

FEBRUARY 2022

Expanding Access, Improving Quality:

How Local Education Agencies and Charter Schools
Can Equitably Provide High-Quality School Choice
Options to All Students with Disabilities in Colorado



About the Center for Learner Equity

The Center for Learner Equity is working to ensure that public schools – both within the charter school sector and beyond it – are designed for inclusivity and equity from the start. When we improve access and outcomes for students with disabilities, all students benefit.

Mission

We are committed to ensuring that students with disabilities, particularly those in under-resourced communities, have the quality educational opportunities and choices they need to thrive and learn. We accomplish this through research, advocacy, coalition formation, and capacity building with national, state, and local partners.

Vision

Students with disabilities will have the same opportunities for success as their peers.

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About the Colorado Association of Charter School Authorizers (CACSA)

CACSA is a Colorado non-profit organization dedicated to helping all Colorado authorizers improve their practices. CACSA assists authorizers in adopting best practices that align with Colorado's policies and culture of local control. CACSA members include the professionals that work directly on the task of authorizing charter schools both within school districts and the Colorado Charter School Institute. CACSA's work is informed by nine organizing principles.

Mission

CACSA's mission is to promote and support best practices in charter school authorizing and to help all Colorado charter school authorizers develop, adopt, and implement practices that improve results for all students.

Executive Summary

Purpose

The discussion of enrollment of students with disabilities in charter schools focuses on fundamental questions related to equal access and has not typically explored the quality of special education programming available. However, absent quality support and services, access to charter schools is essentially a hollow promise. This report examines how school districts and charter schools in Colorado provide access to school choice and specialized programming to students with disabilities who require moderate to significant support. In this report, students who require moderate to significant support are defined as roughly 18% of students with disabilities (or an estimated 2.5% of all students) eligible for more extensive and specialized services. These students are often educated in the regular classroom less than 40% of the school day (National Center for Education Statistics [NCES], 2020; U.S. Department of Education [USDE], Office of Special Education and Rehabilitative Services [OSER], 2021).

Methods

Findings embedded in this report are based on 31 interviews with key stakeholders, a focus group with charter school educators representing four schools, a meeting of a special education working group hosted by the Colorado Association of Charter School Authorizers (CACSA), an examination of the policies, structures, and practices that impact students with disabilities in Colorado, and a quantitative analysis of student enrollment in Denver Public Schools.

Key Findings¹

1. Colorado public school governance has a long tradition of local control and, consequently, local variability. Of particular importance for delivering special education services in charter schools, the Colorado Department of Education (CDE) provides local education agencies (LEAs) with discretion regarding special education budget allocations and location determination decisions for students with disabilities. These factors shape the capacity of charter schools to enroll and provide specialized programming for students with disabilities – particularly those requiring moderate to significant support.
2. LEA location determination decisions for students with disabilities requiring moderate to significant support may constrain charter schools' capacity to develop more specialized programming for students with disabilities. Center-based programs in Colorado are typically housed in traditional district schools more than charter schools. Thus, LEAs tend to make location determination decisions that send students requiring moderate to significant support to traditional district schools. The current system removes the responsibility and the opportunity for charter schools to develop a fuller continuum of services.

¹Please see the "Overview and Purpose" section for definitions of technical terms.

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3. Charter schools operating as part of an LEA limits charter schools' autonomy over some decision-making processes, including those related to special education funding and location determination decisions, that have implications for their capacity to deliver services to students with disabilities. However, allowing charter schools to operate as their own LEA may introduce new challenges that could negatively impact services for students with disabilities. For instance, charter schools may have insufficient support for programming without connection to the established resources and capacity of authorizing LEAs. It is unclear if the Colorado Department of Education (CDE) has the bandwidth to provide adequate support on or oversight of the expanded number of LEAs that would result if charter schools were to operate as their own LEAs.
 4. Center-based programming for students with disabilities who require moderate to significant support varies widely across Colorado.
 5. Compared to other Colorado LEAs, Denver Public Schools (DPS) is an outlier for its high enrollment of students with moderate to severe needs in its charter schools. An examination of center-based programs in DPS found promising strengths, including positive district-charter relationships and exemplary center-based programs in specific charter schools.
 6. Center-based programs in DPS also raise questions regarding the merits of expanding these programs absent evidence-based quality controls that would ensure they do not perpetuate inequitable learning opportunities for students requiring moderate to significant support.
 7. Colorado stakeholders at the state, district, and charter school levels identified the following practices as essential for building a high-quality continuum of services for students with the full range of disabilities:
 - A. Strong leadership and vision at the district and charter school level with a laser focus on improving access and outcomes for students with disabilities;
 - B. District policies that clarify special education funding models and school choice processes, and guidance regarding developing high-quality Individualized Education Programs (IEPs);
 - C. District oversight of programming for students with disabilities that prioritizes clear expectations and proactive support; and
 - D. Equitable and inclusive practices and programming that ensure the implementation of anti-bias systems and structures to support school-wide inclusion.
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Key Recommendations

- The Colorado State Board of Education should revise rules regarding how location determination decisions are made to ensure processes incorporate family input and recommendations made during IEP meetings and to clarify families' choice options, program offerings, and transportation.
- Policy makers and the Colorado State Board of Education should, prior to any exploration of significant structural or policy changes to how services and legal responsibilities for students with disabilities in charter schools are assigned, conduct a comprehensive analysis of the implications at all levels of the system.² A coherent and effective strategy would require changes at the state, district, authorizer, and school level, with particular attention on improved opportunities and outcomes for students with disabilities. Effective and sustainable policy change should contemplate:
 - Capacity to provide students with a full continuum of services;
 - Capacity and commitment of all authorizers to ensure the provision of appropriate services and compliance;
 - Capacity and obligation of the state to oversee compliance and support quality special education services within all LEAs;
 - Quality of services for all students and all types of students' needs; and
 - Adequate funding and appropriate incentives to identify and educate students effectively.
- CDE should publish four comprehensive guidance documents that focus on: (1) the rights of families of students with disabilities to exercise school choice and be protected from anti-discriminatory enrollment processes, (2) expectations and key indicators for high-quality programming for students with disabilities, including students with moderate to significant needs, (3) criteria and processes for making location determination decisions, and (4) how LEAs can develop specialized program guides for families.
- CDE should implement a system to leverage data it is already collecting for IDEA reporting purposes to examine LEAs' capacity to implement IDEA, LEA location determination outcomes, and high-quality continuums of special education programming and services. This system should include measures specifically for programming for students with moderate to more significant needs.

²Major structural changes that have been discussed or introduced prior to the 2022 Legislative Session include: (1) Allowing schools to be their own LEA; (2) Allowing networks or collaboratives to form an Administrative Unit (AU); (3) Allowing charter schools to join other AUs besides their district's AU, such as the CSI AU; (4) Requiring all schools to serve LRE 1, 2, and 3 students; and (5) Requiring or incentivizing the placement of center-based programs in all or many charter schools.

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- LEAs should implement accountability and support structures that foster the development of high-quality programming and services for students with disabilities in charter schools and traditional district schools. These structures should focus on leveraging qualitative and quantitative data to assess quality, providing relevant resources and training to schools, and measuring progress towards developing broader and effective continuums of service for students with moderate to significant needs.
 - LEAs should conduct ongoing analyses of (1) the extent to which students with disabilities in the LEA have access to charter schools and interdistrict and intradistrict school choice options more broadly – including an examination of how transportation influences choice, and (2) the enrollment and outcomes of students with disabilities in the district – including those who require moderate to significant support – to surface potential over-identification of particular student subgroups.
 - Charter school leaders should develop and implement a vision for the education of students with disabilities that builds on the charter school’s overall model and incorporates this vision into staff recruitment and onboarding, as well as the school’s website and printed materials that are physically and linguistically accessible to parents.
 - Charter school leaders should audit their internal policies and practices related to educating students with disabilities (e.g., student placement process, program offerings and service models, discipline practices, staff allocation, recruitment, and enrollment) to inform the cycle of continuous improvement. The audit should be coupled with an analysis of key output and outcome data by disability type (e.g., placement decisions, enrollment and mobility, discipline actions, and academic achievement and growth).
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Overview and Purpose

Colorado has some of the most favorable public school choice and charter school policies for families in the nation. Still, enrollment of students with disabilities in charter schools lags behind state and national enrollment averages (Ziebarth, 2021). In the 2019-2020 school year, the average enrollment rate of students with disabilities in traditional district schools in Colorado was 11.4%, compared to only 7.4% in the charter schools (National Center for Special Education in Charter Schools [NCSECS], 2020). This four-percentage point enrollment gap of students with disabilities remains one of the largest in the country. As of the 2017-18 school year, the nationwide enrollment gap was 2.5 percentage points (Center for Learner Equity [CLE], 2021). Moreover, of the 45 states in 2017-2018 with available enrollment data, Colorado ranked second to last for lowest enrollment rate of students with disabilities in charter schools and had the fifth largest gap in enrollment between charter and traditional district schools (see Appendix B for state by state comparisons) (CLE, 2021).

The idea that families in Colorado should be able to participate in school choice has been firmly embedded in state policy for decades.³ Although students across Colorado are assigned to neighborhood schools, families have multiple opportunities to exercise school choice. For example, if there is space available, families in Colorado can exercise intradistrict choice in any public school within the district in which they reside (e.g., traditional district, charter, magnet, or online schools), or interdistrict choice to a public school in a district other than the one in which they reside. These policies were designed to provide all families access to school choice. In practice, though, various stakeholders have raised concerns regarding perceived roadblocks and the significant variability in the degree to which all students have access to the full range of choice options in Colorado (NCSECS, 2020). This variability is perceived to be especially true for students with disabilities.

