disabled peers. The law expresses a preference, not a mandate, for educating students with disabilities in regular classes with appropriate supplementary aids and services.

- **Due Process and Parental Involvement:** Generally speaking, procedural safeguards are central to the implementation of IDEA 2004. Parents must be notified of a school's intent to evaluate their child for services and they must consent to an initial evaluation before the process begins. They must also be involved in the IEP process and consent to the initial placement and provision of services. Parents also have a right to request a due process hearing if they disagree with the school's recommendations for their child.
- **Nondiscriminatory Evaluation:** There are specific legal requirements concerning the evaluation of children for special education services. It is important to understand these and follow necessary procedures.

What SEA functions interface with special education in charter schools?

Nearly all offices within an SEA can interface with charter schools. For example, the finance office often fields questions related to the funding of special education in charter schools. The transportation office can be closely involved in the transportation of students with disabilities in charter schools. The licensing office is often consulted about staffing requirements for special education teachers and accountability offices must be knowledgeable about testing and reporting requirements for students with disabilities in charter schools. In each of these examples, SEA personnel may be called upon to provide training to charter school operators and must know how their state's laws and policies concerning special education pertain to charter schools.

What is the role of the authorizer in providing special education?

The authorizer's role in special education varies from state to state and may be determined by state law, policy and/or the charter contracting process. In some states and for some charter schools, the authorizer's role in special education is limited to determining whether special education is being provided according to the charter school law. In other states, the authorizer may be the actual provider of services. In New Jersey, there is only one authorizer for charter schools—the Commissioner of Education.

What can SEA personnel do to assist charter school operators and authorizers as they consider successful implementation of special education?

There are several things SEA personnel in any division or unit (e.g., accountability, finance, transportation, special education) can do to assist charter school operators, authorizers and parents. Here are just a few:

- Know your charter school law and be prepared to answer questions about special education issues that pertain to your area of specialization in the SEA structure.
- Provide guidelines that outline for charter school operators their responsibilities as they pertain to your division. Since they are new schools, charters often need more rudimentary information than what is available for the state's existing school districts.
- Train division personnel on the charter school law and its intersection with charter schools and special education as it pertains to your division.
- Provide training for charter school operators and staff specific to your area (e.g., finance, transportation, accountability) as it relates to special education.
- Integrate charter schools into existing special education technical assistance efforts.
- Develop coordinated guidelines with the state special education division so that all are working in tandem to assist charter schools.

Is there more information that can assist SEA personnel in understanding charter schools and special education?

Additional topics important for SEA personnel to know and understand are summarized in the other parts of this primer. In addition, the following resources have useful information on this topic:

- A question and answer document entitled, *Applying Federal Civil Rights Laws to Public Charter Schools* (www.uscharterschools.org/pdf/fr/civil_rights.pdf) may be helpful in answering questions regarding how federal civil rights laws apply to charter schools.
- An overview of charter schools with links to several pertinent websites is available at the charter school website at www.uscharterschools.org.

KEY POLICY AND PROCEDURAL ISSUES ON CHARTER SCHOOLS AND STUDENTS WITH DISABILITIES

Background

One lesson that has been learned in the past decade of charter school implementation is the importance of providing clear guidance regarding special education for charter school operators, authorizers, local education agencies (LEAs) and state education agencies (SEAs). Without policy guidance, SEA personnel can be unduly burdened to create answers to each individual situation, resulting in ambiguity or inconsistency among charter schools. The information in this primer section is designed to assist SEA personnel in identifying needed policies and procedures that will provide all involved in the implementation of special education in charter schools a greater opportunity to succeed in educating all students who choose to enroll. By addressing the following issues in a proactive manner, you will be in a better position to help charter schools meet the needs of students with disabilities and avoid some of the redundancy of effort that might occur at the SEA level if policies and procedures are not in place.

The following is an action list of items for SEA personnel to consider.

- **Know and understand your state charter school law.** Critical to addressing special education in charter schools is knowing the state’s charter school law and its implications for special education. In some states, directors of special education had input into the charter law, while in other states special education was an afterthought that was not considered during the enactment of the law. In all cases, lead people and other SEA personnel need to know the current law and its strengths and weaknesses regarding special education. Policies and procedures must be developed to assist in the implementation of special education law and code in charter schools.

Knowing the charter school law only brings SEA personnel halfway to understanding the legal framework in which they are making decisions. The other element is understanding the legal identity of a charter school and the connection a charter school has to a local education agency for purposes of special education as defined by state statute.

