



Special Education Primer for Charter Schools and Authorizers

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Introduction

The purpose of this document is to provide information and resources on special education for charter school authorizers and charter school directors. This document does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to specific legal situations involving special education compliance. This document may not include a complete rendition of applicable state and federal law.

This document is the result of collaborative input from individuals who work in and with charter schools in Minnesota.

It also represents the collaborative efforts of the following divisions of the Minnesota Department of Education (MDE) who work to ensure the provision of a free and appropriate public education for children and youth with disabilities attending Minnesota charter schools:

- Charter Center
- Compliance and Assistance
- Special Education
- Program Finance
- Early Learning

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DISCLAIMER

This document is intended to provide general guidance and does not constitute legal advice. For specific legal questions regarding a charter school and special education, please consult with an attorney. The opinions expressed herein do not necessarily reflect the position of the U. S. Department of Education (ED) and no official endorsement by ED or MDE should be inferred.

The intent of this document is to provide helpful general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive resource or an answer to specific legal questions.

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MINNESOTA AUTHORIZER PRIMER

SECTION 1: PRE-AUTHORIZATION PHASE

What is the pre-authorization phase?

The pre-authorization phase encompasses the activities preceding the submission of a new charter school application to an authorizer. This stage generally starts out very informally and grows increasingly structured as potential charter school applicants work to turn their vision of a school into a concrete plan that can be implemented. This stage is frequently abbreviated or rushed due to application deadlines. Nevertheless, it is a critical stage in the creation of a charter school. This is the stage when authorizers have a unique opportunity to urge developers to incorporate special education into their overall planning rather than add it later to existing policies and procedures. Minn. Stat. § 124E.03, subd. 3.

What is an authorizer's role during pre-authorization related to special education in charter schools?

Authorizers should be knowledgeable about the Minnesota charter school statute, Minnesota Statutes, section 124E, and all federal and state special education laws. It is important that authorizers know that charter schools must provide special education and have processes in place to do so from the first day of operation.

In addition, authorizers should be aware that they are required to sign assurances within an affidavit (the New Charter School Affidavit) assuring the charter school will comply with state and federal laws. Thus, authorizers must be aware of the applicant's plan for special education. After the school is chartered, the authorizer must submit a copy of the school's contract with the authorizer, and that contract must confirm that the school will follow Minnesota's special education law (Minnesota Statutes § 124E.10, subdivision 1(a) (12)). It is best practice for an authorizer to familiarize itself with the school's intentions and capabilities regarding special education early in the pre-authorization process.

It is helpful if authorizers provide resources such as an operators' primer (e.g., see [National Charter School Resource Center resources](#)) that can inform the application process. At a minimum it is recommended that authorizers encourage developers to discuss special education with a special education director at this point in the process.

What does an authorizer need to know about the basic concepts of the Individuals with Disabilities Education Act (IDEA)?

While the school is the entity that will actually be providing special education to students, it is important that an authorizer has a clear understanding of some basic concepts that are incorporated into state and federal laws.

A free appropriate public education (FAPE) refers to special education and related services designed to meet the individual needs of students with disabilities. The services must be provided consistent with each student's individualized education program (IEP).

These services must be provided at public expense and without charge by both charter and traditional public schools. FAPE is defined in the federal rules that govern special education. 34 C.F.R. § 300.17.

An IEP is a written, individualized education program for a child with a disability that is developed with an IEP team, based on needs identified in a special education evaluation conducted in accordance with 34 C.F.R. §§ 300.301 through 300.311. The IEP team must consider all the factors necessary for an IEP, as more fully described in 34 C.F.R. §§ 300.320-300.324.

As described in 34 C.F.R. § 303.321, the IEP team includes parents, the student as appropriate, at least one of the student's general education teachers and at least one of the student's special education teachers or providers, other specialists, and a representative of the charter school/district. 34 C.F.R. §§ 300.23, 300.321.

The least restrictive environment (LRE) is a requirement in IDEA that states that children with disabilities must be educated with their nondisabled peers to the maximum extent appropriate and that special classes or separate schooling only occurs if the nature of the disability is such that education in regular classes with the use of supplemental aids cannot be accomplished. In addition, the student's IEP team must consider what supplemental aids and services the student needs in order to participate with nondisabled children in nonacademic and extracurricular activities to the maximum extent appropriate to the needs of that child. 34 C.F.R. § 300.114, 300.117.

Supplementary aids and services means aids, services and other supports that are provided during part or all of a student's school day, including in nonacademic settings and during extracurricular activities, to enable a student with disabilities to make progress toward IEP goals and be involved in and make progress in the general education curriculum, in the least restrictive environment. 34 C.F.R. §300.320(a) (4).

Charter schools must send a prior written notice describing proposed and refused actions and obtain informed consent from the parent prior to both an initial special education evaluation and the initial provision of special education and related services. 34 C.F.R. §§ 300.300 and 300.503, and Minn. Stat. § 125A.091, subd. 3a. For subsequent evaluations or proposed services, the school will move forward with the changes in a prior written notice unless the parent objects in writing within 14 calendar days from the date the school sends the prior written notice describing the proposed actions.

Finally, "child find" is the legal obligation to identify, locate and evaluate all children with disabilities in the state. This is a requirement for public school districts, including charter schools, as well as all private schools. 34 C.F.R. § 300.111 and Minn. R. 3525.0750 and 3525.1100.

A charter school that has a state-approved voluntary pre-kindergarten or school readiness plus preschool program is responsible for providing the special education evaluation for students enrolled in the charter

school's voluntary pre-K or school readiness plus program (i.e., child find) no different than it is responsible for students enrolled in grades K-12. This includes three through five year old children, whether or not the child is generating voluntary pre-K or school readiness plus funding. This does not apply to charter schools that are not state-approved voluntary pre-K or school readiness plus sites because other charter school preschool programs are not eligible to have the grade level distinction of voluntary pre-K.

MDE's website contains resources that assist districts and charter schools in achieving compliance with federal and state special education mandates and funding requirements. Districts and charter schools must develop their own policies and procedures regarding special education, including a Total Special Education System (TSES) plan which describes the requirements a school's TSES must incorporate. Minn. R. 3525.1100.

How can I introduce potential charter school applicants to the rationale behind special education laws?

Introducing charter school developers to the reasons underlying special education may help lower barriers to implementing special education programs. It is important to understand that access to equal educational opportunity, under Section 504 of the Rehabilitation Act of 1973, as amended, and the provision of FAPE and due process requirements was a hard-fought battle for children with disabilities and their families. For most of the nation's history, children with disabilities were not given a right to the same educational opportunities as their peers without disabilities. Children with disabilities could be excluded from a public education, and it was not until the 1950s that these educational practices that had been in place for more than a century were successfully challenged. In the late 1960s and early 1970s, several federal and state court decisions struck down state laws that denied an equal educational opportunity to students now covered by federal disability laws including IDEA (2004) originally passed in 1975, and Section 504 of the Rehabilitation Act of 1973, as amended. There are resources that an authorizer could make available to charter applicants, including the [Operators Primer and Training Presentations](#).

Can an authorizer exempt the charter schools it authorizes from complying with state and federal special education requirements as part of their charter?

No. Under Minnesota's charter school law, Minnesota Statutes section, 124E.03, subdivision 3, charter schools must follow all applicable state and federal special education laws. Charter schools are public schools and must be open to, and serve the needs of, any student with a disability seeking enrollment.

How does an authorizer evaluate whether a charter school applicant has provided adequate information about special education?

According to Minnesota Statutes, section 124E.06, subdivision 1(b), the application must "include the school developer's mission statement, school purposes, program design, financial plan, governance and management structure, and background and experience, plus any other information the authorizer requests. This application must also include a 'statement of assurances' of legal compliance prescribed

by the Commissioner.” At a minimum, authorizers should ask applicants to articulate a basic plan regarding governance, service delivery and financing of special education. It is critical that applicants demonstrate in their application that they have a well-conceived, feasible plan to assess the capacity they will need to meet their legal responsibilities related to special education services.

Considerations for Charter Applicants During the Planning Phase

Human Resources

- How many students with disabilities should a charter school estimate it will enroll?
- How many special education teachers will a charter school need to employ?
- What type of licensure will the special education teachers need?
- Will the charter school hire or contract with a professional with experience and expertise in the area of autism spectrum disorder? Minn. R. 3525.1325.
- With whom will the charter school hire or contract with to fill the role of a special education director?
- Will the charter school hire dual-certified teachers?
- Will the charter school hire part-time or retired special education teachers?
- Will the charter school need to hire or contract with related services staff? (*e.g.*, nurse, speech/language pathologist, occupational therapist, physical therapist, social worker, school psychologist, behavioral specialist?)
- What are the implications for salaries and benefits if a charter school hires full- versus part-time employees?

Curriculum, Instruction and Assessment

- What curriculum and instruction will the charter school offer?
- How will the charter school modify the curriculum and instruction to address the unique needs of children with disabilities?
- How can a charter school train general education teachers to implement the modifications and adaptations to the curriculum and instruction for children with disabilities in inclusive classrooms?
- How will a charter school include children with disabilities in required assessments or develop alternate assessments? 34 C.F.R. § 300.320(a) (6).
- How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?
- How will the charter school align its World’s Best Workforce Plan with its curriculum and instruction for all students? Minn. Stat. § 120B.11.
- How will a charter school monitor all students’ reading progress to meet the “reading well by third grade” state requirements? Minn. Stat. § 120B.12

- How will a charter school with a Voluntary Pre-K or School Readiness Plus preschool program measure the impact of the program in meeting the “all children are ready for school” state requirement? Minn. Stat. §120B.11.

Professional Development

- How will a charter school provide teachers and paraprofessionals with professional development? (e.g., state standards implementation, co-teaching, differentiated instruction, positive behavior interventions)
- Will teachers and paraprofessionals need any specialized professional development related to educating and including children with disabilities? Minn. Stat. § 125A.08(c).
- What resources does MDE have for professional development?

Administration

- Who will administer the special education program?
- Who will be the designated 504 coordinator?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- How will a charter school handle student records and other school property appropriately when a student moves to another school, or in the event of closure of the charter school?
- Who will ensure all required school data collected throughout the year is submitted to MDE in a timely manner? (e.g., student discipline data)
- What processes and internal controls does the charter school need to have in place in order to safeguard funds and adhere to applicable grant requirements?

Special Education Funding

- How will federal, state and local special education dollars flow?
- How much does a charter school need to budget for special education during the first year of operation?
- How does a charter school need to prepare financially for a student with significant special needs?

Facilities

- Where will a charter school conduct student evaluations?
- Where will a charter school conduct IEP meetings?
- Where can a charter school store confidential student records?
- Where will a charter school provide pullout services which may be necessary to meet student needs in accordance with their IEP outside of the general education environment?
- Where can related services personnel meet with individual students?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals—including adults—with physical disabilities?

- Does the charter school have space for a nurse to store and administer medications or use medical equipment?
- Where will charter school staff meet with parents during conferences?

Transportation

- Who will provide transportation for charter school students?
- How will the charter school with a Voluntary Pre-K or School Readiness Plus preschool program meet the transportation needs of its preschool students?
- How will the charter school meet the transportation needs of students who receive transportation as a related service in accordance with their IEP?
- How will the charter school provide transportation for a student with physical mobility needs, such as a student in a wheelchair?

Summary and Key Points

The pre-authorization phase provides charter school authorizers the critical opportunity to inform potential applicants about their responsibilities related to special education. While Minnesota charter school law requires applicants to provide a general assurance and describe how the school will provide services to students with disabilities, many applicants are not aware of the responsibilities embedded in these assurances and provisions. Once charter schools are authorized and have evolved to the operating phase, the pressures associated with start-up and day-to-day operations frequently limit operators' ability and available options to create an effective and efficient special education program.