To date, the discussion of the education of students with disabilities in charter schools has primarily focused on issues related to access and enrollment rather than programmatic quality. However, absent quality support and services, access to charter schools, and choice more broadly, is a hollow promise.

This report explores how school districts and charter schools in Colorado provide access to school choice and specialized programming for students with disabilities who require moderate to significant support. These students account for roughly 18% of students with disabilities, or an estimated 2.5% of all students eligible for more extensive and specialized services. They are typically educated in segregated classrooms for more than 60% of their day (USDE, OSER, 2021).

³For instance, Colorado was a vanguard in the school choice movement, passing the "Public School Choice Act" in 1990 and the "Colorado Charter School Act" in 1993. The Public Schools of Choice law allows resident pupils to enroll at schools in Colorado districts for which they are not zoned. This is referred to as Open Enrollment. See Colorado Revised Statutes (2009), for more details.

The report examines this issue through the following research questions:

1. How does Colorado’s state governance structure influence the education of students with disabilities in charter schools?
2. How have center-based programs for students who require moderate to significant support typically operated in Colorado charter schools? What are the emerging lessons from Denver Public Schools’ initiative to develop center-based programs in charter schools?
3. What essential practices must be in place to build a robust continuum of high-quality special education programming in Colorado charter schools?

The report concludes with high-level recommendations for the following audiences to consider: (1) policymakers and the Colorado State Board of Education; (2) staff at the Colorado Department of Education; (3) LEA administrators; and (4) charter school leaders.

Methodology⁴

Findings introduced in this report are based on 31 interviews with key stakeholders, a focus group with charter school educators representing four schools, a meeting of a special education working group comprised of authorizers and additional stakeholders hosted by the Colorado Association of Charter School Authorizers. Additional data were drawn from an examination of the policies, structures, and practices that impact students with disabilities in Colorado and a quantitative analysis of student enrollment in Denver Public Schools. Interviewees were selected across the state, district, school, and parent levels to intentionally solicit diverse experiences and perspectives about charter schools (Table 1). The number of interviews reflects the limited scope of this exploratory inquiry. While the information-rich interview sample provides key insights, future research should include a larger interview pool.

Table 1. Summary of Interviewees

Level	Role	n=31
State	Colorado state leaders	4
	California state leaders	1
District	Colorado district administrators	7
	California district administrators	1
	Denver Public Schools district administrators	6
School	Denver Public Schools charter leaders & educators	6
	Colorado charter school leader	1
Parent	Parent advocates	5

Note: Four of the six Denver Public Schools charter school leaders and educators were interviewed in a focus group format.

⁴ See Appendix A for additional details regarding study methodology.

The following are definitions of the key terms used throughout this report:

Center-based programs	Center-based programs specialize in a particular approach or educate students with specific types of disabilities who require more significant support. The programs are typically located within a larger school. Center-based programs encompass a wide range of programming. Some provide students opportunities to engage with their peers without disabilities and access the general education curriculum while other programs are largely segregated from the rest of the school community.
Individuals with Disabilities Education Act (IDEA)	The Individuals with Disabilities Education Act (IDEA) is a federal law that outlines the rights of children with disabilities from birth to high school graduation or age 21. IDEA ensures all children with disabilities receive a “free appropriate public education” (The Individuals with Disabilities Education Act [IDEA], 2004).
Free appropriate public education (FAPE) and least restrictive environment (LRE)	Children with disabilities are guaranteed the right to a “free appropriate public education” (FAPE) in the “least restrictive environment” (LRE)(IDEA], 2004). The LRE requirement ensures that to the maximum extent appropriate, students with disabilities are educated alongside their general education peers and that any removal of a student with a disability from the general educational environment can only occur if the nature or severity of the disability is such that the student is unable to make satisfactory progress with the use of supplementary aids and services in the general education environment.
Local education agencies (LEAs)	<p>A Local Education Agency (LEA) refers to “a public board of education or other public authority within a state that maintains administrative control of public elementary or secondary schools in a city, county, township, school district or other political subdivision of a state”(IDEA, 2004).</p> <p>Colorado also uses the term “administrative unit (AU)” to describe “a school district, board of cooperative educational services (BOCES), multi-district administrative unit, or the Colorado Charter School Institute (CSI), that is providing educational services to exceptional children, and that is responsible for the local administration” of state rules related to special education (Rules (for the) Administration of the Exceptional Children’s Educational Act [ECEA], 2015).</p> <p>For this report, the terms LEA and school district are used synonymously. However, there are subtle differences (e.g., administrative units can contain multiple LEAs but are also LEAs for other purposes). The Colorado Charter School Institute (CSI) is also an LEA. Findings from the report can also apply to BOCES, which are classified as AUs rather than LEAs (Colorado BOCES Association, n.d.).</p>
Location determination	Location determination refers to the physical building or school location where the student will receive FAPE, as outlined in the student’s IEP. In Colorado, LEAs have the authority to make location determination decisions for students with disabilities.
Placement	Placement refers to the types of education settings, special education, and related services (e.g., specially designed instruction) the student needs, as outlined in their IEP. Placement includes the overall time the student will spend in the general education classroom (Colorado Department of Education, 2017).

School choice	In Colorado, families have access to school choice within their district (intradistrict) and outside of their district (interdistrict). Intradistrict choice refers to the process by which families can choose which type of school they want their child to attend within the district in which they reside. For example, a family may have access to traditional district schools, charter schools, magnet schools, virtual schools, etc., that are all located within the school district in which they reside. Interdistrict choice refers to the process by which a family can enroll their child in a different school district than the one in which they live. For example, if a family opts to send their child to a charter school outside of their geographic school district, they exercise interdistrict choice. Intradistrict choice is far more common than interdistrict choice (Ragland & Hulse, 2018).
Students with disabilities who require moderate to significant support	The ~18% of students with disabilities (or the ~2.5% of all students) eligible for more extensive and specialized services who are often educated in the regular classroom less than 40% of the school day (NCES, 2020; USDE, OSER, 2021).



The Colorado Landscape

This section provides a high-level introduction to Colorado's governance structure and its impact on the education of students with disabilities in charter schools. Information in this section comes from a review of Colorado policy documents and interviews, which provided insight into how policies influence the education of students with disabilities in charter schools in practice.

Public Education Governance Structures in Colorado

Governance structures dictated by education statutes, including the state charter law, and general and special education funding mechanisms shape how charter schools operate in Colorado.⁵ The state board, CDE, individual LEAs, and the schools that operate within the LEAs are responsible for implementing the policies and associated regulations. See Table 2 for details regarding the key responsibilities of the respective agencies.



⁵ While state policies set the foundation for the Colorado education landscape, local school districts and boards of education interpret and apply state law.

Table 2. Overview of the Public Education Governance Structure in Colorado (Colorado Administrative Code, 2020; Colorado Department of Education, n.d.)

Governing Entity	Overview of Key Responsibilities (non-exhaustive)
Colorado State Board of Education	<p>General Responsibilities</p> <ul style="list-style-type: none"> • Promulgate and adopt policies, rules, and regulations. • Perform duties delegated by law. • Appoint Commissioner of Education at CDE. <p>Special Education Responsibilities</p> <ul style="list-style-type: none"> • Promulgate special education policies, rules, and regulations that CDE and AUs/LEAs must adhere to.
Colorado Department of Education	<p>General Responsibilities</p> <ul style="list-style-type: none"> • Implement education laws and policies enacted by SBE, state legislatures, and federal government. • Supervise many aspects of school administration, including special education. • Administer and distribute funds for federal and state programs. • Provide consultation services to administrators and educators across the state. <p>Special Education Responsibilities</p> <ul style="list-style-type: none"> • Ensure that all students with disabilities' needs are met under the Individuals with Disabilities Education Act (IDEA) across LEAs in Colorado. • Distribute IDEA funds to LEAs.
Local Education Agencies (i.e., school districts and the Charter School Institute)⁶	<p>General Responsibilities</p> <ul style="list-style-type: none"> • Control of instruction and curriculum. • Execute public education in adherence with state and federal laws. • Review and approve applications to start charter schools in the district. <p>Special Education Responsibilities</p> <ul style="list-style-type: none"> • Ensure students enrolled in the LEA identified as having a disability under the Individuals with Disabilities Education Act (IDEA) are provided a “free appropriate public education” (FAPE) in the “least restrictive environment” (LRE)(IDEA,2004). • Determine final location determination of students with disabilities to ensure each student receives appropriate services and programming. • Fulfill legal and fiscal responsibility to educate all students with disabilities. <p><i>Note, if there is a Board of Cooperative Education Services (BOCES) in place, the BOCES takes on these special education responsibilities rather than the LEA.</i></p>
K-12 Public Schools (i.e., traditional district, magnet, virtual, and charter schools)	<p>General Responsibilities</p> <ul style="list-style-type: none"> • Provide public education to all students in adherence with local, state, and federal policies, rules, and regulations. <p>Special Education Responsibilities</p> <ul style="list-style-type: none"> • Ensure FAPE is provided to all students with disabilities.

⁶ In rural areas of Colorado, charter schools can enter into agreements with a Board of Cooperative Educational Services (BOCES), which acts as an intermediate administrative unit between the state and local school districts for purposes of providing support to districts and schools. In this scenario, the administrative unit would have the same special education duties as the LEA.