- **Determine the office of special education program’s vision for working with and providing assistance to charter schools.** Once a charter school law has been passed, the state director of special education and other unit leaders need to consider their vision for implementing the law and working with charter schools. Research and technical assistance work with states and charter schools confirms that a proactive approach to working with charter schools to provide clear guidelines for all involved is in everyone’s best interests, especially the students with disabilities.
- **Manage the process for successful implementation of special education in New Jersey’s charter schools.** Once the vision for working with charter schools in the area of special education has been determined, SEA personnel need to address how they are going to manage the process. There are several things to consider, including what level of support is needed from the SEA in order for charter schools to successfully provide special education and related services. This is particularly critical given that many new charter schools do not usually have the background or expertise sufficient to address all special education issues. Some of the questions SEA personnel should answer include:
 - How will the SEA fund the additional resources needed to support charter schools? In states where charter schools are independent LEAs, monitoring and other SEA direct responsibilities increase considerably. How will these responsibilities be funded and are there any other

partners the SEA can work with to carry them out more efficiently?

- How do SEA personnel facilitate discussions among the many state agency units that need to work on special education issues with charter schools? What types of structure can be put in place to ensure consistency among the units in addressing special education in charter schools? (These units include special education, transportation, finance and licensing, among others.)
- What do SEA personnel need to know about their state's charter school law in order to address charter school issues?
- Who is responsible for addressing specific special education issues within the SEA? Which unit takes responsibility and how will the responsible party be determined?
- What are some examples of how other states are providing special education-related guidance to charter schools? Can any of the resources they have developed be reproduced and amended for my state? (SEA personnel, in any stage of development of their policies should visit the websites of other states and see if they can learn from others, thus saving time and resources.)
- ***Understand the inherent tensions that exist between charter school law and special education law.*** There is an inherent tension between the procedural regulation of special education and the principle of autonomy that is central to the charter school concept. Charter schools vary considerably in the degree of freedom they are provided by law and policy, but as part of the public educational system, they are not free from regulation and oversight in the area of special education. Thus, there is a natural tension between charter school law that approaches education from a non-regulatory stance and special education law that approaches education for students with disabilities in a regulatory manner. SEA personnel must navigate these two approaches

to the education of students with disabilities as they develop policies and procedures. They need to ensure that they provide assistance to charter school operators and that LEA personnel understand how to follow them.

- ***Understand the role that parental choice and special education team decision making play in the implementation of special education in New Jersey's charter schools.*** Tension is clearly visible in the implications of the charter school principle of parental choice, which creates a new dynamic for special education. The foundation of special education is the principle of team decision-making aimed at meeting the needs of an individual student. Decisions regarding what is appropriate for a student with a disability who is eligible for services under IDEA 2004, including determining services needed and where those services will be delivered, rest with a team made up of educational professionals and the child's parent. Charter schools, by definition, challenge that foundational decision-making principle of special education by asserting the primacy of parental choice.
- ***Seek a balance that meets the needs of all students.*** The challenge for SEA personnel is to seek a balance that is appropriate to each issue regarding charter schools and special education. Only a clear understanding of these issues will allow all who are involved to succeed in the climate in which public charter schools operate.
- ***Look for innovation of special education practice and policy.*** SEA personnel are in a unique position to observe through the monitoring process the special education practices being implemented in charter schools. Use the opportunity to document innovative practices and policies that might help both charter schools and their authorizers and also traditional public schools as they seek new and better ways to deliver special education.

KEY SPECIAL EDUCATION POLICIES FOR STATE EDUCATION AGENCY PERSONNEL

Background

Consider the following scenarios.

- **Scenario A:** A student with an existing IEP (individualized education program) has applied for enrollment in a charter school. The IEP team has not met to consider the student's enrollment, but when they find out, they are concerned about whether the charter school will have the services to meet the student's needs. Does the student's enrollment in a charter school constitute a change of placement according to IDEA 2004
- **Scenario B:** A student with a disability in one of the low-incidence disability categories enrolls in a charter school. The charter school does not have a staff person to serve the student, but the IEP stipulates a considerable level of services. Can the charter school send the student back to his resident school claiming they cannot serve the child and that services are available elsewhere? If not, who pays for the sometimes costly services?
- **Scenario C:** A charter school uses an individualized learning plan approach for all of its students. It does not write an IEP for its students with disabilities claiming that its individualized learning plan (ILP) provides adequate information. Will the state accept the ILP as an IEP?
- **Scenario D:** A charter school has an inclusive special education model. It hires an itinerant special education teacher or consultant to visit the school two hours a week. Does this meet IDEA 2004 and state standards for qualified staff?

These are just a few of the situations that SEA personnel may have to address concerning charter schools and special education. At the heart of these scenarios are policy decisions that the SEA must consider and make.

The possibilities are endless and can be particularly daunting to SEA personnel if no policies are in place to guide them in their decision-making and technical assistance to charter schools.

The purpose of this brief is to outline some of the most common policy areas that an SEA special education office must address in order to provide guidance to charter schools and to the SEA staff members. The need for consistent guidance for all charter schools within the state is important for the integrity of the agency, for clarity and fairness to charter schools and also to eliminate the redundancy of effort that is apparent when each case has to be considered independently from any agency-wide guidance. The following areas are highlighted as essential policy areas for consideration by the special education office in order to provide the clarity and guidance needed by all those who work with charter schools.

