

**Retrofitting Bureaucracy:  
Factors Influencing Charter Schools'  
Access to Federal Entitlement  
Programs**

**Center on Innovation & Improvement**

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*A national content center supported by the  
U. S. Department of Education's Office of Elementary and Secondary Education.  
Award #S283B050057*

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Design: Pam Sheley

Editing: Pam Sheley, Lori Thomas

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Entitlement Programs**

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## Acknowledgements

We would like to thank the following individuals who provided insight into the technical as well as practical issues associated with charter schools accessing federal entitlement grant programs. We appreciated your candor and perspective.

**Eileen Ahearn**, National Association of State Directors of Special Education

**Sara Allender**, Evaluation and Policy Research Associate, WestEd

**Andrew Broy**, Director of Charter Schools, Georgia Department of Education

**Karen Butterfield**, Academic Achievement Division, Title I, Arizona Department of Education

**Cliff Chuang**, Massachusetts Department of Education

**Jennifer Cohen**, New America Foundation

**Michelle Diamond**, Arizona Charter Schools Association

**Don Duran**, Assistant Secretary of Education, Charter Schools Division, New Mexico Public Education Department

**Jeff Gagne**, Federal Liaison, Georgia Department of Education

**Elizabeth Giovannetti**, Special Education Support, Washington, DC & New Orleans

**Lisa Grover**, CEO, New Mexico Coalition for Charter Schools

**Connie Hill**, Funding Unit Director, Special Education, Arizona Department of Education

**Nancy Konitzer**, Academic Achievement Division, Title I, Arizona Department of Education

**Stephanie Mauterstock**, Co-Director, Manhattan Charter School, New York

**Darlene Mengel**, Supervisor, Public School Choice Programs, New York State Department of Education

**Marcia Mittnacht**, State Director of Special Education, Massachusetts Department of Education

**Nancy O'Hara**, Director of Special Education Services, Georgia Department of Education

**Sam Ornelas**, Director, Title I Bureau, New Mexico Public Education Department

**DeAnna Rowe**, Executive Director, Arizona State Board of Charter Schools

**Eileen Sigmund**, Arizona Charter Schools Association

**Cori Wahl**, Consultant, Former Director of Minnesota Charter School Special Education Project

**Bob Waxman**, Supervisor Specialist in Special Education Funding, New York State Department of Education

We are grateful to **Sam Redding**, Director of the Center on Innovation & Improvement, for his commitment to this topic and guidance framing the research questions. We would also like to thank **Dean Kern**, Director of Parental Options and Information for the Office of Innovation and Improvement in the U.S. Department of Education, for recognizing the importance of this issue and providing key guidance as we designed the study. Finally, we thank **Eileen Ahearn** of the National Association of State Directors of Special Education and **Julie Kowal** and **Bryan Hassel** of Public Impact for their thorough and thoughtful editing of this work.

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## Introduction

Charter school laws and successful charter schools have been identified as key elements of bold initiatives to turn around chronically low-achieving public schools.<sup>1</sup> Yet, charter schools operate in a policy space that was not constructed for them,<sup>2</sup> a space in which public schools are primarily a state responsibility, but are markedly influenced by both federal and local policies, programs, and practices. Eighteen years after the nation's first charter law was passed, policymakers still struggle to fit charter schools into the rules and regulations of a traditional and multi-layered public education system. Federal laws such as the Elementary and Secondary Education Act of 1965 (reauthorized as the No Child Left Behind Act in 2001) and the Education of All Handicapped Children Act of 1975 (reauthorized as the Individuals with Disabilities Education Act in 1990) and their associated entitlement grant programs<sup>3</sup> did not anticipate the creation of charter schools.

For years, anecdotal evidence has suggested that, in practice, charter schools do not have equal access to federal funding. When combined with disparate state and local funding formulas, charter schools face a documented and significant lack of parity in funding. A 2008 Center for Education Reform study indicated that on average, charter schools received 61% (\$6,585 compared to \$10,771) of per-pupil allocations compared to traditional public schools.<sup>4</sup> Since this disparity arises primarily from shortfalls in state and local sources, federal dollars have become especially important sources of funds for charter schools. These dollars are particularly vital for charter schools serving large proportions of students at risk due to poverty or a diagnosed disability that qualifies them for special education and related services.

<sup>1</sup>See for example, Secretary Arne Duncan's remarks at the National Alliance for Public Charter Schools Conference, June 22, 2009.

<sup>2</sup>Jennifer Cohen, New America Foundation, personal communication, October 19, 2009.

<sup>3</sup>In contrast to *competitive* grants awarded on the basis of the strength of an application, federal *entitlement* grants are awarded according to a prescribed formula to all schools that enroll eligible students. Entitlement grants are also referred to as "categorical grants" because they are awarded to districts and schools through their state department of education for specific *categories* of funding. Unlike block grants that are awarded for a more general purpose, categorical grants may be used for only particular prescribed purposes (e.g., educating students from families identified as having low income or students with disabilities). For more information about Title I, see <http://www.ed.gov/programs/titleiparta/index.html>

<sup>4</sup>Center for Education Reform. (2008). *Following the money*. Washington, DC: Author. Retrieved from <http://edreform.com/charter-schools/funding/>

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There is a significant opportunity with new federal funds to make sure they are allocated equitably among all public schools. The American Recovery and Reinvestment Act of 2009 (ARRA) has increased the funding for ESEA Title I-A School Improvement Grants and IDEA Part B.<sup>5</sup> The federal government plans to distribute over \$10 billion in Title I-A and \$11.3 billion under IDEA Part B to states to pass on to local education agencies (LEAs, the U.S. Department of Education's term for school districts). These dollars make it even more important to identify factors that influence charter schools' access to funding critical to the ongoing growth and stability of the charter sector.

As the sector's profile steadily grows under new and aggressive reform initiatives supported by ARRA—and specifically Race to the Top funds<sup>6</sup>—there is arguably space to improve access and the level of transparency associated with entitlement program dollars flowing to charter schools. Absent focused attention, charter schools will miss out on critical funds to help them support their students, and students who choose to go to charter schools will sacrifice the potential benefits stemming from access to federal entitlement dollars.

In the interest of creating the ideal conditions for charter schools to succeed, state education agencies and members of the comprehensive center network<sup>7</sup> (charged with helping “low-achieving schools and districts close achievement gaps”) need to be building on lessons learned since the passage of the first state charter law to make certain that charter schools have access to funding of bold new initiatives to improve public schools, and more broadly, school systems.

This report examines to what extent and how states have adapted existing regulations and procedures to make certain that charter schools successfully access federal entitlement dollars associated with Title I-A of ESEA and Part B of IDEA. Due to their position outside of the policy structure, charter schools are at risk of not fully accessing their share of the funds.

Four central findings emerged from our research:

- In general, charter schools appear to be adequately navigating bureaucratic systems to access critical federal entitlement dollars distributed under Title I-A and IDEA Part B. Nevertheless, states could improve the ease of access and transparency of entitlement programs for charter schools, especially given documented charter school funding inequities and the tremendous increase in funding through ARRA.
- Status as an autonomous local education agency (LEA or district<sup>8</sup>) or as part of an existing LEA determines *the manner* in which a charter school receives federal dollars; it does not appear to impact *the degree* to which it receives federal dollars. Charter schools that are autonomous LEAs carry a heavy administrative burden in completing entitlement program applications and accountability requirements. Charter schools that are part of an existing LEA must navigate potentially challenging relationships with districts granted discretion over allocation of entitlement program dollars.
- Charter schools are operating in a policy space that was not constructed for them and consequently, the bureaucracy responsible for distributing entitlement dollars has been required to retrofit long-standing practices to accommodate them. The charter sector is populated with schools that do not conform to traditional school or district models (e.g., autonomous and mission driven, single-school districts, or new and rapidly expanding schools). For the purposes of

<sup>5</sup>For more information about the American Recovery and Reinvestment Act of 2009 and specifically programs administered by the U.S. Department of Education, see <http://www.ed.gov/policy/gen/leg/recovery/index.html>. For more information about expansion of IDEA Part B, see U.S. Department of Education. (2009). *Guidance: Fund for Part B of the Individuals with Disabilities Education Act*.

<sup>6</sup>For more information about Race to the Top fund, see: <http://www.ed.gov/programs/racetothetop/index.html>

<sup>7</sup>For more information about the network of U.S. Department of Education discretionary grants to establish comprehensive technical assistance centers, see <http://www.ed.gov/about/contacts/gen/othersites/compcenters.html>

<sup>8</sup>The terms school district and local education agency or LEA are synonymous and used interchangeably.



distributing entitlement dollars, these differences are problematic to the traditional system accustomed to standardized procedures and disinclined to make accommodations.

- Navigating complicated funding systems—such as those that determine allocation of Title I and IDEA funds—requires a level of technical expertise that many charter school operators do not initially possess. Consequently, when seeking funding under Title I-A and IDEA Part B, charter schools require assistance to build their technical knowledge.

Based on our research, we also identified five primary strategies states can use to influence charter schools' access to entitlement funds from ESEA and IDEA.

- Provide ongoing technical assistance to state ESEA, IDEA, and charter school program staff as well as individual charter schools to make certain that charter schools are included in distribution of information related to federal entitlement programs and equipped to complete relevant applications.
- Identify alternative means, such as eligibility for free and reduced-price meals or supplemental nutrition assistance program (i.e., food stamps), to identify students eligible for Title I funding.
- Wield the “stick” of federal law and non-regulatory guidance with state and district personnel to make certain that all charter schools successfully access entitlement dollars for which they are eligible.
- Infuse transparency into and distribute information about funding formulas and related guidance so charter school authorizers and school administrators have a clear understanding of the 1) source of funds, and 2) calculations underlying allocation of funds.
- Build and facilitate relationships between SEA entitlement program staff, regional comprehensive center staff, national content center staff, charter school authorizers, and individual charter schools to bridge the technical knowledge gap resulting from retrofitting education rules and regulations to include charter schools, including sharing specific strategies currently being utilized by states as outlined in this report.

## Research Questions

This report aims to help state departments of education, regional comprehensive centers, national content centers, school districts, and individual charter schools navigate challenges associated with readily accessing federal entitlement grants. The following questions guided our inquiry:

- How do state charter school statutes define the legal status of charter schools for the purposes of accessing federal entitlement programs (i.e., Title I-A and IDEA Part B)?
- How do charter schools access entitlement funds?
- To what degree are charter schools perceived to be receiving commensurate federal entitlement funds relative to traditional public schools?
- What challenges/strategies influence access to federal entitlement funds?
- How are charter schools held accountable for their use of federal entitlement dollars?
- What lessons can be drawn for stakeholders charged with supporting growth and sustainability of successful charter schools?