In an effort to preempt potential problems associated with IDEA compliance, charter school authorizers can take advantage of the applicants' planning phase to educate applicants about special education requirements. By educating applicants earlier rather than later authorizers can encourage applicants to build special education into their vision of a school rather than simply adding special education after the school model is developed.

SECTION 2: PRE-APPROVAL, PRE-OPERATIONAL PLANNING PERIOD

What is the process for approval of the application to establish and operate a charter school?

Prior to authorizing schools, a potential authorizer must be approved by MDE. According to Minnesota Statutes, section 124E.05, subdivision 3(a):

[a]n eligible authorizer must apply to the commissioner for approval as an authorizer before submitting any affidavit to the commissioner to charter a school...The commissioner must approve or disapprove the application within 45 business days of the deadline for that application period. If the commissioner disapproves the application, the commissioner must notify the applicant of the specific deficiencies in writing and the applicant then has 20 business days to address the deficiencies to the commissioner's satisfaction. After the 20 business days

expire, the commissioner has 15 business days to make a final decision to approve or disapprove the application. Failing to address the deficiencies to the commissioner's satisfaction makes an applicant ineligible to be an authorizer.

Once an organization becomes an approved authorizer, it may begin the process of submitting new school affidavits to MDE. Once an authorizer approves a charter application received from a school developer, the authorizer then files an affidavit with the commissioner stating its intent to charter a school before the operators may establish and operate a charter school. As set forth in Minnesota Statutes, section 124E.06, subdivision 4: "[a]n authorizer must file a separate affidavit for each school it intends to charter ... The affidavit must state the terms and conditions under which the authorizer would charter a school and how the authorizer intends to oversee the fiscal and student performance of the charter school and compliance with the terms of the written contract between the authorizer and the charter school board of directors."

Once an authorizer has approved a new charter school's application, the authorizer submits a [new school affidavit](#) to MDE. Pursuant to Minnesota Statutes, section 124E.06, subdivision 4, the commissioner has 60 business days to review and approve or disapprove the initial affidavit. If the initial affidavit is not approved, the authorizer has 20 business days to respond and attempt to correct any deficiencies, and then MDE has an additional 15 business days to issue a final approval or denial decision. Once the new school affidavit is approved by the commissioner, an authorizer must execute a statutorily compliant contract with the charter school within 45 business days of the affidavit approval.

Following approval from the commissioner and execution of the charter contract, the charter school moves into its pre-operational planning period.

What information about special education should be included in the contract?

In the contract between the authorizer and the charter school, there must be signed agreements from the charter school board members to comply with federal and state laws governing organizational, programmatic and financial requirements applicable to charter schools. Minn. Stat. § 124E.10, subd. 1(a)(6). Charter schools must comply with state and federal special education laws. Minn. Stat. § 124E.03, subd. 3.

Requirements for a charter school contract, including the special education requirements, can be found at Minnesota Statutes, section 124E.10, subdivision 1(a) (12):

How the charter school board of directors or the charter school operators will provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, and a description of the financial parameters within which the charter school will provide the special instruction and services to children with a disability.

Requirements for a charter school contract that includes an approved voluntary pre-k or school readiness plus preschool program can be found at Minnesota Statutes, section 124D.151, subdivision 2.

What occurs during the pre-operational planning period?

We encourage charter schools to plan for a 12 to 18-month pre-operational planning period. The school's governing board is fully established during this time and guides the planning activities. This is the time when the charter school is generating detailed plans to implement each area addressed in the application. The State of Minnesota, Minnesota Rules, part 3525.1100, requires that all school districts, including charter schools, have a Total Special Education System (TSES) plan in place. Since Minnesota law requires all school districts have a director of special education, it is during this period that the charter school also identifies who will serve as their director of special education.

What is a TSES plan?

The TSES plan is the framework for compliance with federal and state special education laws and must be developed by each charter school. At a minimum, a TSES plan includes:

- Child study procedures for the identification and evaluation of students suspected of having a disability beginning at birth that include a plan for receiving referrals from parents, physicians, private and public programs, and health and human services agencies.
- Method of providing the special education services for the identified students. The district shall have, as part of the district's TSES plan, a description of the full range of available educational service alternatives.
- A description of the sites available at which services may occur. Sites describe the building or other location where special education occurs.
- A description of the available instruction and related services.
- Administration and management plan to assure effective and efficient results, including due process procedure assurances available to parents.
- Operating procedures of interagency committees required in statute.
- Interagency agreements the district has entered.

Minn. R. 3525.1100.

Who can serve as a director of special education in a charter school?

A licensed director of special education can serve in this role. Charter schools use many different mechanisms to meet this requirement. Some contract with a local school district or cooperative while others contract with independent consultants. One of the authorizer's roles is to confirm that the charter school has a licensed director prior to opening. Please note that the special education director may not also serve as a special education teacher. Minn. R. 3525.2405, subp.1.

What is the authorizer's responsibility to ensure that charter schools serve children with disabilities?

Pursuant to Minnesota Statutes, section 124E.05, subdivision 4, an authorizer is required to maintain and follow a "process ... for overseeing the school ... to ensure that the schools chartered comply with applicable law and rules and the contract." Failure to provide such oversight can result in corrective action, including terminating an authorizer's ability to charter a school, pursuant to Minnesota Statutes,

section 124E.05, subdivision 6(b). Therefore, an authorizer must have systems in place to ensure the schools it authorizes comply with special education law.

What does it mean to have the capacity to provide special education services?

Special education capacity means having the human, fiscal and legal resources required to fulfill the responsibilities articulated in IDEA. At a minimum, capacity includes the ability to implement existing IEPs, refer eligible students to special education, conduct evaluations, develop IEPs and provide special education and related services for all eligible students enrolled in the school. Related services means transportation and other developmental, corrective, or supportive services required to assist a student with a disability to benefit from special education. Examples of related service providers include speech and language pathologists, occupational therapists, physical therapists, social workers, nurses, psychologists, and interpreters. 34 C.F.R. § 300.34. Authorizers need to be confident that applicants either have established, or can access, the capacity they will need to meet their special education responsibilities. This could involve the charter school securing services from an outside source.

Why is it important for authorizers to ensure that charter applicants have the capacity to provide special education services?

By ensuring that charter schools have the capacity to provide special education services, authorizers can help operators avoid potential liability and ensure that all students who enroll have the opportunity to obtain a free appropriate public education in the least restrictive environment. 34 C.F.R. §§ 300.17, 300.101, and 300.114. In addition, authorizers are charged with providing ongoing oversight of the charter school and may be subject to corrective action if they fail to do so.

When does a charter school need to have the capacity to provide special education services and comply with federal and state laws?

Charter schools need to have the capacity to meet their legal responsibility for special education and comply with federal and state laws on the first day they open and thereafter for as long as they operate.

How are charter schools developing the capacity to deliver special education services in the school?

Building special education capacity may entail various arrangements. Examples of approaches charter schools are using to increase their special education capacity include: 1) hiring appropriate professionals to work at the charter school; 2) contracting with a local education agency; 3) contracting with a regional education agency or cooperative; 4) contracting with individuals or organizations qualified to provide special education and related services; or 5) some combinations of these approaches. As long as charter schools can ensure that children with disabilities enrolled in their schools have access to a free appropriate public education, they may utilize a variety of strategies to deliver special education services.

In addition, trainings and resources are available through MDE and other agencies (see [Section 4: Technical Assistance and Resources](#)).

Are authorizers or authorizing staff liable if charter schools do not serve children with disabilities or otherwise do not implement special education properly?

No, the state charter school law indemnifies the authorizer and MDE from any legal action. Minnesota Statutes, section 124E.09(c), states: “The commissioner, an authorizer, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil or criminal liability with respect to all activities related to a charter school they approve or authorize.” However, the authorizer is bound through the assurances they signed in the application process to provide oversight and ensure charter schools comply with Minnesota Statutes, section 124E.05, subdivision 4(5). The authorizer is required, by Minnesota Statutes, section 124E.10, subdivision 3(a), to submit a “formal written evaluation” before renewing a charter contract. Should the authorizer fail to provide proper oversight regarding special education or any other issue, the authorizer can be subject to corrective action, including terminating an authorizer’s ability to charter a school. Minn. Stat. § 124E.05, subd. 6.

How can an authorizer assist with ensuring their charter schools do not discriminate?

Reviewing the charter school’s application, enrollment and marketing materials to ensure they are not discriminatory is a basic step in verifying that the charter school understands its responsibilities relative to the civil rights of students and their families. A charter school must comply with chapter 363A, the Minnesota Human Rights Act, which prohibits discrimination in education. Minn. Stat. § 124E.03, subd. 4(b). Charter schools cannot ask about special needs on the charter school application, and may not limit admission to pupils on the basis of intellectual ability, measures of academic achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission inconsistent with state law. Minn. Stat. § 124E.11 (e). Authorizers can assist charter schools in understanding admissions requirements. See also [Frequently Asked Questions](#) about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973, U.S. Department of Education, Office of Civil Rights (OCR), December 28, 2016.

Can a charter school "counsel-out" a student with a disability?

As public schools, charter schools are not allowed to discriminate against students with disabilities. Minn. Stat. § 363A.13. An issue that sometimes arises, known as "counseling out," is the process of discouraging the enrollment or encouraging the dis-enrollment of a child with a disability as a result of the disability. Information about whether or not a student has a disability is only necessary once a student has been enrolled and cannot be a factor in the student’s enrollment. Additionally, all subsequent placement decisions for students with disabilities must be made by IEP teams including the student’s parent or guardian. The OCR and the Minnesota Department of Human Rights is charged with investigating complaints of discrimination against students with disabilities.

What if the charter school is an online charter school?

Online charter schools must follow the same rules regarding special education as any other charter school.

To what degree are charter schools required to modify their programs to accommodate a student with a disability?

Minnesota charter schools are responsible for providing FAPE in the least restrictive environment (LRE) to all enrolled students with disabilities. Though they are solely responsible, many opt to contract with existing educational agencies, consultants, or private organizations for some of the services to meet the educational needs of the student. No matter who actually provides the services, the charter school is programmatically and financially responsible for providing special education and must modify programs accordingly, regardless of the school's size or mission.

What are examples of supplementary aids and services and program modifications offered to children with disabilities?

The student's IEP team determines what types of supplementary aids and services and program modifications or supports from staff are to be provided to enable the student to make progress toward the IEP goals, participate and make progress in the general education curriculum, and participate in nonacademic and extracurricular activities. 34 C.F.R. § 300.324. Examples of classroom adaptations, accommodations and modifications that enable a child to participate and make progress in the general education curriculum include:

- Visual supports and schedules
- Social skills training to help teach a student self-regulation and prosocial school behavior;
- Changing the manner in which instructional material is presented;
- Creating individualized study guides;
- Adapting textbooks;
- Modifying the classroom environment to meet a student's sensory needs and enhance student learning;
- Altering task requirements;
- Selecting an alternate task for a classroom assignment;
- Using assistive technology devices.

What is the authorizer's role in ensuring that charter schools fulfill their mission while complying with obligations related to adaptations, accommodations and modifications required by IDEA?

Authorizers should require developers to articulate their mission explicitly and ensure that the charter school is prepared to meet the needs of students with disabilities who attend the charter school. This includes students who meet eligibility requirements under IDEA or Section 504. A charter school's mission cannot be structured in such a fashion where it precludes full participation of children with disabilities, as charter schools are public schools.

Can a charter school's curriculum alone meet the needs of students with disabilities?

In general, any policy that aims to treat all children with disabilities the same way should raise a red flag to authorizers assessing applications. When reviewing charter applications, authorizers can request additional information regarding how the charter school plans to ensure that its particular curriculum or

instructional approach can address the unique individual needs of students with disabilities. An IEP must, by definition, be individually tailored to the specific needs of each student. Federal and state law explain how an IEP must be structured to ensure that each child with a disability receives an appropriate education. One of the required IEP components is a description of the students' present level of academic achievement and functional performance, including how the student's disability affects the student's progress in the general education curriculum. In addition, the IEP must include a statement of measurable, individualized goals and objectives for the student, describe how the student's progress will be measured, and what specific educational and related resources will be provided to enable the student to meet his or her measurable goals and objectives. 34 C.F.R. § 300.320, and Minn. R. 3525.2810.