SPECIAL EDUCATION POLICY QUESTIONS FOR CONSIDERATION

The following outline includes a few of the policy questions that should be considered and clarified at the SEA level. This is not an exhaustive list, nor does every question affect each state in the same manner. The list is provided to assist state directors of special education and the special education unit as they provide guidance to their staff and to charter school operators and authorizers.

Responsibility for service

- What is a charter school's legal responsibility for students with disabilities?
- Which entity is responsible for providing a free, appropriate public education (the charter school, the authorizer, the child's resident school district)?
- Is there a shared responsibility? If so, for which areas is each entity responsible?

Parent choice and team decision making

- What is our state's policy regarding team decision making if parents have the choice to enroll their child with a disability in a charter school?
- What guidance will we provide to LEAs and charter schools to help them cope with the policy tension between the philosophies of charter schools and special education?

Change of placement

- Do we consider enrollment in a charter school a change of placement for special education purposes?
- If so, what related information do we have to make available to charter schools?

Staffing

- What special education staff standards must charter schools meet?
- What is the role of special education consultants and can they fulfill state and federal requirements for service delivery to students with disabilities?

Individualized education program

- Is it mandatory for LEAs to use a state form for IEPs?
- May charter schools develop a different IEP form?
- Are there other forms related to the IEP process that charter schools must use? Who will make sure they are notified about them?

Capacity issues

- How is special education addressed in the charter application and review processes of charter school authorizers in our state?
- Will special education personnel be involved in the review of charter applications?
- What policies are in place to ensure charter schools have the capacity to provide special education services when they open their doors?

Curriculum and assessment

- How can charter schools modify curriculum to address unique needs of students with disabilities?
- Are any curriculum requirements waived for charter schools?

SECTION TWO

NEW JERSEY STATE OFFICIALS PRIMER ON SPECIAL EDUCATION IN CHARTER SCHOOLS

Special education monitoring

- How will charter schools be monitored for special education and should they receive special consideration or assistance?
- Who within the SEA is responsible for oversight of charter schools? Have they included special education considerations in their oversight procedures?
- What is the oversight role of charter school authorizers in our state in oversight pertaining to special education?
- How will the findings from special education monitoring be included in the charter renewal or revocation process of charter school authorizers in our state?

Child find

- What is our state's policy on the responsibility of charter schools for Child Find?

Data responsibilities

- What parts of the SEA's policy regarding student files, IEPs and other records are binding on charter schools?
- Where do the records for students with disabilities reside?
- What is the procedure that will be followed concerning special education records when a charter school closes?
- Who in the SEA will ensure that this is followed?
- What are a charter school's responsibilities for reporting data on students with disabilities?
- Who ensures that the data are reported appropriately?

Least restrictive environment

- What is the state's policy toward charter schools that enroll or target only students with disabilities?
- What is the state's policy for ensuring that charter school students with disabilities have access to the full continuum of placement options for meeting individual learning needs?

Facility issues

- Who ensures that charter school facilities are accessible?

Transportation

- What are our state's transportation policies regarding students with disabilities who attend charter schools? For example, can the charter school put transportation on the IEP and expect an LEA to provide the service?

Closure issues

- Do we need to develop written policies on special education procedures for charter schools and authorizers of charter schools to follow when charter schools close?
- Who is responsible for paying for any compensatory services owed to a student with a disability when a charter school closes?

Due process

- How will due process be handled in charter schools?

State accountability issues

- How does the SEA deal with academic accountability issues for special education students in charter schools? Do we need to develop policies to ensure that students with disabilities in charter schools are included in NCLB assessments and reporting?

State resource issues

- How will the state pay for the time and resources needed to address special education in charter schools (technical assistance, additional monitoring, additional questions and oversight, etc.)?
- How can the SEA best use discretionary funding to address charter school issues?

The list addresses some of the most critical areas for state directors of special education to consider as they develop state policy. The list is meant to provide a set of critical questions that each SEA will answer specific to their state laws and in so doing develop a framework that can be understood by SEA personnel, charter school operators and authorizers. Some states may choose to provide specific answers and guidelines and other states may choose to only highlight areas of concern.

One of the most important points for state directors and their staff to remember is that without guidance in these areas, special education requirements may be implemented inconsistently, with the possible outcome that some students with disabilities will not receive a free, appropriate public education as required by law. Well-considered policies will provide clear, consistent guidance to charter schools and charter authorizers, while lightening the workload for the SEA personnel. For these reasons, it is strongly advised that SEA personnel discuss and set policies for the areas listed above and other related matters that arise in your state.

How can SEA special education personnel get help in developing policies and procedures?

Some states have already been down this road and have developed documents for their state. Most states have a link on their state's website that goes directly to the charter school office.

STATE EDUCATION AGENCY ASSISTANCE DURING CHARTER SCHOOL DEVELOPMENT

Background

Several years of research and numerous discussions with state directors of special education and other SEA personnel from around the country have made it clear that the state plays a key role in the successful implementation of special education in charter schools. However, SEA personnel are often unsure of how charter schools operate or what questions they should be considering as they review charter schools' needs. The purpose of this section is to outline the questions of particular relevance to SEA responsibilities that arise at each stage of a charter school's development.