General Education and Special Education Funding in Colorado

Colorado ranks 36th in the nation in per-pupil funding, allocating an average of \$10,224 per pupil compared to the U.S. average of \$12,624 (Hanson, 2021). Colorado funds special education in two tiers. In Tier A, all students eligible to receive special education are funded at a base level of an additional \$1,250, on top of general education funding (Edbuild, n.d.). Tier B provides an additional funding allocation for students with more intensive special education needs. Allocations vary year to year on a per-pupil basis (Edbuild, n.d.). These funding tiers are low when compared to national averages. There has been a push for CDE to prioritize an increase in general and special education per-pupil funding allocations, including the Tier B funding (Legislative Interim Committee on School Finance, 2022).

All federal, state and local funding for students with disabilities in charter schools flows through the LEA to the charter school. LEAs may implement one of three special education services/funding delivery models in the charter schools they authorize, as outlined by CDE. Table 3 below defines each of the three models.

Under each of the three models, charter schools pay their authorizers or, in some instances, a third party, for varying levels of special education service provision. In most instances, the authorizer dictates the model and associated costs. While some authorizers provide extensive documentation to charter schools about the LEA's funding model, others offer little documentation and justification (Thukral & Baum, 2015).

Table 3. Special Education Funding Models in Colorado Charter Schools

Model	Definition
Insurance Model	Charter schools pay an insurance premium to the LEA to provide all special education programming and services for students with disabilities attending the charter school.
Contracted Model	The LEA provides the charter school with its share of special education funding. The charter school hires or contracts with third-party special education service providers to deliver special education using these funds.
Combination/ Modified Insurance Model	The charter school and its authorizer negotiate responsibility and funding for special education and related services. The charter school may hire some of its staff and negotiate with its authorizer for the LEA to provide some services (NCSECS, 2020).

Impact of Colorado's Governance Structure on Students with Disabilities in Charter Schools

Interviewees consistently identified the following factors related to Colorado's governance structure as critical to shaping the education of students with disabilities in charter schools:

- 1. LEAs retain authority for location determination decisions.** The LEA has the authority to make location determination decisions for students with disabilities. LEA personnel make these decisions based on determining where students will receive FAPE. Interviewees raised two key concerns about the implications of this authority for students with disabilities who require moderate to significant support and seek to enroll in a charter school. First, location determination decisions happen outside of the IEP process and do not require LEAs to seek family input. One interviewee explained that location determination decisions are financial and based on district capacity. While this process may be most efficient for maximizing district resources, it deprioritizes choice and input for families of children requiring moderate to significant support. Second, some interviewees perceived the LEAs authority for location determination decisions as a critical factor limiting charter schools' increasing enrollment of students with disabilities. They shared that LEAs were more likely to place students requiring moderate to significant support in traditional district schools with more extensive programming, negating the need for charter schools to develop a fuller continuum of services. At the same time, interviewees shared that some LEAs believed charter schools were to blame for low enrollment due to not offering adequate programming and service options for students with disabilities. One interviewee described how this plays out in their district, leading to limited enrollment and programming for students with more significant needs in charter schools: "There are charter schools in my district who do support kids who have significant needs, but that would be unusual. I'll put it that way. The charter schools are not expected to staff up, or otherwise change their programming, or otherwise [make] a whole lot of accommodations to meet the needs of a child with more significant needs. Most of the time that child would probably be placed elsewhere."
 - 2. Deference to local control leads to variation between LEAs. Colorado has traditionally operated as a local control state.** District administrators we interviewed perceived that CDE is hesitant to dictate too much to LEAs. Thus, LEAs generally have significant independence in determining how they will execute state and federal laws, including IDEA. This independence leads to wide variation between LEAs in their interpretation and implementation of IDEA, including the degree to which they support charter schools in educating students with disabilities. For instance, LEAs have discretion in making location determination decisions for students with disabilities. Therefore, variability in decision-making across the state is not unexpected. Interviewee's accounts suggest that variability in LEA location determinations across LEAs may be resulting in variable educational and school choice experiences for students requiring moderate to significant support.
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- 3. Charter schools operating as part of an LEA create challenges but operating as an LEA could introduce new challenges.** Under Colorado law, charter schools operate as part of their authorizing LEA (i.e., a traditional district or CSI). Some charter advocates interviewed for this project have proposed a policy shift whereby some charter schools could become LEAs or join an LEA or AU other than their authorizers'. They suggested this shift would provide charter schools with control of location determination and funding decisions, enabling them to enroll more students with disabilities. However, it is unclear whether Colorado's governance structure or funding could support charter schools operating as autonomous LEAs. Some district authorizers noted insufficient support and oversight structures in place at the state level to assist charter schools granted this level of autonomy. Some stakeholders participating in the CACSA special education working group were concerned that removing authorizing LEAs' legal responsibility for providing FAPE could decrease the quality of services available to students with disabilities in charter schools because authorizing LEAs are typically larger entities with established resources and capacity for supporting students with disabilities. Furthermore, they questioned whether CDE is designed or has the bandwidth to provide adequate support or oversight to an increased number of LEAs, which could include more than 250 additional LEAs if charter schools became their own LEAs. Interviewees cautioned that given the potential implications for funding, quality of special education services, and accountability, any change should be carefully considered from multiple perspectives.
- 4. Variability and lack of transparency around LEA special education funding structures create uncertainty for charter schools.** As outlined by CDE, LEAs have the authority to select and implement one of the three special education funding models in the charter schools they authorize. However, notable variability across the models used by LEAs and a lack of transparency into funding models and their justifications has created frustration and confusion for charter schools. For instance, some charter school operators complain they cannot compare their funding to other charter schools and traditional district schools in LEAs across the state. Charter advocates believe that the lack of clarity from the LEA around special education funding structures contributes to a resource scarcity mentality among charters and tense relationships between LEA and charters. Charter school advocates generally perceive the funding as inequitable and a barrier to developing more intensive services. One charter advocate explained, "[The] inequities can be acutely felt sometimes when it comes to the realm of special education because whether that's transportation funding or personnel, to be able to provide the sorts of intensive services sometimes necessary in this space are challenges."

For more information on Colorado's special education landscape in charter schools, see Shared Responsibility, Shared Accountability: An Analysis of Enrollment of Students with Disabilities in Colorado's Charter School Sector and 2019 State of Charter Schools Triennial Report (NCSECS, 2020; Schools of Choice Unit Colorado Department of Education, 2020).

The California Context

In 2010, California passed legislation that allowed charter schools in California to be part of an LEA (the authorizer) or an independent LEA for special education purposes (California Charter Schools Association [CCSA], 2015). When a charter school in California is part of an LEA, the authorizer maintains responsibility for special education and retains complete control over special education programs at the charter school unless an alternative arrangement is negotiated through a memorandum of understanding (MOU). Alternatively, when a charter school operates as an LEA for special education purposes, it assumes full responsibility for special education and gains the funding and flexibility to design and implement innovative programs that align with the charter school's mission and the needs of its students. school programs and models for educating students who require moderate to significant support

Figure 1. Enrollment of Students With Disabilities in Charter Schools and Non-Charter Schools Overtime in California

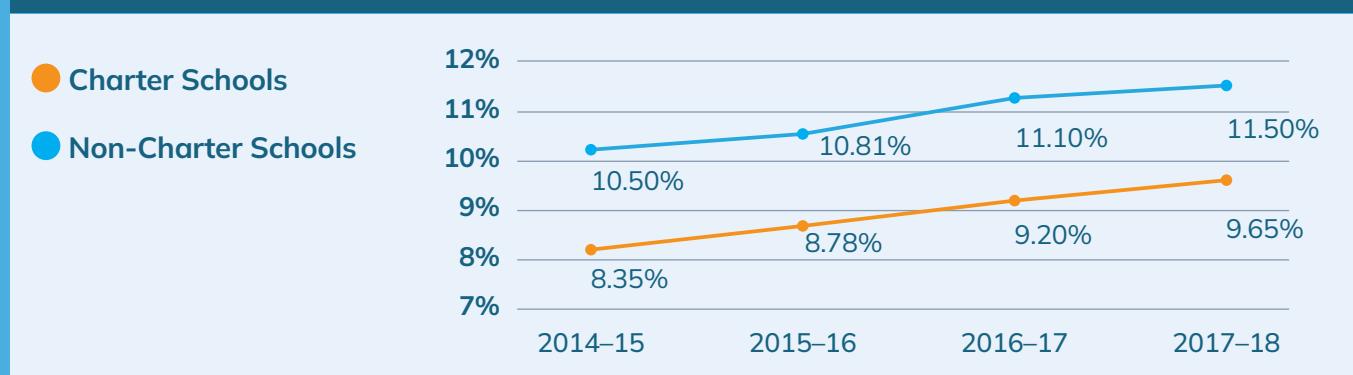


Figure 1 highlights the increase in the enrollment of students with disabilities in charter schools across California between 2014 and 2018 (California Department of Education [CDE], n.d.).⁷ Although causal claims cannot be made, the ability for charter schools to serve as their own LEA for special education purposes may contribute to higher enrollment of students with disabilities in charter schools (though there are similar increases in Colorado charter schools).

This type of policy does not guarantee quality programming in charter schools. According to California interviewees, even if a charter school operates as its own LEA for special education purposes, strong district oversight and accountability are crucial to ensuring high-quality special education programming within the charter school. For example, the ability for charter schools to serve as their own LEA for special education purposes has worked well in LAUSD because the district has the capacity and leadership in place to support rigorous oversight of these charter schools (more information on the LAUSD model can be found in the next section). For charter schools that serve as their own LEA for special education purposes, SELPAs (Special Education Local Plan Areas) manage the distribution of funding and provide oversight to ensure students receive FAPE in the LRE. Sometimes these SELPAs are physically located a great distance from their schools. Observers have voiced concerns that charter schools may not receive sufficient support from geographically distant SELPAs to provide quality programming.