## Methodology

In this paper, we explore the manner in which charter schools access federal entitlement funding and implications for access associated with legal status as a legally autonomous single-school LEA or part of an existing LEA. We 1) conducted a scan of statutory language in state charter school laws that could affect access to federal entitlement dollars; 2) reviewed the literature on charter schools to discern evidence related to charter schools' access to federal funding; and 3) conducted interviews with select

individuals in a small sample of states to document factors influencing how charter schools are accessing federal entitlement dollars.

Evaluating every applicable law, rule, or regulation for every state with a charter law would prove nearly impossible. Rather, our review was more limited.<sup>9</sup> For each state, we reviewed the sections of the charter laws that covered the following: definition of a charter school, charter school legal status, funding of charter schools, and charter schools' obligations to serve students eligible for specific programs and services such as special education. We did not review other education statutes that may have included additional information about charter schools and funding.

In identifying a purposeful sample of states, we sought diversity according to state charter school policy environment and size, duration, and performance of the state charter sector. Policy environment pertained to whether state charter law defined charter schools as LEAs, part of an LEA, or prescribed a variable legal status. Related to size, we sought states with a relatively established charter school sector according to number of schools and when the state passed its charter law. Finally, we sought a sample of states with charter sectors that on average performed above or below public schools according to the 2006-2007 National Assessment of Education Progress (NAEP) (see Table 1). We did not seek to draw correlations between outcomes and experiences accessing federal entitlement dollars, but we did want to gather information from states with diverse characteristics.

We interviewed key personnel with first-hand knowledge of issues related to charter schools' access to federal entitlement dollars (e.g., state directors of Title I and special education, state charter school officials, and charter school resource center/association directors). A guiding purpose of the interviews was to develop practical guidance for state and regional policymakers and practitioners to ensure that charter schools are accessing critical federal entitlement grants. Neither the states nor the informants were random or representative, but rather purposefully selected given our interest in documenting policies and practices, including academic performance, perceived to be influencing charter schools' access to federal entitlement dollars.

Table 1. State Sample Characteristics

State	Charter School Legal Status	Number of Charter Schools	Year Charter School Law Passed	Average NAEP Performance of Charter Schools Relative to State Average (2006-07)**
Arizona	LEA	510	1993	Below
Georgia	Variable*	83	1993	Above
Massachusetts	Variable	64	1993	Above
New Mexico	Variable*	70	1993	Below
New York	LEA	118	1998	Above

\*Georgia and New Mexico charter school laws permit both types of charter schools, but in practice, most operate as part of an LEA.  
 \*\*U.S. Department of Education, National Center for Education Statistics. <http://nces.ed.gov/nationsreportcard/>

<sup>9</sup>There is a possibility we failed to locate all portions of the statute related to funding because charter laws in many states are complex, and some regulations could be hidden in statutes covering other general topics. In addition, some statutes use vague language. Where state laws were unclear or vague, we have made a good faith effort to interpret the impact of the language on charter schools accessing federal entitlement dollars.

## Background

Charter school laws have created new opportunities for education innovation and options since the early 1990s. Totalling just over 4,600 schools and enrolling 1.4 million students, the charter sector is no longer in its infancy but has grown into adolescence.<sup>10</sup> In fact, charter schools are a key aspect of public school choice and broader district reform initiatives in numerous urban centers such as Boston, Chicago, Indianapolis, Los Angeles, New Orleans, and New York City. They are also a central reform catalyst in the U.S. Department of Education's Race to the Top fund competition, through which the Federal Department of Education is planning to distribute \$4.3 billion to states in 2010 and 2011.<sup>11</sup>

As the sector has grown and matured, state and district policymakers and charter school authorizers<sup>12</sup> have struggled at times to determine where charter schools fit into the existing public education regulatory structure. A particular challenge has been effectively retrofitting federal, state, and local regulatory and budgeting procedures that did not anticipate the creation of charter schools. That is, how should policymakers and practitioners treat an autonomous school that is not part of state regulatory schemes or policy frameworks which largely dictate how states conduct their education business?

Since the inception of the sector, charter school advocates have expressed concern and spurred inquiries regarding the degree to which individual charter schools access federal resources readily available to traditional public schools.<sup>13</sup> For instance, in the early years, charter schools sometimes did not qualify for federal entitlement dollars (i.e., Title I and IDEA) during their first year of operation because states distributed these funds based on prior year enrollment data. New start-up charter schools did not have these data, and the system had no means to accommodate a school without data. Also, existing reporting procedures limited allocation increases from one year to the next, which conflicted with common charter school growth paths, such as when a school adds a new grade each year. However, non-regulatory guidance promulgated by the U.S. Department of Education in 2000 explaining revisions to ESEA addressed these procedural hurdles by clarifying that states had to develop systems to accommodate newly created schools and significantly expanding schools in Title I and IDEA fund distribution formulas.<sup>14</sup> Nevertheless, nearly 10 years later, there remain concerns about whether charter schools are readily and consistently accessing their full share of federal entitlement dollars.

<sup>10</sup>Center for Education Reform. (Spring 2009). *National charter school & enrollment statistics*. Washington, DC: Author. Retrieved from [http://www.edreform.com/\\_upload/CER\\_charter\\_numbers.pdf](http://www.edreform.com/_upload/CER_charter_numbers.pdf)

<sup>11</sup>According to the U.S. Department of Education, the Race to the Top fund provides competitive grants to encourage and reward states that are creating the conditions for education innovation and reform; implementing ambitious plans in the four education reform areas described in the *American Recovery and Reinvestment Act of 2009* (ARRA); and achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring that students are prepared for success in college and careers. Race to the Top Fund. (2009). Washington, DC: U.S. Department of Education. Retrieved from <http://www.ed.gov/programs/racetothetop/index.html>

<sup>12</sup>Charter school authorizers are the entities that process and approve charter school applications. In general, authorizers have latitude to interpret charter school statutes and establish key charter school policies and practices. Consequently, they play a critical role in shaping how formal charter policy translates to actual practice.

<sup>13</sup>See for example: Berk, A., Augenblick, J., & Myers, J. (1998). *A study of charter school finance issues: Final report*. Paper prepared for the Colorado Association of School Executives. Denver, CO: Augenblick and Myers; Bierlein, L., & Fulton, M. (1996). *Emerging issues in charter school financing*. Denver, CO: Education Commission of the States; GAO/HEHS-98-84. (1998). *Charter schools: Federal funding available but barriers exist*; GAO/T-HEHS-98-129. (n.d.). *Charter schools recent experiences in accessing federal funds*; GAO/T-HEHS-97-216. (1997). *Charter schools issues affecting access to federal funds*; Hudson Institute. (1997). *Charter schools in action*. Washington, DC: Author; Nelson, H. F., Muir, E., & Drown, R. (2000). *Venturesome capital: State charter school finance systems*. National Charter School Finance Study. Washington, DC; Sugarman, S. D. (2002, August 9). Charter school funding issues. *Education Policy Analysis Archives*, 10(34). Retrieved from <http://epaa.asu.edu/epaa/v10n34.html>; Thomas B. Fordham Institute, & Public Impact. (2005). *Charter school funding: Inequity's next frontier*. Washington, DC; U.S. Department of Education. (1997). *A Study of Charter Schools*. Washington, DC.

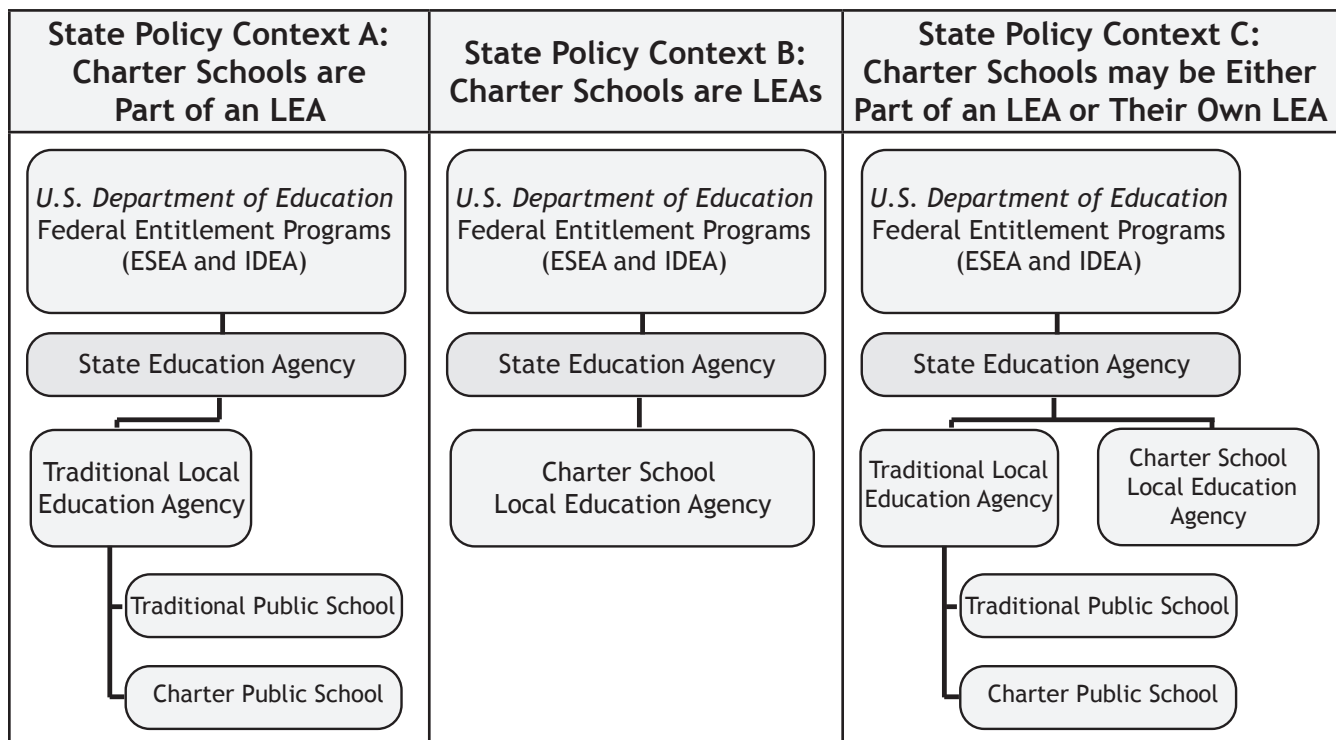
<sup>14</sup>U.S. Department of Education. (2000). *Non-regulatory guidance, 34 CFR Part 76, Subpart H. How does a state or local educational agency allocate funds to charter schools that are opening for the first time or significantly expanding their enrollment?* Washington, DC: Author. Retrieved from <http://www.ed.gov/policy/elsec/guid/cschoos/cguidedec2000.pdf>

### Federal Entitlement Grants

The structure of public education funding reflects its origin as primarily a state responsibility; in 2007, more than 92% (\$508 billion) of public school revenues came from state and local governments.<sup>15</sup> Nevertheless, as noted previously, significant federal dollars help support state education systems through key federal statutes such as the ESEA Title I-A and IDEA Part B. The entitlement grant programs not only provide dollars to public schools but also outline specific regulations regarding how dollars may be accessed, allocated, and to some degree, utilized.