Often, day-to-day operational questions are passed on to SEA personnel for which they have to make decisions. The intent of outlining these questions is to provide a framework for discussion at the SEA level as staff members decide which questions they are going to answer, how they are going to answer them, and who is going to provide the technical assistance needed to ensure the answers are implemented. The first two sections below consider questions under two broad stages of charter school development (authorization and day-to-day operation) to assist SEA personnel in working with charter schools. The third section focuses on questions concerning SEA technical assistance to charter schools at any stage of development.

Questions to Consider Concerning Charter School Authorization

The charter school authorization process is a critical period for providing technical assistance and guidance to potential charter schools. It is during this period that many prospective operators first learn about the state and federal laws that they must follow in the area of special education. Frequently, prospective charter school operators and founders do not include anyone with expertise in the area of special education, so all parts of the laws and responsibilities are new to them. In addition, in some states, it is during this period that negotiations take place between the charter school and other entities to arrange how special education services will be delivered. Some of the questions for consideration during this period are listed below.

What strategies can SEA administrators consider to assist charter school operators and authorizers in the area of special education?

SEA personnel need to work with others, both within and outside the SEA, who are involved in chartering schools to determine what charter school operators need to help them build the capacity to provide special education. Given the fact that many operators do not have a background in special education, the SEA should review their training and determine how best to meet the needs of charter school staff and authorizers.

SECTION TWO

NEW JERSEY STATE OFFICIALS PRIMER ON SPECIAL EDUCATION IN CHARTER SCHOOLS

How can the SEA ensure that there is an individualized education program (IEP) team in place if a charter school will be responsible for implementing that component of the special education law?

Setting up an IEP team process takes time and expertise, yet it is critical to providing students with a free, appropriate public education. In New Jersey where charter schools have sole responsibility for special education, SEA personnel need to determine how they will ensure that charter schools in their state have an IEP development process in place that will meet the needs of students with disabilities. It is essential that SEA personnel understand the responsibility of individual charter schools in their state so they can address it with operators and SEA personnel in various departments.

What does the SEA tell potential charter school operators about the costs of special education?

The old saying, “better the devil we know than better the devil we don’t” has relevance for this question. Charter school operators need to understand the complex issues involved in budgeting for special education. The SEA should assist operators with their planning.

How should charter school enrollment policies and practices address or treat students with disabilities?

Make sure that charter operators know the applicable state and federal discrimination laws! The answer to this question may seem to be straightforward to personnel in the SEA’s special education office who are familiar with such legislation, but it may not be clear to new operators or even existing operators. The SEA needs to make clear the state’s expectations around the enrollment of students with disabilities and the consequences for “counseling” students out of the school or not allowing them to enroll.

What technological expertise is necessary for charter school staff to access the needed special education databases (e.g., financial, accountability, child count)?

There is a vast array of data connected with providing funds and services for students with disabilities. Charter schools need to understand clearly their responsibilities with respect to data collection and the SEA must provide clear guidance to charter schools and exercise oversight in this area. Technical assistance will include the correct use of state special education databases.

Which state agency personnel can explain the information needed to implement various requirements of special education (e.g., financial, transportation, licensing, monitoring and compliance, etc.)?

Identifying resources for charter schools can save the SEA considerable time and money. Developing or providing an existing directory with explanations of relevant SEA departments and their role in special education can be valuable to charter school operators and authorizers. SEA personnel should remember that, contrary to existing school districts, charter schools are starting from scratch often with the responsibility for special education assigned to one staff person who is juggling many other responsibilities. Thus, identifying and referring schools to proper resources will be enormously helpful and important.

What type of training in special education do charter schools need during the authorization process, how much is needed, who provides it and should it be mandatory?

The SEA needs to devote careful thought to its policy on training for special education that is appropriate during the charter school’s authorization process. Policy in this area should involve evaluating the type of training needed, the process for delivering that training, as well as the training that may be needed for other SEA officials.

SECTION TWO

NEW JERSEY STATE OFFICIALS PRIMER ON SPECIAL EDUCATION IN CHARTER SCHOOLS

What issues should charter schools be alerted to consider when designing their enrollment forms?

SEA personnel can assist charter applicants with information about the student admission requirements and processes. Parents must apply to enroll their children in a charter school, unlike the customary registration process for schools of assignment. Application forms and practices should not be constructed in a manner that deters students with disabilities (or their parents) from applying. SEA personnel must consider who will monitor these forms and processes to ensure students with disabilities have equal opportunity to enroll in the charter school of their choice.

Questions to Consider Concerning Charter School Day-to-Day Operations

There are three main time periods in which charter school operators are most in need of information about special education. The first is the authorization period noted above; the second period can be termed the “start-up” phase; and the third period covers day-to-day operation after start-up when the school has its regular routine practices established.