⁷ No data prior to 2014 was publicly available.

Center-Based Programs in Colorado: Learning from Denver Public Schools

This section explores how center-based programs for students who require moderate to significant support typically operate in Colorado, specifically in Denver Public Schools (DPS). It provides a brief overview of how these students are generally educated in the national and state landscape to frame a deeper exploration into DPS given their expansion of center-based programs to charter schools – something unique from other districts in the state.

National Context for Students who Require Moderate to Significant Support

In 2018, a total of 6,315,228 students in the nation, ages six through 21, were eligible to receive special education and related services under IDEA, Part B. These students are educated in various types of programs and school models. As shown in the table below, 95% of these students were educated in general education classrooms for at least some portion of the school day, while 5% were educated outside of general education classrooms in “other environments” (USDE, OSER, 2021).

Table 4. National Percentages: Time Spent in General Education for Students Educated Under IDEA, Part B

Time spent in general education entity	Percent of students
80% or more of the day	64%
40% to 79% of the day	17.9%
Less than 40%	13.1%
Educated in “other environments” (i.e., outside of general education classrooms)	5%

The terminology used to describe school programs and models for educating students who require moderate to significant support varies across the country. However, there are generally whole-school approaches and embedded program approaches. Whole-school approaches, such as alternative education programs and specialized schools, are primarily or entirely focused on educating students with disabilities or are designed for a particular disability-specific need. Embedded program approaches, such as center-based programs, offer specialized expertise and services for students who require moderate to significant special education support and services. Embedded program approaches are typically located within the regular school building.

Across school districts in Colorado, center-based programming is a common model for educating students with disabilities who spend less than 40% of their time in general education. The term “center-based programs” can have a negative connotation among special education advocates, as many associate this term with exclusionary practices and segregated classrooms. In Colorado, center-based programs is an umbrella term used to define a vast range of programming. While some center-based programs provide students ample opportunity to engage with their peers without disabilities and access the general education curriculum, other center-based programs remain mostly segregated from the rest of the school. Moreover, interviews with a diverse range of stakeholders revealed widespread perceptions that the quality of center-based programs varies notably.

Center-based programs in Colorado are typically located within traditional district schools, not charter schools. According to interviewees, charter schools in Colorado typically offer programs and services to students with disabilities who require mild to moderate levels of support, but they may not always be equipped to educate students with disabilities who require more significant support. Thus, if a student spends less than 40% of their time in general education, the LEA typically places the student in a center-based program in a traditional district school instead of a charter school. This approach enables school districts to pool resources – most notably personnel with specialized expertise – into particular schools, rather than spreading the services across schools. While this approach is financially efficient, it raises questions about LRE, access to the general education curriculum, and peers without disabilities. For students with disabilities potentially interested in a particular program (e.g., arts or science and technology) offered at a charter school, it also raises concerns about equitable access to school choice. Setting aside long-standing questions about the overall merits of center-based programming, locating center-based programs in traditional schools is perceived to remove pressure for charter schools to develop the capacity to educate students who require moderate to significant support. When charter schools lack such programming, students who require moderate to significant support do not have as many school choice options.



Interviewees reflected that the ability of students with disabilities who require moderate to significant support to enroll in charter schools tends to be the exception and is based on families having privilege and agency to navigate the system. As currently configured, the charter sector lacks a systemic approach to developing a more robust continuum of services for students with a broader range of disabilities. As one LEA administrator stated, “I’m not aware of any charter schools beyond DPS that really serve kids who are beyond mild to moderate. There are always those principals and those teachers who say, ‘Yes. Your child is welcome here, and we will give it our best shot.’ I applaud those folks, but I would not say that’s the norm across the board unless your child is basically a mild to moderate kind of a kiddo.” He further explained that his own child is an example of a student who requires more significant support and successfully enrolled in a charter school. He explained that this was partially due to his role as an LEA administrator and the decisions of an individual principal, rather than a systemic solution: “In essence, it was because the principal said, ‘We’re going to do what it takes to work with this student.’ It was not a system decision. It was not one that might be supported by a different principal.” Based on interviews and focus groups, such discretion appears to be the norm for instances where students with moderate to significant needs sought to enroll in Colorado charter schools.

Among Colorado’s districts, DPS stands as an outlier in enrolling students with more moderate to severe needs in its charter schools. Unlike other districts in Colorado, DPS has developed a system in which both charter schools and traditional district schools provide center-based programs. The expansion of center-based programs in charter schools has led to notable strengths and areas of concern. The following section provides a more in-depth examination of DPS’ proactive development of center-based programs in charter schools.



Denver Public Schools' Expansion of Center-Based Programs in Charter Schools

History of Center-Based Programs in DPS

The first center-based program housed in a DPS charter school was created in 2010 and enabled by the DPS charter compact agreement signed by district administrators and charter school leaders (Meyer, 2016). According to interviews with DPS personnel, the compact was foundational to communicating a shared vision and sense of ownership to enrolling and educating students with disabilities among charter school and district leaders.

Expanding center-based programs to charter schools was also influenced by charter school politics. DPS interviewees generally noted a desire to ensure charter schools had equitable access to resources, funding, and facilities – and also a growing pressure to reach parity in enrollment of students with disabilities in charter schools. Overall, DPS interviewees reflected that the push to increase the number of students with disabilities enrolled in charter schools through center-based programming was motivated in large part by the desire to avoid political backlash.

Enrollment in Center-Based Programs in DPS

In the 2019-2020 school year, 23% of all students attended a charter school in DPS, while 77% attended a traditional district school. A similar trend exists with students with disabilities: 22% of all students with disabilities in DPS attended a charter school, while 78% attended a traditional district school. In terms of center-based program enrollment, the gap is larger: 17% of DPS students with a disability educated in a center-based program attend a charter school (262 students total), while 83% attend a traditional district school (1,242 students total) (Table 6) (Denver Public Schools [DPS], 2021). While there is a gap, it is profoundly smaller than other Colorado districts, with close to 0% of students enrolled in charter schools requiring significant needs.

Overview of Center-Based Programs in DPS

There are nine types of center-based program models in DPS, and each program model focuses on a particular age group or a particular type of disability (see Table 5).

Table 5. Types of Center-Based Programs in DPS⁸

Program Type	Overview of Program
Affective Needs (AN)	Program designed to provide intensive, individualized academic and social-emotional support for students experiencing significant social, emotional, and/or behavioral difficulties.
Cross Categorical	Program for various disability types developed to educate students with significant needs in their home school.
Deaf and Hard of Hearing (DHH)	Program for students who are deaf and hard of hearing.
Multi-Intensive (MI)	Program provides a functional approach to academics, life skills, and appropriate inclusion skills for students with moderate to severe delays in adaptive behaviors, cognition, and academic achievement.
Multi-Intensive Autism (MI-Autism)	Program provides a functional approach to academics, life skills, and appropriate inclusion skills for students with a primary disability of Autism Spectrum Disorder, but who may also have multiple disabilities, including cognitive impairment.
Multi-Intensive Severe (MI-Severe)	Program provides a functional approach to academics, life skills, and appropriate inclusion skills for students with significant and profound disabilities in cognitive, physical, and/or health needs.
Model 1 (Integrated preschool)	Full integration with typical peers, with the opportunity to receive special education and related services.
Pragmatic Language Executive Functioning (PLEX)	Program developed to educate students with pragmatic language and executive functioning needs (often students on the Autism Spectrum).

⁸The names and manner of characterizing the different types of center-based programs continues to evolve. The names in this table reflect the most-recent typology that DPS used at the time of this report.

Table 6. Percent of Center-Based Program Students Enrolled in Different Program Types in DPS Charter Schools and Traditional District Schools (2019-2020)⁹

Program Type	Charter Schools	Traditional District Schools
Affective Needs (AN)	17.2% (45 students)	12.7% (158 students)
Cross Categorical	11.5% (30 students)	2.3% (29 students)
Deaf and Hard of Hearing (DHH)	0% ¹⁰	1.4% (17 students)
Multi-Intensive (MI)	50.8% (133 students)	37.4% (464 students)
Multi-Intensive Autism (MI-Autism)	9.5% (25 students)	15.4% (191 students)
Multi-Intensive Severe (MI-Severe)	9.2% (24 students)	10.5% (130 students)
Model 1 (Integrated preschool)	<16 students	9.3% (116 students)
Pragmatic Language Executive Functioning (PLEX)	0%	3% (37 students)
Transition to Independence Program (TIP)	0%	8.1% (100 students)
Total Enrollment	262 students	1,242 students

⁹These data were shared by DPS and reflect their most-recent typology for types of center-based programs at the time of the report. For all programs with between 0 to 16 students enrolled, the DPS dataset classified those programs as having "<16 students."

¹⁰Although DPS doesn't have a charter school center-based program for students who are deaf and hard of hearing, there is a charter school in Jefferson County – Rocky Mountain Deaf School – that is specifically tailored to the education of deaf students. The Rocky Mountain Deaf School draws students from across the Denver Metro area, which is likely why DPS does not have a center-based program for the deaf and hard of hearing in a charter school.

Strengths of the DPS Approach

According to interviewees, the systemic expansion of center-based programs in DPS charter schools resulted in notable strengths, including:

1. Parity in enrollment of students with disabilities in DPS charter schools;
2. Positive district-charter relationships; and
3. Exemplary center-based programs in specific charter schools.

