

Charter School Statutes and Special Education: *Policy Answers or Policy Ambiguity?*

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Charter schools are a growing and evolving component of the public education sector. These schools may be exempt from state or local regulations, but they are part of the public system and subject to federal laws and many regulations. Research has documented policy tensions and basic challenges associated with developing special education programs in charter schools. A key source of these issues is ambiguity in individual state charter laws regarding roles and responsibilities related to special education. This article presents findings from a review of 41 charter statutes. The review reveals variability and lack of specificity among states in the legislative structures they maintain for charter schools and how responsibility for special education is assigned. These findings highlight the importance of federal, state, and district policy leaders developing a nuanced understanding of statutes shaping the parameters of responsibility for special education in the charter sector.

Charter schools are a relatively new but growing and evolving segment of the public education sector. Charter schools are granted varying levels of independence from traditional school districts in return for increased accountability reflected in a renewable charter or contract with an authorizing agent. They join the menu of school choice options that emerged from school reform efforts in the 1980s and 1990s. While many of the other school choice options are driven by district initiatives and remain more closely aligned with the traditional public school system (e.g., open enrollment, magnet schools, and public choice for students at risk for school failure), charter schools operate under the auspices of state charter statutes that afford these schools varying degrees of regulatory relief. The assumption underlying the charter concept is that freedom from existing mandates, coupled with increased accountability driven by charter contracts and parents' ability to choose schools, will foster the creation of successful new schools and drive existing public schools to improve to compete for students (Kolderie, 1990). While the validity of these suppositions remains debatable (Miron & Nelson, 2002; Carnoy, Jacobsen, Mishel, & Rothstein, 2005), the charter sector is growing; as of fall 2005, there were approximately 3,600 charter schools educating upwards of 1 million students (Center for Education Reform, 2005). Furthermore, due to the fact that the No Child Left Behind Act of 2001 (NCLB) identifies conversion to charter status as one of multiple sanctions for schools that repeatedly fail to demonstrate Adequate Yearly Progress (AYP), the charter school sector will mostly likely continue to grow for the foreseeable future. As the charter sector grows, it is critical that policymakers at

the federal, state, and district level are aware of the policy implications of state charter school laws. The focus of our research is how these laws address issues related to educating students with disabilities.

Charter schools may be exempt from state or local regulations, but they are fundamentally public and therefore subject to federal laws and regulations, including laws related to educating students with disabilities (Heubert, 1997). Special education, as it is organized in public schools, results from a complex and oft times confusing combination of federal law and regulation, individual state constitutions, state law and regulation, and policy traditions. Research examining the special education policy issues associated with charter school statutes and subsequent practices has documented tensions and misunderstandings emerging at the intersection of charter school and special education goals and objectives (Ahearn, Lange, Rhim, & McLaughlin, 2001; Fiore & Cashman, 1998). An analysis of the limited but growing case law documents that state and district policy leaders are struggling to establish the parameters of charter schools' responsibilities related to special education that are dictated by the Individuals with Disabilities Education Act (IDEA, 1997; O'Neill, Wenning, & Giovannetti, 2002).

While charter schools are frequently referred to as a monolithic entity, they are by definition unique; each school is designed and operated by a unique board that implements its vision of a public school within a policy climate shaped by state charter law and local practice. With the exception of their autonomous governance structures and, on average, small size, these schools are best defined by their heterogeneity—both

between and within states—as opposed to their homogeneity (Anderson et al., 2002).

The charter sector that exists today grew from a single law passed in Minnesota in 1991 (Nathan, 1996). By fall of 2005, a total of 40 states plus the District of Columbia (hereafter referred to simply as “states”) had adopted charter school laws. While there has been some legislative action related to charter schools in the remaining 10 states (i.e., Alabama, Kentucky, Maine, Montana, Nebraska, North Dakota, South Dakota, Vermont, West Virginia, and Washington), they have not passed charter school laws (Center for Education Reform, 2005).

The charter school sector is primarily a state-driven reform initiative. Individual states pass charter school laws that define the legal status of their charter schools and articulate specific parameters within which charter schools may operate. In turn, entities that have the authority to grant charters (i.e., authorizers or sponsors) and charter school operators interpret and implement individual state charter school laws, thereby translating policies into practices. Entities most commonly permitted to act as authorizers are local education agencies (LEAs), state education agencies (SEAs), institutions of higher education, specially appointed charter boards, and nonprofit organizations. Regardless of who grants a charter, by definition, charter schools are public entities, funded by public tax dollars and they must offer open enrollment policies. To wit, while afforded varying levels of deregulation designed to enable charter schools to operate independent of district structures, these new schools must abide by the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA). Relative to other education policy issues (e.g., standards-based reform, Title I, magnet schools), state and district policy leaders have limited experience interpreting charter school statutes and developing charter-related policy.

In contrast, the federal special education law now known as IDEIA is a federal initiative, passed originally in 1975 (then called the Education for All Handicapped Children Act) and amended numerous times since then, most recently in 2004. The federal law requires states accepting IDEIA funds to assure a free appropriate public education (FAPE) to all eligible children in the least restrictive environment (LRE). Part B of IDEIA and its implementing regulations, in conjunction with related state laws, require compliance with a number of detailed procedures concerning the provision of special education and related services in schools. In practice, IDEIA dictates policies and procedures related to identifying children with disabilities and thereafter, developing an Individualized Education Program (IEP) that articulates the services and supports required to enable the child with a disability to receive FAPE. A student who is identified as potentially having a disability is referred for an evaluation to determine eligibility for programs and services under 1 of the 13 disabilities covered by the law. Each state has established specific procedures to implement this requirement. If a child is found to have a disability, a team composed of professionals and the child’s par-

ents or guardians writes an IEP and recommends a program and placement to meet those individual needs. IDEIA specifies parental rights throughout the process and prescribes due process procedures to resolve differences that may arise between parents and school personnel (IDEIA).

Besides IDEIA (2004), charter schools are also required to comply with multiple other federal laws that govern the education of students with disabilities in public schools (e.g., No Child Left Behind [2001], Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act [1990], and Family Educational Rights and Privacy Act [1974]). Our analyses focused primarily on the implications of IDEIA, due to the magnitude of the law and the consequent implications of its regulations for charter schools. Given the importance of Section 504 of the Rehabilitation Act of 1973 to ensuring that students with disabilities are adequately supported in charter schools, we did examine whether state charter laws mention Section 504. However, our analysis was limited and due to the nature of our data, we did not delve into the nuances of the policy implications of IDEIA versus Section 504 for charter schools.

While special education and charter school advocates approach their advocacy from different perspectives, and special education is characterized by regulations and charter schools by deregulation, special education is not the antithesis of charter schools. Rather, at their core, special education and charter schools are simply different approaches to providing students with educational opportunities that ideally match their unique educational requirements. Special education law grew out of abuse of rights and specifically a lack of choice or opportunity for students with disabilities (Franklin, 1994). Special education procedures may seem onerous, but they evolved over time in an attempt to prevent abuses and neglect on the part of the public school system. Along the same vein, charter schools attempt to offer parents and students choices and opportunities. Yet, the divergent manner in which the two programs manifest in practice can set up barriers to a harmonious merger.