The SEA’s involvement with charter schools does not end once they are up and running. In fact, more questions and assistance may be asked of SEA personnel once the school opens and students with disabilities enroll. Even if you are in a state that requires charter schools to have special education training and an extensive special education plan, many charter operators may underestimate the number or types of students with disabilities who will enroll in their school. Thus, they may still not be prepared to deal with the actual implementation of special education.

The following questions are designed to help SEA personnel understand some of the issues they may need to address as charter schools open, begin operation and continue to operate.

How can the SEA determine the special education issues that present the greatest challenges during the start-up period?

The types of issues that present the greatest challenges during start-up will depend on the state’s charter school law. SEA personnel can pinpoint needed training and assistance related to responsibility for special education in the charter school and help all parties involved understand their roles and responsibilities.

How will the SEA address charter school enrollment issues pertaining to special education?

Anticipating potential problems is important to assisting charter schools in the implementation of special education. Accordingly, SEAs should develop policies to anticipate, minimize and address potential conflicts between charter school enrollment practices and special education requirements. For example, whatever a school’s mission or educational approach, SEA personnel may be called upon to address the issues that arise when a student with a disability applies or wishes to enroll in a school whose mission does not seem to be in keeping with the student’s IEP. Providing guidance in this area so that charter schools are aware of the law and the consequences of noncompliance can help charter schools that establish policies to ensure that students with disabilities do not experience discrimination in enrollment. Providing examples of how other charter schools approach the issue will also be helpful to newer charter schools.

SECTION TWO

NEW JERSEY STATE OFFICIALS PRIMER ON SPECIAL EDUCATION IN CHARTER SCHOOLS

What are the responsibilities of charter schools for identifying students with disabilities?

Unlike school districts and the schools they operate, charter schools face unique challenges because they have to hit the ground running in many different areas, including the identification of students with disabilities. Often they do not have the records available to them or parents have not provided them with completely truthful answers about their child's disability status. Determining how the SEA can assist charter schools in identifying students with disabilities is important in helping charter schools comply with the law and establish a viable special education program. This is where early training is helpful for charter operators and their authorizers.

How do we provide guidance for conflict resolution and appeals to the SEA in the charter school context?

There are times when, for example, parents may need assistance in appealing an enrollment decision or a charter school may need assistance to resolve a conflict between the charter school and the provider of special education or related services. The SEA must ensure that charter school staff understand their obligation to make parents aware of their rights under law when there is a conflict or difference of opinion. SEAs must ensure that LEAs and charter schools that are their own LEAs understand the requirements for parental notification of their due process rights.

Issues that surface are often unique to charter schools or are specific to the relationship between parents and the school. Consequently, well-thought-out policies and procedures in this area will help ensure that the process for a variety of appeals is fair and accepted by all parties.

How are due process hearings handled when they involve charter schools in my state?

Due process hearings may present unique questions for charter schools. The SEA should consider those unique issues, starting from a clear understanding of the charter school's legal responsibilities in such matters, and determine if there are any unique policies or changes to existing policies that should be considered to ensure that charter schools are appropriately included in state policy related to due process.

Who is programmatically and financially responsible for determining a new placement, if a charter school does not think it can serve a child with a disability?

A charter school may not have the capacity to provide services for all students with disabilities who seek to apply. Yet, parents may enroll their child in any charter school, if space is available, even if needed services are not available at that school. SEAs should establish a policy and provide clear information to charter schools and LEAs to minimize confusion over operations, such as who is responsible for a change of placement, the procedures to be followed, how this affects the child's rights to a free appropriate education, and who is responsible for funding a change of placement.

What about related services?

Charter schools are often not aware of what is meant by related services nor are they a part of a larger infrastructure that can provide related services. Delineating expectations for charter schools in this area and assisting them in locating services can go a long way toward compliance with the law and in building the charter school's capacity to serve students with disabilities.

SECTION TWO

NEW JERSEY STATE OFFICIALS PRIMER ON SPECIAL EDUCATION IN CHARTER SCHOOLS

What role does the SEA have with respect to special education in charter school renewal or revocation?

One of the unique characteristics of charter schools is their accountability for fulfilling to their charters as performance contracts. They operate under charter terms of varying lengths and a school's charter must be renewed at the end of its term in order for the school to continue to operate. SEA personnel should consider the role they might play in a charter school authorizer's renewal specific to special education and establish procedures with authorizers as to the role the special education division might play during the renewal process. In addition, what are the SEA policies regarding charter non-renewal, revocation, or surrender? What happens to students with disabilities if a charter school loses or relinquishes its charter and closes its doors? SEA personnel need a clear understanding of these issues in order to provide accurate information.

What happens if the charter school makes a financial mistake due to lack of experience with the laws governing child identification and special education funding?