1. Parity in enrollment of students with disabilities in charter schools: In 2019-20, students with disabilities in charter schools in DPS represented 10.7% of the student population compared to 11.3% in traditional district schools. This 0.6 percentage point gap in enrollment is substantially lower than state and national averages. Statewide, the average enrollment gap of students with disabilities in charter schools compared to traditional district schools was four percentage points in the 2019-2020 school year (NCSECS, 2020). Nationally, the gap was 2.5 percentage points in the 2017-18 school year (CLE, 2021). Compared to other LEAs, DPS ranks sixth in the state for the highest percentage enrollment of students with disabilities in charter schools (see Appendix C) (NCSECS, 2020). Among LEAs with a more significant charter school presence (five or more charter schools), DPS has the highest percentage enrollment of students with disabilities (NCSECS, 2020). Several other factors beyond DPS center-based programs may also be contributing to the parity of enrollment of students with disabilities, including DPS location determination policies¹¹ and its unified enrollment system.¹²

2. Positive district-charter relationships: The expansion of center-based programs in DPS charter schools was credited with strengthening relationships between district leaders and charter school leaders. As mentioned earlier, the charter-district compact was critical to building these relationships, as it communicated a shared sense of ownership and vision. A former DPS administrator stated, “The DPS charter compact was immensely helpful to the work I was doing, and that we were doing, in the special education area because it meant that we were all aligned at a high level of what we were trying to accomplish here...That set a really powerful vision...At the end of the day, the people who lead the charter schools and the people who lead the district had agreed to this compact, and I could rely on that when inevitably we had differences of opinion or disagreements.”

One former DPS administrator noted that implementing center-based programs required him and other district leaders to work more closely with charter school leaders. The administrator believed this close work ultimately grew trust and deepened school and district leadership relationships.

¹¹ DPS administrators only get involved in location determination decisions if a student with a disability qualifies for a center-based program. For all other students with disabilities, it is the expectation that charter schools have the programming and services needed to provide FAPE in the LRE for these students.

¹² Implemented in the 2011-2012 school year, DPS launched the [unified “SchoolChoice” application](#) to simplify the enrollment process for families and ensure equitable access to all schools. See Denver Public Schools (n.d.), for more information. A parent can opt to disclose if their child has an IEP when filling out the DPS SchoolChoice application. If the parent does disclose IEP information, this provides schools access to review the IEP to plan for the student. If the student is new to DPS and discloses the IEP, schools and the enrollment team can discuss the IEP to see if the student qualifies for a center-based program. Regardless of school type, unless a student’s IEP indicates a center-based program is appropriate, having an IEP should not be a factor in enrollment decisions.

3. Exemplary center-based programs in specific charter schools: According to DPS interviewees, STRIVE Prep Charter School houses one of the most sought-after center-based programs in DPS. STRIVE Prep has 10 schools in the district, of which 7 have center-based programs. They have based their center-based programs on a more inclusive model where classes are co-taught with general education and special education teachers. Additionally, students with more significant needs are always educated alongside their general education peers for the greatest amount of time possible.

Examples from STRIVE Prep illustrate how implementing more inclusive practices can shift and grow teachers' mindsets over time. One center-based program leader of a STRIVE Prep school has seen growth in general educators' mindsets around inclusion since the inception of center-based programs at STRIVE Prep: "I think STRIVE Prep has come a long way... When we started and had our highest-needs students attend general education classes, the goal was emotional regulation in a room of 30 students. [In this scenario] the teacher would be very focused on standards and scores, which are important, of course, but so much so that they wouldn't feel like they had any agency of like...the teacher would be stressed to the max about how the student is impacting the expectations. And I feel like that is not something that drives any of our teachers anymore, at least our teachers who have been around a while."



Areas of Caution to the DPS Approach

Based on interviews with DPS administrators and DPS charter school leaders, the areas of caution with the DPS approach include the following:

1. Limited school choice and transportation challenges for students who qualify for center-based programs;
2. Lack of established centralized policies guiding student placement in center-based programs;
3. Variability in program quality; and
4. Over enrollment of Black boys in Affective Needs (AN) Programs.

Many of these challenges are not specific to center-based programs in charter schools, but are instead a reflection of broader system-wide challenges for DPS. Furthermore, the challenges identified within DPS's system are not unique to DPS: stakeholders with first-hand knowledge of practices in multiple districts noted that many other districts are grappling with the same issues in center-based programs in traditional district schools.

1. Limited school choice and transportation challenges for students who qualify for center-based programs: Expanding center-based programming to charter schools did not, in practice, increase school choice for students with disabilities who are eligible for this level of service. DPS assigns students to a specific center-based program, which can be housed in a traditional district or charter school. If a family is dissatisfied with the assigned center-based program, they can ask to enroll in a different center-based program, but they can be denied if there isn't space in the program. If space is available to enroll in another center-based program, the family ultimately waives their right to transportation.

It's important to note that most families in DPS (and in many other Colorado districts) also waive their right to transportation when they opt to enroll in a charter school. As one DPS interviewee stated, "The district provides (offers) transportation to students assigned to center programs. DPS choice application includes a statement that is signed by the parent indicating that they know that when 'choicing' into a school outside of their neighborhood, they are waiving any right to transportation." A parent advocate in the Denver region explains that this district-wide transportation policy applies to all center-based program students – even those who have transportation written into their IEP as a related service. She explained that because parents sign a choice application that outlines this policy, DPS "asserts that when completing the application, the parent is making an informed decision to waive their child's right to transportation."

Likewise, if a student exits out of a center-based program because the IEP team decides the student no longer needs that level of support, the student typically must give up their right to transportation to the school.¹³ For example, if a student enrolls in a charter school's center-based program, and the team decides to exit the student out of the center-based program because they no longer need that level of support, then DPS interprets this scenario as the family exercising school choice. If the student wants to remain at the charter school in the general education setting, they will lose transportation to the school. According to a center-based program leader in a DPS charter school, many families have opted to keep their child in the more restrictive center-based program instead of exiting to a less restrictive setting, because losing transportation would pose a major barrier to the family.

2. Lack of established centralized policies guiding student placement in center-based programs:

Similar to other districts in Colorado, determining who is eligible for center-based programming is primarily the responsibility of IEP teams in DPS. While placement and location determination decisions must be individualized, many DPS interviewees discussed variation in the profile of students who ultimately end up in center-based programs. Interviewees attributed this to a lack of consistent and equitable district-wide processes for identifying which students qualify for a more restrictive placement in a center-based program. This lack of consistent processes is not specific to charter schools, but rather a district-wide challenge that interviewees were concerned could lead to students being educated in more restrictive settings than is appropriate, thereby limiting their access to the general education curriculum.

3. Variability in program quality: The examination of DPS center-based programs surfaced concerns about variability in program quality. While some center-based programs ensure students work toward meaningful and individualized goals, a DPS administrator described others as “glorified daycare centers.” DPS administrators and charter school leaders noted that the quality of center-based programs could depend on school staff and school leadership. A former DPS administrator reflected that programs tended to decline quickly if they relied on strong staff, as opposed to established expectations and standards, and then experienced turnover, “If a really great, strong teacher left, then sometimes the programs fell apart. Or if a strong principal left, then somebody came in that was not a strong advocate of the center-based program, then the program tended to crumble. It felt really person-specific as far as quality and programming and success and interests of the kids being able to get their needs met.”

According to interviewees, DPS does not operate with any district-wide indicators of success or definition of high-quality center-based programming. Instead, accountability for achieving student results is localized and left to the discretion of the school or center-based program leaders.

¹³ If they are attending a center-based program in their neighborhood attendance zone, and transportation is a related service in their IEP, then they would still receive transportation to that school, even after leaving the center program.

4. Over-enrollment of Black boys in Affective Needs (AN) Programs: Over-enrollment of Black boys in center-based programs is common across school districts in Colorado and across the country. Based on 2019-20 DPS enrollment data, only 13% of all students in DPS identified as Black, yet 31% of students educated in the center-based AN programs were Black (DPS, 2021). Though the data examined was not disaggregated by both race/ethnicity and gender, 68% of all center-based program students in DPS identified as male in the 2019-20 school year. Based on this, it is likely the majority of Black students enrolled in the AN programs are males (DPS, 2021).

Every DPS administrator interviewed mentioned issues related to the over-identification of Black boys in the AN center-based programs. Additionally, DPS administrators raised concerns about the quality of AN programs district-wide, in both charter schools and traditional district schools. Interviewees consider AN programs in DPS (and in other districts) to be the lowest quality of all the center-based programs. As one DPS administrator stated, “Once a student’s been put in an AN classroom, it’s literally a life sentence. The likelihood that they’re going to get out of a center-based program is not very high, which means, in a sense, they’re being criminalized for their disability if they even have a disability.”

Due to the over-identification issues and reported poor program quality of AN programs, DPS had made plans to close all AN programs in the 2021-22 school year, but as of August 2021, changed course and stated that closing these programs would go against the district’s “obligations to appropriately serve students with disabilities.” In response to this news, Advocacy Denver has filed a complaint with the Federal Office for Civil Rights, “alleging a pattern of discrimination against Black male students” (Asmar, 2021).

In 2019-2020, 17% of center-based program students enrolled in a charter school, and 12% of center-based program students enrolled in a traditional district school attended an AN program in DPS (DPS, 2021). The challenges with AN programs are not specific to charter school center-based programs, and interviewees noted they were also an issue in DPS more broadly and in other districts. However, the expansion of AN programs in charter schools exacerbated the inequitable system that interviewees say has tolerated poor program quality and over-identification issues.