Do charter schools have to hire licensed special educators?

Yes. Under Minnesota law, all teachers providing instruction in a charter school must be licensed to teach in Minnesota, see Minnesota Statutes, section 124E.12, subdivision 1. In addition, Minnesota Rules require that a special education teacher undergo specific training and additional licensure. [Minn. R. 8710.5000](#).

Additional requirements for teachers in voluntary pre-k and school readiness plus preschool programs are found at Minnesota Statute 124D.151, subdivision 2.

Given the current shortage of special education teachers nationwide, what strategies can charter schools use to hire special education teachers and related service professionals?

Charter schools can employ creative strategies to access licensed special education teachers and related services professionals. Strategies that charter schools can use are:

- Hiring faculty with dual licensure (e.g., elementary education and special education);
- Hiring fully licensed retired teachers to work part-time;
- Developing collaborative agreements with a local educational agency (LEA);
- Developing collaborative agreements with other charter schools to share special education teachers;
- Forming partnerships with a local non-profit entity (e.g., a hospital) or a post-secondary institution that employs related services professionals; and
- Obtaining [Professional Educator Licensing and Standards Board \(PELSB\)](#) permission and rule exceptions.

What are the major expenses associated with special education?

Expenses associated with special education fall into four general categories: personnel, equipment, facility modifications and transportation. The charter school will be required to enter the special education expenses into the state's [Special Education Data Reporting Application \(SEDRA\)](#). In fulfilling their oversight role, authorizers must confirm that charter schools are reporting as required. If the data is not entered into the system in a timely manner, special education aid will not flow, causing funding issues.

How can charter schools plan for their expenses related to special education?

In Minnesota, approximately 13 percent of the public school population is identified as eligible for special education services. Charter developers should examine the special education incident rate in the area the school is located to identify more accurate estimates. The school's mission also plays into the proportion of students with disabilities that can be anticipated.

How do charter schools pay for the costs associated with providing special education services?

[The Special Education Funding and Data section of the MDE website](#) consists of information on state and federal special education funding for school districts including charter schools. Charter schools must also pursue third-party reimbursement for special education services covered by Minnesota Health Care Programs (Medical Assistance), or by private insurance under certain circumstances and if the charter school meets the requirements for billing private insurance. [Minn. Stat. § 125A.21](#). Information for billing Minnesota Health Care Programs (Medical Assistance) is available from the Minnesota Department of Human Services in the [IEP Provider Manual](#), and from the Minnesota Department of Education at its [website](#).

What are the legal requirements related to public school facilities' accessibility for students with disabilities?

Legal requirements regarding accessibility stem from the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act. To read these laws and view documents regarding their implementation in public schools please see the following websites:

- [Americans with Disabilities Act of 1990](#), as amended.
- [Section 504 of the Rehabilitation Act of 1973](#), as amended.
- [MDE website](#)

What should authorizers advise charter schools about accessible facilities?

Charter schools should seek legal counsel regarding their obligations associated with accessibility. Authorizers also should be familiar with the requirements. Charter schools will only qualify for lease aid under Minnesota Statutes, section 124E.22 if they meet accessibility requirements, as Minnesota's charter school law requires compliance with all federal, state and local laws.

If a charter school is required to make its facility accessible to an individual with a disability, whose responsibility is it to make the building accessible?

In general, landlords are responsible for compliance with access laws, at least from the standpoint of third-parties (e.g., visitors to the property); however, landlords and tenants are free to shift the allocation of responsibility between them by contract. Responsibility to modify a facility—even in the event of unforeseen needs—should be articulated prior to signing a lease between the charter school and the owner of the facility. The lease may indicate which entity is responsible, and such modifications can pose a significant expense. Charter schools should seek experienced legal counsel prior to signing any contracts to lease or purchase a facility for their school. It is recommended that the authorizer review the lease prior to the identified official with authority signing it on behalf of the charter school.

What responsibility do charter school authorizers have for monitoring accessibility of charter school facilities?

Charter schools are responsible for ensuring that students with disabilities are not denied the benefits of, or excluded from, participation in school programs or activities due to inaccessible facilities. 34 C.F.R. section 104.21. Given that charter authorizers are ultimately responsible for ensuring that charter school operators fulfill their obligations outlined in their charter and comply with all applicable laws, authorizers should take a proactive role in ensuring that facilities are accessible to individuals with disabilities in accordance with federal and state laws. The authorizer should know the facility standards for schools and include these in their oversight of the school. Some schools include a facility checklist when conducting site visits to ensure their charter school is meeting the standards. Authorizers should also be aware of relevant zoning laws and the requirements to obtain materials such as certificates for Educational Occupancy for educational buildings.

Where can authorizers and charter schools find information on accessibility requirements?

- Municipal Websites: most cities and counties post their municipal code, including regulations pertaining to implementing ADA, on their Website. Authorizers should familiarize themselves with county building and municipal codes.
- The State of Minnesota's statutory scheme, found at Minnesota Statutes § 471.
- [United States Department of Education Office for Civil Rights page](#)
- United States Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004-1111, Phone (voice): (202) 272-0080, toll free: (800) 872-2253, Phone (TTY): (202) 272-0082, toll free: (800) 993-2822, Fax: (202) 272-0081, Email: info@access-board.gov, available at [United States Access Board webpage](#).

Do charter schools have to provide transportation to students with disabilities?

Yes. Minnesota Statutes, section 124E.15, paragraphs a-d, provides information about the transport of charter school students. The charter school is ultimately responsible for providing transportation to and from school for students. They can work with the school district in which the charter school is located to arrange transportation. In that case, the state's transportation funds flow directly to the school district. Alternatively, the charter school may contract with a licensed transportation provider and provide their own transportation. When this choice is made, transportation dollars flow to the charter school.

Charter schools are responsible for transportation to students enrolled in the voluntary prekindergarten or school readiness plus preschool program, the same as for K-12 students. When transporting children this age, it is important to keep the developmental and safety needs of the children in mind.

Transporting children with disabilities is a separate issue because transportation can be a related service provided as a component of a child's IEP. If transportation is identified as a related service, the responsibility for that transportation is part of a charter school's special education costs. [Transportation guidance](#) available on MDE transportation page. The page provides specific information on transportation of special education students that attend charter schools outside their district of residence. For guidance regarding the charter school's obligation to provide transportation as a related

service as provided in the child's IEP, please call MDE's Division of Compliance and Assistance at 651-582-8689 or Kelly Garvey, MDE pupil transportation specialist, 651-582-8524.

What is the authorizer's responsibility at the end of the planning period?

It is the authorizer's responsibility to monitor progress toward opening throughout the planning period. In all cases, the authorizer should review the charter contract and Ready to Open Standards included in its Approved Authorizing Application/Approved Authorizing Plan (AAA/AAP) and ensure the charter school has met all requirements, including special education requirements, and is ready to open before serving students.

Summary and Key Points

The pre-approval or preoperational, planning stage is critical to the development of successful charter schools. Building on the foundation established during the application phase, the authorization process provides authorizers the opportunity to verify potential operators' knowledge about their responsibilities and to assess the degree to which an applicant is capable of fulfilling these responsibilities. Knowledge about all aspects of special education will enable authorizers to ensure that: 1) charter applicants fully understand and are prepared for their responsibility to educate students with disabilities; and 2) charter applicants integrate their plan to provide adequately for special education within their application. By providing charter developers early guidance on how to anticipate and adequately address the application process, authorizers can help charter schools preempt a variety of issues that will emerge once a child with a disability enrolls in the charter school.

SECTION 3: OVERSIGHT, ACCOUNTABILITY AND RENEWAL

What is an authorizer's role in holding charter schools accountable in the area of special education after the school has opened?

Once the charter school doors open and students arrive, charter authorizers' responsibility shifts from pre-operational oversight to operational oversight of the schools, continuing to hold them accountable for the goals and objectives outlined in the charter contract and state and federal special education laws. The charter is a performance contract and the authorizer is responsible for ensuring that charter operators fulfill the responsibilities articulated in the contract. It is important that each charter school's specific level of responsibility for special education be included in the charter school contract. Satisfactory authorizer performance includes ensuring that charter schools understand their special education obligations.

Do authorizers have any obligation to complete due process documents related to special education in the charter schools they authorize?

No. This is solely the responsibility of the charter school. This includes documents related to the student's eligibility (evaluation/reevaluation), IEP, notice documents (e.g. prior written notice and IEP

team meeting notice), progress toward the student's goals and objectives (progress reports), and secondary transition planning (reevaluation with transition assessments and transition goals).

Are there some oversight strategies that can assist the authorizer in reviewing the school's progress?

Some authorizers require quarterly reports of progress towards reaching the school's goals or a review of status. The reports often include attendance, achievement, student and staff retention and curriculum data. A report of this type is a good vehicle for receiving information from the charter school on the special education program and students' progress.

Other authorizers require annual reviews including site visits. It is important that special education be reviewed at that time. Authorizers can require a copy of special education related policies and can also request formal special education complaint information from MDE that may have been filed against the charter school.

All charter schools are required to publish an annual report each year. Minn. Stat. § 124E.16, subd. 2. Some authorizers require that all data in the annual report be disaggregated by special education status, if allowed by cell size. Parents of students with disabilities can be interviewed during the annual review process, providing another perspective.

Authorizers will also receive copies of the school's special education fiscal and program monitoring reports from MDE. Charter schools, like other public schools, are routinely monitored for compliance with all [special education laws](#).

Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding children with disabilities are required?

Charter schools are required to maintain and submit the same data as all school districts. They are required to maintain and report to MDE essential data elements on students, staff and educational programs as required by Minnesota Statutes, section 125B.07, subdivision 6, as well as maintain and report financial data. A school should consider these requirements as it establishes its record keeping systems. It is critical that the software that the school chooses provide all data needed both locally and for state reporting. Annual data needed for state reporting includes student discipline data for all students, as well as [additional data submissions](#) specific to special education students. In addition, charter schools are required to submit annual summary reports of restrictive procedure use, as well as quarterly reports of seclusion use. Minn. Stat. § 125A.0942, subd. 3(b).

It is important to include provisions for special education in the development of data collection and management information systems. This will strengthen a charter school's infrastructure and prepare it to provide effective special education services that meet the mandates of the laws.

What should authorizers know about the federal and state special education monitoring processes?

The federal Department of Education's Office of Special Education Programs (OSEP) monitors every state's compliance with IDEA requirements. In turn, each state must monitor how its districts comply.

Charter schools are held accountable for special education in the same manner as all Minnesota school districts and must demonstrate compliance with IDEA. MDE monitors for both program and fiscal compliance with special education laws.

Authorizers, charter school directors, and special education directors of charter schools are notified by MDE when a charter school will be monitored for compliance with special education laws and will receive a copy of the final monitoring report.

Other Minnesota Resource Links:

- [Compliance and Assistance monitoring webpage](#)
- [Question and Answer Special Education Guidance](#) developed by MDE.
- [Minnesota Statute chapter 125A](#) – Minnesota’s statute governing the provision of special education services in public schools
- [Minnesota Rule 3525](#) – Minnesota’s rules established to implement related Minnesota special education statutes.
- [MDE Special Education Funding page](#)

Additional Resource Links:

- [Federal IDEA Regulations](#)–Federal regulations related to implementing the provisions of IDEA, including the provision of a free and appropriate public education.
- [Education Department General Administrative Regulations \(EDGAR\)](#) – Content includes general fiscal accountability requirements for public schools and Uniform Grant Guidance Part 200.