Local school districts have had more than 30 years to learn the federal and state disability laws and have expert staff that interpret and ensure that the district is following the laws and policies. For charter schools, this responsibility often falls on an overburdened teacher or director. The SEA should address the difference between the circumstances of charter schools and long-standing school districts. Are the policies the same, or will the SEA address any problems differently due to the unique nature of a new, start-up (and typically small) school?

Questions to Consider Concerning Technical Assistance (TA) to Charter Schools and Authorizers in the Area of Special Education

Charter schools need technical assistance at nearly every stage of development. SEA personnel should recognize the many ways in which they can help charter schools and their authorizers understand and implement special education. The questions below highlight some of the technical assistance areas that SEA personnel should consider as they review their policies toward charter schools in relation to special education.

- What knowledge do charter schools and authorizers need to successfully implement special education? Who will provide the information?
- How can the SEA assist in building the capacity of charter schools and authorizers to implement special education?
- How will the SEA find the resources to provide adequate technical assistance and monitoring?
- How will the SEA disseminate required information to charter schools and ensure that the information is effectively reviewed?
- How does an SEA provide guidance without turning it into regulations?
- How does the SEA address the training needs of small numbers of operators whose needs are unique and different from the staff in traditional school districts?
- What is different about providing technical assistance to charter schools and authorizers as compared to providing training to traditional school districts?
- What types of technical assistance resources and tools concerning special education should SEA offices provide for charter schools and authorizers (e.g., budget worksheets, technology training, transportation guidelines, etc.)?

- Is our statewide technical assistance system for special education and related services and processes adequate to meet the needs of charter school operators?
- When does our SEA provide special education technical assistance and who should be in charge of providing it to charter schools and authorizers?
- How should SEAs communicate special education expectations to charter school operators and authorizers in a way that is helpful and not viewed as punitive?
- What types of technical assistance do SEA personnel need to keep current with charter school development and changes in their state and around the country?
- How can the SEA select and distribute materials in a way that is manageable and useful, rather than overwhelming, for charter school operators and authorizers?

More Information

Many states have already grappled with these questions. A review of the websites of those states with similar legal status and requirements for their charter school can provide valuable information and/or ways to contact individuals who may be able to share applicable solutions.

POLICY TENSION

There is an overriding climate issue involving charter schools that must be taken into account, i.e., the policy tension between charter schools and special education that can give rise to conflict. The charter school concept is driven in part by the desire to allow educators the freedom to be innovative about teaching and learning, but this can be difficult to do while remaining in compliance with a highly prescriptive federal statute such as IDEA 2004. In the area of special education, charter schools must juggle autonomy and compliance that at times can feel like fitting a square peg into a round hole.

One example of the tension between the autonomy of a charter school and federal special education law can be seen in the opposing pull between parental choice and the team decision making requirement in federal and state special education law. A central tenet of IDEA 2004 is that a team made up of professionals and the parent determines what is in the best academic interest of the child. The nature and intensity of special education services and the setting in which they will be delivered rest with the Individualized Education Program (IEP) team.

Charter schools challenge that foundational decision-making principle of special education by asserting the primacy of parental choice. Because they have been created to offer choices in education to students and their families, charter schools assume that parents should be able to freely make choices about where and how their children are educated.

Thus, the foundation of parental choice is in tension with the notion of shared decision making that operates within special education. This tension is part of the climate for charter schools and its challenges must be understood by all involved. Should parents be allowed to enroll their child in a charter school even if the IEP team suggests that this is not the setting in which the child would be best served? Which tenet takes precedence— the right of the parents to choose the academic setting for their child, or the right of the IEP team to determine how and where a student with a disability may be best served?

Charter school authorizers, operators, staff and board members must understand and acknowledge these tensions and strive to identify solutions. The challenge is to attain a balance that is appropriate to the issue, i.e., to deliver special education services in an innovative way that complies with federal special education law and to work together with parents as important members of the IEP team to determine the best educational services and setting for their child. The challenge for charter school educators is to be creative about how they serve students with disabilities in a way that preserves the students' right to a free, appropriate public education.

REMAINING CURRENT

It is important to note that federal laws such as the Individuals with Disabilities Education Act (IDEA) and the Elementary and Secondary Education Act (amended by the No Child Left Behind Act) are subject periodically to mandated “reauthorization,” that is, a Congressional review that usually brings changes. IDEA was reauthorized in 2004 as IDEA 2004. In addition, regulations implementing federal laws as well as state laws and their regulations related to charter schools and special education are revised on an irregular basis. Sometimes the changes are extensive and their effects evolve over time, as continues to be true of the implementation of the 2002 amendments to the Elementary and Secondary Education Act now referred to as the No Child Left Behind Act (NCLB). So, it is imperative that all those involved with charter schools, such as chartering entities and state education agencies, be prepared to provide the necessary technical assistance to charter schools so they can access the most current legislative information and remain in compliance.