Figure 1 outlines the flow of federal entitlement dollars based on a charter school's legal status. State Policy Context A in the left column represents a state that defines charter schools as part of an LEA. State Policy Context B represents a state in which charter schools are LEAs, and C represents a state in which charter schools may be either their own LEA or part of an LEA. The lines indicate the three main paths whereby funds flow from the U.S. Department of Education to the state education agency, then to an LEA (either traditional or a single-school charter LEA) and finally to a traditional or charter public school. The path for a particular school depends on its legal status in the state. Each distribution point requires a policy and some degree of discretion regarding how funds are allocated. The greater the number of distribution points, the greater potential for dollars to be redirected based on competing priorities.

**Figure 1.** Flow of Federal Entitlement Grant Dollars from U.S. Department of Education to Charter Schools



### Elementary and Secondary Education Act

With the passage of the ESEA in 1965, the federal government assumed a role in funding public education and, in particular, funding programs targeting assistance to particular populations of students. The overarching goal of ESEA and subsequent reauthorizations of the statute (the most recent being the 2001 No Child Left Behind Act or NCLB) has been to provide states, districts, and schools with additional funding to benefit children from families living below or just above the federal poverty level. Over

<sup>15</sup>National Center for Education Statistics. (2007). *Revenues and expenditures for public elementary and secondary education*. Washington, DC: U.S. Department of Education.

the course of the last four decades, ESEA has evolved to contain multiple “titles” (or specific funding streams) developed to help students considered disenfranchised. Title I, developed to help students at risk due to poverty, is the largest of the ESEA Title programs. Examples of other titles in ESEA include aid for migrant children, children for whom English is not their first language, and neglected children.

*Charter schools are a key aspect of public school choice and broader district reform initiatives in numerous urban centers such as Boston, Chicago, Indianapolis, Los Angeles, New Orleans, and New York City and a central reform catalyst in the U.S. Department of Education’s Race to the Top Fund.*

Title I, Part A (Title I-A), developed to improve the educational opportunities for children living in concentrated areas of poverty, is the largest program under ESEA according to dollars allocated. In academic year 2008–2009, appropriations for Title I-A were \$13.8 billion, which reflected an increase of more than a billion dollars from the prior year.<sup>16</sup> Individual states and LEAs receive their share of these dollars under four distinct parts of Title I-A, which are designed to provide some assistance to all LEAs while conferring larger grants to those

with the highest concentrations of children living in poverty and attending low-achieving schools. Congress appropriates funds to support Title I on an annual basis, and the U.S. Department of Education distributes the funds based on Bureau of Census estimates of the number of children living in poverty in designated LEA neighborhood zones. A state’s average per-pupil allocation influences the amount of Title dollars allocated to LEAs but in a counter-intuitive manner: due to efforts to account for differing costs by state, LEAs in states with higher per-pupil allocations receive more per low-income child than LEAs in states with lower per-pupil allocations.<sup>17</sup>

States may reserve up to 5% of their allocation for administration and state-level school improvement efforts, as long as it does not lead to a decrease relative to prior year funding levels in the amount passed through to LEAs.

LEAs distribute funds to schools based on the relative proportion of children living in poverty who are enrolled in the individual schools. However, LEAs have a degree of discretion in determining how to distribute funds across their schools, so that two schools with identical demographics that operate in different LEAs would not necessarily receive the same level of Title I funding.<sup>18</sup> Title I-A also maintains a minimum threshold for basic grants wherein at least 2% of the total school population must be identified as living in poverty to access funds. LEAs can also allocate these resources to schools by providing them with services rather than direct funding.

### ***Education of All Handicapped Children Act***

Congress passed the Education of All Handicapped Children Act (also referred to as P.L. 94-142), the precursor to IDEA, in 1975. Services delivered under the auspices of IDEA, typically referred to as

<sup>16</sup>For an extended discussion of Title I-A funding, see: Center on Education Policy. (2004). *Title I funds: Who’s gaining, who’s losing and why*; Center for Education Policy. (2009). *Title I funds—Who’s gaining and who’s losing. School year 2008-09 update*. Retrieved from [www.cep-dc.org](http://www.cep-dc.org); and U.S. Department of Education (2009): *Guidance: Funds under Title I, Part A of the Elementary and Secondary Education Act of 1965*.

<sup>17</sup>In practice, the Title I funding formulas have unintended consequences. For instance, the federal government uses state average per-pupil as a measure of the cost of educating students when calculating Title I allocations. In reality, average per-pupil is more a reflection of a state’s relative affluence than cost of education. Consequently, poor children in wealthy states obtain more Title I dollars than poor children in less affluent states. Other idiosyncrasies of the formulas lead to large districts with small concentrations of poor children receiving significant Title dollars but districts with only slightly lower concentrations receiving significantly less, and states with small populations and low concentrations of poor children receiving disproportionately more per pupil than similar districts. For more details, see, Center on Education Policy. (2004). *Title I funds: Who’s gaining, who’s losing and why*; Center for Education Policy. (2009). *Title I funds—Who’s gaining and who’s losing school year 2008-09 update*. Retrieved from [www.cep-dc.org](http://www.cep-dc.org); Miller, R. T. (2009). *Secret recipes revealed: Demystifying the Title I, Part A funding formulas*. Center for American Progress. Retrieved from [http://www.americanprogress.org/issues/2009/08/pdf/title\\_one.pdf](http://www.americanprogress.org/issues/2009/08/pdf/title_one.pdf)

<sup>18</sup>Center for Education Policy 2004; 2009.



special education and related services, are designed to enable children with a wide range of disabilities to access public education to the same degree as their peers without disabilities. This access is considered a civil right for children who meet the eligibility requirements of the federal and related state laws, as opposed to simply a program enhancement, and is backed by significant case law defining how this civil right manifests in schools. Special education and related services represent a collection of programs and supports developed to help children with disabilities access and succeed in school. The IDEA establishes specific guidelines regarding educating children with disabilities and provides financial support to states to help them implement the law. The law assigns primary responsibility for implementing the law to states, which in turn largely delegate the responsibility to individual LEAs.

Like ESEA funds, federal IDEA funds represent a relatively small portion of total special education dollars, the majority of which are provided by states and local districts. Federal IDEA Part B funds are distributed to states annually by a formula that includes in its calculations the number of children with identified disabilities, the number of children ages 3 through 21 who are of the same age as children with disabilities in that state, and the percentage of children living in poverty reported the prior year. State departments of education are permitted to retain an amount prescribed by IDEA regulations<sup>19</sup> of their Part B funds at the state level to cover expenses associated with statewide functions such as compliance monitoring, training, and risk pools for children who require exceptionally high levels of special education and related services.<sup>20</sup>

Adequate funding to support the broad goals of the IDEA remains a source of tension between state capitols and Congress. While the statute permits Congress to fund Part B up to 40% of states' costs, recent calculations indicate that federal IDEA Part B entitlement grants cover approximately 17% of the cost of providing additional services to children with disabilities.<sup>21</sup> Charter and traditional schools, therefore, experience a similar challenge in providing special education and related services.<sup>22</sup> They must both deliver a federally-required "free, appropriate public education" (FAPE) in the "least restrictive environment" (LRE) while not accessing their full share of entitlement funds.

### **Charter Schools' Access to Federal Entitlement Grants**

Since the inception of the charter sector in the early 1990s, advocates and policymakers have raised concerns about the degree to which charter schools are accessing federal entitlement dollars and the specific procedural barriers that hinder access for these new types of LEAs and schools. Early research conducted by the Government Accounting Office (GAO) in 1998 suggested that the following factors served as barriers to equitable funding:

- lack of data about enrollment and student eligibility in charter schools;
- relative costs to charter schools (human and programmatic) of submitting applications for federal funding;

<sup>19</sup>The Individuals with Disabilities Education Act, §300.704 State-level activities. (a) State administration. (1) For the purpose of administering Part B of the Act, including paragraph (c) of this section, section 619 of the Act, and the coordination of activities under Part B of the Act with, and providing technical assistance to, other programs that provide services to children with disabilities—(i) Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004 or \$800,000 (adjusted in accordance with paragraph (a)(2) of this section), whichever is greater. It is not a percentage of the grant.

<sup>20</sup>New America Foundation. (2009). *Individuals with Disabilities Education Act—Funding distribution*. Washington, DC: Author. Retrieved from <http://febp.newamerica.net/background-analysis/individuals-disabilities-education-act-funding-distribution>

<sup>21</sup>New American Foundation, 2009 (see Footnote 20).

<sup>22</sup>For a more in-depth discussion of educating children with disabilities in the charter sector, see: Rhim, L. M. (2009). *Special education challenges and opportunities in the charter school sector*. Center on Reinventing Public Education. Retrieved from [http://www.crpe.org/cs/crpe/view/csr\\_pubs/294](http://www.crpe.org/cs/crpe/view/csr_pubs/294); and Rhim, L. M., Ahearn, E., & Lange, C. (2007). Toward a more sophisticated analysis of the charter school sector: Considering legal identity as a critical variable of interest. *Journal of School Choice* 1(3).



- lack of training and awareness on the part of both authorizers and operators about where charter schools fit into administrative procedures; and
- charter schools' "ineffective" working relationships with authorizing districts.<sup>23</sup>

Yet, while the GAO identified procedural challenges and variable funding routes from the SEA to the LEA to individual schools, it determined that a charter school's legal status (as an LEA or part of an existing LEA) did not appear to influence school's access to entitlement dollars.<sup>24</sup> Based on their original research and review of the existing charter school literature, the GAO identified outreach and technical assistance as the primary factors that helped charter schools access Title I-A and IDEA funds.

In large part, due to recognition of the procedural and reporting barriers to equitable funding and to clarify the requirements of ESEA related to charter schools, in 2000 the U.S. Department of Education released non-regulatory guidance outlining policies and procedures SEAs should use to ensure that new and expanding charter schools access entitlement dollars.<sup>25</sup> The guidance clarified that under ESEA, states were required to modify their allocation procedures. In turn, many developed training and technical assistance for charter school developers and operators.<sup>26</sup>

The following section builds upon research by the GAO during the 1990s to present a new analysis of state charter school laws' consideration of charter schools' legal status and the flow of federal entitlement dollars 11 years further into the evolution of the charter sector.

### State Charter School Law Review

State policymakers, authorizers, and charter school personnel turn to the charter laws in their respective states to understand which entities may authorize charter schools, for guidance regarding the charter application process, to identify the parameters of a charter school's autonomy, and to understand charter accountability. Charter laws vary widely across states: some provide clear language and guidance on the myriad aspects of founding and running a charter school, while others provide very few details.

