

# CHAPTER 8: CHARTER SCHOOLS - TABLE OF CONTENTS

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## CHAPTER 8: CHARTER SCHOOLS

Federal law requires that students with disabilities be offered educational choices comparable to those offered to students without disabilities. One of these choices is the opportunity to attend a public charter school. Each public charter school, whether a charter school within an LEA district or a charter school LEA (~~Local Education Agency~~), ~~shares in the obligation to shall~~ accept and appropriately serve students with disabilities under the IDEA in the same manner as any other public school.

The LEA charter school board of directors/trustees ~~is required to shall~~ adopt the most current Idaho Special Education Manual and all subsequent revisions and ensure the appropriate implementation of the IDEA within ~~that~~ the LEA ~~implements this Manual~~.

### Section 1. Definition and Parent/Student Rights

#### A. Definition of Charter Schools

In Idaho, a charter school is a public school authorized pursuant to Title 33 Chapter 52, Idaho Code. A charter school operates as a nonprofit, publicly funded, nonsectarian school in one of three ways:

1. as a school within an LEA ~~district~~, if authorized by the local board of trustees of an ~~school district~~ (LEA);
2. as a school authorized by ~~the~~ an LEA ~~district~~, but operating as a separate LEA; or
3. as its own LEA, if authorized by the Idaho Public Charter School Commission or an Idaho college or university.

A charter school is bound by the conditions of its charter, ~~and~~ all applicable state and federal laws ~~law~~.

#### B. The Rights of Charter School Students and Their Parents

A charter school student is a public school student. Students with disabilities who attend charter schools, and their parents, have all ~~of~~ the same rights granted to students who attend other public schools. These rights are provided under the IDEA; the Elementary and Secondary Education Act (ESEA); the Every Student Succeeds Act (ESSA); Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act (ADA); and the Family Education Rights and Privacy Act (FERPA). Idaho law specifically states that charter schools cannot discriminate against any student on any basis prohibited by federal or state constitutions or any federal, state, or local law.

1. Charter schools must have open enrollment policies that includes:
  - a. giving all students an equal opportunity to attend;
  - b. being open and accessible to all students, including students with disabilities; and
  - c. admitting students on the basis of a lottery if more students apply for admission than can be accommodated.
  
2. A charter school shall not adopt an admission standard, policy or procedure or any other criteria for continued enrollment, attendance, or participation that would have the effect of prohibiting or discouraging a student with a disability from enrolling, ~~or~~ attending, or continuing to attend, or have the effect of prohibiting or discouraging a parent of a student with a disability from enrolling ~~his or her child~~ a student in the charter school by:
  - a. establishing an examination or other academic criteria for admission;
  - b. requiring any activity in which the school is unwilling to accommodate or adapt its curriculum or academic standards to meet the needs of the student with a disability; and/or
  - c. ~~requiring any activity in which the school suggests~~ implicitly or explicitly suggesting that another ~~school district~~ LEA would be a better placement or more capable of providing special education services or delivering education instruction (commonly referred to as “counseling out”).
  - d. suggesting that the behavioral or instructional philosophy or approach, curriculum, or instructional design of the charter may not meet the needs of a student with a disability. This includes but is not limited to suggestions that the academic rigor of the curriculum is not appropriate for students with disabilities or for a particular student with a disability.
  
3. Every LEA, including public charter schools, is required to provide a continuum of educational services and supports sufficient to meet the needs of students with disabilities. LEAs shall not indicate to parents that certain services are not available or are substandard when compared to offerings of other districts.
  
4. A charter school must provide every student with a disability a Free and Appropriate Public Education (FAPE), which shall include appropriate special education services starting the first day of school or upon the first day the student enrolls and begins attending school.

Under Idaho state law, the charter of an authorized charter school shall outline ~~outlines~~ specific

mission statements, policies, and procedures, and the manner by which special education services will be provided.

## Section 2. Responsibility for Services

### A. Charter School Authorized by the District and Not Operating as a Separate ~~an~~ LEA (See definition in Section 1.A.1)

The district is ultimately responsible to ensure that the requirements of the IDEA are met with respect to students attending charter schools authorized by the district. A charter school's compliance with the IDEA, Part B, is required regardless of whether the charter school receives any Part B funds.

1. To ensure that a charter school authorized by the district meets the IDEA requirements, the district shall ensure services to students with disabilities attending the charter schools are provided in the same manner as the district serves students with disabilities in its' other schools, including providing supplementary and related services ~~onsite-on~~ ~~site-~~at the charter school to the same extent to which the district has a policy or practice of providing such services ~~on-the-site~~ ~~on site~~ to its' other public schools.
2. The district shall have information on file with the ~~State Department of Education (SDE)~~ ~~Idaho Department of Education~~ that demonstrates that students with disabilities who attend charter schools authorized by the district will receive special education and related services from either the district or the charter school (or a combination of both).
3. The district will ensure that its charter schools participate in all monitoring activities conducted by the ~~Idaho Department of Education~~ ~~SDE~~.
4. The district shall provide Part B funds and comparable services to the charter school ~~authorized by~~ ~~within~~ the district on the same basis as it provides such funds to other public schools within the district.