From the perspective of governance and responsibility, federal law designates that states are responsible for ensuring that the rights of all eligible students with disabilities are protected and that they receive their entitlement to an appropriate education at no cost and in the least restrictive setting. Although states retain oversight and monitoring responsibilities, states delegate responsibility for implementing IDEIA (2004) to local districts.

Funding for special education in charter schools is a complex and frequently controversial matter (Nelson et al., 2000; Speakman & Hassel, 2005). Local districts pay for the cost of special education using a combination of federal, state, and local funds (Parrish, Harr, Anthony, Merickel, & Esra, 2003). Part B of IDEIA (2004) provides an allocation of federal funds for each state based on a standard formula, and these dollars flow through the state to local districts. States also fund special education using one of several formulas.

Local districts are responsible for all remaining costs associated with providing special education. How special education funds actually flow to support students with disabilities who attend charter schools differs from state to state.

IDEIA (2004) requirements are binding for all public schools, and this includes charter schools. However, the specific level of an individual charter school's responsibility for special education depends on the legal status of the school. Within the public school system of its state, a charter school may be either its own local education agency or part of an existing LEA. IDEA noted this distinction in its 1997 amendments and regulations, and these provisions were retained in the 2004 IDEIA amendments with only minor changes. IDEIA dictates that a charter school is an LEA for purposes related to special education if the school is established as such under its state charter law. Furthermore, the law dictates that if a charter school is part of an LEA, then the LEA is responsible for educating students with disabilities who enroll in the charter school in the same manner as it educates students who enroll in other district schools, including provision of supplementary and related services and funding.

The regulations for the 1997 version of IDEA expanded on the provision of the law that pertains to the implications of a charter school's LEA status, and these regulations remain in the regulations for the 2004 IDEIA. The 1997 amendments to IDEA and related regulations, along with the 2004 amendments, underscore that charter schools are public schools and therefore responsible for educating students with disabilities. Furthermore, the statutes articulate the different levels of responsibility based on the critical distinction of whether a charter school is part of an LEA or its own LEA. The regulations also explicitly grant states autonomy to delegate responsibility to "another entity" (C.F.R. 34 300.209(c) and (d)2). This provision is noteworthy because it grants states the opportunity to shift responsibilities assigned by IDEIA from an LEA to yet a different unnamed entity.

As the charter sector continues to grow, the importance of understanding how charter school and special education laws intersect, and the subsequent implementation of policies in these schools is critical to ensuring that students with disabilities can access and succeed in this new sector. This article presents findings from a legislative review conducted as part of a national research study investigating special education in charter schools. The following sections introduce the existing literature regarding special education in the charter sector, our study methodology, and a discussion of our findings. A final section discusses the policy implications of our findings and proposes steps key stakeholders should consider to ensure that charter schools are a viable option for students with disabilities.

Literature Review

This study builds on the findings of previous national studies that revealed policy tensions and practical challenges emerging in the charter sector related to special education (Ahearn

et al., 2001; Fiore & Cashman, 1998; Fiore, Warren, & Cashman, 1998; Green & Mead, 2004; Heubert, 1997; O'Neill et al., 2002). An underlying tension that influences special education in the charter sector is a conflict between the core premise of charter school autonomy and special education regulation (Ahearn et al., 2001). Charter schools were created in part to infuse autonomy into the public education sector with the hope that such autonomy could breed innovation and improve student outcomes (Kolderie, 1990). Federal, state, and local special education rules and regulations are generally perceived to be somewhat counterintuitive in charter schools striving to reduce bureaucracy. For instance, the multiple procedures that dictate the parameters of how students with disabilities may be educated in public schools appear counterproductive to charter schools touted by advocates as deregulated or schools without rules (Heubert, 1997). Furthermore, while charter schools must follow specific procedures to implement or change an IEP, charter schools are schools of choice, so parents can enroll their child with a disability in a charter school without consulting with other members of the existing IEP team.

In addition to the policy tensions associated with negotiating special education requirements in a less regulated environment, the extensive responsibilities of special education mandated by federal legislation and regulations and the consequent interpretation by state and federal courts pose unique practical challenges for charter schools (Heubert, 1997; O'Neill et al., 2002). In particular, charter schools struggle to understand their roles and responsibilities related to special education and to amass the capacity required to provide special education and related services to students with disabilities (Ahearn et al., 2001).

In an early legal analysis of charter school statutes and their implications for special education, Heubert (1997) stressed that language in IDEA (1990) regarding legal responsibility dictates that a charter school's legal identity as an autonomous LEA or as part of a noncharter LEA defines the school's roles and responsibilities related to special education. If a charter school is an autonomous LEA, it is solely responsible for providing a full continuum of placements. If a charter school is part of a district, the district as a multisite entity with resultant pooled resources is responsible. Fiore & Cashman's (1998) analysis of charter statutes in 29 states documented that while some laws contain provisions regarding discrimination, targeted enrollment, special education funding, and transportation, none of the state charter statutes include provisions related to "goals, accountability, or assessment for students with disabilities" (p. 19). Furthermore, they found that few states identify who is responsible for providing services to students with disabilities. Rhim & McLaughlin's (2001) in-depth analysis of legal issues in 15 states also documented ambiguity regarding legal identity and a limited understanding of the implications of critical charter school characteristics that reportedly cause problems associated with discerning lines of responsibility for state-, district-, and school-level leaders.

A study conducted relatively early in the evolution of the charter sector documented problems associated with simply providing students with disabilities access to charter schools. While somewhat limited in terms of its scope, McKinney's (1996) survey of charter schools in Arizona found that charter schools enrolled a disproportionately small number of students with disabilities relative to national trends. Charter operators reported that they regularly counseled students with disabilities away from their schools primarily due to fears about the costs of educating students with disabilities.

More recently, Fiore, Harwell, Blackorby, and Finnigan's (2000) national study of special education in charters found that charter schools regularly discouraged students with disabilities from enrolling in the schools out of concern about the focus of the curriculum or instruction and the child's educational needs. Interviews revealed that special education is frequently an afterthought in the development of charter schools and that most schools reported serving children with disabilities in inclusive classrooms. However, the efficacy of the inclusive practices was unclear. Fiore et al. documented a relatively high level of satisfaction on the part of parents of students with disabilities related to their child's experiences and growth in the charter schools. While it is arguably important to document parental satisfaction, discerning whether parent satisfaction is a valid measure of school quality is debatable given that parents choose to enroll their children in charter schools.

In their mixed methodology study of California charter schools, Guarino & Chau (2003) found that slightly fewer students with disabilities enrolled in charter schools relative to traditional public schools and that charter schools served a greater percentage of their students with disabilities in inclusive general education classrooms. However, similar to the Fiore et al. (2000) study, it is unclear how charter schools define the notion of inclusion beyond simply placement in a general education classroom. Guarino & Chau also documented variability in how charter schools serve students with disabilities (i.e., types of services provided) and found that many charter schools do not access funds to support students with disabilities due to "lack of information and capacity to study various options" (p. 173).