We reviewed charter statutes from the 41 states with charter laws (including Washington, DC) to identify language related to the legal status of charter schools, charter school funding, and specifically, their access to federal entitlement dollars.

Table 2 provides a summary of our charter statute analysis. The table includes general contextual information about the

1. year the charter law was passed,
2. number of charter schools in each state,
3. types of charter schools allowed by law,
4. authorizer types, and
5. a summary of our findings regarding legal status of charter schools and statutory language related to ESEA and IDEA funding.

Additional tables in the Appendix provide specific language from charter statutes pertaining to federal dollars.

<sup>23</sup>U.S. General Accounting Office. (1998a). *Charter schools: Federal funding available but barriers exist*. Washington, DC: GAO/HEHS-98-84.

<sup>24</sup>U.S. General Accounting Office, 1998a (see Footnote 23); U.S. General Accounting Office. (1998b). *Charter schools: Recent experiences in accessing federal funds*. Washington, DC: GAO/T-HEHS-98-129; U.S. General Accounting Office. (1997). *Charter schools: Issues affecting access to federal funding*. Washington, DC: GAO/T-HEHS-97-216.

<sup>25</sup>U.S. Department of Education. (2000). *Nonregulatory Guidance, 34 CFR Part 76, Subpart H. How does a state or local educational agency allocate funds to charter schools that are opening for the first time or significantly expanding their enrollment?* Washington, DC: Author. Retrieved from [http://www.uscharterschools.org/pdf/fr/sea\\_guidance\\_main.pdf](http://www.uscharterschools.org/pdf/fr/sea_guidance_main.pdf)

<sup>26</sup>See, for example, guidance developed by the Massachusetts Department of Elementary and Secondary Education. Retrieved from <http://www.doe.mass.edu/charter/guides/ophandbook.pdf>; and <http://finance1.doe.mass.edu/charter/>

Table 2. Charter School Details by State

State	Year Law Passed	Charter Schools Operating Spring 2009	Authorizer Types <sup>a</sup>				Types of Charter Schools <sup>c</sup>			Legal Status <sup>d</sup>	Statutory Language <sup>e</sup>	
			LEA	SEA	Higher Ed.	Other <sup>b</sup>	New Starts	Converted	Virtual		FSEA Funding	IDEA Funding
Alaska	1995	26	x	x				x	x*	Part	None	None
Arizona	1994	510	x	x		x		x	x*	LEA	None	None
Arkansas	1995	25	x	x				x	x*	Variable <sup>i</sup>	Limited	None
California	1992	802	x	x				x	x	Variable <sup>ii</sup>	Detailed	Detailed
Colorado	1993	151	x	x		x		x	x	Part	Detailed	Detailed
Connecticut	1996	21	x	x				x	x	Variable <sup>i</sup>	Limited	Detailed
Delaware	1995	21	x	x				x	x	LEA	None	None
Florida	1996	382	x	x	x	x		x	x	Part	Detailed	None
Georgia	1993	83	x	x		x		x	x	Variable <sup>iii</sup>	Limited	None
Hawaii	1994	32		x		x		x	x	Part	Detailed	None
Idaho	1998	32	x			x		x	x	Variable <sup>iii</sup>	Limited	Limited
Illinois	1996	74	x	x				x	x	Variable <sup>iii</sup>	None	None
Indiana	2001	50	x		x	x		x	x	LEA	Detailed	Limited
Iowa	2002	10	x	x					x	Part	None	None
Kansas	1994	40	x					x	x	Part	None	None
Louisiana	1995	66	x	x				x	x	Variable <sup>iii</sup>	Detailed	Detailed
Maryland	2003	34	x	x					x	Part	Detailed	None
Massachusetts	1993	64	x	x				x	x	Variable <sup>iii</sup>	None	None
Michigan	1993	250	x		x				x*	LEA	None	None
Minnesota	1991	159	x	x	x	x		x	x*	LEA	Limited	None
Mississippi	1997	1	x	x					x	Part	None	None
Missouri	1998	39	x	x	x			x	x	Variable <sup>ii</sup>	Limited	None
Nevada	1997	26	x	x	x	x				Part	Detailed	None
New Hampshire	1995	11	x	x			x	x	x	Part	Detailed	None
New Jersey	1996	64		x				x	x	LEA	Detailed	None

Table 2. Charter School Details by State

State	Year Law Passed	Charter Schools Operating Spring 2009	Authorizer Types <sup>a</sup>						Types of Charter Schools <sup>c</sup>			Legal Status <sup>d</sup>	Statutory Language <sup>e</sup>	
			LEA	SEA	Higher Ed.	Other <sup>b</sup>	New Starts	Converted	Virtual	FSEA Funding	IDEA Funding			
New Mexico	1993	70	x	x				x	x		Variable <sup>iii</sup>	Detailed	None	
New York	1998	118	x	x	x		x	x			LEA	None	Limited	
North Carolina	1996	103	x	x	x			x*			LEA	None	None	
Ohio	1997	293	x		x	x	x	x		x	LEA	Detailed	Limited	
Oklahoma	1999	14	x		x			x			Part	Limited	Limited	
Oregon	1999	93	x	x				x		x	Part	None	None	
Pennsylvania	1997	133	x	x		x		x		x	LEA	None	None	
Rhode Island	1995	11	x	x				x		x	LEA	Limited	None	
South Carolina	1996	36	x			x		x		x	Part	Detailed	Detailed	
Tennessee	2002	14	x					x			Part	Limited	None	
Texas	1995	331	x	x				x		x*	Variable <sup>iii</sup>	None	None	
Utah	1998	68	x			x		x		x	LEA	None	None	
Virginia	1998	4	x					x		x	Part	Detailed	Limited	
Washington, D.C.	1996	93					x	x		x*	Variable <sup>ii</sup>	None	None	
Wisconsin	1993	221	x		x			x		x*	Variable <sup>iii</sup>	None	None	
Wyoming	1995	3	x	x				x		x	Part	None	None	

<sup>a</sup>The authorizers and charter school types in this table represent those allowed by state law, but do not necessarily reflect the reality of the charter landscape in these states.

<sup>b</sup>“Other” types of authorizers include special charter boards and commissions, municipalities, mayors, and non-profit organizations.

<sup>c</sup>Asterisk indicates that the state law permits conversion of public as well as private schools.

<sup>d</sup>Legal status key: “Part” means the charter is part of the local education agency (LEA), “LEA” means the charter is its own LEA, and “Variable” means legal status varies within the state. The three “Variable” categories include: Variable, charter legal status depends on the type of charter (e.g., new start, conversion); Variable<sup>i</sup>, charter legal status is a choice of the charter school founders; and, Variable<sup>ii</sup>, charter legal status depends on the authorizer.

<sup>e</sup>Statutory language key: “none” means no specific language; “limited” means limited statutory language; and “detailed” means statutory language provides details about accessing specific entitlement dollars.

Sources: Individual state charter laws; U.S. Charter Schools: State information at [http://www.uscharterschools.org/pub/usc\\_docs/sp/index.htm](http://www.uscharterschools.org/pub/usc_docs/sp/index.htm); Special Education Primers at <http://www.uscharterschools.org/cs/spedp/query/q/2057>; and Center for Education Reform: <http://www.edreform.com/index.cfm?fuseAction=claw>

### The Legal Status of Charter Schools

Legal recognition as an LEA has notable programmatic and financial implications.<sup>27</sup> Charter schools that operate under state law as independent LEAs often have greater freedom—and responsibility—in designing curricula, hiring teachers and staff, and implementing programs. Further, with few exceptions, charter LEAs receive state and federal moneys directly and have control over how they spend those funds to meet the needs of their students and programs.

On the other hand, charter schools that are part of an LEA typically receive many types of assistance from the district’s central office and have access to accompanying economies of scale. However, they are also denied some of the programmatic and financial freedoms typically deemed crucial to the development of new and innovative schools.

Many state charter school laws contain no specific mention of the legal status of charter schools in the state, leaving the status to be inferred from the types of authorizers allowed and the relationship between authorizers and charter schools outlined in the law. For example, when a district authorizes a charter school, the school is generally part of the LEA. Schools that are chartered by the state, institutions of higher education, special charter commissions, or nonprofits, however, are typically their own LEA. Of course, there are exceptions to this rule: in South Carolina, for example, schools authorized by the state education agency are part of a special LEA comprised of other state-chartered schools.

*Charter laws vary widely across states: some provide clear language and guidance on the myriad aspects of founding and running a charter school, while others provide very few details.*

Across the country, only 12 states authorize all charter schools as their own LEAs (Context B in Figure 1); 16 authorize all schools as part of an existing LEA (Context A). Thirteen additional states provide options to charter founders—through authorizer, school type, or founder choice—to become an independent LEA or join an existing LEA (Context C).<sup>28</sup>

### Charter Schools’ Access to Federal Entitlement Funding Streams

State charter school statutes vary in the degree to which they explicitly address access to federal entitlement funds. Eighteen states’ charter statutes lack specific language in their charter laws about charter schools accessing federal funds of any kind. These laws do not provide guidance to charter operators, outline whether charter schools can apply for federal dollars on their own, dictate how dollars will flow to schools, or clarify if schools will receive supplemental services from the local district in lieu of direct funding. In the absence of specific language, a charter school’s legal identity alone dictates how dollars flow (see Table 2).

Nine states provide limited or vague language related to federal funds, typically stating that charter schools may receive federal grants as provided by law but generally failing to indicate how charter schools may apply for or access those funds.

Fourteen state charter statutes (fewer than 35% of charter states) provide at least some level of detail pertaining to charter schools’ access to federal funding. Some simply state that charter schools are

<sup>27</sup>Green, P. C., & Mead, J. F. (2004). *Charter schools and the law: Chartering new legal relationships*. Norwood, MA: Christopher-Gordon Publishers; Heubert, J. P. (1997). Schools without rules? Charter schools, federal disability law, and the paradoxes of deregulation. *Harvard Civil Rights-Civil Liberties Law Review*, 32, 301–353; Rhim, L. M., Ahearn, E., & Lange, C. (2007). Toward a more sophisticated analysis of the charter school sector: Considering legal identity as a critical variable of interest. *Journal of School Choice* 1(3).

<sup>28</sup>Some states that formerly required local districts to serve as primary charter authorizers have recently developed independent charter school commissions. These commissions, in Colorado, Georgia, and New Mexico for example, allow charter schools founders a choice in authorizer and, essentially, a choice in legal status for their school.

eligible to access federal dollars to the same extent as other schools or districts. These statutes typically include the terms “commensurate” or “proportionate” share to denote that charter schools qualify to receive the same share of federal funds as traditional public schools. Some of these more-detailed statutes identify charter school legal status for the purposes of accessing funds. For example, California’s statute states that “a charter school that elects to receive its funding directly...may apply individually for federal and state categorical programs...a charter school that applies individually shall be deemed to be a school district.”<sup>29</sup> Only New Hampshire and Ohio specifically mention ESEA Title funding as opposed to merely “federal funding” in their charter school statutes (see Appendix A).