Should authorizers consider special education part of the charter renewal process?

Minnesota charter school law requires authorizers to sign a “statement of assurances” of legal compliance prescribed by the commissioner. Minn. Stat. § 124E.06, subd. 1(b) (3). Authorizers are responsible for oversight of the terms of the charter contract, one of which is implementation of the policies and services according to special education law. Thus, special education, and specifically the performance of students with disabilities, should be considered explicitly as a regular part of the school's progress toward meeting its overall goals and not an afterthought. Per Minnesota Statutes, section 124E.10, subdivision 1(a) (8), the authorizer must conduct a performance evaluation prior to renewing a charter school contract. That performance evaluation should include an assessment of how the school has served children with disabilities. Failure to fulfill obligations related to special education could be a criterion contributing to non-renewal.

A key factor that authorizers likely need to assess when contemplating renewal is whether charter schools have been the subject of any complaints or program monitoring citations related to special education service delivery or procedures. While complaints and program monitoring citations can arise from a variety of issues separate from the quality of special education services provided, multiple complaints or citations should initiate discussion at renewal time. Low enrollment of students with disabilities in a charter school may serve as an indication that triggers further inquiry regarding enrollment practices and questions regarding counseling-out.

Summary and Key Points

Accountability is a core tenet of the charter school concept and one of the critical responsibilities of all charter school authorizers. State charter school laws generally provide broad guidelines regarding how charter schools will be held accountable for fulfilling the goals and objectives articulated in their charters while leaving authorizers the discretion and responsibility to develop an adequate renewal decision-making process. Charter schools must participate in federally required monitoring and accountability processes. Authorizers should use existing accountability mechanisms such as the charter contract and the state monitoring process for overseeing special education.

SECTION 4: TECHNICAL ASSISTANCE AND RESOURCES

Providing special education in charter schools, not unlike traditional public schools, is challenging for a variety of reasons. Building the capacity to deliver special education requires early and ongoing technical assistance related to the complex requirements stemming from IDEA. Although they vary in how they perceive their relationship to the schools they charter, authorizers can play a critical role in not only informing charter schools of their responsibilities related to special education, but also in serving as a source of information regarding where charter schools can obtain technical assistance. Charter schools can tap into a variety of networks to learn more about special education in general and issues related to special education in charter schools specifically. Following is a partial list of resources that authorizers should generally be familiar with and to which they may direct potential charter applicants. Please note this is not an exhaustive list.

Minnesota Department of Education

The MDE website contains extensive resources relevant to charter school operations. MDE also conducts trainings for staff in different areas of special education compliance and provides Continuing Education Unit (CEU) credit for teachers who participate. It is particularly important that authorizers and charter school operators check often on information on the [special education and early childhood special education sections of the website](#).

Local Education Agencies

Under IDEA, both the state agency and local education agencies (LEAs), known in Minnesota as districts, have a responsibility to provide a free appropriate public education for students with disabilities. In Minnesota, each charter school functions as its own district and is therefore responsible for acting as the LEA. Many traditional districts maintain websites with abundant resources related to special education (see, for example, Minneapolis' [special education website](#)). While not catering specifically to charter schools, district special education technical assistance can be invaluable to charter developers interested in learning more about special education.

U.S. Department of Education

Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants. The Office of Special Education (OSEP) maintains a web page that provides [links](#) to a variety of resources related to special education and a website developed to provide resources related to the [2004 IDEA law](#).

National Association of Charter School Authorizers (NACSA)

NACSA is a nonprofit membership association of educational agencies across the country that authorizes and oversees public charter schools. Created in 2000 by a diverse group of charter school authorizers nationwide, NACSA is dedicated to supporting and strengthening the capacities of authorizers to charter successful schools. It provides many resources of significant value to charter school authorizers through its [website](#). In 2017, NACSA developed a [special education toolkit](#).

NACSA also provides [specific special education information](#) in issue briefs.

National Association of State Directors of Special Education (NASDSE)

NASDSE provides a wide range of information regarding special education including [research reports and technical assistance documents](#) pertaining to special education in charter schools.

National Charter School Networks

- [The National Charter School Center page](#) contains extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools. Their website also contains information specific to special education.
- Center for Education Reform provides up-to-date information [about state charter school laws](#).

Minnesota Charter School Networks

- [The Minnesota Association of Charter Schools \(MACS\)](#) is a membership association that promotes charter schools in Minnesota through research, advocacy and resource sharing.
- [Great MN Schools](#) is a membership organization with private, charter and traditional district public school partners who share resources and support to develop high quality schools.

PACER Center

[PACER Center](#) is a parent training and information center for families of children and youth with all disabilities from birth to young adults. Located in Minneapolis, it serves families across the nation, as well as those in Minnesota. Parents can find publications, workshops and other resources to help make decisions about education, vocational training, employment and other services for their children with disabilities. PACER's National Bullying Prevention Center provides resources designed to benefit all students, including those with disabilities.

MINNESOTA CHARTER SCHOOL DIRECTOR PRIMER

SECTION 1: PRE-APPROVAL PHASE

What is the role of a charter school developer related to special education during the planning phase?

The pre-approval planning phase – the time before a planning team submits an application for a charter to an authorizer – is the ideal time to begin planning for all students in the school, including students with disabilities. The leader of the founding team is expected to plan for administrative and instructional needs for future faculty, parents and students. Although the team obviously cannot plan for each child before beginning to enroll students, they can give consideration to children with disabilities as they are developing the initial plans for the school. As the plans develop, it is critically important to plan consciously for including students with disabilities in every aspect of the charter school. Doing this now will strengthen the application for a charter and provide for more effective educational opportunities for all potential students.

Is it important to include students with disabilities as part of the discussion when developing the mission and vision of the school?

Yes, it is critically important to consider children with disabilities when developing the mission and vision of the charter school. The school will be a public school that must accept all students and the team should expect to enroll students with many different kinds of needs including students with disabilities. The careful consideration of special education in the initial planning process ensures that the mission and vision statements will reflect an ability to successfully serve a diverse array of students and minimize the likelihood of subsequent problems.

Some charter schools are developed with the mission and vision of being a special education charter school. Under [Minnesota Statutes, section 124E.21](#), special education charter schools are schools where the percentage of students eligible for special education services equals at least 90 percent of the charter school's total enrollment. These schools are eligible for special education aid if they submit to the commissioner a preliminary annual budget by June 15 prior to the start of the fiscal year and a revised budgeted by January 15 of the current fiscal year detailing its unreimbursed costs for education students eligible and not eligible for special education services.

How can the charter school plan for students with a wide variety of different disabilities?

During initial planning, it is important to give some thought to how the school's purpose and mission can be relevant to a wide range of students. For example, how can it be made relevant to students with learning disabilities, physical disabilities, health disabilities, or students with sensory, social, emotional, or behavioral needs?

Consider how to address the needs of students with disabilities. This includes the school's child find and referral process, special education evaluation, and the team process to develop an IEP that enables the student to make progress toward goals as well as participate in and make progress in the general education curriculum. Parent participation is a key to developing an appropriate education program. Develop a system to ensure all required

due process documentation occurs in a timely manner. Special education also has numerous fiscal requirements which the charter school must fulfill.

Special Education Considerations for Charter School Developers

FUNDING FOR SPECIAL EDUCATION

- What is the Minnesota funding formula? Funding information for Minnesota's special education programs is located on [the MDE website](#), including information on [third-party reimbursement for special education services](#).
- What funds will the school receive for special education services and how will those funds flow during the course of the fiscal year?
 - Federal
 - State
 - Local funds/tuition billing
 - Third party reimbursement (e.g., Minnesota Health Care Programs and Medical Assistance)

Charter schools must pursue third-party reimbursement for special education services covered by Minnesota Health Care Programs (Medical Assistance), or by private insurance under certain circumstances and if the charter school meets the requirements for billing private insurance (see [Minnesota Statute § 125A.21](#)). Information for billing Minnesota Health Care Programs (Medical Assistance) is available from the Minnesota Department of Human Services in the [IEP Provider Manual](#), and from the Minnesota Department of Education at its [website](#).

SPACE AND FACILITIES

- Are the school buildings accessible for all students?
- Can the school buildings support a variety of special education services for students with disabilities?

STAFFING

- How many students will the school enroll?
- How many teachers will the school need to hire?
- What resources has the school identified to ensure appropriate special education staffing?

CURRICULUM

- What curriculum will the school offer?
- How will the school ensure that its curriculum will be accessible to students with disabilities?

CHILD FIND

- What should child find activities look like including child find if you provide state approved 3- and 4-year-old preschool programs vs. state-funded Voluntary Pre-K and School Readiness Plus preschool programs?
- How will the school conduct student identification, evaluation and special education determination meetings?

PROFESSIONAL DEVELOPMENT

- How will the school provide teachers with professional development?
- What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support children with disabilities?
- How will the school provide training for its board regarding special education?

ADMINISTRATION

- Has the school considered who will serve as director of special education as required by Minnesota Rules 3525.2405?
- Who will be involved in the development of policies and procedures that overarch numerous grant programs?

ACCOUNTABILITY

- How will the charter school work with its authorizer to develop an accountability plan that includes special education for the charter school contract? The contract must address how the charter school board of directors or the charter school operators will provide special instruction and services to children with a disability. Minn. Stat. § 124E.10, subd. 1(a) (12).

TRANSPORTATION

- Will the school directly provide transportation or access district transportation?
- How will the school meet transportation needs of students who receive transportation as a related service that is required by their IEP?
- How will the school arrange transportation for a student with mobility needs, such as a student who uses a wheelchair?

Summary and Key Points

The pre-approval phase provides a valuable opportunity to explore different aspects of what it means to develop a charter school. In an effort to preempt potential problems associated with not complying with special education requirements, the planning team should use the pre-approval phase to educate all critical players (e.g., board members, potential staff, etc.) about special education. Developing an understanding of students with disabilities will prepare all members of the team to include special education into the school's vision rather than leaving it to become an add-on component. Once the charter school is approved, the pressures associated with start-up and day-to-day operations will occupy attention. Use the time available in the pre-planning stage to design the school with great care, making sure to reach out to available resources (e.g., a person or organization with special education expertise, state department of education, etc.) in order to include special education at every decision point.

SECTION 2: PRE-OPERATIONAL PHASE

What is the charter school's obligation to make sure that student applicants with disabilities are treated in a nondiscriminatory manner in admissions?

Under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, public charter schools may not categorically deny admission to students on the basis of disability. Additionally, Minnesota charter school statute (Minn. Stat. § 124E.11(e)) states that a “charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this section.” Charter schools are therefore prohibited from inquiring, via application or any other portion of the admission process, as to whether a student has an IEP or needs specialized accommodations.

What issues need to be considered as the charter school plans to provide effective special education services?

There are many issues to consider in developing and implementing a special education program. While they will vary from school to school, several are common to all schools, including funding, space and facilities, staffing, curriculum, professional development, administration, transportation and special considerations. Additionally, child find activities are required of all charter schools providing state approved 3- and 4-year-old preschool programs and those with state-funded Voluntary Pre-K and School Readiness Plus preschool programs. The checklist at the end of this section poses questions designed to help the planning team consider these important areas.

How can a charter school deliver instruction to students with disabilities in keeping with its curriculum?

In preparing to deliver instruction to students, remember that federal law requires that a charter school have an IEP in place at the start of each school year to guide the plan for instruction for each student with a disability enrolled in the charter school. 34 C.F.R. §300.323(a). For students who transfer into the charter during the school year, the charter school must provide comparable services to those described in the student’s previous IEP before either adopting and implementing the current IEP, or developing, adopting, and implementing a new IEP. IDEA regulations state:

At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in 34 C.F.R. §300.320.

IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency either--

- (1) Adopts the child’s IEP from the previous public agency; or
- (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§ 300.320 through 300.324.