Keeping printed materials up-to-date and widely disseminated is a daunting challenge. Modern technology, however, offers a solution that has been widely adopted—placing documents on the internet that will allow relatively easy revising/updating. The New Jersey Department of Education maintains a website with extensive materials on all aspects of public schools including guidelines that provide current and accurate information to those who need it. New Jersey special education code has been revised and is available on the website. Links to all sections of that website can be accessed from the home page at www.state.nj.us/education/index.html.

PART 1: ACRONYMS

ADA	Americans with Disabilities Act	I&RS	Intervention & Referral Services
AYP	Adequate Yearly Progress	LDTC	Learning Disabilities Teacher-Consultant
ADHD	Attention Deficit Hyperactivity Disorder	LEA	Local education agency (school district)
CEC	Council for Exceptional Children	LRE	Least restrictive environment
CSLC	Charter Schools Leadership Council	NACSA	National Association of Charter School Authorizers
CSP	Charter Schools Program (of the U.S. Department of Education)	NAEP	National Assessment of Education Progress
GST	Child Study Team	NASDSE	National Association of State Directors of Special Education
ED	U.S. Department of Education	NCLB	No Child Left Behind Act (Elementary and Secondary Education Act)
EMO	Educational management organization	NICHY	National Information Center for Children and Youth with Disabilities
FAPE	Free, appropriate public education	OCR	Office for Civil Rights
FERPA	Family Educational Rights and Privacy Act	OSEP	Office of Special Education Programs
FRC	Federal Resource Center	PACER	Parent Advocacy Coalition for Educational Rights
504	Section 504 of the Rehabilitation Act of 1973	PRISE	Parental Rights in Special Education (NJDOE publication; also <i>Pocket PRISE</i>)
IDEA	Individuals with Disabilities Education Act of 2004	RRC	Regional Resource Center
IEP	Individualized Education Program	SEA	State Education Agency
IFSP	Individualized Family Service Plan		

PART 2: DEFINITIONS

Accommodations: 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. 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 assessments.

Achievement Test: 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: Adequate Yearly Progress (AYP) is the minimum level of improvement that states, school districts and schools must achieve each year.

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

Alignment: The similarity between or among content standards, performance standards, curriculum, instruction, and assessments in terms of knowledge and skill expectations.

Alternate Performance Assessment: An instrument used in gathering 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 Individualized Education Program (IEP) Team.

Assessment: The process of collecting information about individuals, groups, or systems that relies upon a number of instruments, one of which may be a test.

Assistive Technology: The term 'assistive technology device' means 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 functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. It includes evaluation of the child's needs, purchase of the device, training and other aspects of the use of the device.

Attention Deficit Hyperactive Disorder (ADHD): Attention Deficit Hyperactivity Disorder (also called Attention Deficit Disorder or ADD) is a condition 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 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.

Auditorily Impaired: An inability to hear within normal limits due to physical impairment or dysfunction of auditory mechanisms.

Authorizer: 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. Some states use different terms for this role, e.g., sponsor.

Autism: A developmental disability significantly affecting verbal or nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Bias (test bias): In a statistical context, bias 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, and very often will result in discrimination of certain groups.

Charter Schools: Charter schools are independent public schools designed and operated by educators, parents, community leaders, educational entrepreneurs and others. They are authorized by the Commissioner of Education in New Jersey. Most states use the term “charter school,” although there are other terms in use for this type of school, such as “community school” used in Ohio and “public school academies” in Michigan.

Child with a Disability: A child with a disability means a child evaluated in accordance with IDEA as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious 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.

Child Study Team (CST): A New Jersey charter school is required to hire a CST which includes a school psychologist, a learning disabilities teacher-consultant and a school social worker (see N.J.A.C. 6A:14-3.1).

Cognitively Impaired: Corresponds to mental retardation in the federal eligibility categories. Cognitively impaired means a disability that is characterized by significantly below average general cognitive functioning existing concurrently with deficits in adaptive behavior; manifested during the developmental period that adversely affects a student’s educational performance.

Criterion-Referenced Tests (CRT): A test that measures specific skill development as compared to a predefined absolute level of mastery of that skill.

Communication Impaired: A language disorder in the areas of morphology, syntax, semantics and/or pragmatics/discourse which adversely affects a student’s educational performance and is not due primarily to an auditory impairment.

Curriculum-Based Assessments: 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-Blindness: A disability characterized by 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 §300.7(c)(2)]

Deafness: A hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance. This is the federal eligibility category.

Developmental Delay: The term child with a disability for children aged 3 through 9 may, at the discretion of the State and LEA and in accordance with §300.313, include a child – (1) 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 (2) Who, by reason thereof, needs special education and related services.

Disaggregated: 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 may have limited English fluency.

Emotional Disturbance: The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that affects a child's educational performance: (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors. (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers. (C) Inappropriate types of behavior or feelings under normal circumstances. (D) A general pervasive mood of unhappiness or depression. (E) A tendency to develop physical symptoms or fears associated with personal or school problems.

Errors of Measurement: 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.