LAUSD's Whole-School Approach to Offering a Continuum of Special Education Programming in Charter Schools

In contrast to DPS's approach, three charter schools in Los Angeles Unified School District (LAUSD) have developed programs that prioritize educating students with a diverse range of disabilities in inclusive classrooms. Research on LAUSD's charter school policies and interviews with a district leader and leader of a highly inclusive charter school surfaced actions at the state-, LEA-, and school-levels perceived to contribute to the success of the model charter school in LAUSD:

1. Flexibility in how the charter schools work with the school district to provide a continuum of programming for students with disabilities.
2. Strong district oversight and accountability.
3. District-wide emphasis on inclusion.

1. Flexibility in how charter schools work with school districts to provide a continuum of special education programming: LAUSD expanded the state's definition of what it means for a charter school to act as an independent LEA for special education purposes. In LAUSD, charter schools have three options in terms of special education governance and funding:

- **Option 1:** LAUSD serves as the LEA for special education services. Charter schools receive less direct funding for special education but have access to more district resources.
- **Option 2:** Charter schools operate like an LEA for special education purposes, but still have access to district placement options (e.g., if a charter school reviews a student's IEP and determines the school is unable to provide FAPE in the LRE, then the charter school can place that student in a different district school). Charter schools have more direct funding for special education compared to Option 1.
- **Option 3:** Charter schools act like LEA for special education purposes. Unlike Option 2, charter schools do not have access to district placement unless the school pays an additional fee to utilize a district placement. Charter schools have more direct funding for special education than Option 2 and have access to additional grant funds.

Most charter schools in LAUSD choose Option 3, as it provides schools with greater autonomy and more direct funding for special education. Additionally, Option 3 charter schools don't have access to district placements unless they pay a fee. An interviewee who is an LAUSD administrator said, "We celebrate our Option 3 schools because those are the schools that you're giving a huge amount of accountability to. It's quite amazing to see schools that are islands unto themselves rise to the occasion of really supporting their particular families and students at their school site. Then, of course, with that, they have increased funding. So when you get that increased funding, you can expand, I think, your vision of what you're doing on the ground, in the weeds, more so than say my team could do from a central office perspective. So we definitely see some of our bright spot schools, if you will. They're all Option 3 schools."

2. Strong district oversight and accountability: According to interviewees, strong district oversight and accountability are critically important to successful special education programming in charter schools, regardless of LEA status. LAUSD conducts rigorous oversight visits. Schools may spend several months providing information to the district on finances, human resources, and instructional programs. As the inclusive charter school leader explained, this oversight helps pave the way for success. She shared that the rigorous site reviews keep them “open and excellent” and that the charter school would not be as good without the clear district accountability targets the charter school must meet every year.

3. District-wide emphasis and a school-wide commitment to inclusion: LAUSD explicitly promotes a significant emphasis on inclusion. As one district leader shared, “The district itself is actually moving to a more inclusive model of education, which is great because that’s the model that charter schools primarily subscribe to.” The leader also described how she has the autonomy to operationalize this commitment in how she builds her staff community. “One of the biggest benefits is that I can choose a teacher, and the teacher team can choose who they want to work with based on their interview and the demo lesson and parents sitting on their interview panels and really listening to decide whether this person will be a good member of our community.”

The LAUSD example provides lessons from a large district with a large charter sector that has committed considerable resources to oversight and support of programming for students with disabilities. California charter schools outside LAUSD face a different context, where the critical conditions supporting LAUSD are not always present.



Building a Continuum of High-Quality Programming for Students with Disabilities

This section provides a synthesis of characteristics and policies that interviewees describe as critical to developing a robust continuum of high-quality programming for students with disabilities in Colorado. Across interviews with stakeholders at the state, LEA, charter school, and parent advocacy levels, four key themes emerged:

1. Strong leadership and vision at the district and charter school level with a laser focus on improving access and outcomes for students with disabilities;
2. District policies that clarify special education funding models and school choice processes, and guidance regarding developing high-quality IEPs;
3. District oversight of programming for students with disabilities that prioritizes clear expectations and proactive support; and
4. Equitable and inclusive practices and programming that ensure the implementation of anti-bias systems and structures to support school-wide inclusion.

The key themes identified were described by interviewees as challenging to implement but critical to ensuring that all public schools, including charter schools, can enroll and educate all students with disabilities – particularly students who require moderate to significant support.

1. Strong Leadership and Vision

Interviewees repeatedly mentioned the importance of having strong leaders at the school district and charter school levels with a clear vision for inclusion. Interviewees described the importance of integrating charter schools into the district-wide vision for special education. One process that interviewees shared for achieving a shared vision of inclusion was a district-charter compact or special education memorandum of understanding (MOU), similar to what DPS implemented when it expanded center-based programs to charter schools. CSI also uses a special education MOU to clarify the roles and responsibilities of the charter schools versus the Institute. Interviewees also believed that consistent communication between district and charter school leaders were necessary, but an area for growth for many districts. District administrators, charter school leaders, and parent advocates also discussed how important it is for charter schools to establish and communicate their philosophy and approach to educating students with disabilities. For example, STRIVE Prep showed a special education vision that articulates the school's commitment to inclusive practices, their beliefs in presuming competence, and how they leverage its programming and model to educate students with disabilities in the LRE.

2. District-Wide Policies for Educating Students with Disabilities

Interviewees identified LEA funding for special education, school choice enrollment processes, and structures to support high-quality IEPs as critical district policies that shape programming for students with disabilities in charter schools. Interviewees believed improved transparency and clarity for charter schools around the LEAs funding model for special education would help combat a “scarcity mentality” around special education resources and planning. Interviewees elevated the importance of policies promoting more robust and consistent decision-making processes for student placement and location determinations. Educators, school district leaders, district administrators, and parent advocates heavily emphasized the importance of including parents and students in developing the IEP. One district administrator shared that their audits revealed a need for writing IEPs to meet students’ needs rather than the school’s current schedule and staffing constraints. Interviewees proposed schools could improve the quality of IEPs through professional development for IEP teams and district-wide IEP audits to identify areas for improvement.

3. District Oversight of Programming for Students with Disabilities

Interviewees agreed on the importance of district oversight for articulating standards for quality in special education programming and for providing accountability. Interviewees believed that districts should set expectations and standards for special education programming in charter schools and traditional district schools. For example, this could include student entrance and exit criteria from specific center-based programs, program quality standards, and student growth standards. One leader from DPS described how articulating standards for what student success would look like within a center-based program seemed to have driven student growth in the program: “[I] really worked with that program around what our criteria is for success for those kids, and I feel like that was a really huge turnaround. Those kids were doing amazing by the time the end of that school year was over....” Quality standards may help to guide program improvement, improve consistency across programs, and improve accountability. Interviewees believed that district oversight should be oriented toward proactive support and continuous improvement, rather than compliance. Interviewees also agreed that district oversight should still allow for and encourage charter schools to use their autonomy to innovate when developing special education programming. For example, one interviewee who was reflecting on the strengths of charter schools stated, “Some of this has been reflected over the course of the past year with the pandemic: it’s the responsiveness that a charter school community can bring to its services to students and families...they’re able to pivot more quickly and often provide more individualized attention to certain student populations.” Granting charter schools the autonomy to innovate with special education programming (within the parameters of the district’s quality expectations) provides the opportunity to build a more robust continuum of special education programming across the district and ultimately offer more choice for families of students with disabilities.

4. Equitable and Inclusive Practices and Programming

Interviewees stressed the obligation of school districts to address racial bias and systemic inequities entrenched in special education policies and practices. The majority of interviewees mentioned the importance of administrators, school leaders, and educators having inclusive mindsets and awareness of their racial bias as a starting point. Promoting more inclusive mindsets and uncovering implicit racial bias, they believed, was essential for driving more equitable practices and policies. One interviewee described an instance during an IEP meeting in which their awareness of racial biases and the history of over-identification of students of color spurred a shift in practice: “At the end of the year, it got to the point of [us] being so passionate about this that [we] were in a meeting going like, ‘Look at this IEP team. We’re all white. This is a child of color who has experienced tremendous trauma. This is not appropriate.’ That level of trying to prevent teams from making some really scary decisions, not because I know that this kid doesn’t have an emotional disability, I truly don’t, but because it’s just not appropriate to make that decision for a five-year-old during a pandemic.” Interviewees believed that ongoing professional development should cultivate inclusive mindsets, understand racial bias, and prioritize building staff capacity for using inclusive and equitable practices. Some interviewees attested that strategic professional development offerings, coaching, and supervision helped educators who were previously hesitant to include a student with significant needs in their class to change their perspective and improve their practice.



Supporting Equitable Policies for Students with Disabilities in Small or Rural LEAs

Providing a robust continuum of special education in small and rural LEAs can be particularly challenging. Typically, these LEAs lack access to resources and, unlike larger LEAs, cannot take advantage of economies of scale.

To combat these issues, eight small and rural LEAs across three counties in the San Juan region formed a BOCES, which serves as their special education unit. As one interviewee who works at the San Juan BOCES stated, “I think the strength is really in scales of the economy like leveraging resources. What we can do really well is have very high-quality special education staff and services providers who we can retain.”

The BOCES has implemented policies to ensure students with disabilities, including those with more significant needs, have access to appropriate programming. They first prioritized inclusive programming across all schools and LEAs. If a student requires more significant support, a few center-based programs are housed in the larger LEAs. Rather than being segregated from the rest of the school, they integrated these center-based programs into the larger school context.