34 C.F.R. § 300.323(a) and (f).

See 34 C.F.R. §300.323 (f) for further information regarding implementation of an IEP when a student with disabilities transfers to a charter school during the school year from another state.

In order to deliver instruction to students with disabilities, the school must foster open communication between the school and the parents regarding how the IEP will be implemented, relying on the special education director for guidance. Concerns about instruction should be discussed at the time of the student's IEP meeting and described in the IEP so all members of the team can contribute to and understand how the student will access the curriculum.

Some staff may require professional development if they need help in accommodating the needs of a student with a disability. One helpful strategy is incorporating into the IEP a provision for close tracking of the student's adjustment at the charter school. Remember, it is appropriate and may be necessary to convene an IEP team to review the student's program as needed. 34 C.F.R. §300.324.

As a school district, a charter school in Minnesota is responsible for hiring its own staff and faculty. How much flexibility do schools have in special education?

First, charter schools must follow Minnesota's law and regulations regarding faculty licensure. It is essential that charter school directors who hire personnel understand Minnesota's requirements of charter schools. The IEP team identifies the type of special education and related services the child will need, so there may be staffing implications for delivering those services.

Must a charter school hire full-time special educators?

Whether full-time special educators are hired depends on the needs of students as identified in their IEPs. Because charter schools often have limited resources, charter schools may be innovative, creative and flexible in designing staffing loads to meet the needs of the students who enroll in the school. Options may include hiring faculty with dual licensure (in special and general education), or contracting for special educators with a nearby school or a contracted service agreement with an outside agency.

Where is specific information on Minnesota's licensure requirements pertaining to special education in charter schools?

Minnesota's licensure requirements are posted at the website of the Minnesota [Professional Educator Licensing and Standards Board \(PELSB\)](#).

How does a charter school discover whether a student is a student with an identified disability?

Since charter schools may not discriminate on the basis of a disability in determining eligibility for admission, eligibility considerations for students with disabilities are the same as for students without disabilities.

It is critical that the charter school requests records including the Minnesota Automated Reporting Student System (MARSS) Student Identification number after enrollment, to ensure that the charter school is prepared to implement students' IEPs. Minn. Stat. § 120A.22, subd. 7. Each request should include the general education cumulative file, special education records, and each student's MARSS number. If records are not automatically received, initiate a request to the previous school. Contacting the special education office of the previous school or school district may also be helpful in securing the records.

If a charter school has concerns about its ability to meet the needs of a specific student with a disability, can it recommend other programs or schools?

No. As a charter school in Minnesota, your school is considered a public school for all purposes related to special education. The charter school is not permitted to “counsel out” students or suggest that another program may be more appropriate.

Are there requirements for physical access that apply when selecting the facilities that will house a charter school?

Yes. A charter school may not deny persons with disabilities, including parents and students, the benefits of programs and activities offered at its school because of inaccessible facilities. 34 C.F.R. §104.21. The selection of the facility for your charter school may not result in excluding or limiting enrollment of people with disabilities from any school program or activity.

If a charter school leases its school building, whose responsibility is it to make the school accessible?

Responsibility to modify a facility should be articulated in the lease between the school and the owner of the facility. It is very important to seek legal counsel prior to signing any contracts to lease a facility. MDE is unable to resolve disputes or assign responsibility regarding the lease, as the lease is a private contract between the charter school and the landlord.

Are there different legal requirements that apply to charter schools located in existing facilities as compared to newer facilities?

Yes. Please consult with an attorney regarding what standards apply in your building. Generally, for facilities that pre-date 1977, a charter school's programs and activities, must be readily accessible to individuals with disabilities. Federal regulations permit some flexibility in meeting this legal standard. For example, structural changes are not required in existing facilities if nonstructural methods are effective in achieving program accessibility. 34 C.F.R. § 104.22. That same section notes, however, that in choosing how to comply, schools must give priority to whichever methods best serve students with disabilities in the most integrated setting.

For newer construction and alterations (i.e., construction begun since June 1977), different accessibility standards will apply to the new construction depending on when construction began. For example, the American National Standard Institute (ANSI), the 1991 Americans with Disabilities Act (ADA) standards, and the 2010 ADA standards may apply, depending on when that area of the building was altered. For information about how to address architectural barriers in your charter school, please contact the United States Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004-1111, Phone (voice): (202) 272-0080, toll free: (800) 872-2253, Phone (TTY): (202) 272-0082, toll free: (800) 993-2822, Fax: (202) 272-0081, Email: info@access-board.gov.

Considerations for Pre-Operational Phase

SPACE AND FACILITIES

- Where will the school conduct student evaluations?

- Where will the school conduct IEP meetings?
- Where will the school store confidential student records?
- Where will the school provide services and meet other student needs in accordance with their IEP outside of the general education environment?
- Where will related services personnel, such as school psychologists, meet with individual students?
- Where will the school store supplies and equipment used by students with disabilities (e.g., educational, medical, mobility, assistive technology)?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals, including adults, with physical disabilities?
- Who will make repairs to ensure the school remains accessible to students with disabilities? *

STAFFING

- What kinds of licensure will staff need?
- Will the school hire dual-licensed staff?
- Will the school hire part-time or retired special education staff?
- Has the school hired or contracted with a special education director?
- Will the school use student teachers from area universities?
- What type of related services personnel will the school need?
- How will the school obtain these services and contract with these individuals?
- What other types of services will the school need?
 - legal counsel with special education expertise
 - accountants/bookkeepers

CURRICULUM

- How will the school determine the need for supplementary curriculum materials?
- How will the school modify the curriculum to address the unique needs of children with disabilities?
- How can the school train general education teachers to implement the modifications/adaptations to the curriculum for children with disabilities in inclusive classrooms?
- What types of assistive technology will students need?

SERVICE PROVISION

- How will the school provide related services by a special education related service provider (occupational therapist, physical therapist, speech and language pathologist, social worker, psychologist, deaf/hard of hearing provider, orientation and mobility provider, etc.)?
- Who is required to participate in IEP development and implementation?
- What types of special staff or consultants will the school need to implement students' IEPs?

ADMINISTRATION

- Who will be responsible for collecting, managing and reporting data including data related to children with disabilities?
- What process is in place to ensure student discipline data is regularly reviewed and issues of disproportionality in discipline rates by race/ethnicity and special education status are addressed?
- What process is in place to ensure that the data is collected and reported with fidelity when there is administrator turnover?
- Who will administer the special education program?
- What equipment/supplies/programs will be needed to collect and store data and records? How will the school obtain these? What training will be needed to use these efficiently and appropriately?

*Note: Classrooms and other facilities in which students receive special education instruction, related services, and supplementary aids and services must be essentially equivalent to the regular education program; provide an atmosphere that is conducive to learning; and meet the students' special physical, sensory, and emotional needs. The necessary special equipment and instructional materials must be supplied to provide special education instruction, related services, and supplementary aids and services. Minn. R. 3525.1400.

Summary and Key Points

Your activities during the pre-operational period will provide the foundation for the day-to-day operation of your school. As you prepare for the opening, keep children with disabilities in mind. Every time you, your board and your staff get ready to make a decision, ask yourselves if this decision will help every potential student. Cultivate your resources so you can draw on their expertise and experiences.

SECTION 3: OPERATING A CHARTER SCHOOL

This section provides an overview of critical issues and activities related to serving students with disabilities that the charter school should address during day-to-day operation. These may include curriculum implementation, staff and faculty hiring, student enrollment, fiscal issues and school accessibility. Ideally, each of these issues was considered during the pre-approval and operational phases. If not, the school may still have the opportunity to build structures in place so that the school can support all students including those with disabilities.

What are charter school responsibilities to conduct "Child Find" activities?

IDEA requires each state to have in effect policies and procedures to ensure that "all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated." 34 C.F.R. § 300.111(a)(1) (i). See also Minn. R. 3525.1100.

All charter schools must conduct child find activities for their full student population so that children who may need special education are appropriately identified and, if necessary, referred for evaluation. This process is part of the Total Special Education System plan. Minn. R. 3525.1100.

What special education services must a charter school provide?

Every Minnesota school district, including charter schools, is required to have a written Total Special Education System (TSES) plan. A description of what the plan must specifically contain is found in Minnesota Rules 3525.1100. The TSES plan development provides a mechanism for the charter school to ensure it has a comprehensive system in place to provide students with disabilities with a free and appropriate public education. In addition, each local education agency (LEA), which includes a charter school, must annually submit a statement of assurances related to special education programs and fiscal requirements if they apply for state and federal funds under IDEA. This are the [Special Education Finance Forms](#).

As an LEA, a charter school must ensure that each of its students with an IEP receives all special education supports identified in the student's IEP. The range of services and equipment may include related services, e.g., occupational and physical therapy, orientation and mobility training, transportation, or assistive technology. For a more exhaustive list, see 34 C.F.R. §300.34. Each LEA must decide how it meets those needs by hiring staff or contracting with another entity, such as another LEA.

What is a Parent Advisory Council and why is it important?

A parent advisory council is a special education advisory council that provides input on special education issues to its local school district (including charter schools) or in cooperation with other districts of the same cooperative. [Minn. Stat. § 125A.24](#). At least half of the members must be parents of students with disabilities. Each council must meet no less than once each year. The number of members, frequency of meetings and operational procedures can be determined by the charter school.

If a charter school's curriculum was selected specifically for students with a particular disability (e.g., deafness), how can the school include students with other disabilities or those who do not have a disability?

The school needs to determine each student's individual needs. In each case, the involvement of your charter school staff with the IEP team is critical. Although it is impossible for a charter school to plan for every contingency prior to initial enrollment of students, general plans for a new charter school must include a grade-appropriate curriculum to be available to all students, taking into consideration state and local academic standards. See [Minn. Statutes Chapter 120B Curriculum and Assessment](#). In addition, the TSES plan should

include a description of the full range of available educational service alternatives and a description of the available special education instruction and related services. [Minn. R. 3525.1100, subd. 2 B.](#)

The IEP team process will determine if and how the grade level curriculum should be modified based upon the student's needs, and address other delivery strategies, personnel, tools and materials necessary for the student to progress toward his or her IEP goals and objectives and make progress in the general education curriculum.

What should a charter school do if a student with a significant disability has enrolled, and no one on the faculty has experience in the area?

The first step is for charter school staff to review the student's special education records, especially the IEP, and analyze existing capacity to deliver the instruction and related services as described. Just as expected for any other public school if a student moves in with an existing IEP during the school year, the charter school must provide comparable services to those described in the student's previous IEP until the charter school can either adopt and implement the student's previous IEP or, if that does not appear to be possible, convene the IEP team immediately to discuss development of a new IEP for that student. 34 C.F.R. §300.323 (e) and (f). If a student with a disability enrolls in the charter school during the summer, the charter school must ensure the student has an appropriate IEP in place for that student before the start of the school year. 34 C.F.R. §300.323(a).

May a charter school limit the participation of students with disabilities to certain aspects of the school's program?

No. Consistent with civil rights laws and IDEA, students with disabilities must be provided a range of choices in programs and activities that is comparable to that offered to students without disabilities. This includes an opportunity to participate in the nonacademic or extracurricular programs and activities offered at the charter school, to the maximum extent appropriate to the needs of the student. The student's IEP team determines what supplementary aids and services are appropriate and necessary for the student to participate in nonacademic situations. 34 C.F.R. §300.117.

If the charter school plans to develop Individual Learning Plans for all of its students, will it still have to develop IEPs for students with disabilities?

Yes. All students receiving special education services must have an IEP that is developed by an IEP team following the procedural requirements of IDEA and Minnesota's special education law and regulations. The IEP may complement the plans the school will develop for all students. However, the IEP will be the legal guiding document for all special education services provided to a child who has been found to be eligible for special education.

Will the charter school need to report the federal instruction setting for Pre-K-graduation students on IEPs?