### **Charter Schools’ Access to IDEA Funds**

State charter school laws provide varying degrees of specificity related to IDEA funding. Twenty-nine of the 41 state charter statutes do not make specific mention of federal funding for special education services in charter schools. Indeed, most statutes indicate nothing more than charter schools’ obligation to enroll and serve all students, including students with disabilities. States that do specifically address IDEA typically make a general statement about “commensurate” or “proportionate” funding. Similar to general federal funding guidance, in the absence of specific statutory language, a charter school’s legal status as an independent LEA or as part of an existing LEA serves as the default guidance related to IDEA funding.

For those statutes that do attend to special education in charter schools, the language varies in level of detail. For example, Nevada’s statute mentions special education only in the context of charter schools designed specifically to serve students with disabilities. Ohio and New Hampshire note only that the state superintendent shall determine the amount of special education funding from federal sources that will be distributed to charter schools. Four statutes state simply that charter schools are entitled to the “proportionate” share of federal special education funds but do not explicitly define the concept.

Only five states provide more detailed language about federal special education funding for charter schools and the impact of charter legal status on the flow of those funds. Colorado’s statute, for example, denotes, “if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services...the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.” For more details and examples, see Table 2 and Appendix B.

### **Balancing Clarity and Autonomy for Charter Schools**

Lack of clarity about or consideration of the implications of legal status and the flow of federal funds is potentially problematic for state, district, authorizer, and charter school personnel who are already challenged to scale a steep learning curve associated with retrofitting the public education system to accommodate charter schools. But, given the sector’s core commitment to the notion of autonomy and avoiding unnecessary regulation, there is an argument to be made that the absence of statutory language could provide these stakeholders room to negotiate a mutually amenable arrangement regarding access to federal entitlement funds. However, lack of clear statutory guidance may also make charter schools vulnerable to authorizers that struggle to equitably allocate limited resources across multiple competing constituencies and to those that are less than fully supportive of the presence of charter schools. Our conversations with stakeholders in states with robust charter sectors provided insight into how laws with varying amounts of detail have been interpreted. We explore those insights in the next section.

<sup>29</sup>California Charter Statute: 47634.4 (a). Retrieved from <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=47001-48000&file=47633-47635>

## Findings: Translating Regulation into Practice

State charter school statutes serve as the foundation of policies and practices in the charter sector. Yet, state education agencies and charter school authorizers exert considerable influence on practices as they, in varying degrees of partnership with charter schools, navigate the interpretive road from regulation to reality. Our interviews provided insights regarding:

1. definition of “commensurate”;
2. influence of charter schools’ legal status on access;
3. challenges encountered in the process of seeking access; and
4. strategies for stakeholders charged with supporting growth and sustainability of successful charter schools.

### Defining “Commensurate”

When allocating federal entitlement funds, SEAs and LEAs are required to distribute funds to charter schools in the same manner as they would similar traditional public schools (see textbox for Title I-A language).<sup>30</sup> Many states include this requirement in their charter statute by requiring that states ensure that charter schools receive an amount of federal funds “commensurate” or “proportionate” to those of other schools. Yet federal law does not provide an explicit definition for “commensurate” or “proportionate.” For instance, does commensurate mean equal dollars or equal goods and services (e.g., \$45,000 or a full-time equivalent position)? Furthermore, per-pupil allocation is a factor in Title I calculations so the fact that charter schools generally obtain less on a per-pupil basis can be compounded when Title funds are distributed. Does commensurate refer to dollars relative to basic state funding or absolute dollars?

*In general, when allocating Title I funds, SEAs and LEAs must treat charter schools in a manner consistent with the Title I statute and regulations, and ensure that charter schools receive the proportionate allocations for which they are eligible. In a State that considers charter schools to be LEAs, the SEA must treat those charter schools like other LEAs in the State when determining Title I LEA eligibility and allocations. Similarly, if a State considers charter schools to be public schools within an LEA, the LEA must treat its charter schools like other public schools in determining Title I eligibility and making within-district allocations.*

U.S. Department of Education (2000) Non-regulatory guidance: How does a state or local educational agency allocate funds to charter schools that are opening for the first time or significantly expanding their enrollment?

Lack of a clear definition of “commensurate” limits charter schools’ ability to assess the degree to which their funds are fair relative to traditional public schools. With that limitation noted, our inquiry did not reveal evidence of widespread concerns about access to federal entitlement dollars. Rather, we documented a general perception that charter schools are accessing federal entitlement dollars equally. However, due to the lack of a clear definition of the notion of commensurate funding and a lack of transparency, there is not a readily apparent means to confirm this perception. Reflecting the general sentiments expressed by most of the state informants, Burt Porter, State Director for State Aid in New York, reflected: “We occasionally receive questions about specific students and charter schools, but it is isolated or involves unique features of an [individual education program]. I am not aware of any

<sup>30</sup>U.S. Department of Education. (2000); U.S. Department of Education. (2004). *Impact of new Title I requirements on charter schools*. Washington, DC: Author. Retrieved from <http://www.ed.gov/policy/elsec/guid/charterguidance03.doc>



widespread issues.” Connie Hill from the Special Education Funding Unit of the Arizona Department of Education noted: “To my knowledge, [charter schools] are receiving their commensurate share, if they are filling out the application.” None of our respondents reported that charter schools were generally receiving less than a commensurate share.

Our evidence indicated that charter schools are generally accessing their share of federal entitlement dollars. However, absent more transparent data regarding funding streams, it is difficult to verify this finding. Additional research carefully examining the sometimes arcane funding formulas is required to accurately discern the degree to which charter schools are regularly obtaining their commensurate share of all federal entitlement funds.

### **Charter Schools’ Legal Status**

A charter school’s status as an autonomous LEA or as part of an existing LEA determines the manner in which it receives federal dollars; it does not appear to impact the degree to which it receives federal dollars. However, variability related to legal status can hinder clear understanding of where charter schools fit into the system. In interviews with key informants in states selected for their diverse charter policy contexts, we did not identify evidence that either type of charter school was systematically being denied access to federal entitlement dollars. This finding is similar to results of research conducted by the GAO in 1997 and 1998.

As noted previously, numerous state charter school laws permit both types of charter schools (both those that are autonomous LEAs and those that are part of an existing LEA) in a given state. This variability can cause confusion among state program personnel, intermediate agencies (i.e., board of cooperative education service or education service centers), and LEA and charter school personnel. In addition, multiple states permit charter schools to have a hybrid legal status wherein they could be an LEA for purposes of ESEA funding but part of an LEA for purposes of IDEA, further complicating state and district funding policies and procedures. The confusion can lead to charter schools being excluded from information distribution systems about entitlement programs and a lack of awareness on the part of charter school personnel about program eligibility.

### ***Charter Schools Identified as LEAs***

Charter schools that are designated by state law as autonomous LEAs generally receive their federal dollars directly from the state department of education. The meaning of “commensurate” dollars is reportedly more readily apparent for charter schools that operate as LEAs.

Our interviews revealed frustrations on the part of charter schools about the administrative burden of applying for entitlement dollars and the lack of understanding about the sources of federal revenues. New and small schools in particular appear to struggle to manage the administrative burden associated with obtaining entitlement grants. Reflecting on the apparent appeal of being an LEA relative to the burden, Andrew Broy, Associate State Superintendent, Georgia Department of Education explained: “Initially, it sounds good to be your own LEA—‘I’ll run my school and get money directly from the SEA without having the resources flow through a local district.’ But, if a school has a small administrative staff and has to do a consolidated application designed for districts with larger staff, they may have serious difficulty.”

In some instances, the costs associated with completing individual entitlement grant applications and even consolidated grant applications can outweigh the benefits of federal dollars for small charter schools. Informants from two of the five states reported that some charter schools that operate as LEAs, and are therefore responsible for completing entitlement grant applications, have opted not to apply due in large part to their small size and a determination that the dollars do not justify the administrative burden. Documenting the number of schools currently opting out of federal entitlement grant applications was beyond the scope of this analysis.

It is noteworthy that while schools can opt not to apply for dollars from federal programs, all eligible students who attend a charter school have a civil right to receive special education and related services under IDEA regardless of whether that school receives federal IDEA Part B funds. While state constitutions generally have a broad statement regarding equitable provision of education that is arguably analogous to the core tenets of Title I-A, schools that opt out of Title I-A are not bound by that statute in the same manner as they are IDEA regardless of receipt of program funds.

### ***Charter Schools Operating as Part of an Existing LEA***

Charter schools that are part of an existing LEA are supposed to receive their federal entitlement commensurate share from their LEA just like other public schools in the same district. However, for these schools, the notion of commensurate is subject to greater interpretation by their authorizer. When a charter school is part of an LEA, the state looks at the *district's* spending but does not examine how the dollars are distributed to *individual schools*. Consequently, charter schools are largely at the mercy of their LEA or authorizer to determine the meaning of commensurate. For instance, Title I extends districts discretion to distribute dollars to high-need schools. In practice, schools in different districts with the same proportion of children living in poverty may not receive the same Title I allocation.

Determining the meaning of “commensurate” has proven difficult with ESEA funds, but is particularly complicated for IDEA funding. Under IDEA Part B, states and districts are extended discretion over allocation (e.g., for small LEAs with fewer than 2,000 students) and may provide services in lieu of funds to schools. These services may or may not be relevant to mission-driven charter schools. Reflecting on the district-level discretion, Nancy O’Hara, State Director of Special Education in Georgia, pointed out that: “In some school systems, they actually take all federal IDEA money and divvy it up by number of students; other districts use IDEA money for related services or extra paraprofessionals.” Pooling the resources allows the LEA to realize economies of scale and theoretically extend the benefits associated with the dollars. But in practice, the services may not be relevant for independent charter schools offering a different curriculum than the district. In this instance, the notion of commensurate is difficult to discern. And, new or struggling charter schools may be hesitant to ‘rock the boat’ by questioning the state’s existing notion of “commensurate.”

When combined with often less-than-hospitable relationships between authorizers and charter schools that are part of an existing LEA, the discretion built into both Title I-A and IDEA Part B funds can leave charter schools at a disadvantage when applying for funds because the LEA may favor traditional schools over charter schools. Interviews in New Mexico revealed a conflict over “fair and timely access to federal money” in accordance with federal law that led to charter advocates seeking outside intervention by elected officials to force a district to distribute commensurate funds. Limited relationships and communication between state and district program personnel and charter schools can reportedly compound the issues and undermine efforts to engage charter schools in the entitlement grant application process.