An in-depth analysis of charter schools in Washington, DC, revealed contrary trends to those documented in other regions. Henig, Moser, Holyoke, & Lacireno-Paquet's (1999) analysis of charter school enrollment data found that, in contrast to early concerns about charter schools "creaming" the brightest students, charter schools in the District of Columbia were serving a greater percentage of students from special populations, such as students with disabilities and English language learners. However, their study documented that charter schools in Washington, DC, educated fewer students with moderate and severe disabilities and the aggregate percentages were somewhat skewed by schools designed specifically for students with disabilities.

A national study of charter school finance documented an extremely varied landscape in terms of how charter schools

receive special education dollars and found that some state funding systems provide incentives to both overidentify and underidentify students with disabilities (Nelson, Muir, & Drown, 2000). Concerns regarding incentives to over- or underidentify students with disabilities are not unique to charter schools, but Nelson et al. noted that small, nascent charter schools and charter schools serving a high proportion of, or developed specifically for, students with disabilities may face unique challenges associated with funding special education programs.

McLaughlin and Henderson's (1998) exploratory analysis of special education in Colorado charter schools documented that school leaders struggle to understand their responsibilities related to IDEA and to hire qualified special education teachers. Nevertheless, the Colorado charter schools studied enrolled proportionate numbers of students with disabilities. Students with disabilities enrolled in Colorado charter schools tended to have mild disabilities and attend class in general education classrooms. In line with Fiore et al.'s (2000) national research, McLaughlin and Henderson documented a high level of parent satisfaction on the part of parents of students with disabilities in Colorado charter schools.

Ahearn et al. (2001) conducted multiple state-level case studies of special education in charter schools and found that policymakers at all levels struggle to understand their respective roles and responsibilities and that there is a notable gap between what charter operators know about special education and what they need to know to fulfill their obligations associated with IDEA. They also documented tensions between charter schools and charter school authorizers stemming from negotiating shared responsibility for special education.

Based on their comprehensive analysis of Michigan charter schools, Miron and Nelson (2002) found that charter schools struggle to provide adequate special education and related services. Based on their survey data, they attributed the struggles to inexperienced teachers and administrators, lack of established policies and procedures to evaluate and provide services to students with disabilities, fewer dollars dedicated to instruction and consequently even fewer to dedicate to special populations, and a shortage of certified special education teachers.

Finn, Manno, and Vanourek's (2000) analyses of the charter movement in multiple states found that "some charter schools do not meet all their students' special needs" but attributed the shortcoming not to discrimination, but rather to "lack of experience, expertise, or resources" (p. 159). In line with their support of the charter concept as a tool for school reform, the authors cautioned against pursuing regulatory channels to address charter schools' reported shortcomings related to special education. Rather, the authors suggested that charter school authorizers should address special education issues during the application phase, prior to applicants receiving their charters.

Overall, the data about educating students with disabilities in the charter sector are relatively limited due to both the scope and quantity of research that has been conducted on the

issue. However, the research that has been conducted has documented that charter schools struggle to understand their responsibilities related to students with disabilities, to enroll their proportionate share of students with disabilities, and to provide required services. While charter schools also appear to struggle with the same issues as traditional public schools (e.g., lack of resources, a shortage of special education staff), they also experience unique challenges associated with policy ambiguity, their status as schools of choice, and their lack of both experience and resources.

Method

This article presents findings from a review of state charter school laws. The purpose of the review was to document how, after more than a decade of policy evolution and implementation, individual states are addressing special education in their charter school laws. These laws articulate, implicitly or explicitly, charter schools' roles and responsibilities related to special education. The laws also convey, to varying degrees of specificity, the roles and responsibilities of charter school authorizers, the entity legally permitted to grant charters. Given the importance of legal status and other legislative and policy requirements on how special education is implemented in charter schools, a review of state charter school laws provides essential information that can inform the evolving policy climate and therefore influence the experiences of students with disabilities.

In January 2003, we initiated a comprehensive review of all state charter school laws to document specific information about special education and students with disabilities across all of the states with charter school laws ($N = 41$, which includes 40 states plus the District of Columbia). This investigation updated and expanded on data collected in previous studies (Ahearn et al., 2001; Fiore & Cashman, 1998; Rhim & McLaughlin, 2001) and further examined legal status as it relates to charter schools. The legislative analysis was driven by a single question: What characteristics of state charter school laws relate to special education?

To answer this question, we examined whether state charter school statutes address the following seven special education issues:

- antidiscrimination language
- Section 504
- provision of special education services
- school mission
- legal status for purposes of special education
- special education finance
- accountability

Our analysis was limited to the provisions outlined in the state statutes and did not extend to statutes cited in charter school laws.

Our identification of these seven issues emerged from our review of previous literature that examined special education in charter schools (i.e., Fiore & Cashman, 1998; Rhim & McLaughlin, 2001), a preliminary review of charter laws in selected states, and our collective understanding of the various issues related to special education that were emerging as challenges for charter schools (Ahearn et al., 2001). Before this analysis, we conducted a study of special education in the charter sector that entailed studying charter school laws and in-depth case studies of special education in charter schools in seven states (see Ahearn et al., 2001; Rhim & McLaughlin, 2001). In addition, the authors were part of a team delivering technical assistance to state policymakers, charter school authorizers, and charter operators under a federal grant to the National Association of State Directors of Special Education: Special Education Technical Assistance to Charter Schools (SPEDTACS).

The review consisted of analyzing each individual state's charter school law to document the seven key issues we hypothesized collectively create the policy environment in which charter schools operate relative to special education. Our analyses were descriptive as opposed to evaluative in nature. We sought to document the language in each state's charter school statute pertaining to the issues we identified to be important to special education. In some instances, our efforts to standardize statutory language required that we make judgments about the characteristics of the law. For instance, when reviewing language related to finance, we characterized the provisions as requiring "proportionate" funding if the statute did not embellish on the definition of proportionate but classified the provision as "specific provision" if it provided additional information about funding special education in charter schools.

The data in this document were collected in 2003, and the discussion that follows reflects the status as of the 2003–2004 academic year (see Note 1). The data from the legislative review were entered into a Microsoft Access® database and analyzed to document the status of the state-level charter school policy condition related to special education.

Results

To reiterate, our legislative analyses documented whether state charter school laws (a) contain antidiscrimination language, (b) mention Section 504 of the Rehabilitation Act, (c) outline a plan for provision of special education services, (d) address school mission as it relates to enrollment, (e) define a charter school's legal status for purposes of special education, (f) describe flow of special education dollars to charter schools, or (g) outline accountability requirements. The following sections present our findings related to these questions. Tables 1 and 2 present a summary of the statutory analysis.