Yes. Federal IDEA settings are determined by the amount of time a student with a disability is educated with non-disabled peers and by the extent to which the learner receives special education and related services outside the general education classroom. In general, changing the school location does not result in a change in federal instruction setting.

Federal Instructional Settings for Students Pre-K-Graduation or through age 21

The table below provides the definition for each setting code.

Setting Code	Definition
01	Learners receiving the majority of their education program in regular class. Includes students with disabilities receiving special education and related services outside the regular classroom for less than 21 percent of the school day.
02	Learners receiving education programs in resource room. Includes students with disabilities receiving special education and related services outside the regular classroom for 21-60 percent of the school day.
03	Learners receiving education programs in a separate class that includes students with disabilities receiving special education and related services outside the regular classroom for more than 60 percent of the school day. This DOES NOT include students who receive education programs in public or private separate day or residential facilities.
04	Learners receiving education programs in public separate day school facilities, including students with disabilities receiving special education and related services in public separate day school facilities for greater than 50 percent of the school day. Note: This must be a specially designed facility/program for special education students only.
05	Learners receiving education programs in private separate day school facilities at public expense for greater than 50 percent of the school day. Note: This must be a specially designed facility/program for special education students only.
06	Learners receiving education programs in public residential facilities for greater than 50 percent of the school day. Note: This must be a specially designed facility/program for special education students only, i.e. State Academy for the Deaf and State Academy for the Blind.
07	Learners receiving education programs in private residential facilities at public expense for greater than 50 percent of the school day Note: This must be a specially designed facility/program for special education students only.
08	Learners receiving education programs in homebound/hospital placement. Includes students with disabilities placed in and receiving education in hospital programs or homebound programs.

Setting Code	Definition
30	The child is receiving the majority of hours of special education and related services in a Voluntary Pre-K (VPK) program (and the child attends a Regular Early Childhood Program at least 10 hours per week).
31	The child is receiving the majority of hours of special education and related services in the Regular Early Childhood Program (and the child attends a Regular Early Childhood Program at least 10 hours per week).
32	The child is receiving the majority of hours of special education and related services in some other location such as an ECSE classroom or service provider location (and the child attends a Regular Early Childhood Program at least 10 hours per week).
33	The child is receiving the majority of hours of special education and related services in the Regular Early Childhood Program (and the child attends a Regular Early Childhood Program less than 10 hours per week).
34	The child is receiving the majority of hours of special education and related services in some other location such as an ECSE classroom or service provider location (and the child attends a Regular Early Childhood Program less than 10 hours per week).
39	The child is receiving the majority of hours of special education and related services in a School Readiness Plus (SRP) Program (and the child attends a Regular Early Childhood Program at least 10 hours per week).

Are there special strategies to attract and retain personnel who work with children with disabilities?

Several strategies have proven effective in reducing turnover of special education staff including: creating a mentor system for new special educators, implementing a peer support program and implementing an open-door discussion practice. Research shows that the primary reasons special educators leave their positions are paperwork responsibilities, feelings of isolation from colleagues, high caseloads and multiple responsibilities. Specific upfront discussions about their individual roles in fulfilling the school's mission will help them to understand the school and their ability to help meet school goals. It is extremely important that the school provide opportunities for special educators to participate in regional and state networks and trainings. Minnesota Statutes, section 124E.12, subdivision 6 also provides that “[i]f a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years.” Therefore, recruiting teachers from traditional school districts is an option for charter schools, although such practices will only solve staffing issues in the short term.

What types of special education professional development should the school offer special education staff?

Charter schools need to provide professional development opportunities to a variety of different types of individuals. Instructional staff (including paraprofessionals) need to have ongoing access to training specifically focused on linking instruction, curriculum, and the school's mission to the individual needs of students. Successful practices in personnel retention also stress the importance of involving the staff members in the planning of their own professional development programs. Access to the [successful practice in personnel retention is located on this webpage](#). MDE's website offers training opportunities for special education personnel.

Training on topics related to special education compliance are provided throughout the year through the MDE Charter Center Boot Camp for new charter schools. While the boot camp series of training are designed to prepare newly approved charter schools for their first year of operations, the trainings are also open to interested staff at existing charter schools. For more information about the monthly trainings and links to registration, visit the [Charter Center Boot Camp webpage](#) on the MDE website.

For additional technical assistance in special education compliance, please contact MDE's Compliance and Assistance Team at mde.compliance-assistance@state.mn.us.

A valuable resource on issues related to English learners (EL) who may enroll in your charter school is available on the [MDE website](#). Specific information about the interface of special education and EL is included.

What type of professional development would benefit general education staff, board members and other volunteers?

Charter school board members and other volunteers should be appropriately included in professional development opportunities. They will benefit from targeted, focused and ongoing training in the charter school's responsibilities for students with disabilities including identification, evaluation and provision of ongoing services as well as educational management issues. Given the strong charter school focus on parental involvement, it is important to reach out to parents and family members of students with disabilities to ensure they are part of the activities that involve all parents and meet their needs for information. Equally important, the director should take time to participate in ongoing professional development. [MDE's Division of Compliance and Assistance conducts multiple trainings on various topic areas](#).

How can charter schools recover the costs related to the provision of special education?

Charter schools recover their costs related to providing special education services through the following funding mechanisms:

- General education revenue
- Third party reimbursement
- State special education aid
- IDEA Federal Part B, s 611 and 619

Tuition adjustment to state special education aid for the unreimbursed costs of providing special education services are not covered by state special education aid.

What provisions should schools consider to ensure the transportation of students with disabilities?

Charter schools are responsible for ensuring that all students residing in the district in which the charter school is located are provided transportation to and from school either through their local district or by providing this service directly. The specific requirements are detailed in Minnesota Statutes, section 124E.15 (a)-(d) of the Minnesota charter school law. There is no obligation to provide transportation for students attending the charter school who reside outside of the district where the charter school is located, with the exception of students with disabilities who have an identified need for special transportation.

The school's standard mode of transportation may not meet the needs of a student with a disability. If an IEP team identifies special transportation as a related service on a child's IEP then the charter school will need to arrange for transportation services whether the student lives within or outside of the district where the charter school is located. As your IEP team considers a student's special need for transportation it is critical that team members understand the difference between a student's need for transportation to get to school (common for all students) and a student's need as a result of a disability which results in the need for special transportation as a related service.

What should a charter school do if a teacher or parent suspects a child might benefit from special education?

Parents and teachers must be given clear information about the procedures that will be followed in your charter school concerning the rights of a child to an evaluation for special education. Parents and teachers must also be fully aware of other services your school provides (e.g., a student assistance team to provide help) prior to a formal special education evaluation referral. Minn. Stat. § 125A.56.

A charter school that has a state-approved voluntary pre-kindergarten/school readiness plus preschool program is responsible for providing the special education evaluation for students enrolled in the charter school's voluntary pre-K/school readiness plus preschool program (i.e., child find) no different than it is responsible for students enrolled in grades K-12. This includes three through five year old children, whether or not the child is generating voluntary pre-K/school readiness plus funding. This does not apply to charter schools that are not state-approved voluntary pre-K/school readiness plus sites because other charter school preschool programs are not eligible to have the grade level distinction of voluntary pre-K.

[Federal and state law and regulations](#) contain numerous specific requirements related to procedural safeguards and your teachers, parents and board members should be made familiar with them. Further information and a copy of the procedural safeguards notice and due process forms can be found on [MDE's website](#).

Every charter school should have clear procedures in place for attending to the needs of a student who is not progressing academically or is presenting other kinds of problems. Putting such procedures in place should be a part of planning before start-up so that they do not have to be developed in a crisis situation.

What are the charter school's responsibilities regarding special education reporting requirements?

Each charter school has reporting requirements to MDE and, in most cases, to their authorizer organization. Reporting includes financial, staffing, student discipline incident reporting, restrictive procedure reports, and child count data. Charter school administration should work together with their special education director to ensure that they understand and fulfill all reporting requirements regarding special education. More information is available on MDE's [data submissions page](#).

Who is responsible for development and revision of student IEPs?

The charter school is responsible for IEP development and revision unless the child is participating in a state approved 3 or 4 year old preschool program other than Voluntary Pre-K or School Readiness Plus.

Who should be involved in the development of a student IEP?

IDEA requirements provide that IEPs are to be developed by a team whose membership includes:

- a parent of the student with a disability
- one regular education teacher of the student
- one special education teacher of the student
- an administrative representative of the school
- individuals who can interpret the instructional implications of evaluation results
- other individuals with knowledge and expertise regarding the student
- the student (as appropriate)

Additional information about excusal of a team member is described in 34 C.F.R. §300.321 (e). [See also Q & A Individualized Education Program Team Meeting Membership](#). IDEA also allows for parent participation in a meeting by conference call or other electronic means as outlined in 34 C.F.R. §§ 300.322 and 300.328.

What does the IEP need to include?

Based upon federal and state law requirements, a student's IEP must include:

- A statement of the child's present levels of academic and functional performance, including:
 - How the child's disability affects the child's involvement and progress in the general curriculum (the same curriculum as for students without disabilities); or
 - For preschool children, as appropriate, how the child's disability affects the child's participation in appropriate activities;
- A statement of measurable annual goals and benchmarks or objectives designed to meet the student's needs;
- A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child and a statement of the program modifications or supports for school personnel that will be provided for the child to enable the student to be involved and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities;
- An explanation of the extent, if any, to which the child will not participate with non-disabled children in the general education class, and extracurricular and other nonacademic activities;
- A statement of any individual accommodations that are needed to measure performance on state and districtwide assessments;
- If the IEP team determines that the child will not participate in a particular state or district-wide assessment, a statement of why that assessment is not appropriate for the child and how the child will be assessed;
- The projected date for the beginning of the services and modifications and the anticipated frequency, location and duration of those services and modifications;

- A statement of how the child's progress toward the annual goals will be measured; how the child's parents will be regularly informed of their child's progress toward the annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year;
- During grade nine, appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment and where appropriate, independent living skills and transition services (including courses of study) needed to assist the student in reaching those goals;
- By age 17, documentation that the student and student's parents have been informed of the rights that will transfer to the student at age 18;
- A statement of the student's need for and the specific responsibilities of a paraprofessional, if applicable;
- Any documentation required in Minnesota Statutes, section 125A.0942: [Standards for Restrictive Procedures](#)
- At least annually, the IEP team's determination of whether or not the student is in need of Extended School Year (ESY) services.

Under the IDEA, students with disabilities must be provided a free appropriate public education by their charter schools. The IEP lists the special education and related aids and services the student's IEP team has determined are necessary for the student to receive a free appropriate public education. The failure to provide the services in conformity with a student's IEP is a violation of special education law. 34 C.F.R. §§ 300.17 and 300.101.

If the IEP is also to be used as a Personal Care Assistance (PCA) Plan of Care for purposes of billing Minnesota Health Care Programs and Medical Assistance, additional elements and information are required. For further information, visit the Minnesota Department of Education third-party reimbursement information [website](#).

Is there a specific form that must be used for IEPs?

No. Every district can select their own IEP form as long as it meets federal and state requirements.

Will the charter school have to develop an IEP for every student with a disability?

Yes. An IEP must be developed for every student found eligible and in need of special education services, consistent with IDEA and state statutes and rules.

What is the charter school's responsibility when a student with a disability transfers to another school?

As with any other student, when a student with a disability transfers to another school, you must ensure timely transfer of all records. Minn. Stat. § 120A.22, subd. 7. At the point that the student is formally no longer enrolled in the charter school, that charter school no longer has a responsibility to provide services to the student.

Resources

The following is a partial list of resources that will be useful to you during the planning and operation of your charter school.