### **Challenges Encountered**

Obstacles other than legal status may impede charter schools’ efforts to obtain federal entitlement funds. Our inquiry revealed challenges that arise from charter schools’ unique characteristics, lack of technical capacity, the burden associated with accountability, and power differentials inherent to their relationship with their authorizer.

### ***Adapting to Unique Charter School Characteristics***

A recurring challenge influencing charters’ access to federal funds is the previously mentioned reality that charter schools are operating in a policy space that was not constructed for them.<sup>31</sup> Separate from legal status, the charter sector is populated with schools that do not conform to traditional school or

<sup>31</sup>Jennifer Cohen, New America Foundation, personal communication, October 19, 2009.

district models. These differences reportedly can give the traditional system pause when it comes to distributing entitlement dollars and other administrative procedures.

For instance, the federal government distributes Title I-A funds to states based on school district poverty levels as reported by the U.S. Census bureau. Since they are schools of choice, charter schools generally don't have designated neighborhood enrollment areas, and so they need to develop an alternative means to identify and report the number of their students living in poverty. Counting the number of children receiving free or reduced-price lunches is one common approach, but some charter schools opt not to participate in federally subsidized lunches because of the administrative costs of applying for the funds and offering approved meals. In addition, free and reduced-price meal counts generally become less reliable proxies for poverty in later grades as students sometimes choose not to enroll in the subsidized programs to avoid stigma.

Charter schools can also experience delays obtaining funds because entitlement program calculations for charter schools occur outside typical processes. That is, while traditional public schools report prior year enrollment to generate next year entitlement grants on a standard reporting cycle, new and significantly growing charter schools initially report projected enrollment dollars and then submit adjusted enrollment numbers after the new school year starts. States and districts vary in their approach with some providing full funds based on projected enrollment numbers and subsequently adjusting amounts up or down and others distributing only a portion of funds based on projected enrollment; releasing the remaining funds only after enrollment projections are verified. Problems associated with timely distribution of funds can inhibit charter schools' purchasing and reportedly inhibit decision making. Schools chartered by a state education agency on appeal are out of alignment with enrollment count projection due dates and, consequently, may be unable to apply for funds.

Also, charter schools may have multiple campuses under a single charter. How are these multiple sites handled for purposes of allocating entitlement funds? In addition, charter schools merge, close, and change authorizers which can pose challenges for administrators attempting to distribute and account for federal entitlement dollars. In the absence of existing policy, policymakers are frequently in the position of attempting to identify similar circumstances or essentially making up policy as situations arise.

### ***Acquiring Technical Knowledge***

A theme repeated by key personnel in all five states was charter operators' lack of technical capacity, which can undermine their efforts to obtain entitlement dollars in a fair and timely manner. In light of the inherently bureaucratic nature of applying for and thereafter reporting about federal entitlement dollars, lack of technical knowledge and administrative capacity can create a challenge for charter schools seeking to access dollars. There is reportedly a steep learning curve for charter school personnel unfamiliar with ESEA and IDEA, which can be compounded by the lack of transparency about the plethora of funding streams that feed into public schools. Lack of technical knowledge and administrative capacity on the part of new charter schools can limit the degree to which charter schools can challenge authorizing districts about funding. Conversely, open hostility on the part of charter school personnel to assistance from the traditional public school sector can also work at cross-purposes with policy leaders' efforts to bring charter schools into the loop.

There are two notable differences between Title I and IDEA. First, while Title I is solely a federal program, IDEA requires all states to have unique special education statutes that detail how they will implement IDEA. If a state gets IDEA funds, it must follow IDEA requirements which pertain to all public schools in that state regardless of whether a particular school gets funding. Consequently, states do not face the same need to build capacity for IDEA at the school-level because they are already required to have that capacity by state law. The other difference is that Title I is a voluntary funding program, and so states are only subject to its regulations if they want program funding. States have to comply with

IDEA irrespective of funding. Connie Hill, Funding Unit Director for Special Education in Arizona, explained that “states already have to comply with IDEA, so accessing federal funds is a bonus.”

### ***Addressing Accountability Requirements***

Charter schools are held accountable for federal entitlement grant dollars in the same manner as traditional LEAs and schools that are part of an LEA. That is, they submit—or are included as part of—formal grant applications for entitlement funds and thereafter must file reports as mandated by the programs and are subject to periodic audits. Monitoring for charter schools operating as LEAs can be more intense because, whereas a traditional school may or may not be selected for audit when the district is monitored, every time a charter school that is an LEA is identified for monitoring, the school is in fact monitored. Cycles are typically between three and six years and include financial as well as programmatic audits. Some states reported giving charter schools a grace period, for instance the first year or two of operations, before they enter the compliance monitoring cycle.

Noting the administrative burden associated with not only applying for but thereafter complying with entitlement programs, Nancy Konitzer from the Academic Achievement Division of the Arizona Department of Education explained: “You can’t just be a little bit Title I. You have to do everything. If they’re in the business of running a charter school because they want to be innovative and free of some of the restrictions, then becoming part of the federal system may not be the way to go. They can’t opt out of the responsibilities that come with the money. They have to do all the reporting if they take the money.” Along these lines, Cliff Chuang from the Massachusetts Department of Education noted that the reporting burden for Title I is the same regardless of the size of the grant. Therefore, due to the administrative burden associated with not only applying for but remaining in compliance with federal entitlement grant programs, “charter schools may opt out.”

### ***Navigating Power Differentials Inherent to Relationship with Authorizer***

Raising questions about the degree to which charter schools are aware of how much they should be receiving can reportedly mingle with hesitance to push their authorizer due to the power differential between authorizer and charter. Charter school special education consultant Elizabeth Giovannetti noted that “Tangible proof of dollars is hard to find. There are so many problems for the charter schools to tackle, that they have to pick their battles wisely—they don’t want to rock the boat unnecessarily. Are they actually getting the money? They may get one funding check, it’s not broken down—so it can be very difficult to tell.”

Andrew Broy of Georgia reflected: “Sometimes there is hostility [between authorizer and charter] that you have to work through. The parties might not understand each other, or they might have a negative relationship. I try to focus on the fact that students deserve access and appropriate funding. When presented with different models—what’s home-based, what’s virtual—you have to build relationships to resolve the issues that arise.”

Hesitance to ask questions can reportedly be compounded if a charter school is struggling on multiple fronts. Dr. Lisa Grover, CEO of the New Mexico Coalition for Charter Schools, explained that schools that see themselves as autonomous, well performing, or enroll a high proportion of children who qualify for entitlement dollars tend to push their authorizer to obtain their commensurate share of dollars, but “the weaker schools, for whatever reason, are less inclined to pick that battle. Whether it’s a leadership, performance, or financial issue, they’re simply not coming from a position of strength to fully engage their authorizer.” If schools perceived to be weak are hesitant to pursue information or their commensurate share of these entitlement funds, students enrolled in the schools may be doubly disadvantaged, arguably a situation that charter school authorizers and state education agency officials should be on the alert to identify and address.

Districts' perceptions of and working relationships with charter schools have reportedly evolved and improved over time. Nancy O'Hara of Georgia, reflected: "Generally, when there are problems with a charter accessing funds, we've found it's a communication issue. A few years ago, it wasn't simply [communication], but now that districts really understand that charters are public schools and districts need to treat them as such, things have gotten better."

### **Strategies to Influence Charter Schools' Access to Federal Funds**

Backed by guidance and monitoring provided by the U.S. Department of Education and state departments of education, charter schools appear to be adequately navigating bureaucratic systems to access critical federal entitlement dollars. Challenges that have arisen were generally attributed to procedural barriers rather than to intentional wrongdoing. Nevertheless, it appears there is space to improve the ease of access and transparency of entitlement programs for charter schools, especially given documented state-level funding inequities and the tremendous increase in funding through ARRA for 2010 and 2011. Our inquiry revealed that states in our sample are using strategies focused on addressing policy, procedural, and technical challenges to effectively influence charter schools' access to federal entitlement funds under ESEA and IDEA. The strategies are summarized in the following section.

#### ***Policy Focused Strategies***

Retrofitting policies to accommodate new autonomous public schools required state education agencies, and specifically entitlement program offices and district central offices, to alter standard operating procedures to incorporate charter schools. Moving these bureaucracies has reportedly been bolstered by the "big stick" of the federal government mandates regarding equity. Approaches focused on diminishing the challenges arising due to retrofitting policies to accommodate charter schools included:

- Using federal non-regulatory guidance as a central tool to advance charter schools' ready access to entitlement dollars. The law provides the "stick" necessary to push program officers responsible for ESEA and IDEA to include charter schools, and the guidance clarified the requirements.
- Identifying alternative means to Census Bureau data to establish eligibility for Title I funds (e.g., eligibility for free and reduced-price meals or supplemental nutrition assistance program).
- Engaging stakeholders and advocacy/support organizations to lobby for policies that support charter schools' commensurate access to entitlement dollars. For instance, advocates can lobby the state education agency to promulgate guidance related to alternative means to assess poverty levels for schools that do not offer free and reduced-price meals.

#### ***Procedural Focused Strategies***

Strategies to address challenges associated with entitlement program procedures focused on limiting the charter schools' administrative burden to the extent possible and ensuring that they are part of existing system processes. Cliff Chuang from the Massachusetts Department of Education explained that states, sometimes simultaneously wearing the hat of authorizer, have to build relationships to "help charter schools fit into the already existing structure." Reflecting on the ongoing need to make sure that authorizers develop adequate procedures to include charter schools, Sam Ornelas from the New Mexico Title I Bureau noted: "The message we keep sending with district-authorizer charter schools is the fairness issue. You don't establish separate processes that are different for charter schools. In our mind, they have to be treated as any other public school. We've communicated that message for five or six years." Procedural focused strategies included:

- Communicating the nuances of state charter school law in order to discern the policy implications for charter schools' accessing critical federal entitlement dollars to make certain that program staff engages in regular and productive communication with charter school personnel.



- Using consolidated applications to minimize the administrative burden for traditional and charter schools. Under a consolidated application, schools or LEAs complete one application to become eligible for multiple entitlement grant programs, rather than having to complete multiple applications. For example, Massachusetts and New York use a consolidated application for their federal programs and reported that charter schools have found this helpful.
- Including charter schools in distribution of information and making certain that charter schools can gain access to secure state and district websites, and in particular data systems, that are central to completing entitlement fund applications and compliance reports.
- Verifying funding reports to make certain that charter schools receive their proportionate share of entitlement dollars (e.g., verify that charter schools obtain their adjusted allocations based on confirmed, as opposed to projected, enrollment data in a timely manner).