Anti-Discrimination Language

All 41 state charter school laws contain specific language (with minor semantic variations) prohibiting charter schools from rejecting students on the basis of their disability and other traits such as gender, race, and religion. Charter schools are by definition a part of the state public education system and are therefore required to abide by all federal education laws regardless of what the charter statute articulates. Thus, charter schools are prohibited from discriminating against students regardless of whether specific antidiscrimination language is included in the state charter statutes. However, it is noteworthy that in eight states (i.e., Georgia, Hawaii, Kansas, Michigan, Mississippi, New Mexico, Texas, and Wisconsin) the antidiscrimination clause is the only specific mention of students with disabilities in the state charter law.

Section 504

Section 504 of the Rehabilitation Act (1973) defines *disability* more broadly than does IDEIA (2004) and includes any individual with a physical or mental impairment that substantively limits one or more major life activities. The federal government does not provide funds associated with Section 504, but public schools are required to provide reasonable accommodations to students with Section 504 plans.

While all charter schools are required to abide by Section 504, only two states specifically mention this federal statute in their charter school law. The District of Columbia statute contains provisions related to charter schools determining legal status for purposes of IDEIA (2004) and Section 504. The Maryland charter school law dictates that the state board of education must provide technical assistance to the operators of charter schools to help them meet the requirements of IDEIA and Section 504.

Plan for Provision of Special Education Services

A charter school proposal or application is essentially a blueprint of how the school founders plan to operate the school, and charter school laws contain varying levels of specificity regarding the application process. We examined whether state laws require charter applicants to provide a plan for how they anticipate providing special education and whether the law explicitly states how special education services are to be delivered.

The most common provision articulated in nearly every law requires only that charter schools ensure that they will follow specific state and federal laws, implicitly including laws pertaining to students with disabilities. Twenty-nine charter school laws do not explicitly require charter applicants to include a plan for the provision of special education or related services. The laws in 12 states (i.e., Alaska, California, Colo-

rado, District of Columbia, Delaware, Idaho, Louisiana, Maryland, Minnesota, Nevada, New Hampshire, and Oregon) specify that a plan for special education services must be included in an application for a charter. For instance, the Maryland Public Charter Schools Act of 2003 requires authorizers to ensure that applicants "address the roles and responsibilities of the county board and the applicants and operators of the public charter school with respect to children with disabilities" (Annotated Code of Maryland § 9-107 (B)). However, the Maryland law offers little guidance regarding the expected specificity of the "plan."

Arizona, California, Colorado, Connecticut, Florida, Massachusetts, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New York, Oregon, and Pennsylvania provide some degree of detail regarding how special education services are to be provided in charter schools. For instance, the California charter school law dictates that school districts are responsible for special education in the schools they charter. The law requires that services and instruction be provided to students with disabilities in charter schools in the same manner as they are to other students with disabilities who attend any school in that district. In Connecticut, the students' LEA of residence is responsible for special education for all students with disabilities regardless of where the child attends school. The Connecticut charter school law requires the LEA to invite representatives of the charter school to all planning and placement meetings for students with disabilities who attend that charter school. Although the LEA of residence is responsible for special education, the Connecticut law requires charter schools to ensure that students receive the services described in the IEPs.

School Mission and Enrollment

Charter schools must be open to all students who apply and who are eligible for the grade levels the school offers. However, as schools of choice, charter schools face different enrollment issues than noncharter schools in that enrollment is not dictated by residential catchment areas. Most state charter laws require that charter schools have a specific or unique mission, and some mission statements (e.g., arts based or Montessori curriculum) may be interpreted to imply entry criteria. Yet, as public schools, charter schools are prohibited from accepting or rejecting students solely on the basis of their ability.

Fourteen states specify that charter schools should prioritize educating "at-risk," "high-risk," or "academically low-achieving" students. However, in most of the statutes, there is not an explicit definition of who these students are. The New Jersey statute includes provisions that stipulate that charter schools must enroll a "cross section of the community's school-age population, including racial and academic factors" (N.J. Stat. Ann. §§ 18A:36A-1-18, 2000). Colorado, Florida, Louisiana, and Tennessee charter laws specify that the term

at-risk students includes students with disabilities. The Tennessee statute indicates that charter schools may be created specifically to serve students with disabilities, and the Nevada law contains a provision explicitly stating that the law does not forbid creation of schools specifically for students with disabilities. It is unclear, based on these kinds of charter statute provisions, how charter schools can operate open enrollment policies while ensuring that their school meets its goals related to a specific mission.

Legal Status for Purposes of Special Education

As explained in the introduction, IDEIA (2004) defines charter schools as either LEAs or part of an LEA. The review of state statutes confirmed the basic dichotomy related to legal identity, but also revealed multiple means of assigning that identity. Based on our review, we developed a typology to describe how states assign legal identity (see Table 1). Of the 41 states with charter schools, 12 assign all of their charter schools the status of an LEA and 18 assign all of their charter schools to be part of a traditional LEA. The remaining 11 states permit charter schools to be either part of an LEA or their own LEA. In these states, the designation of LEA status is determined by one of the following: (a) the entity that au-

thorized the charter school, (b) the particular type of charter school, or (c) a choice made by the charter school itself. The states that permit both types of legal status are noteworthy because rather than all charter schools having a single legal identity predetermined by state statute, local stakeholders are provided with flexibility to determine the legal identity of charter schools and, consequently, these schools' responsibilities related to educating students with disabilities.

Identity based on the authorizing entity occurs in states that have two or more identified authorizers. For example, charter schools authorized by Arizona's independent chartering board are LEAs, while those established by a traditional LEA are part of the LEA that granted their charter. The same distinction among charter schools exists in Georgia, Idaho, and Illinois except that, in these states, it is the state board of education and traditional LEAs that are the authorizing entities. Wisconsin has a slightly different basis for designating legal identity: Charter schools in the cities of Milwaukee and Racine are their own LEA, while those chartered by other LEAs are considered part of the LEA that charters them.

The determination of legal status by type of charter school occurs in two states. In Arkansas, charter schools that are new start-ups are their own LEA, while charter schools converted from previously existing public schools are part of the traditional LEA in which they are located. Louisiana dif-

TABLE 1. Legal Status of Charter Schools in 41 States

All charter schools are LEAs	All charter schools are part of an LEA	Status depends on authorizer	Status depends on type of school	Status chosen by the charter school
Delaware	Alaska	Arizona	Arkansas	California
Indiana	Colorado	Georgia	Louisiana	District of Columbia
Iowa	Connecticut	Idaho		
Michigan	Florida	Illinois		
Minnesota	Hawaii	Massachusetts		
Missouri	Kansas	Texas		
New Jersey	Maryland	Wisconsin		
North Carolina	Mississippi			
Ohio	Nevada			
Pennsylvania	New Hampshire			
Rhode Island	New Mexico			
Utah	New York			
	Oklahoma			
	Oregon			
	South Carolina			
	Tennessee			
	Virginia			
	Wyoming			

Note. LEA = local education agency.

differentiates four types of charter schools identified by combinations of start-up or conversion status and type of authorizer. Determination of legal status by choice of the charter school occurs in two states: California and the District of Columbia. In both instances, a charter school can choose whether to be an independent LEA or part of an LEA, explicitly for the purposes of special education.