Second, the BOCES has implemented a straightforward decision-making process for IEP teams to follow when making location determination decisions. This has created more consistency in the profile of students who get placed into center-based programs.

Third, the BOCES has pooled resources to support access to different schools in the region among students with disabilities. For example, if deemed appropriate for the student to attend a school in another LEA, the home district will provide transportation. Likewise, if the student with a disability wants to attend a charter school in the LEA, the LEA will pay for transportation.

While there are notable strengths of the San Juan BOCES, challenges persist, as with any other LEA. For example, charter schools in the region are not expected to offer a full continuum of special education services since that exists within the traditional district schools. As stated by a San Juan BOCES employee, “Our charters do not have the full continuum of services generally because they’re in districts that do have that. As long as somebody in the administrative unit can provide the full continuum of services, it’s not a burden on the school to necessarily have to do that internally.”

Enrolling Students with Disabilities in Charter School Institute (CSI) Schools

CSI schools have substantially increased the percentage of students with disabilities over the last few years. In 2020-2021, 7% of all students enrolled in a CSI school had an IEP compared to only 5.3% in 2015 (Lewis, 2020; Colorado Charter School Institute [CSI], 2021). The increase in enrollment of students with disabilities may be partially attributed to the centralized CSI team's work that has increased each school's capacity to enroll, educate, and retain students with disabilities. Four years ago, the centralized CSI team implemented an equity screener, which serves as a formative assessment for each CSI school (CSI, 2020). The equity screener analyzes various data sources (e.g., enrollment, academics, attendance, discipline, etc.) by student subgroups, including students with disabilities. According to CSI staff, the equity screener has been helpful to CSI schools and the CSI central team.

Although the percentage of students with disabilities attending CSI schools has increased over the years, it is still slightly lower than the average enrollment of students with disabilities in charter schools in Colorado and significantly lower than the average enrollment of students with disabilities in traditional district schools across the state (7% in CSI schools vs. 7.4% in all Colorado charter schools vs. 11% in traditional district schools).

One challenge that makes it difficult to enroll more students with disabilities is that CSI schools do not participate in a district-wide enrollment process. Instead, families have to know about the CSI school and choose to enroll in it outside of their local LEA enrollment process. According to a CSI employee, families of students with disabilities may not be seeking out CSI schools because of pervasive negative perceptions and misinformation about CSI schools.

Given these challenges, CSI charter schools need to focus on recruiting, marketing, and implementing equitable enrollment processes. In addition, just like other charter schools, these efforts must be in conjunction with more quality programming that meets the needs of a larger demographic of students with disabilities.

Discussion and Recommendations

To improve access for more students with disabilities, charter schools need to develop program options that will allow them to provide a greater continuum of services to all students with disabilities. Center-based programs are one such model to embed within the regular school building to provide more specialized expertise and services for students requiring moderate to significant support. Such programs are typically housed in traditional public schools and somewhat rarely in charter schools in Colorado. DPS is an outlier for developing center-based programs in charter schools, introducing both strengths and concerns. Expanding programming in charter schools may strengthen relationships between traditional districts and charter schools, and programs can provide high-quality and inclusive programming. However, developing center-based programs without attention to quality can perpetuate deeply rooted systemic inequities and racial biases in the education system. LEAs play a critical role in overseeing program quality but need better articulation of standards for program quality. With standards for program quality, LEA and district leaders could develop specific guidance, training, and coaching to improve programming within the LEA. The DPS model raises the urgency to learn from schools using inclusive models and a broader continuum of services to provide specialized programming for students requiring moderate to significant support.

The following recommendations are based on the research findings and analysis. The recommendations are designed to provide actionable next steps to Colorado stakeholders at all levels of the system: (1) policymakers and the Colorado State Board of Education; (2) staff at the Colorado Department of Education; (3) LEAs; and (4) charter school leaders.



Recommendations for Policymakers and the Colorado State Board of Education

- Revise rules regarding how location determination decisions are made to ensure processes incorporate family input and recommendations during IEP meetings and to clarify families' choice options, program offerings, and transportation.
- Implement policy changes to prevent districts from taking away transportation if written into the IEP of a student with a disability attending a charter school as a related service.
- Conduct a comprehensive analysis of the implications at all levels of the system prior to any exploration of significant structural or policy change to how services and legal responsibilities for students with disabilities in charter schools are assigned.¹⁴ A coherent and effective strategy would require changes at the state, district, authorizer, and school level with particular attention to improved opportunities and outcomes for students with disabilities. Effective and sustainable policy change should contemplate:
 - Capacity to provide students with a full continuum of services;
 - Capacity and commitment of all authorizers to ensure the provision of appropriate services and compliance;
 - Capacity and obligation of the state to oversee compliance and support quality special education services within all LEAs;
 - Quality of services for all students and all types of students' needs; and
 - Adequate funding and appropriate incentives to identify and educate students effectively.

Recommendations for the Colorado Department of Education

- Develop and disseminate guidance for families of students with disabilities that explains their rights under IDEA, including the right to exercise school choice¹⁵, and includes explicit information for families of students with more significant needs around center-based programs. This guidance should also clarify non-discriminatory enrollment processes, the obligation of charter schools to educate students with disabilities, and references to advocacy support organizations and resources specifically for families of children with disabilities.

¹⁴Major structural changes that have been discussed or introduced prior to the 2022 Legislative Session include: (1) Allowing schools to be their own LEA; (2) Allowing networks or collaboratives to form an Administrative Unit (AU); (3) Allowing charter schools to join other AUs besides their district's AU, such as the CSI AU; (4) Requiring all schools to serve LRE 1, 2, and 3 students; and (5) Requiring or incentivizing the placement of center-based programs in all or many charter schools.

¹⁵ Developed by the Massachusetts Department of Elementary and Secondary Education, this [guidance document](#) provides families with information about the rights of students with disabilities to attend MA charter schools, communicates expectations around anti-discrimination based on disability status, references applicable laws and regulations, and provides links to additional information on procedural safeguards and other resources. See Massachusetts Department of Elementary and Secondary Education (2014) for more details.

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- Develop and disseminate programmatic guidance for charter schools and school districts outlining key quality indicators for educating students with disabilities – with explicit guidance regarding high-quality education for students with moderate and significant needs, best practices for writing high-quality IEPs, and expectations around the development of broader continuums of service that support the needs of a more diverse demographic of students with disabilities. The state should provide ongoing coaching and professional development to ensure the implementation of these quality indicators.
 - Develop and disseminate guidance on processes related to location determination decisions, including criteria for how LEAs should make these decisions.
 - Develop and disseminate guidance to LEAs on developing a specialized program guide¹⁶ that provides specific information to families about existing programs for students with more moderate to significant needs across the district or region. The guide should provide an overview of the program, details on the service models available within the program, enrollment processes, and a point of contact for the school.
 - Implement a system to leverage data it is already collecting for IDEA reporting purposes to examine LEAs' capacity to implement IDEA, LEA location determination outcomes, and high-quality continuums of special education programming and services. This system should include measures specifically for programming for students with moderate to more significant needs.

Recommendations for LEAs

- Develop a clear, district-wide vision for educating students with disabilities, including students with moderate to more significant needs, that extends to charter schools. Evaluate the current strengths and conditions of the LEA in operationalizing this vision and offering a high-quality continuum of services and programming for students with disabilities in both traditional district schools and charter schools.
- Implement accountability and support structures that foster the development of high-quality programming and services for students with disabilities in charter schools and traditional district schools. These structures should focus on leveraging qualitative and quantitative data to assess quality, providing relevant resources and training to schools, and measuring progress towards developing broader and effective continuums of service for students with moderate to significant needs.
- Implement a unified enrollment process in larger school districts that incorporates all charter schools in the district. Establish protocols to provide families of students with disabilities information about existing programs, enrollment processes, and guidance related to their rights to exercise school choice.

¹⁶ In December 2021, NOLA Public Schools released a [guide for families](#) of children with disabilities that highlights existing specialized programs for students who require more significant support. The purpose of the guide is to assist families living in the all charter district to identify and navigate their options across the city. See NOLA Public Schools (2022) for more details.

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- Collaborate with charter schools to implement a transparent and equitable funding model that aligns special education responsibilities, funding, and services provided.
 - Develop a memorandum of understanding (MOU) between the district and each charter school that clarifies special education funding models, school choice processes, and guidance around high-quality IEPs and programming for students with disabilities – including those with moderate to significant needs.
 - Analyze the extent to which students with disabilities in the LEA have access to charter schools and interdistrict and intradistrict school choice options more broadly. As part of the analysis, identify the extent to which transportation (or the lack of transportation) influences choice. Use the analysis to update district-wide policies and systems to ensure students with disabilities, including those who require moderate to significant support, have access to high-quality school choice options.
 - Analyze enrollment and outcomes data for students with disabilities in districts and their respective charter schools, including those who require moderate to significant support, to recognize over-identification issues of particular student subgroups in special education programs.
 - Produce and distribute annual equity reports for charter and traditional district schools that describe progress towards key indicators (e.g., enrollment, discipline, program offerings, mobility,¹⁷ and achievement and growth by disability type and service category – e.g., LRE 1, LRE 2) to increase transparency and equip parents to make informed enrollment choices.

