

The Impact of LEA Status on Special Education in Charter Schools

I. Introduction

The legal status of a charter school has a significant impact on that school's responsibility and autonomy, especially as it relates to special education. According to federal law under the Individuals with Disabilities Education Act (IDEA), responsibility for special education falls with the state education agencies (SEAs), which in turn delegate that responsibility to the local education agencies (LEAs). In the traditional school structures envisioned when these laws were written, the individual school districts within a state served as the LEA. Charter schools, however, were created after IDEA was passed and individual state charter laws determine whether the school is part of an existing LEA or whether the school itself serves as its own independent LEA. In some instances, charters are part of the LEA for certain services, but an independent LEA for others.

When a public charter school is part of an existing LEA, they share the responsibility for special education with the larger district. For example, the district as a whole, including traditional and charter schools, must provide a "full continuum" of services to meet the needs of all students, including those with disabilities. When a school is its own LEA, they alone have responsibility for all of these requirements. The LEA status is, therefore, crucial to understanding how a charter school functions. This brief outlines the pros and cons associated with each LEA status option in order to better understand how this legal distinction impacts provision of special education services.

II. Part of an LEA

Public charter schools that operate as part of an LEA generally have access to services through the district central office analogous to traditional public schools (e.g., human resources, transportation, and legal counsel). The district is also ultimately responsible for special education requirements under IDEA such as child find, providing a free and appropriate public education (FAPE), placing the student in the least restrictive environment (LRE), developing individual education programs (IEPs), etc.

As part of a larger, multi-school LEA, they are generally able to take advantage of the economies of scale created by these pooled resources. This collaboration, however, comes at the cost of the programmatic and financial freedoms to innovate and create new programs. The area of special education in particular is generally shared between the school and the district. In practice, this shared responsibility often involves being required to adopt the district's approach to educating students with disabilities, regardless of the extent to which it aligns with the charter school's mission and pedagogy.

Legal identity also impacts how charter schools receive funding to support both general and special education. If a charter operates as part of a traditional LEA, federal, state, and local dollars generally flow through the district, and in many instances these schools are provided some centralized services (e.g., transportation, student evaluations, specialized therapies, professional development, and legal counsel) instead of receiving funding for those services directly.

This shared responsibility and lack of autonomy can create a disincentive for the charter school to embrace their responsibility for special education. A successful model requires careful thought and clear communication regarding which party is responsible for each aspect of special education. Additionally, accountability and proper incentives must be considered and implemented. The charter contract between the authorizer and school is an ideal place to capture these elements of consideration in writing. Building good relationships with the school board and special education office is also essential to successfully serving students with disabilities.

III. Independent LEA

Charter schools that operate as independent LEAs have increased autonomy that allows more room for innovation and creation of unique programs due to greater freedom in designing curricula, hiring teachers and staff, and implementing programs. However, these schools are also wholly responsible for providing students with disabilities a full continuum of services analogous to a multi-school district and must do so without the centralized resources and funding pool available to the larger districts.

Charters that are their own LEAs typically receive federal, state, and sometimes local dollars directly and have control over how they spend those funds. Similar to the challenges experienced by small rural districts, this autonomy can be challenging for smaller schools that must provide highly specialized and costly programs necessary to support students with disabilities, especially when serving those with more significant needs. Notably, challenges can be somewhat mitigated or amplified depending on the state funding levels, wherein charter schools in states such as Massachusetts or Washington, DC with a relatively high overall per-pupil allocation are in far better positions to allocate adequate funds to special education than states such as Nevada and Utah in which the per pupil allocation is significantly smaller.

Operating as an independent LEA can be challenging, as the risk of isolation is higher. Less idea sharing, lack of expertise regarding special education best practices and legal considerations, and lower economies of scale can create an island effect with little support from other entities. Independent charter LEAs can mitigate some of these challenges by seeking training, utilizing their SEA as a resource, connecting with parent groups, and seeking opportunities to pool resources in less traditional ways, such as special education collaboratives or coops, or considering alternative special education infrastructures.

IV. Charter School Legal Structures

The matrix below summarizes the benefits and challenges associated with LEA status and outlines potential strategies for optimizing each.