Flow of Special Education Funds to Charter Schools

Unlike other aspects of the state charter laws that we examined, the language regarding special education finances varied greatly from state to state. In 10 states, the charter school law is silent regarding special education funding to charter schools (i.e., Arkansas, Hawaii, Iowa, Kansas, Michigan, New York, Oklahoma, Tennessee, Texas, and Wisconsin). In the absence of explicit language dictating otherwise, a charter school's legal identity theoretically determines how it receives federal and state special education funds. When charter schools are their own LEA, federal and state funds flow to them directly from the state. Charter schools that are part of an LEA may receive funds and/or services from that LEA.

The statutory provisions regarding special education funding generally fall into one of two categories: a reiteration of IDEIA (2004) language mandating that students with disabilities in charter schools are to receive a "proportionate" or "commensurate" share of federal and state special education monies, or specific provisions associated with the unique policy context in the state (see Table 2). For instance, Massachusetts and New Jersey charter laws mandate a limit on the financial responsibility of charter schools to provide services for students with disabilities. The charter statutes in these states dictate that charter schools are responsible for special education for students who attend the school, but the laws assign fiscal responsibility to the district of residence if a child enrolled in the schools is determined to require placement in a separate day or residential setting (i.e., students with more severe disabilities). In these two states, if a student with a disability enrolled in a charter school and required services that can only be provided in a separate restrictive environment, the home district—not the charter school—assumes the cost of the specialized placement.

Accountability

Accountability for special education, and specifically accountability for outcomes, is a priority of IDEIA (2004) and is also a core tenet of the charter school concept. Yet, very few state charter school laws reference special education in their accountability requirements. Every charter school law mandates compliance with federal laws and regulations, and this could be interpreted as an accountability requirement because charter schools are subject to IDEIA compliance monitoring and NCLB requirements related to subgroup performance.

However, given the primacy of accountability in the charter concept, accountability for the academic performance for students with disabilities arguably should rise above basic compliance. While most charter laws include language dictating that schools be held accountable for the provisions of the charter statute, the ambiguity related to special education may undermine the meaning of this provision for students with disabilities.

Five state charter school laws (i.e., California, District of Columbia, Massachusetts, New Jersey, and Ohio) contain specific language about accountability for special education. The District of Columbia law states that a reason for a charter revocation includes "violations relating to the education of children with disabilities," while California, Massachusetts, and Ohio specifically require charter schools to report on the number of students with disabilities who attend each charter school. New Jersey requires that charter schools provide the county superintendent with access to their facilities and school records to ensure compliance with civil rights. New Jersey also stipulates that the required state evaluation of charter schools in the area of special education must cover two specific special education matters: (a) a comparison of special education enrollment in the charter school with its district of location and (b) verification of the compliance of charter schools with special education laws and regulations.

Discussion

Findings from this legislative review indicate that few of the existing charter school laws and regulations resolve or provide clarity regarding the myriad of issues raised related to educating students with disabilities in charter schools. In fact, in many states, the lack of specificity may contribute to confusion over roles and responsibilities—especially in areas related to legal responsibility, funding, and accountability. Few states specify requirements that might assist charter schools in fulfilling their responsibilities. The lack of direction can lead to a dynamic wherein charter school operators, authorizers, and state education agency personnel are left to interpret how charter school law and special education laws intersect. Absent specificity in charter school laws and regulations, charter authorizer policies and procedures may mitigate some of the issues that arise when charter schools and authorizers are unsure of special education roles and responsibilities. However, given the complex nature of special education, the variability of responsibility associated with legal identity, and potentially high stakes associated with noncompliance with IDEIA (2004), it is questionable whether it is prudent for state policy leaders to bestow responsibility for interpreting the laws to charter authorizers and charter operators. With few states providing guidance through the charter school laws, issues are potentially exacerbated in each of the areas reviewed for this study. We propose that of particular importance are the implications of policy ambiguity related to legal status,

TABLE 2. Summary of State Charter Statutory Provisions Related to Special Education

State	Year	Contains anti-discrimination language?	Mentions Section 504?	Has a plan for special education services?	Provides special education services?	Has priority mission and enrollment?	Legal status for special education	Type of special education funding provided	Has specific accountability for special education?
AK	1995	Yes	No	Yes	No	No	Part of LEA	Specific provisions	No
AR	1995	Yes	No	No	No	Yes (at-risk)	Depends on type of school	None	No
AZ	1994	Yes	No	No	Yes	No	Depends on authorizer	Proportionate	No
CA	1992	Yes	No	Yes	Yes	Yes (at-risk)	Choice of charter school	Specific provisions	Yes
CO	1993	Yes	No	Yes	Yes	Yes (at-risk/students with disabilities)	Part of LEA	Specific provisions	No
CT	1996	Yes	No	No	Yes	No	Part of LEA	Specific provisions	No
DC	1996	Yes	Yes	Yes	No	No	Choice of charter school	Specific provisions	Yes
DE	1995	Yes	No	Yes	No	No	LEA	Specific provisions	No
FL	1996	Yes	No	No	Yes	At-risk/students with disabilities	Part of LEA	Proportionate	No
GA	1993	Yes	No	No	No	No	Depends on authorizer	Proportionate	No
HI	1994	Yes	No	No	No	No	Part of LEA	None	No
IA	2002	Yes	No	No	No	No	LEA	None	No
ID	1998	Yes	No	Yes	No	No	Depends on authorizer	Proportionate	No
IL	1996	Yes	No	No	No	Yes (at-risk)	Depends on authorizer	Proportionate	No
IN	2001	Yes	No	No	No	No	LEA	Proportionate	No
KS	1994	Yes	No	No	No	No	Part of LEA	None	No
LA	1995	Yes	No	Yes	No	Yes (at-risk/students with disabilities)	Depends on type of school	Specific provisions	No
MA	1993	Yes	No	No	Yes	No	Depends on authorizer	Specific provisions	Yes
MD	2003	Yes	Yes	Yes	No	No	Part of LEA	Proportionate	No

(Table continues)

(Table 2 continued)