### B. Charter School Operating as ~~an~~ its Own LEA (See definition in Section 1.A.2-3)

Charter schools authorized by the Idaho Public Charter School Commission, ~~or an Idaho college or university~~, are automatically LEAs. ~~Some charters are authorized by school districts but operate as a separate LEA.~~ A charter school LEA, whether virtual, ~~or~~ brick-and-mortar, or a combination thereof, ~~has an obligation to~~ shall accept and appropriately serve students with disabilities and is solely responsible to ensure that the requirements of the IDEA are met with respect to students enrolled. Compliance with the IDEA, Part B, is required regardless of whether the public charter school receives any Part B funds. A charter school LEA shall: ~~participate fully in all monitoring activities conducted by the~~ ~~SDE~~-Idaho Department of Education.

- ~~1. participate in all monitoring activities conducted by the SDE and,~~
- ~~2. in its first year of operation, participate in an onsite technical assistance visit by an SDE special education team to ensure that the essential components of special education program are in place.~~

### Section 3. Charter Schools and Dual Enrollment (Pending information from OSEP)

Under Section 33-204, Idaho Code, parents of public charter school students “shall be allowed to enroll the student in a public school for dual enrollment purposes.” Special education services (specially designed instruction and related services calculated to meet the unique needs of a student with a disability) shall be the obligation of the public charter school. The LEA ~~district~~ shall allow public charter school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

1. enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. continue to access FAPE as outlined in the IEP developed by the public charter school, including receiving accommodations in the general education courses in which they are enrolled. ~~receive accommodations in the general education courses for which they are enrolled on a 504 plan, if needed.~~

Public charter school students may not dually enroll solely for special education services. When appropriate, ~~the~~ The Board of Directors/Trustees of the public charter school and the traditional school district in which the student is dually enrolled should enter into an agreement such as a Memorandum of Understanding (MOU) outlining the responsibilities of each school in implementing the student’s IEP.

For detailed requirements and responsibilities governing dual enrollment of charter school students, see Section 33-203, Idaho Code.

### ~~Section 4. Funding~~ Section 4. New Charter Verification

In the first year of operation, all newly established charter schools shall undergo an onsite special education verification process to ensure the establishment of essential components of a compliant special education program. Designated personnel from the Idaho Department of Education will extend support to the charter school in fulfilling the requirements of the new charter verification process which shall encompass the following:

1. timely completion of the new charter verification form;

2. evidence to support the substantive components of the new charter verification form including such items as facilities, personnel, curriculum, student discipline, and relevant IDEA and Section 504 policies, practices, and procedures;
3. a site visit from the Idaho Department of Education; and
4. ongoing technical assistance and continued oversight if the essential components of a compliant special education program are not implemented.

It is important to note that the allocation of the charter school's IDEA grant funds is contingent upon the successful completion and verification of all components of the new charter verification form and the associated site visit.

Upon successful verification, the Idaho Department of Education will issue written confirmation to the newly established charter school regarding the successful completion of the new charter verification form. Based on the outcome of the verification process, the Department reserves the right to mandate further reviews in subsequent years of the charter school's operation.

## Section 5. Funding

### A. State Funds

The ~~SDE~~ Idaho Department of Education will make apportionment payments (from state general funds) to each charter school based on attendance figures. The ~~SDE~~ Idaho Department of Education will pay state funds directly to charter schools operating as their own LEA using the funding formula described in state law. A charter school authorized by a district but not operating as its own LEA will receive state funds through their authorizing district. A charter school may also be eligible for the following funds:

1. state funds for special education students who live in licensed group, foster, or personal care services homes under the provision of Section 33-1002B, Idaho Code;
2. district-to-agency contract funds under a provision of Section 33-2004, Idaho Code;
3. funds to serve high numbers of students with ~~emotional behavioral disorder~~ serious emotional disturbance under Section 33-2005, Idaho Code; and
4. state enhancement funding sources.

### B. Federal Funds

The ~~SDE~~ Idaho Department of Education disburses federal flow-through funds to all authorized ~~local education agencies (LEAs)~~.

1. Charter School Authorized by the District and Not Operating as a Separate LEA (See

definition in Section 1.A.1) ~~Charter School as Part of a District (not an independent LEA)~~

The district provides funds under Part B to those charter schools that are part of the district on the same basis as the district provides funds and comparable services to the other public schools. This includes proportional distribution based on relative enrollment of students with disabilities. This distribution is made at the same time as the district distributes funds to their other public schools and must be consistent with Idaho's charter school law. The individual school's approved charter will identify whether the district will provide funding or services of comparable value.

- a. The amount of funds or comparable services will generally be equal to the per student amount the district is allocated from the ~~SDE~~ Idaho Department of Education in the current year multiplied by the charter school's Child Count from the previous school year.
- b. Under certain circumstances the district shall allocate Part B funds to an eligible charter school based on the number of special education students enrolled and served in the current school year.