Governmental Agencies and Offices:

[Minnesota Department of Education webpage](#)

- [Charter Center mde.charterschools@state.mn.us](mailto:mde.charterschools@state.mn.us)
- [Special Education mde.special-ed@state.mn.us](mailto:mde.special-ed@state.mn.us)
- [Special Education Compliance and Assistance mde.compliance-assistance@state.mn.us](mailto:mde.compliance-assistance@state.mn.us)
- Early Childhood Special Education mde.ecse@state.mn.us
- Voluntary Pre-K mde.vpk@state.mn.us
- School Readiness Plus mde.schoolreadinessplus@state.mn.us

[University of Minnesota's Institute on Community Integration page](#)

United States Department of Education: Several offices in the U.S. Department of Education maintain websites that may be helpful to charter school applicants.

- [Office of Special Education Programs \(OSEP\)](#) maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education
- [Office of Innovation and Improvement](#)

National Special Education Networks: The following networks address general and issues related to special education in charter schools specifically.

- [National Association of State Directors of Special Education \(NASDSE\)](#): NASDSE's website provides a wide array of special education resources including a copy of the final report of Project SEARCH, a national study on special education in charter schools and documents on critical issues in special education produced by NASDSE's Project Forum.
- [Council for Exceptional Children \(CEC\)](#): CEC is the largest international professional organization dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities and/or the gifted. CEC sets professional standards, provides professional development and helps professionals obtain conditions and resources necessary for effective professional practice.
- [Parent Advocacy Coalition for Educational Rights \(PACER\)](#): PACER is a parent advocacy organization dedicated to expanding opportunities and enhancing the quality of life of children and young adults with disabilities and their families, based on the concept of parents helping parents. PACER's website has a variety of resources developed to assist parents of children with disabilities and may be helpful in informing charter school operators regarding their obligations to parents of children with disabilities.
- [Special Education News](#): This private newsletter provides in-depth, up-to-date news related to educating students with disabilities.

National Charter School Networks

- [National Alliance for Public Charter Schools](#): This organization's goal is to increase public support and political understanding of charter schools and to develop policies that support high-quality public education options for families.
- [National Association of Charter School Authorizers](#): This organization renders support and technical assistance to those who authorize or authorize charter schools.
- [United States Charter Schools](#): This is a rich resource supported by the United States Department of Education.

Summary and Key Points

In daily operation of the charter school, the school may find a "challenge of the moment" related to students with disabilities. With careful planning and strategies in place for handling special education issues, they will not reach the crisis stage. Occasionally, take the time to revisit the charter school mission and vision and have specific discussions on how all students and staff are doing. Remember to consult with resources available. Taking time to address students with disabilities in a proactive and positive manner will have significant payoffs for students, school and the community.

SECTION 4: ACCOUNTABILITY

Accountability refers to the policies and procedures that charter schools must abide by, including federal and state special education law, the Minnesota charter school law and authorizer requirements. While state charter laws may release charter schools from some state requirements, charter schools are generally obligated to collect and report the same information that every public school must report, such as statistical reports regarding students, standardized tests, and budgets. This includes data regarding special education as part of the general statistical reports that are often used to generate state and federal categorical funds for special education. Examples include staff licensure and assignment reporting and child count reports as well as more procedural documents such as IEPs and evaluations that would be reviewed as part of state special education monitoring.

The best way to prepare to be accountable is to discuss with the charter school's authorizer what policies and procedures are needed prior to charter school application and well before the school opens. It will be essential to get oriented to the data requirements related to special education that schools are expected to collect, and any required means of collecting and storing such data. A comprehensive electronic information management system and consistent, detail-oriented staff are two effective ways to handle this responsibility. The type of data to be compiled includes demographic information on students, academics, IEPs (content and timelines), attendance records, enrollment data and assessment information. A secure filing system to store the paper documents is also critical to ensure security and privacy of confidential and other critical data/reports.

What type of special education accountability provisions do schools need to consider?

First and foremost, schools need to address federal and state requirements. Stay in close contact with the special education director and MDE to learn of updates in IDEA, and ESSA implementation and implications for the charter school. At a minimum, schools must be able to document specific outcomes of students with disabilities, fiscal practices related to special education, timelines related to development and implementation of special education services, qualifications of faculty and staff and resolution of parent complaints.

Under ESSA, there are new reporting requirements for the state, district and school report cards. Part of the new requirements include measures of school quality, climate and safety. The data reported on Minnesota's North Star Excellence and Equity System will include rates of in-school suspensions, out-of-school suspensions, expulsions, referrals for law enforcement, chronic absenteeism, and incidents of violence, including bullying and

harassment.¹ The data displayed will include a breakdown by special education status and race/ethnicity. It is important that a charter school have fidelity checks in place when they report their student discipline data through the disciplinary incident reporting system (DIRS). In addition, it is important that there are processes in place to regularly review the data and disciplinary practices to determine if there are disciplinary disproportionality red flags based upon a student's special education status and race/ethnicity.

Minnesota's ESSA plan includes five accountability indicators and special education students are included as a group for each accountability measure. In addition, In order to improve instruction and student outcomes for all students, including students with disabilities, Minnesota's ESSA plan supports more coordination between Title I and special education, and school improvement efforts providing identified schools with professional development around supporting students with disabilities for both general and special education educators. For more information about and ESSA and Minnesota's state plan and implementation efforts, visit the [Minnesota State Plan page](#).

ESSA includes a parent and family engagement section. A charter school or school district that receives funds under ESSA must develop a written parent and family engagement policy developed with meaningful consultation with parents of participating children. That written policy must address the importance of communication between teachers and parents on an ongoing basis, including reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.² For charter schools that do not receive funding through ESSA, it is best practice to develop a policy to address parental observations of their child's classroom. While IDEA does not address parental observations, schools must ensure parents are given the opportunity to meaningfully participate in the development of their child's individualized education programming. In a 2004 letter, OSEP encouraged school district personnel and parents to work together in ways that meet the needs of the parents and the school, including providing opportunities for parents to observe their children's classrooms and proposed placement options. ³

What types of data should schools collect to complete required reports?

Charter schools are required to maintain and submit essentially the same data and statistical reports as traditional school districts. They are required to maintain and report to MDE essential data elements on students, staff and educational programs as required by Minnesota Statutes, section 125B.07, subdivision 6, and maintain and report financial data. A school should consider these requirements as it establishes its record-keeping systems. It is critical that the software that the school chooses provides all data items needed both locally and for state reporting.

It is important to include provisions for special education in the development of data collection and management information systems. This will strengthen school infrastructure to provide effective special education services that meet legal mandates.

¹ Every Student Succeeds Act of 2015, Pub. L. 114-95 § 114 Stat. 1177 (2015-16). See Section 1111 (h) (C).

² ID . See Section 1116 (d).

³ Letter to Mamas, OSEP,(May 26, 2004). 42 IDELR 10, 104 LRP 45071.

Is there added accountability specifically for special education?

Yes. Charter school directors must understand that all schools have an added level of formal accountability related to special education. The U.S. Department of Education carries out an extensive monitoring of states and states must develop and carry out a formal monitoring process for each of its local districts.

In Minnesota, all districts, including charter schools, are monitored on a regular basis by MDE. For more information please look at the [Minnesota special education monitoring page](#).

Charter schools are responsible for correcting any noncompliance when found. Authorizers, charter school directors, and special education directors of charter schools are notified by MDE when a charter school will be monitored for compliance with special education laws, and each receives a copy of the final monitoring report. When a contact is available, business managers are also included on fiscal monitoring notifications and reports.

What resources are available to prepare charter schools to be successful in special education monitoring?

Technical assistance in this area may be obtained from your special education director and MDE.

[Question and answer guidance documents](#) have been developed by the MDE [Division of Compliance and Assistance](#).

Summary and Key Points

Accountability has become a cornerstone of school improvement efforts and it is a basic principle of the charter school movement. At a minimum, these include monitoring, files and data management, record keeping, procedural (special education) compliance, state charter law compliance and charter school contract compliance. Charter schools should work with their authorizer to create an accountability plan for their school that includes special education. At the heart of this is a school's ability to demonstrate student progress, maintain qualified personnel and document instructional and financial practices.

SECTION 5: RENEWAL, NON-RENEWAL AND TERMINATION

At the end of the charter school's contract term, the three options for its authorizer are renewal, mutual agreement to not renew, or termination. Note: an authorizer may terminate a contract for cause at any time.

What do these terms mean?

- Renewal occurs at the expiration of the contract term. A contract can be renewed for up to five years.
- Non-renewal for cause occurs at the expiration of a contract term, when a charter school seeks renewal to operate after its approved period and the authorizer does not grant a renewal charter. As a result of not having its charter renewed, the school loses its authority to operate and exist as a public school.
- Mutual agreement to not renew occurs at the expiration of a contract term. Minn. Stat. §124E.10, subd. 5.
- Termination of a charter occurs during the contract's term and involves a proactive decision by an authorizer to terminate a school's charter and its legal authority to operate as a public school. In

general, termination occurs when a charter school does not meet the obligations articulated in the application or subsequent contracts with the authorizer. Minn. Stat. §124E.10, subd. 4(b).

How will special education be included in the renewal of the school's charter?

An authorizer's renewal evaluation process will include some analysis of special education practices. The renewal will also focus on financial, academic, personnel, facilities and data systems. Having special education infrastructure in place and operating smoothly will help prepare the school for renewal activities.

Could failure to meet special education requirements be cause for not renewing a charter?

Yes. Lack of compliance with federal statutes (including special education) can result in revocation or non-renewal for cause of a charter.

How does the charter school know if its authorizer has specific renewal policies and processes that address special education?

When unsure, ask! The charter school contract with the authorizer contains information regarding how special education will be provided and a description of the financial parameters within which the school will operate in providing those services. This is an area discussed with the authorizer during planning, start-up and operational phases. Find out what requirements the authorizer will expect the school to meet as a condition for renewal. Other charter schools that are authorized by the same entity may also be an invaluable source of information regarding renewal.

If the charter school closes, what considerations do schools have relative to students with disabilities?

Legally the school will be required to facilitate the transfer of all funds, records (including student and financial) and equipment (instructional and adaptive) for all students, including those with disabilities. Check with the special education director, the authorizer and MDE about specific guidelines and policies in Minnesota. Federal guidelines also provide information on property disposition. Finally, the contract with the authorizer contains a specific closing plan that provides information as to each step a charter school should take if the school closes.

What is the legal obligation after a charter school has closed?

After the school closes, there will be requirements to conduct a final accounting of all funds spent by the school pursuant to Minnesota Statutes, section 124E.25, subdivision 1(b). Note that you will need to retain access to all documents, physical or electronic, related to expenditures and enrollment. Keep in touch with the appropriate authorities and legal counsel to avoid the possibility of legal ramifications.

What is the charter school's responsibility for transferring student records upon closure?

Upon closure, the charter school has 10 business days to transfer all student records back to each student's school district of residence, including the general education cumulative file, the special education file, IEPs and the students' MARSS numbers. Minn. Stat. § 124E.10, subd. 6(b).

Perhaps the most important consideration in records transfer is ensuring the privacy of student information. [The Family Educational Rights and Privacy Act \(FERPA\)](#) (20 U.S.C. § 1232g et seq.) provides guidance on requirements

in the transfer of educational records that contain personally identifiable information of your students. Careful attention to sections pertaining to disclosure of information without the written consent of the parent or eligible student will help ensure compliance with requirements of state and federal law. See also [Minnesota Statutes Chapter 13 Government Data Practices](#).

How should the closing charter school dispose of any special equipment that was purchased for students with disabilities?

Charter schools must follow the same state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money as other public schools in Minnesota.

In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or be returned to the student's district of residence. Disposing of equipment purchased with federal special education dollars is dictated by federal requirements that may be different from what is typically articulated in a charter contract. Check with state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

Summary and Key Points

Each charter school and its board of directors have legal responsibilities to safeguard the rights of students, the privacy of records and the security of equipment. Hopefully, these responsibilities were clarified with the charter school authorizer during the initial contracting phase and subsequent contracts. If not, do so now to ensure that everyone involved has a clear understanding of roles and responsibilities.