State	Year	Contains anti-discrimination language?	Mentions Section 504?	Has a plan for special education services?	Provides special education services?	Has priority mission and enrollment?	Legal status for special education	Type of special education funding provided	Has specific accountability for special education?
MI	1993	Yes	No	No	No	No	LEA	None	No
MN	1991	Yes	No	Yes	Yes	No	LEA	Specific provisions	No
MO	1998	Yes	No	No	Yes	Yes (At-risk)	LEA	Proportionate	No
MS	1997	Yes	No	No	No	No	Part of LEA	Proportionate	No
NC	1996	Yes	No	No	No	Yes (at risk)	LEA	Specific provisions	No
NH	1995	Yes	No	Yes	Yes	Yes (at-risk)	Part of LEA	Proportionate	No
NJ	1996	Yes	No	No	Yes	Yes (at-risk)	LEA	Specific provisions	Yes
NM	1993	Yes	No	No	No	Yes (at-risk)	Part of LEA	Proportionate	No
NV	1997	Yes	No	Yes	Yes	Yes (special education)	Part of LEA	Specific provisions	No
NY	1998	Yes	No	No	Yes	No	Part of LEA	None	No
OH	1997	Yes	No	No	No	No	LEA	Specific provisions	Yes
OK	1999	Yes	No	No	No	No	Part of LEA	None	No
OR	1999	Yes	No	Yes	Yes	No	Part of LEA	Specific provisions	No
PA	1995	Yes	No	No	Yes	No	LEA	Specific provisions	No
RI	1995	Yes	No	No	No	Yes (at-risk)	LEA	Specific provisions	No
SC	1996	Yes	No	No	No	No	Part of LEA	Proportionate	No
TN	2002	Yes	No	No	No	Yes (at-risk/ special education)	Part of LEA	None	No
TX	1995	Yes	No	No	No	No	Depends on authorizer	None	No
UT	1998	Yes	No	No	No	No	LEA	Proportionate	No
VA	1998	Yes	No	No	No	Yes (at-risk)	Part of LEA	Proportionate	No
WI	1993	Yes	No	No	No	No	Depends on authorizer	None	No
WY	1995	Yes	No	No	No	No	Part of LEA	Specific provisions	No

fiscal equity, and accountability; and the potential value of regulations.

Legal Status

A charter school's legal status determines the scope of its responsibility for providing special education services, the funding of the services, and special education program oversight (Ahearn et al., 2001; Heubert, 1997). While some state laws explicitly dictate a charter school's legal status, our analysis documented that more than a quarter of the states prescribe that status is to be determined at the local level. In these states, a charter school's legal designation is determined by who authorizes the charter or it is decided during the charter contract negotiations. Furthermore, we know that once charters are granted and legal status is established, the authorizers and school operators may refine their approach to educating students with disabilities based on school-by-school negotiations (Ahearn et al., 2001). The flexibility is arguably in line with the key goals of the charter school concept. Nevertheless, it may pose unique challenges for stakeholders (e.g., policymakers, analysts, and parents) involved with developing or navigating state charter school policies.

The variability in how states define and execute legal identity for charter schools raises practical concerns related to technical assistance and professional development. In some states, individual charter schools will have different roles and responsibilities for which school personnel will require distinct guidance and training. While states or districts may attempt to provide technical assistance related to special education, it may be difficult to make the assistance relevant to all charter schools given varying degrees of responsibility. For parents of students with disabilities, there may be confusion regarding who exactly is responsible for educating their child if they choose to enroll in a charter school or switch between charter schools that may have different legal identities for purposes of special education. These potential challenges are not insurmountable. Rather, they illustrate the complexity associated with developing and implementing sound state- and district-level policy related to special education in the charter sector.

Special Education Funding Policies

State law governs charter schools, for the most part, and there are only a few specific provisions in federal law related to the provision of funds for special education in charter schools (see Note 2). Special education funding is further complicated in charter schools by two key issues: (a) small size, which potentially limits charter schools' ability to realize economies of scale, and (b) lack of knowledge regarding local, state, and federal funding policies and procedures (Ahearn et al., 2001; McLaughlin & Henderson 1998; Miron & Nelson 2002; Nelson et al., 2000). State charter school laws are generally silent regarding special education funding, or they reiterate the requirements dictated in IDEIA (2004) regarding charter

schools receiving a "proportionate" share of special education dollars. Yet, proportionate is not defined in statute; thus, the parties involved must determine the law's intent. Questions related to the notion of proportionate share of special education dollars can be particularly potent for charter schools already struggling to balance their budgets or dealing with adversarial relationships with their authorizers.

Determining the amount of special education dollars charter schools should be allocated can easily become a point of contention between charter schools and their authorizers. Evidence from multiple states indicates that charter operators may be forced to seek legal action to define, and thereafter enforce, the concept of proportionate funding (Speakman & Hassel, 2005). Whether the specifics of special education funding should be included in state charter school laws is debatable; however, less disputable are the importance of regulation or policy documents that outline how the funding flows and the responsibilities of all parties involved. Whether through formal statutes or more informal policy tools, such as technical assistance, additional state-level guidance may be required to ensure that charter schools are equipped to access and manage their special education dollars effectively.

Accountability Related to Students With Disabilities

Accountability for student outcomes for all students is a key priority in public education under the No Child Left Behind Act of 2001. NCLB requires that student test scores be disaggregated by subpopulations, including the subgroup of students with disabilities, thereby enabling states, districts, and parents to assess student outcomes. However, NCLB requirements related to assessing Adequate Yearly Progress stipulate that the size of a subgroup (e.g., students with disabilities) must be large enough to produce statistically reliable results and to mask personally identifiable information (20 U.S.C.A. § 6311 (b)(2)(I)(ii)). As a result, while NCLB has amplified accountability for public schools, due to the small size of charter schools in general and the special education subgroup in particular, many charter schools do not include students with disabilities in their test reports.

The lack of specificity in state charter school statutes regarding accountability processes for students with disabilities provides the charter sector with desired flexibility. Yet, short of formal parent complaints and state monitoring visits, and in light of limitations associated with NCLB reporting criteria, there are ostensibly no explicit mandated checks to ensure that students with disabilities are (a) accessing charter schools, (b) receiving a free appropriate public education in the least restrictive environment, or (c) experiencing academic success in charter schools. State policymakers can introduce potent accountability measures by requiring authorizers to include data regarding their special education enrollment and service provisions as a component of charter accountability plans and renewal processes. While state monitoring processes may, to varying degrees, ensure that charter schools

are complying with federal requirements, the inclusion of measures of the quality of special education programs as a component of charter school accountability plans ensures that charter schools are held accountable equally for all their students—with or without disabilities.

Assessing charter school accountability is typically viewed as the responsibility of the authorizer and, therefore, not dictated explicitly in the state law but rather determined at the individual authorizer level (Hassel & Herdman, 2000; Hill, Lake, & Celio, 2002). The absence of specific language about special education accountability in state laws does not necessarily indicate an absence of attention to this topic in chartering and renewal processes, but it does raise a question worth more in-depth exploration.

Special Education Regulations for Charter Schools

Charter schools are required to comply with federal and state special education laws and regulations. But, state charter school statutes do not specify how requirements that were designed for the traditional elements in a public education system apply to charter schools—a new public education entity. Our review of state statutes indicates that states may benefit from using the regulatory process to clarify and refine issues related to charter-school special education. While some states and individual authorizers may provide policy guidance, most state charter laws are either unclear or completely silent regarding how charter schools fit within the public educational system for issues related to special education. Furthermore, although charter school laws have been adopted across a period of a dozen years, there is little evidence that legislators in states newer to the movement have chosen to provide greater clarity regarding the legal issues associated with a charter school's responsibility for special education. The one exception to this rule may be the Maryland charter school statute that specifically requires authorizers to assess a potential applicant's capacity to provide special education.