	Pros	Cons	Solutions/Implications/Strategies
Independent LEA	<ul style="list-style-type: none"> • Greater freedom – more autonomy to innovate • Receive state and federal funds directly • Autonomous decisions about how to spend funds 	<ul style="list-style-type: none"> • Greater responsibility – e.g., must provide a full continuum of special education services, even if they are quite specialized and expensive • Risk of isolation– limits idea sharing - e.g., state can sue if they disagree with LEA • Risk of special education ignorance/ lack of access to special education expertise • Risk of misunderstanding liability – LEA has complete responsibility • Greater paperwork requirement to State Education Agency 	<ul style="list-style-type: none"> • Seek training • Use the State Education Agency as a resource • Pool resources with other schools through collaboratives, coops or other arrangements • Connect with parent groups • Consider capacity building structures and partnerships
Part of an LEA	<ul style="list-style-type: none"> • Potential access to district’s full range of services and expertise (HR, transportation, legal counsel, etc.) • Larger economies of scale • Shared responsibility for special education 	<ul style="list-style-type: none"> • Lack programmatic and financial freedoms - e.g. staffing and service provision • Shared responsibility means they may have to adopt the district’s special education policies • Dis-incentivizes schools from accepting responsibility for special education– it can be easier to just say the district handles special education 	<ul style="list-style-type: none"> • Important to define roles and responsibilities in the charter contract • Responsibility/accountability must be carefully thought through and proper incentives/consequences put in place • Building relationships with school boards and special education offices is critical

V. Challenges with The Current Legal Status Options

There is no ideal legal status for charter schools given the current federal requirements for LEAs. Charter schools were created after IDEA and other relevant legislation was passed, and the laws therefore did not anticipate how they would fit into the structure. The result is a lack of clarity and confounding variables that allow for many potential LEA structures that differ significantly from state to state. There are pros and cons to both options, but each results in an attempt to retrofit charter schools into an existing structure that is not built to accommodate these autonomous public schools. This lack of an appropriate legal designation leads to challenges regardless of legal status in several areas:

- In many places, an authorizer or other non-district entity is designated at the LEA for a charter school, which creates resource and authority issues
- In some states, charters may not be able to join existing special education collaboratives or create their own, which prevents them from creating economies of scale
- The intersection of charter laws and existing state laws creates unforeseen challenges
- Many state laws lack clarity regarding LEA status
- There are instances of inconsistent legal identities within the same state based on different authorizers, which increases the confusion

- Some states identify charters as independent LEAs *except for* special education. (e.g., New York and Massachusetts)
- Existing structures for monitoring, reporting, and funding distribution are generally inadequate to accommodate new charters in either category
- Funding shortages provide challenges
- Power differentials wherein charter schools that are part of a district may really struggle to advocate for their students with disabilities due to broader concerns, like that the LEA will take away their facilities

VI. Conclusion

The legal structure of charter schools varies from state to state and can present complex and challenging dynamics, especially in the area of special education. Learning about the impact of LEA status is important to maximizing the potential of a charter school to provide strong outcomes for all students, including those with disabilities. This brief encourages stakeholders to create strategies to address the challenges and take advantage of the benefits in order to optimize special education programs within charter schools regardless of LEA status.

Acknowledgments

The staff of the National Center for Special Education in Charter Schools (NCSECS), including Lauren Morando Rhim, Paul O’Neill, and Lindsay Coker drafted this brief and would like to acknowledge the invaluable contributions of the LEA Status working group of the Equity Coalition including Eileen Ahearn, National Association of State Directors of Special Education; Russell Armstrong, Washington Partners; William Bethke, Kutz & Bethke, LLC; Dixon Deutsch, NYC Special Education Collaborative; Robert Garda, Loyola University New Orleans College of Law; Lindsay Jones, National Center for Learning Disabilities; Laura Kaloi, McKeon Group; Denise Marshall, Council of Parent Attorneys and Advocates; and Christy Wolfe, National Alliance of Public Charter Schools. The work group has met over the last two years to discuss the impact of LEA status on special education in charter schools and this brief is a collective project that summarizes concepts captured through that input. While we appreciate their respective contributions to the work, we are responsible for any and all errors or omissions.