### ***Technical Capacity Focused Strategies***

Effective strategies to build technical capacity centered on providing charter operators with focused training to inform them of entitlement programs, their potential eligibility, and application policies and procedures. Emphasizing the importance of early and ongoing technical assistance, Dr. Don Duran with the New Mexico Public Education Department Charter Schools Division explained: “We have several applicant training workshops from January to June. Once a charter school is approved, we have monthly preplanning workshops where each bureau reviews the process for accessing federal funds and provides a checklist to ensure that the school will be ready to commence operation at the end of the planning year. After the schools are in operation, each bureau meets annually with each charter school and their charter school division liaison at the Spring Budget Conference to provide the charter schools with information on how to access monies related to all federal funds and provide contact names for any follow up questions.”

State education agencies that function as charter school authorizers were seen as particularly well positioned to bridge the gap between entitlement programs and charter schools during the application and pre-operation phase when charter schools need to develop their technical capacity to apply for, manage, and report on allocation of entitlement dollars.

Strategies to increase technical capacity included:

- Providing training and technical assistance sessions about entitlement programs to new charter school operators and including charter schools in information distribution and relevant meetings.
- Identifying special education mentors or liaisons to make certain that new charter school operators are aware of what they need to know about complex federal and state special education rules and regulations central to accessing funds and remaining in compliance.<sup>32</sup>
- Publicizing relevant state and national entitlement program resources to charter schools (e.g., U.S. Department of Education guidance, *Primers on Special Education in Charter Schools*<sup>33</sup>).
- Engaging internal financial auditors, in preparation for compliance audits, to visit charter schools and provide early warning about problems associated with managing entitlement funds.

The strategies emerging from our small sample provide practical examples for policymakers in states with charter schools. These strategies clustered around efforts to improve policy conditions in ways

<sup>32</sup>The U.S. Department of Education has funded multiple research and technical assistance projects focused on helping charter schools navigate special education. For more details, see *Primers on Implementing Special Education in Charter Schools*: [http://www.uscharterschools.org/cs/spedp/print/uscs\\_docs/spedp/home.htm](http://www.uscharterschools.org/cs/spedp/print/uscs_docs/spedp/home.htm)

<sup>33</sup>Resources for charter operators, authorizers, and state officials about implementing special education in charter schools produced by the National Association of State Directors of Special Education. Retrieved from [http://www.uscharterschools.org/cs/spedp/print/uscs\\_docs/spedp/home.htm](http://www.uscharterschools.org/cs/spedp/print/uscs_docs/spedp/home.htm)



that include charters and strengthen technical capacity among charter leaders. The following section extends the strategies and outlines recommendations for states and comprehensive centers charged with supporting the goals of ESEA and making certain that all students have equal access to targeted federal entitlement programs.

### **Implications for Stakeholders Charged with Supporting Growth and Sustainability of Successful Charter Schools**

Charter schools' access to public funding has been a concern of advocates and policymakers since the inception of the charter sector in the early 1990s. Concerns have centered on existing public education bureaucracies' resistance to the new autonomous schools and practical challenges associated with retrofitting existing procedural structures to accommodate new and rapidly-expanding autonomous schools. With regard to federal entitlement dollars in particular, the core issue at hand for policy leaders and practitioners is the degree to which students who attend charter schools have to sacrifice access to federal dollars as part of exercising their choice to attend charter schools.

Our research did not reveal evidence of charter schools currently or systematically being denied access to federal entitlement dollars. And while the paths are different, degree of access does not appear to be influenced by whether charter schools are independent LEAs or part of an existing LEA. However, in some states, charter schools appear to remain somewhat marginalized within the

state public education bureaucracy, at times having to fight to receive their equitable share of federal, state, and local dollars.

*With regard to federal entitlement dollars in particular, the core issue at hand for policy leaders and practitioners is the degree to which students who attend charter schools have to sacrifice access to federal dollars as part of exercising their choice to attend charter schools.*

Secretary of Education Arne Duncan has been unequivocal about the role he wants state charter school laws and successful charter schools to play in his quest to turn around habitually low-achieving schools. In the interest of creating the ideal conditions for charter schools to succeed, state departments of education and regional comprehensive centers need to make certain that charter schools successfully access critical entitlement dollars. This is particularly true for charter schools serving large proportions of students identified as being at risk for low academic achievement.

We have a significant opportunity with new federal funds to make sure they are allocated equitably among all public schools. As the sector's profile steadily grows under new and aggressive reform initiatives supported by ARRA—and specifically Race to the Top funds—there is arguably space to improve access and the level of transparency associated with entitlement program dollars flowing to charter schools.

Lack of understanding about charter schools and, specifically, perceptions that charter schools are pseudo-public schools can undermine efforts to integrate them into state policies. In a speech at the annual meeting of the National Alliance for Public Charter Schools, Secretary of Education Arne Duncan urged charter advocates to “help people better understand charters” and encouraged charter schools to partner “with districts, sharing lessons, and sharing credit.” It is going to be crucial to adequately support the charter sector if these schools are to play as big a part in turnarounds as the administration appears to envision.

As the fiscal agents that receive, and are consequently held accountable for, federal dollars flowing from programs such as ESEA's Title I and IDEA's Part B, SEAs are responsible for making certain that charter schools, and more importantly, their students, benefit from access to their proportionate share

of federal entitlement dollars. As the entities charged with helping “low-achieving schools and districts close achievement gaps and meet the goals of the No Child Left Behind Act of 2001,” the 13 regional comprehensive centers and 5 national content centers also have a duty to make certain that charter schools’ interests are equitably considered.<sup>34</sup> For charter schools, access to current and accurate information will be essential. State departments of education and regional comprehensive centers need to make certain that charter schools are part of the information distribution pipeline and have access to technical assistance related to access to stimulus dollars. For their part, charter advocates need to stay abreast of new and innovative programs to make certain they can leverage their collective expertise to benefit the larger public education system.

The challenges and strategies that we have identified in this study point to three critical steps that state education agencies and regional comprehensive centers should take to enhance charter schools’ access to federal entitlement dollars and support the growth and sustainability of a high-quality charter sector:

- Become well versed in the nuances of charter school legal identity and the programmatic implications; make certain that general policy guidance and relevant technical assistance reflects this knowledge. For instance, in states with charter school laws, NCLB-mandated statewide systems of support should explicitly include charter schools in technical assistance networks and promote fully leveraging autonomy extended by the statutes to support school transformation initiatives.
- Infuse transparency into funding formulas and related guidance so charter school authorizers and school administrators have a clear understanding of the 1) source of funds, and 2) calculations underlying allocation of funds.
- Build and facilitate relationships between SEA entitlement program staff, regional comprehensive center staff, national content center staff, charter school authorizers, and individual charter schools to bridge the technical knowledge gap resulting from retrofitting education rules and regulations to include charter schools, including sharing specific strategies currently being utilized by states as outlined in this report.

Current economic conditions are driving widespread budget cuts in public education.<sup>35</sup> Simultaneously, states are experiencing large influxes of dollars from federal stimulus programs that hinge in part upon strong charter school laws as a critical lever to address persistently low-achieving schools. States need to be diligent to give charter schools, and the students who choose to attend them, full and streamlined access to federal entitlement dollars.

*“We also need to work together to help people better understand charters. Many people equate charters with privatization, and part of the problem is that charter schools overtly separate themselves from the surrounding district. This is why opponents often say that charters take money away from public schools, but that’s misleading. Charters are public schools, serving our kids with our money. Instead of standing apart, charters should be partnering with districts, sharing lessons, and sharing credit. Charters are supposed to be laboratories of innovation that we can all learn from.”*

**Secretary of Education, Arne Duncan, Speaking at the annual meeting of the National Alliance for Public Charter Schools, June 22, 2009**

<sup>34</sup>For more information about the national network of regional and national content centers funded by the U.S. Department of Education, see <http://www.ed.gov/about/contacts/gen/othersites/compcenters.html>

<sup>35</sup>See for example: Rendell vs. Republicans in fight for school funding, *Philadelphia Inquiry*, May 12, 2009; Charter school funding should not be cut, *Portsmouth Daily Times*, April 8, 2009; Charter School Funding Cut in Budget, *WGRZ.com*, April 7, 2009.

**Appendix A: Charter Statute Language Pertaining to ESEA Grant**

State	Legal Status for ESEA Dollars <sup>a</sup>	Relevant Charter Statute Language
Alaska	Part	No specific language
Arizona	LEA	No specific language
Arkansas	Variable <sup>i</sup>	6-23-501 (b) An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.
California	Variable <sup>ii</sup>	47634.4. (a) A charter school that elects to receive its funding directly...may apply individually for federal and state categorical programs....For purposes of determining eligibility for, and allocation of, state or federal categorical aid, a charter school that applies individually shall be deemed to be a school district, except as otherwise provided in this chapter. 47615. (a) The Legislature finds and declares all of the following: (3) Charter schools shall be entitled to full and fair funding, as provided in this part. 47630. (b) The Legislature finds and declares that the funding method established by this chapter provides for simple and, at the option of the charter school, local or direct allocation of funds to charter schools in a manner that is consistent with state and federal law.
Colorado	Part	22-30.5-112. (3) (III)...the proportionate share of moneys generated under federal or state categorical aid programs, other than federally required educational services, shall be directed to charter schools serving students eligible for such aid.
Connecticut	Variable <sup>i</sup>	Sec. 10-66ee. (i) Charter schools shall receive, in accordance with federal law and regulations, any federal funds available for the education of any pupils attending public schools.
Delaware	LEA	No specific language
Florida	Part	(13) ...charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. (d) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board.
Georgia	Variable <sup>iii</sup>	20-2-2068.1. (b) ...applicable federal grants earned by a local charter school shall be distributed to the local charter school by the local board; (d)...applicable federal grants that are earned by a state chartered special school shall be distributed to the local board of the local school system in which the state chartered special school is located which shall distribute the same amount to the state chartered special school....