The lack of formal policy development regarding special education in the charter sector can be interpreted as positive because, given that autonomy is a major tenet of the sector, the regulatory process may not be a welcome or efficient solution. Nevertheless, we propose that clarity and guidance are required because failure to comply with federal requirements may leave charter schools vulnerable to significant problems related to compliance with IDEIA (2004). Furthermore, lack of accountability may also limit charter schools as an option for students with disabilities.

Policy Implications and Recommendations

The findings from our analyses of state charter school laws expose the importance of technical assistance and policy guidance documents to help charter school operators and authorizers navigate special education in charter schools. While all

of the state charter statutes contain provisions regarding anti-discrimination and compliance with federal laws, the lack of specificity regarding special education is arguably problematic for nascent charter operators who may not have even a basic understanding of the innumerable rules and regulations pertaining to special education. Given that one of the underlying premises in the founding of charter schools is the importance of reducing regulation and bureaucracy to develop innovative and independent schools, adding statutory language may not be attractive to charter sector stakeholders. Hence, SEAs and LEAs may choose to utilize a variety of "policy tools" to help charter operators build capacity to fulfill their obligations associated with federal and state special education statutes as alternatives to potentially cumbersome and redundant regulations. Research suggests that policy tools that build capacity and influence systems change may play a positive role when confusion reigns over existing laws (McDonnell & Elmore, 1991; Schneider & Ingram, 1990).

Some of these "tools" may indeed add requirements for the charter schools and authorizers, but the same requirements will also clarify the issues that are not, and likely will not be, specified in law. Of particular import, technical assistance strategies that are designed to enable charter schools to balance their goals and objectives related to autonomy with the requirements of federal and state mandates pertaining to educating students with disabilities may provide charter operators with the opportunity to build their capacity without relinquishing their independence. While responsibility for implementing these recommendations will vary by state, we propose that states, authorizers, and charter advocates consider the following policy tools or strategies to address the lack of clarity in the charter laws and regulations:

- Articulate special education plans in the initial charter application that define the roles and responsibilities regarding special education, funding plans, and program elements (i.e., nondiscriminatory enrollment forms and intake information, a mission-aligned special education delivery model).
- Provide a clear written explanation of funding streams and how they affect charter schools and authorizers—an explanation of the definition of "proportionate funding" and the role of local, state, and federal dollars in relationship to each charter school's situation and responsibilities.
- Require basic training for both operators and authorizers that is specific to the roles they play in special education given their state's unique policy context.
- Provide technical assistance in negotiating special education funding and services, role of legal status, and other special education issue areas.
- Establish clearly defined criteria for holding charter schools accountable for both the acade-

mic outcome of students with disabilities and also the program outcomes, including who provides the oversight in this area.

- Consider funding personnel within state resource centers who have expertise related to special education and charter schools to help all stakeholders navigate the intersection of federal and state special education laws and charter statutes.

Conclusion

Educating students with disabilities in accordance with the policies and procedures dictated by IDEIA (2004) can be an ongoing challenge for traditional and chartered public schools. The purpose of this legislative review was to document the status of formal policies related to special education expressed in state charter statutes. By examining state charter legislation, we documented variability and, in many instances, a lack of specificity among states in the legislative structure they have designed for their charter schools. Our review provides a picture of the current state of charter school special education legislation. The tensions we have outlined constitute the “climate” within which charter schools must implement special education rules and regulations. Although certain changes to federal and state policies may address some of the ambiguity charter schools face in meeting their special education obligations, policy tension associated with providing regulated special education programs in deregulated charter schools is arguably a permanent part of the charter school environment. Therefore, we posit that it is critical for policy leaders to recognize the implications of the tensions and work toward reaching a feasible solution that respects the legitimate interests of students with and without disabilities while simultaneously honoring the core goals of the charter school construct. A first step in this process is to identify where there is confusion and to adopt practices or “policy tools” that address the confusion. With a common understanding of the policy climate as a base, negotiating operating procedures to ensure that students with disabilities can access charter schools and receive services should be less onerous (see Note 3). Additional research on the evolution of state policies related to special education in the charter school will provide a deeper understanding of what practices states are actually implementing to ensure that children with disabilities can access and succeed in charter schools.

NOTES

1. Ongoing research conducted as part of the research study indicates only limited incremental changes in state policies since 2003.
2. In 1999, the final regulations implementing the No Child Left Behind (NCLB) Act of 2001 amended Part 76 (State-Administered Programs) of the Education Department General Administrative Regulations (EDGAR) to ensure that charter schools opening for the first time or significantly expanding their enrollment will receive the funds for which they are eligible under all U.S. Department of Education programs in which the Secretary allocates funds to states on a formula basis. The Department issued a non-regulatory document entitled “How Does a State or Local Educational Agency Allocate Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Their Enrollment?”, which describes these regulations and their implementation (see http://www.uscharterschools.org/pdf/fr/sea_guidance_main.pdf).
3. For example, the National Association of State Directors of Special Education has developed a set of primers (i.e., tools) related to special education in charter schools to help key stakeholders understand the practical implications of federal and state special education policies (see www.uscharterschools.org/specialedprimers).

REFERENCES

- Ahearn, E., Lange, C., Rhim, L. M., & McLaughlin, M. J. (2001). *Project SEARCH: Special Education As Requirements in Charter schools* [Final report of a research study]. Alexandria, VA: National Association of State Directors of Special Education.
- Anderson, L., Adelman, N., Cotton, L., Finnigan, K., Donnelly, M. B., & Price, T. (2002). *A decade of charter schools: Evaluation of the public charter schools program: 2000–2001 evaluation report*. Retrieved March 1, 2005, from <http://sri.com/policy/cep/choice/yr2.pdf>
- Carnoy, M., Jacobsen, R., Mishel, L., & Rothstein, R. (2005). *Charter school dust-up: Examining the evidence on enrollment and achievement*. Washington, DC: Economic Policy Institute.
- Center for Education Reform. (2005). *Charter school highlights and statistics*. Retrieved May 1, 2005, from <http://edreform.com/pubs/chglance.htm>
- Education for All Handicapped Children Act of 1975, 20 U.S.C. § 1400 *et seq.* (1975)
- Finn, C. E., Manno, B. V., & Vanourek, G. (2000). *Charter schools in action: Renewing public education*. Princeton, NJ: Princeton Press.
- Fiore, T. A., & Cashman, E. R. (1998). *Charter review of charter school legislation provisions related to students with disabilities*. Washington, DC: U.S. Department of Education, Office of Educational Research and Improvement.
- Fiore, T. A., Harwell, L. A., Blackorby, J., & Finnigan, L. A. (2000). *Charter schools and students with disabilities: A national study*. Washington, DC: U.S. Department of Education, Office of Educational Research and Improvement.
- Fiore, T. A., Warren, S. H., & Cashman, E. R. (1998). *Charter schools and students with disabilities: Review of existing data*. Washington, DC: U.S. Department of Education, Office of Educational Research and Improvement.
- Franklin, B. M. (1994). *From “backwardness” to “at-risk”: Childhood learning difficulties and the contradictions of school reform*. Albany: State University of New York Press.
- Green, P. C., III, & Mead, J. F. (2004). *Charter schools and the law: Chartering new legal relationships*. Norwood, MA: Christopher-Gordon.
- Guarino, C., & Chau, D. (2003). *Special education in charter and conventional public schools*. In R. Zimmer, R. Buddin, D. Chau, G. Daley, D. Guarino, L. Hamilton, et al. (Eds.), *Charter school operations and performance: Evidence from California* (pp.161–173). Santa Monica, CA: RAND Education.
- Hassel, B. C., & Herdman, P. A. (2000). *Charter school accountability: A guide to issues and options for charter authorizers*. Charlotte, NC: Public Impact.
- Henig, J. R., Moser, M., Holyoke, T. T., & Lacireno-Paquet, N. (1999). *Making a choice, making a difference? An evaluation of charter schools in the District of Columbia*. Washington, DC: The Center for Washington Area Studies, George Washington University.