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

Free, Appropriate Public Education: Free, appropriate public education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state; include preschool, elementary school, or secondary school education and are provided in conformity with an individualized education program (IEP).

Hearing Impairment: An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

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.

Inclusion: Inclusion is a special education approach that stresses educating students with disabilities, regardless of the type of severity of that disability, in the regular classrooms of the school which they would attend if they did not have a disability.

Individualized Education Program: An individualized education program (IEP) is a written statement for a child with a disability that is developed, reviewed and revised, by an IEP team, usually in a meeting which is conducted in accordance with IDEA regulations.

Individualized Family Service Plan: The Individualized Family Service Plan (IFSP) is a written plan for providing early intervention services to infants and toddlers eligible under Part C of Individuals with Disabilities Education Act (IDEA).

Individuals with Disabilities Education Act: The Individuals with Disabilities Education Act (IDEA 2004) 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 specifically identified disabilities.

Least Restrictive Environment: The IDEA requires that, to the maximum extent appropriate, school districts must educate students with disabilities in the least restrictive environment (LRE), i.e., in the regular classroom with appropriate aids and supports (referred to as “supplementary aids and services”) along with their non-disabled peers in the school they would attend if not disabled, to the fullest extent possible.

Linkage: The type of connection that is mandated or voluntarily established between a charter school and a traditional LEA. New Jersey is a partial-link state.

Local Education Agency (LEA): A local education agency (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, and the term includes a public charter school that is established as an LEA under state law.

Matrix Sampling: 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 sub sample of test takers, thereby avoiding the need to administer all items to all examinees.

Mental Retardation: Significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child’s educational performance.

Minimum n: The smallest number of students a state has determined can produce statistically reliable results for a group while protecting the confidentiality of the student.

Modification: A change to the testing conditions, procedures, and/or formatting so that measurement of the intended construct is no longer valid.

Multiple Disabilities: Concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs designed solely for one of the impairments. The term does not include deaf-blindness.

National Assessment of Education Progress: The National Assessment of Education Progress (NAEP), conducted since 1969, 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. (For a copy of the criteria, see <http://nces.ed.gov/nationsreportcard/about/criteria.asp>).

Norm-Referenced Tests (NRT): A standardized test which is designed, validated, and implemented in order to rank a students' performance. This ranking is done by comparing that performance to the performance of that student's peers.

Office of Special Education Programs: The Office of Special Education Programs (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.

Orthopedic Impairment: A severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

Other Health Impairment (OHI): Having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that – (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and (ii) Adversely affects a child's educational performance. Some states include special mention of eligibility criteria for children with ADHD under this category.

Portfolio Assessment: An organized collection or documentation of student-generated or student-focused work typically depicting the range of individual student skills.

Qualified Personnel: Under IDEA, 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.

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, 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. The term also includes school health services and social work services in schools. It may also include the provision of parent counseling and training.

Reliability: 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.

Special Education: Special education means specially designed instruction, which is provided at no cost to the parents, to meet the unique needs of a child with a disability. This includes instruction conducted in the classroom, in the home, in hospitals, in institutions and in other settings; related services; travel training; vocational education. Special education may also include specially designed instruction in physical education.

Specific Learning Disability (SLD): The term means 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 an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Speech or Language Impairment: A speech or language impairment is a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Standardized Test: An established procedure that assures that 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 two types of standards, content and performance. Content standards are statements of the subject-specific knowledge and skills that schools are expected to teach students, indicating what students should know and be able to do. Performance standards are indices of qualities that specify how adept or competent a student demonstration must be and that consist of the following four components: 1. levels that provide descriptive labels or narratives for student performance; 2. descriptions of what students at each level must demonstrate relative to the task; 3. examples of student work at each level illustrating the range of performance within each level; and 4. the establishment of cut scores which separate each performance level.

Standards-Based Assessments: Assessments constructed to measure how well students have mastered specific content standards or skills.

State Education Agency (SEA): A state education agency is the component of state government that is primarily responsible for the state supervision of public elementary and secondary schools. In New Jersey the SEA is the NJ Department of Education.

Student with a Disability: In the Individuals with Disabilities Act, a student with disabilities is defined as “a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to 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 needs special education and related services.”

Section 504: 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: For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, the IEP must contain a statement of the transition service needs of the student that focuses on the student’s courses of study and, beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. IDEA describes the components as services that promote movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

Traumatic Brain Injury: 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 adversely affects a child’s educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Validity: 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, face validity relates more to what a test appears to measure than it does to what the test actually measures.

Visual Impairment Including Blindness: An impairment in vision that, even with correction, adversely affects a child's educational performance. The term also includes both partial sight and blindness. [34 CFR §300.7(c)(12)]

Acknowledgements: The Primer definitions were compiled by the authors from many sources. Details about the disability categories under IDEA are available in the document *Disability Categories: State Terminology, Definitions & Eligibility Criteria* (2004).

Some of the assessment terms were quoted with permission from a publication of the Council of Chief State School Officers' *ASES SCASS Project*.