1) The district will allocate funds to a charter school within five (5) months of opening or significantly expanding its enrollment if the charter school notifies the district at least 120 calendar days before it opens or significantly expands its enrollment due to a significant event that is unlikely to occur on a regular basis (such as the addition of one or more grades or educational programs in major curriculum areas), and it takes place before ~~the first Friday in February~~ February 1 of an academic year.

2) When these conditions are met, the district will allocate funds to the charter school as follows:

- i. If the opening or expansion occurs prior to the ~~first Friday in~~ November 1, the charter school will be allocated funds in the current school year based on the current school year's Child Count.
- ii. If the opening or expansion occurs after ~~the first Friday in~~ November 1 but before the ~~first Friday in~~ February 1, the charter school will be allocated a pro-rata share of funds in the current school year based on the number of enrolled special education students with active IEPs 30 days after the opening or expansion. The pro-rata share will be the number of days the charter school will be open or expanded, divided by the number of days in the school year, multiplied by the number of special education students.

- 3) If the opening or expansion occurs on or after ~~the first Friday in~~ February 1, the charter school will be allocated funds in the following school year based on the following school year's Child Count.
- c. For school districts that have authorized a virtual charter school and the charter school's students are enrolled in the district but live outside ~~the district's geographical district~~ boundaries and receive education outside the district, the ~~SDE~~ Idaho Department of Education will determine the district's Part B funding in the following way:
- 1) The calculation of the district's allocation will be made exclusive of the charter school's enrollment and special education enrollment (student count).
  - 2) After calculating the allocations for all districts using the federal funding formula and the distribution formula for any supplemental award, the ~~SDE~~ Idaho Department of Education will determine ~~any base allocation adjustments. the statewide average per student allocation.~~
  - 3) When a base payment adjustment is required as described by 34 CFR §§300.705(b)(2) and 300.816(b), an SEA must redistribute the base payments among the affected LEAs. The Idaho Department of Education calculates each affected LEA's base payment adjustment separately. For each Transferring LEA, the method calculates the amount of the base payment that must be redistributed to the Assuming LEA. The amount of the adjustment is based on the number of children with disabilities for whom responsibility changes due to the circumstance. ~~The SDE will add to the district's base allocation an amount equal to the statewide average per student allocation times the number of students with disabilities enrolled in and determined to be eligible for and receiving special education services.~~

#### Charter School Operating as its Own ~~an~~ LEA

Public charter schools that are LEAs are responsible for adopting and implementing approved policies and procedures for special education and providing an assurance that funds will be used in accordance with Part B allowable uses.

- d. Under 34 CFR § 76.792, the Idaho Department of Education must allocate funds to eligible charter school LEAs. In order to obtain funding for the first year of operations, the LEA must submit an estimate of opening enrollment and low-income population to the Idaho Department of Education to be used towards an initial allocation. To qualify under I.C. 33-5207(7) and 34 CFR § 76.788, the LEA must provide the Idaho Department of Education with written notification at least 120 days before the date a charter school LEA is scheduled to open or



significantly expand its enrollment. The Idaho Department of Education will allocate funds to a charter school within five (5) months of opening or significantly expanding its enrollment if the charter school notifies the SEA at least 120 calendar days before it opens as required under 34 CFR §76.793.

- e. In the second and subsequent years of operation, Charter School LEAs will be allocated Part B funds in the same manner as all ~~school districts~~ LEAs – in accordance with the federally prescribed funding formula for the distribution of flow through funds. The funding formula that the SEA is required to use in calculating these subawards is outlined in 34 CFR §300.705.
- f. Once all site verification requirements have been met as outlined in section 4, the LEA will receive a site verification approval notification. The IDEA Part B application shall then be reviewed for approval, at which time the charter LEA may access the IDEA Part B funds for the reimbursement of special education activities.
- ~~g. The policy for providing federal special education funds to new charter LEAs in the first year of operation, as required by federal regulation, includes the following steps:~~
  - ~~1) The LEA submits its Child Count as required by IDEA.~~
  - ~~2) An SDE Special Education Monitoring Team visits the new LEA to review the files of the students reported on the Child Count.~~
  - ~~3) The monitoring team determines the number of students meeting all eligibility requirements and receiving appropriate special education and related services.~~
  - ~~4) Based upon the number of students determined to be eligible, amounts of Part B funds for allocated to the charter LEA are calculated as follows:~~
    - ~~i. The statewide average per student amount of Part B funding in the current year is determined.~~
    - ~~ii. That amount is multiplied by the number of students who meet all eligibility requirements and are receiving appropriate special education services to determine the total allocation.~~
  - ~~5) The charter LEA then shall complete the Part B application documents. These include:~~
    - ~~i. Assurances, Checklists, and Policies and Procedures Adoption~~

- ii. ~~Maintenance of Effort Assurance~~
- iii. ~~IDEA Part B Budget Form~~
- 6) ~~Once the application is submitted and approved, the charter LEA~~

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