- Heubert, J. P. (1997). Schools without rules? Charter schools, federal disability law, and the paradoxes of deregulation. *Harvard Civil Rights-Civil Liberties Law Review*, 32, 301-353.
- Hill, P., Lake, R., & Celio, M. B. (2002). *Charter schools and accountability in public education*. Washington, DC: The Brookings Institution.
- Individuals with Disabilities Education Act of 1990, 20 U.S.C. § 1400 *et seq.* (1990)(amended 1997)
- Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C § 1413 (2004)(Reauthorization of the Individuals with Disabilities Act of 1990)
- Kolderie, T. (1990). *Beyond choice to new public schools: Withdrawing the exclusive franchise in public education*. Washington, DC: Progressive Policy Institute. Retrieved on March 1, 2005, from www.ppionline.org/ndol/print.cfm?contentid=1692
- McDonnell, L. M., & Elmore, R. F. (1991). Getting the job done: Alternative policy instruments. In A. Odden (Ed.), *Education policy implementation* (pp. 157-184). Albany: State University of New York Press.
- McKinney, J. R. (1996). Charter schools: A new barrier for children with disabilities. *Educational Leadership*, 54(2), 22-25.
- McLaughlin, M. J., & Henderson, K. (1998). Charter schools in Colorado and their response to the education of students with disabilities. *The Journal of Special Education*, 32(2), 99-107.
- Miron, G., & Nelson, C. (2002). *What's public about charter schools? Lessons learned about choice and accountability*. Thousand Oaks, CA: Corwin Press.
- Nathan, J. (1996). *Charter schools: Creating hope and opportunity for American education*. San Francisco: Jossey-Bass.
- Nelson, F. H., Muir, E., & Drown, R. (2000). *Venturesome capital: State charter school finance systems*. Washington, DC: Department of Education, Office of Research and Improvement.
- No Child Left Behind Act of 2001, 20 U.S.C. § 6301-6578 (2002)
- O'Neill, P. T., Wenning, R. J., & Giovannetti, E. (2002). *Commentary: Serving students with disabilities in charter schools; Legal obligations and policy options*. Eagan, MN: 169 West's Education Law Reporter 1.
- Parrish, T., Harr, J., Anthony, J., Merickel, A., & Esra, P. (2003, May). *State special education finance systems, 1999-2000, Part 1*. Retrieved March 10, 2006, from <http://www.csef-air.org/>
- Rehabilitation Act of 1973, 29 U.S.C. § 794 (1973)
- Rhim, L. M., & McLaughlin, M. J. (2001). Special education in American charter schools: State level policy, practices and tensions. *Cambridge Journal of Education*, 31(3), 373-383.
- Schneider, A., & Ingram, H. (1990). Behavior assumptions of policy tools. *The Journal of Politics*, 52(2), 510-529.
- Speakman, S., & Hassel, B. C. (2005). *Charter school funding: Inequity's next frontier*. Thomas B. Fordham Institute. Retrieved September 1, 2005, from <http://www.edexcellence.net/institute/charterfinance/>

STATUTORY REFERENCES

- Alaska Stat. tit. 4, c. 33, § 14.03.250 (2000)
- Ariz. Rev. Stat. § 15-181 (2000)
- Ark. Code Ann. § 6-23-101 (2001)
- Cal. Educ. Code § 47,600 (2002)
- Colo. Rev. Stat. § 22-30.5-101 (2002)
- Conn. Gen. Stat. § 10-66aa (2001)
- D.C. Code Ann. § 31-2853.11 & § 31-2853.41 (1996)
- Del. Code Ann. tit. 14, § 501 (2002)
- Fla. Stat. § 1002.33 (2002)
- Ga. Code Ann. § 20-2-2060 (2002)
- Haw. Rev. Stat. Ann. § 302A 1182-1187 (2001)
- Idaho Code § § 33-5201-12 (2002)
- Ill. Comp. Stat. Ann. c. 105, § 5-27A (1999).
- Indiana General Assembly (112th), Senate Enrolled Act No. 165 (2001)
- Iowa Code Ann. § 256F.1 (2002)
- Kan. Stat. Ann. § 72-1903 (2000)
- Maryland General Assembly, Senate Bill No. 75 (2003)
- Mass. Gen. Laws c. 71, § 89 (2000)
- Mich. Comp. Laws. Ann. § 380.501 (2003)
- Minn. Stat. Ann. § 124D.10 & § 124D.11 (2002)
- Mississippi Legislature, Senate Bill No. 2631 (2003)
- Mo. Rev. Stat. § 167.349 & §§ 160.400-420 (2002)
- N.C. Gen. Stat. §§ 115C-238.29A-K (2000)
- Nev. Rev. Stat. tit. 34, §§ 386.500-655 (2001)
- N.H. Rev. Stat. Ann. §§ 194-B:1-B:22 (2000)
- N.J. Stat. Ann. §§ 18A:36A-1-18 (2000)
- N.M. Stat. Ann. §§ 22-8B-1-21 (1999)
- N.Y. Educ. Law §§ 2850-2857 (1998)
- Ohio Rev. Code Ann. § 3,314.01-20 (2002)
- Okla. Stat. tit. 70, § 3-130 (1999)
- Or. Rev. Stat. § 338 (2003)
- Pa. Consol. Stat. tit. 24 § 17-1701-A (1997)
- R.I. Gen. Laws § 16-77-2 (2002)
- S.C. Code Ann. § 59-40 (2002)
- Tenn. Code Ann. § 49 (2002)
- Tex. Educ. Code Ann. § 12.001 (2003)
- Utah Code Ann. § 53A-1a-501 (1998)
- Va. Code Ann. § 22.1-212.15 (2002)
- Wis. Stat. Ann. § 118.40 (2003)
- Wyo. Stat. Ann. § 21-3-301 (2003)