Recommendations for Charter School Leaders

- Develop and implement a vision for the education of students with disabilities that builds on the charter school's overall model and incorporates this vision into staff recruitment and onboarding, as well as the school's website and printed materials that are physically and linguistically accessible to parents.
- Audit internal policies and practices related to educating students with disabilities (e.g., student placement process, program offerings and service models, discipline practices, staff allocation, recruitment, and enrollment) to inform the cycle of continuous improvement. The audit should be coupled with an analysis of key output and outcome data by disability type (e.g., placement decisions, enrollment and mobility, discipline actions, and academic achievement and growth).
- Provide ongoing professional development and coaching to all school staff that focuses on building the capacity to educate students with disabilities, including those requiring moderate to significant support and inclusive mindsets.

¹⁷ Tracking stability [may provide additional insight](#), but it is unclear the extent to which schools collect data that could provide information about stability. See Fowler-Finn (n.d.) for more information.

Appendix

Appendix A. Methodology

Quantitative Analysis

(1) DPS enrollment data analysis: After securing data from the Denver Public Schools' Research & Evaluation Impact Office, quantitative data on total enrollment of students for 2019-2020 was analyzed. The data were disaggregated and analyzed based on the following categories:

- Enrollment of students in schools with no center programs and schools that host a center program.
- Enrollment of students with disabilities in schools with no center programs and schools that host a center program.
- Total enrollment of students, students with disabilities, and students enrolled in CBPs in charter and traditional district schools.
- Number and percent of students with disabilities in CBPs disaggregated by disability type, LRE status, gender, race/ethnicity.
- Composition of students enrolled in CBPs, disaggregated by Center Type.

(2) Desk Research: Existing publicly available enrollment data from the California Department of Education's website was utilized in this report. The data was disaggregated by school type and disability status of students.

Qualitative Analysis

In addition to reviewing and analyzing quantitative data, 31 interviews were conducted as a part of this research. These are the stakeholder groups represented from the interviews:

- DPS district administrators: six interviewees
 - DPS charter school leaders and educators: two interviewees and four focus group participants
 - Other Colorado district administrators: seven interviewees
 - Colorado state leaders: four interviewees
 - Parent advocates: five interviewees
 - California state and district leaders: three interviewees
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Research on California and LAUSD

Research on California was conducted for three reasons:

1. It is important to explore other ways to educate students who require moderate to significant support relative to Colorado's center-based program approach. According to interviewees, California promotes inclusive practices and programs for students with disabilities rather than separate program approaches, such as center-based programs.
2. Unlike Colorado, charter schools in California may be part of an LEA (the authorizer) or an independent LEA for special education purposes (CCSA, n.d.). The policy implications are significant for stakeholders in Colorado to consider given discussion around potential legislative changes to allow options for LEA status.
3. Compared to Colorado, California has a smaller gap in the average enrollment of students with disabilities in charter schools and traditional public schools. As of the 2019-2020 school year, California's statewide gap was 2.3 percentage points, while the gap in Colorado was four percentage points (CDE, n.d.; NCSECS, 2020).

Limitations

The primary limitations of the research include:

- Beyond the enrollment data shared by DPS, other quantitative enrollment and outcomes data for students with disabilities in charter schools and districts in Colorado were unavailable.
- The sample of interviewees is not representative of all Colorado education stakeholders. Therefore, the opinions and perspectives of some stakeholders may be omitted.



Appendix B. Percentage Enrollment of Students with Disabilities in Charter Schools vs. Traditional District Schools by State (2017-18) (CLE, 2021)¹⁸

State	Traditional District Schools	Charter Schools	Difference in Proportion
National	13.2%	10.7%	2.5%
Alabama	13.7%	11.4%	2.2%
Alaska	13.4%	10.2%	3.2%
Arizona	12.7%	9.0%	3.7%
Arkansas	12.1%	9.8%	2.4%
California	11.6%	10.2%	1.5%
Colorado	11.5%	6.7%	4.8%
Connecticut	14.4%	10.3%	4.1%
Delaware	16.2%	9.5%	6.6%
District of Columbia	14.0%	14.5%	-0.5%
Florida	14.0%	9.0%	5.0%
Georgia	12.3%	9.8%	2.6%
Hawaii	10.6%	8.0%	2.6%
Idaho	10.1%	8.0%	2.1%
Illinois	13.7%	15.1%	-1.4%
Indiana	14.6%	13.3%	1.3%
Iowa	12.1%	19.2%	-7.0%
Kansas	14.1%	11.5%	2.7%
Kentucky	15.5%	N/A	N/A
Louisiana	11.6%	11.0%	0.5%
Maine	17.8%	19.8%	-2.0%
Maryland	11.5%	12.6%	-1.1%
Massachusetts	17.4%	15.2%	2.2%

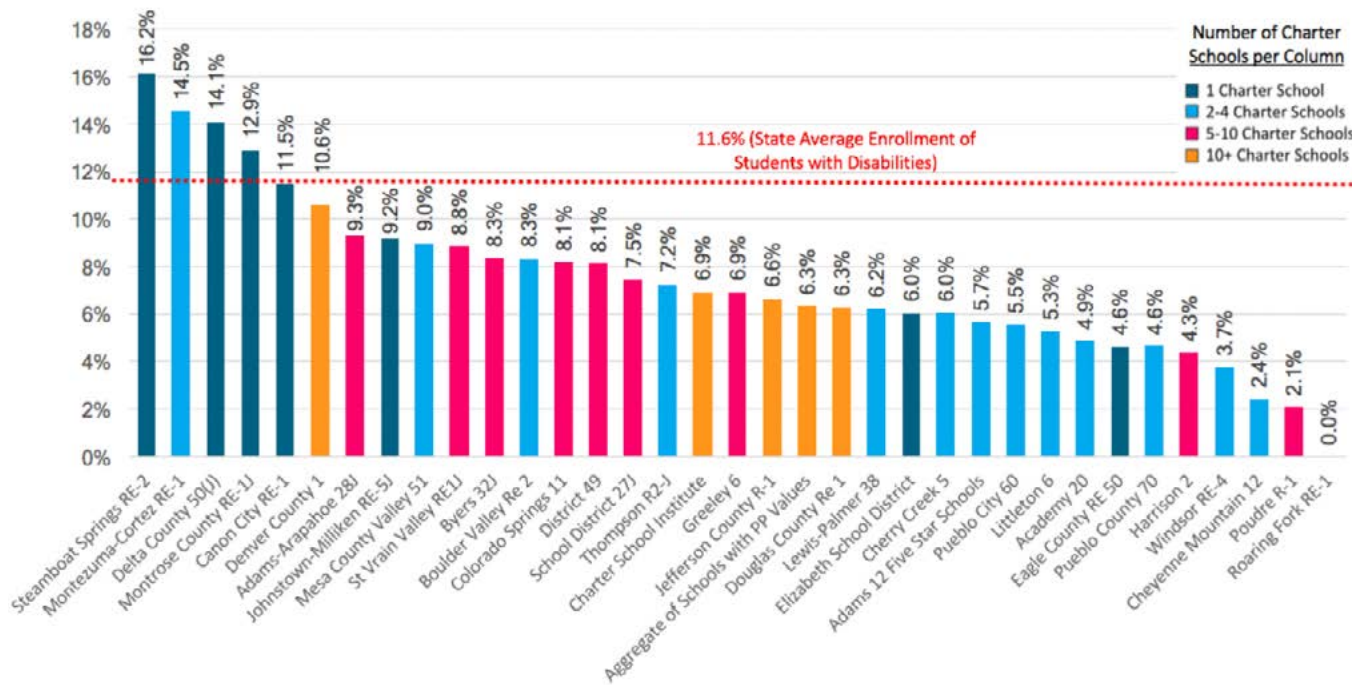
¹⁸ Kentucky, Montana, North Dakota, Nebraska, South Dakota, Vermont, and West Virginia did not report charter schools in the 2017-18 CRDC.

Michigan	13.1%	10.4%	2.7%
Minnesota	15.2%	14.4%	0.8%
Mississippi	12.3%	8.2%	4.1%
Missouri	13.9%	9.5%	4.4%
Montana	12.2%	N/A	N/A
Nebraska	15.1%	N/A	N/A
Nevada	12.4%	9.7%	2.8%
New Hampshire	15.6%	10.0%	5.6%
New Jersey	15.8%	9.7%	6.1%
New Mexico	15.2%	13.2%	2.1%
New York	16.8%	14.4%	2.4%
North Carolina	12.4%	10.1%	2.3%
North Dakota	13.2%	N/A	N/A
Ohio	14.8%	15.0%	-0.2%
Oklahoma	16.5%	13.6%	2.9%
Oregon	13.4%	10.5%	2.9%
Pennsylvania	16.3%	18.3%	-1.9%
Rhode Island	14.8%	12.4%	2.4%
South Carolina	13.3%	10.3%	3.1%
South Dakota	13.7%	N/A	N/A
Tennessee	12.8%	8.6%	4.2%
Texas ¹⁹	9.2%	6.6%	2.6%
Utah	13.1%	14.5%	-1.4%
Vermont	15.3%	N/A	N/A
Virginia	13.2%	18.5%	-5.3%
Washington	12.8%	15.2%	-2.4%

¹⁹ While the Texas charter school sector has the lowest percent enrollment of students with disabilities of all states with charter schools, enrollment of students with disabilities in Colorado charter schools is only .1 percentage point higher. Additionally, the percent enrollment gap between traditional district schools and charter schools in Colorado (4.8%) is almost double the gap in Texas (2.6%).

West Virginia	16.6%	N/A	N/A
Wisconsin	14.2%	11.4%	2.8%
Wyoming	13.8%	11.6%	2.2%

Appendix C. Average Percentage Enrollment of Students with Disabilities by Authorizer in 2019-2020 (NCSECS, 2020)



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