**Appendix A: Charter Statute Language Pertaining to ESEA Grant**

State	Legal Status for ESEA Dollars <sup>a</sup>	Relevant Charter Statute Language
Hawaii	Part	§302B-12 (b) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. The department shall provide the office with all state-level federal grant proposals submitted by the department that include charter schools as potential recipients and timely reports on state-level federal grants received for which charter schools may apply or are entitled to receive. Federal funds received by the department for charter schools shall be transferred to the office for distribution to charter schools in accordance with the federal requirements.
Idaho	Variable <sup>iii</sup>	33-5208.7) Nothing in this chapter shall prevent a public charter school from applying for federal grant mon- eys.
Illinois	Variable <sup>iii</sup>	No specific language
Indiana	LEA	IC 20-24-7-3 (c) ...the department shall distribute to the [charter] organizer:...(2) a proportionate share of state and federal funds received:...(3) a proportionate share of funds received under federal or state categorical aid programs for students who are eligible for the federal or state categorical aid and are enrolled in the conver- sion charter school; IC 20-24-7-5 Sec. 5. (b) An organizer shall make all applications, enter into all contracts, and sign all docu- ments necessary for the receipt by a charter school of aid, money, or property from the federal government.
Iowa	Part	No specific language
Kansas	Part	No specific language
Louisiana	Variable <sup>iii</sup>	Title 17, Chapter 42 RS17: 3995 C. Any approved charter school shall be eligible for any other federal, restrict- ed state, and unrestricted state funding for which the school or its pupils qualify....Each charter school shall receive at a minimum their per pupil share for any state or federal grant program..., as well as any other state or federal grant program where funding is distributed on a per pupil basis and a charter school is eligible to re- ceive the funding under the terms of the grant...The chartering authority shall ensure that such funds are made available for use by any charter school no less than fifteen days after the chartering authority receives such funding from the state or the federal government, provided the chartering authority applied for such funding directly. A charter school may apply for and receive funding directly from the state or federal government.
Maryland	Part	§ 9-109. (a) In general, a county board shall disburse to a public charter school an amount of county, state, and federal money for elementary, middle, and secondary students that is commensurate with the amount dis- bursed to other public schools in the local jurisdiction.
Massachusetts	Variable <sup>iii</sup>	No specific language
Michigan	LEA	No specific language
Minnesota	LEA	124D.11 Subd. 6. (c) Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.
Mississippi	Part	No specific language

Appendix A: Charter Statute Language Pertaining to ESEA Grant

State	Legal Status for ESEA Dollars <sup>a</sup>	Relevant Charter Statute Language
Missouri	Variable <sup>ii</sup>	160.405. 6. The governing board of a charter school may amend the charter... to reflect the charter school's decision to become a local educational agency for the sole purpose of seeking direct access to federal grants.
Nevada	Part	NRS 386.570 1. A charter school is entitled to receive its proportionate share of any other money available from federal, state, or local sources that the school or the pupils who are enrolled in the school are eligible to receive. NRS 386.545 Duty of Department, board of trustees, and sponsor to provide information and assistance (c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government....
New Hampshire	Part	CHAPTER 194-B IV. Any federal or other funding available in any year to a sending district shall, to the extent and in a manner acceptable to the funding source, be directed to a chartered public school or open enrollment school in a receiving district on an eligible per pupil basis. This funding shall include, but not be limited to, funding under federal Chapters I and II of Title II, and Drug-Free Schools, in whatever form the funding is available in any year. IV-a. The commissioner of the department of education shall apply for all federal funding available to chartered public schools under the No Child Left Behind Act, Title I of the Elementary and Secondary Education Act, or other federal source of funds. The commissioner shall expend any such funds received in a manner acceptable to the funding source.
New Jersey	LEA	18A:36A-12. b. The district of residence shall also pay directly to the charter school any categorical aid attributable to the student, provided the student is receiving appropriate categorical services, and any federal funds attributable to the student.
New Mexico	Variable <sup>iii</sup>	22-8B-13. B. That portion of money from state or federal programs generated by students enrolled in a locally chartered charter school shall be allocated to that charter school serving students eligible for that aid. C. When a state-chartered charter school is designated as a board of finance pursuant to Section 22-8-38 NMSA 1978, it shall receive state and federal funds for which it is eligible. D. Charter schools may apply for all federal funds for which they are eligible.
New York	LEA	No specific language
North Carolina	LEA	No specific language
Ohio	LEA	3314.08 (F) A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. 3314.081 To the extent permitted by federal law, the department of education shall include community schools established under this chapter in its annual allocation of federal moneys under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301, et seq.

**Appendix A: Charter Statute Language Pertaining to ESEA Grant**

State	Legal Status for ESEA Dollars <sup>a</sup>	Relevant Charter Statute Language
Oklahoma	Variable <sup>iii</sup>	§70-3-142.C. A charter school shall be eligible to receive any other aid, grants, or revenues allowed to other schools. A charter school sponsored by the board of education of a technology center school district or a higher education institution shall be considered a local education agency for purposes of funding.
Oregon	Part	No specific language
Pennsylvania	LEA	No specific language
Rhode Island	LEA	SECTION 16-77-6 (e) A charter public school shall be eligible to receive other aids, grants, Medicaid revenue, and other revenue according to Rhode Island law, as though it were a school district. Federal aid received by the state shall be used to benefit students in the charter public school, if the school qualifies for the aid, as though it were a school district.
South Carolina	Part	SECTION 59-40-140 (C) ...a sponsor shall distribute to the charter school federal funds which are allocated to the school district on the basis of the number of special characteristics of the students attending the charter school. (D) The proportionate share of funds generated under other federal or state categorical aid programs must be directed to the school district board of trustees serving students eligible for the aid pursuant to state and federal law.
Tennessee	Part	49-13-112. Funding (d) A public charter school may also be funded by: (1) (A) Federal grants; (B) Grants, gifts, devises, or donations from any private sources; (C) State funds appropriated for the support of the public charter school, if any; and (D) Any other funds that may be received by the local school district.
Texas	Variable <sup>iii</sup>	No specific language
Utah	LEA	No specific language
Virginia	Part	§ 22.1-212. 14. F. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to public charter schools serving students eligible for such aid.
Washington, D.C.	Variable <sup>ii</sup>	No specific language
Wisconsin	Variable <sup>iii</sup>	No specific language
Wyoming	Part	No specific language

<sup>a</sup>Legal status key: "Part" means the charter is part of the local education agency (LEA), "LEA" means the charter is its own LEA, and "Variable" means legal status varies within the state. The three "Variable" categories include: Variable<sup>i</sup>, charter legal status depends on the type of charter (e.g., new start, conversion); Variable<sup>ii</sup>, charter legal status is a choice of the charter school founders; and, Variable<sup>iii</sup>, charter legal status depends on the authorizer.



**Appendix B: Charter Statute Language Pertaining to IDEA Grants**

State	Legal Status for IDEA Part B <sup>a</sup>	Relevant Charter Statute Language
Alaska	Part	No specific language
Arizona	LEA	No specific language
Arkansas	Variable <sup>i</sup>	No specific language
California	Variable <sup>ii</sup>	47641. (a) A charter school that includes in its petition for establishment or renewal, or that otherwise provides verifiable, written assurances that the charter school will participate as a local educational agency in a special education plan approved by the State Board of Education shall be deemed a local educational agency for the purposes of compliance with federal law (Individuals with Disabilities Education Act; 20 U.S.C. Sec. 1400 et seq.) and for eligibility for federal and state special education funds. A charter school that is deemed a local educational agency for the purposes of special education pursuant to this article shall be permitted to participate in an approved special education local plan that is consistent with subdivision (a), (b), or (c) of Section 56195.1.
Colorado	Part	22-30.5-112. (3) (a) (II) ...if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services pursuant to paragraph (a.8) of subsection (2) of this section, the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.
Connecticut	Variable <sup>i</sup>	Sec. 10-66ee. (a) For the purposes of education equalization aid under section 10-262h, a student enrolled (1) in a local charter school shall be considered a student enrolled in the school district in which such student resides, and (2) in a state charter school shall not be considered a student enrolled in the school district in which such student resides. (b) The local board of education of the school district in which a student enrolled in a local charter school resides shall pay, annually, in accordance with its charter, to the fiscal authority for the charter school for each such student the amount specified in its charter, including the reasonable special education costs of students requiring special education. The board of education shall be eligible for reimbursement for such special education costs pursuant to section 10-76g. (g) Charter schools shall be eligible to the same extent as boards of education for any grant for special education, competitive state grants, and grants pursuant to sections 10-17g and 10-266w.
Delaware	LEA	No specific language
Florida	Part	No specific language
Georgia	Variable <sup>iii</sup>	No specific language
Hawaii	Part	No specific language

## Appendix B: Charter Statute Language Pertaining to IDEA Grants

State	Legal Status for IDEA Part B <sup>a</sup>	Relevant Charter Statute Language
Idaho	Variable <sup>iii</sup>	33-5208. ...the state department of education shall make the following apportionment to each public charter school ... <sup>(2)</sup> Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.
Illinois	Variable <sup>iii</sup>	No specific language
Indiana	LEA	IC 20-24-7-3 (c) ...the department shall distribute to the organizer:...(2) a proportionate share of state and federal funds received: (A) for students with disabilities; or (B) staff services for students with disabilities; enrolled in the conversion charter school;
Iowa	Part	No specific language
Kansas	Part	No specific language
Louisiana	Variable <sup>iii</sup>	Title 17, Chapter 42 RS17: 3995 B. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the minimum foundation program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends. Any type 2 charter school shall be considered the local education agency for the purposes of any special education funding or statutory definitions, while the local school board shall remain the local education agency for any type 1, 3, or 4 charter school.
Maryland	Part	No specific language
Massachusetts	Variable <sup>iii</sup>	No specific language
Michigan	LEA	No specific language
Minnesota	LEA	No specific language
Mississippi	Part	No specific language
Missouri	Variable <sup>iii</sup>	No specific language
Nevada	Part	NRS 386.570 ... 7. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.
New Hampshire	Part	CHAPTER 194- IV-a. The commissioner of the department of education shall apply for all federal funding available to chartered public schools under the No Child Left Behind Act, Title I of the Elementary and Secondary Education Act, or other federal source of funds. The commissioner shall expend any such funds received in a manner acceptable to the funding source.
New Jersey	LEA	No specific language
New Mexico	Variable <sup>iii</sup>	No specific language

**Appendix B: Charter Statute Language Pertaining to IDEA Grants**

State	Legal Status for IDEA Part B <sup>a</sup>	Relevant Charter Statute Language
New York	LEA	S2856 1. The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly.
North Carolina	LEA	No specific language
Ohio	LEA	3314.08 (D) The department shall annually pay to a community school...(2)(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds... (3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction
Oklahoma	Part	No specific language
Oregon	Part	No specific language
Pennsylvania	LEA	No specific language
Rhode Island	LEA	No specific language
South Carolina	Part	SECTION 59-40-140 (C) ...a sponsor shall distribute to the charter school federal funds which are allocated to the school district on the basis of the number of special characteristics of the students attending the charter school....(D) the proportionate share of state and federal resources generated by students with disabilities or staff serving them must be directed to the school district board of trustees.
Tennessee	Part	No specific language
Texas	Variable <sup>iii</sup>	No specific language
Utah	LEA	No specific language
Virginia	Part	§ 22.1-212.14. F. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to public charter schools enrolling such students.
Washington, D.C.	Variable <sup>ii</sup>	No specific language
Wisconsin	Variable <sup>iii</sup>	No specific language
Wyoming	Part	No specific language

<sup>a</sup>Legal status key: “part” means the charter is part of the local education agency (LEA), “LEA” means the charter is its own LEA, and “Variable” means legal status varies within the state. The three “Variable” categories include: Variable<sup>i</sup>, charter legal status depends on the type of charter (e.g., new start, conversion); Variable<sup>ii</sup>, charter legal status is a choice of the charter school founders; and, Variable<sup>iii</sup>, charter legal status depends on the authorizer.



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