MINNESOTA SPECIAL EDUCATION PRIMER GLOSSARY

SECTION 1: INTRODUCTION AND PURPOSE OF GLOSSARY

The purpose of this document is to provide charter school authorizers, directors, staff and parents an easy to use glossary on special education terms, acronyms, and definitions.

Special education is a complex component of the public education system. It is the hope of the developers of this document that this tool will providing a quick and easy reference to terms associated with the delivery of special education and related services in Minnesota.

SECTION 2: ACRONYMS

Because of the changing nature of legislation and special education programming and policy, [a list of commonly acronyms commonly used in special education](#) is maintained on the website.

504: Section 504 of the Rehabilitation Act of 1974

ADA: Americans with Disabilities Act

ADHD: Attention Deficit Hyperactivity Disorder

ASD Autism Spectrum Disorders

AT Assistive Technology

AYP Adequate Yearly Progress

BOSA: Board of School Administrators

BOT: Board of Teaching

BVI: Blind/Visually Impaired

CEIS: Coordinated Early Intervening Services

CFR: Code of Federal Regulations

CSP: Charter Schools Program (U.S. Department of Education)

DAPE: Developmental Adapted Physical Education

DB: Deaf-Blind

DCD: Developmental Cognitive Disability

DD: Developmental Delay

DHH: Deaf and Hard of Hearing

DSM: Diagnostic and Statistical Manual of Mental Disorders

EBD: Emotional Behavioral Disorder

ECSE: Early Childhood Special Education (Birth-Age 5)

EIS: Early Intervention Services

EL: English learners

ESEA: Elementary and Secondary Education Act

ESSA: Every Student Succeeds Act (replaces No Child Left Behind (NCLB))

ESY: Extended School Year

FAPE: Free Appropriate Public Education

FBA: Functional Behavioral Assessment

FERPA: Family Educational Rights and Privacy Act

HIPAA: Health Insurance Portability and Accountability Act of 1996. Also known as Public Law 104-191

HOUSSE: High Objective and Uniform State System of Evaluation

IDEA: Individuals with Disabilities Education Act

IEP: Individualized Education Program

IFSP: Individualized Family Service Plan

LD: Learning Disabilities

LEA: Local Education Agency

LEP: Limited English Proficient

LRE: Least Restrictive Environment

MARSS: Minnesota Automated Reporting Student System

MASE: Minnesota Administrators for Special Education

MASA: Minnesota Association of School Administrators

MASBO: Minnesota Association of School Business Officials

MDE: Minnesota Department of Education

MH: Mental Health

NACSA: National Association of Charter School Authorizers

NAEP: National Assessment of Education Progress

NAPCS: National Alliance for Public Charter Schools

NASDSE: National Association of State Directors of Special Education

NIMAS: National Instructional Materials Accessibility Standard

NRT: Norm-referenced test

OCR: Office for Civil Rights (U.S. Department of Education)

OHD: Other Health Disabilities

OSEP: Office of Special Education Programs (U.S. Department of Education)

OSERS: Office of Special Education and Rehabilitation Services (U.S. Department of Education)

OT: Occupational Therapist or Occupational Therapy

PAYS: computerized MDE system used to distribute and report on the federal funds

PACER: Parent Advocacy Coalition for Educational Rights

PI: Physically Impaired

RRC: Regional Resource Center

RTI: Response to Intervention

SEA: State Education Agency

SEAP: Special Education Advisory Panel

SLD: Specific Learning Disability

SMI: Severely Multiply Impaired

SRBI: Scientific, Research-Based Intervention

SRP: School Readiness Plus

STAR: Staff Automated Reporting

SW-PBIS: School wide Positive Behavioral Interventions and Supports

TBI: Traumatic Brain Injury

TIES: Technology and Information Educational Services

TSES: Total Special Education System

UFARS: Uniform Financial Accounting and Reporting Standards

VI: Visually Impaired

VPK: Voluntary Pre-Kindergarten

SECTION 3: DEFINITIONS

Section 504

Section 504 of the Rehabilitation Act of 1973, as amended, is a federal civil rights statute that assures individuals will not be discriminated against based on their disability. All school districts, because they receive federal funding, are responsible for implementation of this law. 29 U.S.C. § 701, et seq. Any learner with a physical or mental impairment that significantly impacts a major life activity, whether or not [s]he receives special education services, is protected by this law.

AMERICANS WITH DISABILITIES ACT (ADA)

The ADA gives civil rights protections to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. 42 U.S.C. § 12101, et seq.

ACHIEVEMENT TEST

An achievement test is an instrument designed to efficiently measure the amount of academic knowledge and/or skill a student has acquired from instruction. Such tests provide information that can be compared to either a norm group or a measure of performance.

ADEQUATE YEARLY PROGRESS (AYP)

AYP has been eliminated under the Every Student Succeeds Act (ESSA), but had been a measure of yearly progress toward achieving state academic standards. It represented the minimum level of improvement that states, school districts and schools had to achieve each school year under the No Child Left Behind Act (NCLB).

AGGREGATION

The total or combined performance of all students for reporting purposes.

ALIGNMENT

Alignment is the similarity or match between or among content standards, curriculum, instruction, and assessments in terms of knowledge and skill expectations.

ALTERNATE ASSESSMENT

Alternate Assessment is the term used for tests that gather information on the standards-based performance and progress of students whose disabilities preclude their valid and reliable participation in general assessments. Alternate assessments measure the performance of a relatively small population of students who are unable to participate in the general assessment system, with or without accommodations, as determined by the IEP Team.

ASSESSMENT

Assessment is the process of collecting information about individuals, groups, or systems that relies upon a number of instruments, one of which may be a test. Assessment is not limited to the administration of tests, but may also include observation and reviews of education records.

ASSISTIVE TECHNOLOGY DEVICE (AT)

An assistive technology device is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. Minn. Stat. § 125A.57. The term does not include a medical device that is surgically implanted, or the replacement of such device. 34 C.F.R § 300.5.

ASSISTIVE TECHNOLOGY SERVICE

An assistive technology service is any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. 34 C.F.R. § 300.6. It includes evaluation, purchasing, training and other services related to the acquisition and use of such devices.

ATTENTION DEFICIT (HYPERACTIVITY) DISORDER (ADHD or ADD)

ADHD and ADD are conditions with the principal characteristics of inattention, hyperactivity, and impulsivity. It becomes apparent in some children in the preschool and early school years and can continue into adulthood. These symptoms appear early in a child's life. Because many normal children may have these symptoms, but at a low level, or the symptoms may be caused by another disorder, it is important that the child receive a thorough examination and appropriate diagnosis by a well-qualified professional. Under the Individuals with Disabilities Education Act (IDEA), a child may be eligible for special education under the category of other health impairment. 34 C.F.R. § 300.8(c) (9) or Other Health Disabilities (Minn. R. 3525.1335).

AUTHORIZER

An authorizer is a public oversight entity approved by the state to authorize one or more charter schools. An authorizer's fundamental role is to hold a school accountable for the terms of its performance contract – the "charter." The primary purpose of Minnesota charter schools is to improve all pupil learning and all student achievement. Minn. Stat. § 124E.101, subd. 1. Through effective oversight, authorizers hold charter schools accountable for realizing this purpose.

AUTISM SPECTRUM DISORDERS (ASD)

ASD means a range of pervasive developmental disorders, with onset in childhood, that adversely affect a pupil's functioning and result in the need for special education instruction and related services. ASD is a disability category characterized by an uneven developmental profile and a pattern of qualitative impairments in several areas of development, including social interaction, communication, or the presence of restricted, repetitive, and stereotyped patterns of behavior, interests and activities. These core features may present themselves in a wide variety of combinations that range from mild to severe, and the number of behavioral indicators present may vary. ASD may include Autistic Disorder, Childhood Autism, Atypical Autism, Pervasive Developmental Disorder Not Otherwise Specified, Asperger's Disorder, or other related pervasive developmental disorders. Minn. R. 3525.1325. Referred to as Autism in federal language. 34 C.F.R. § 300.8(c) (1) (i).

BIAS (test bias)

Bias, when used in a statistical context, is a systematic error in a test score. In discussing test fairness, bias is created by not allowing certain groups into the sample, not designing the test to allow all groups to participate equitably, selecting discriminatory material, testing content that has not been taught, etc. Bias usually favors one group of test takers over another, resulting in discrimination.

CHARTER SCHOOLS

Charter schools are independent public schools designed and operated by educators, parents, community leaders, educational entrepreneurs and others. They are chartered by an approved authorizer that monitors their quality and effectiveness, allowing them to operate outside of the traditional system of public schools.

CHILD FIND

Child find is every school's continuous obligation to identify, locate, and evaluate all children with disabilities who are in need of special education and related services under IDEA. 34 C.F.R § 300.111 and Minn. R. 3525.1100.

CHILD WITH A DISABILITY

For purposes of this document, a child with a disability is a child who has been evaluated in accordance with IDEA regulations 34 C.F.R. §§ 300.301 through 300.311 and is determined to have a disability and require special education services according to criteria in Minnesota Rules, Chapter 3525.

COORDINATED EARLY INTERVENING SERVICES (CEIS)

CEIS is a provision of the 2004 reauthorization of the IDEA. CEIS are services provided to students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral supports to succeed in a general education environment. The IDEA (20 U.S.C. § 1413(f)(2)) and its regulations (34 C.F.R. § 300.226(b)) identify the activities that may be included as CEIS: (1) professional development for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and (2) providing educational and behavioral evaluations, services and supports, including scientifically based literacy instruction.

CRITERION-REFERENCED TESTS (CRT)

CRTs are tests that measure specific skill development as compared to a predefined absolute level of mastery of that skill.

CURRICULUM-BASED ASSESSMENTS (CBA)

CBA's are assessments that mirror instructional materials and procedures related to the curriculum resulting in an ongoing process of monitoring progress in the curriculum and guiding adjustments in instruction, remediation, accommodations or modifications provided to the student.

DEAF-BLIND (DB)

DB means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. 34 C.F.R. § 300.8(c) (2) and Minn. R. 3525.1327.

DEAF AND HARD OF HEARING (DHH)

DHH means a diminished sensitivity to sound, or hearing loss that is expressed in terms of standard audio-logical measures. Hearing loss has the potential to affect educational, communicative, or social functioning that may

result in the need for special education instruction and related services. Minn. R. 3525.1331. Referred to in federal language as deafness and hearing impairment. 34 C.F.R. § 300.8(c) (5).

DEVELOPMENTAL ADAPTED PHYSICAL EDUCATION (DAPE)

DAPE is specially designed physical education instruction and services for pupils with disabilities who have a substantial delay or disorder in physical development and are determined by the IEP team to be in need of DAPE. Minn. R. 3525.1352, subd. 2B. Special education instruction for pupils age 3 through 21 may include development of physical fitness, motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, individual and group games, and sports. Students with conditions such as obesity, temporary injuries and short-term or temporary illness or disabilities are termed special needs students. Special needs students are not eligible for developmental adapted physical education. Provisions and modifications for these students must be made within regular physical education. Minn. R. 3525.1352. Referred to in federal language as Special physical education. 34 C.F.R. § 300.108.

DEVELOPMENTAL COGNITIVE DISABILITY (DCD)

DCD means a condition resulting in significantly below average intellectual functioning and concurrent deficits in adaptive behavior that adversely affects educational performance and requires special education and related services. DCD does not include conditions primarily due to a sensory or physical impairment, traumatic brain injury, autism spectrum disorders, severe multiple impairments, cultural influences, or inconsistent educational programming. Minn. R. 3525.1333. Referred to as mental retardation in federal language. 34 C.F.R. § 300.8(c) (6).

DEVELOPMENTAL DELAY (DD)

In Minnesota, DD refers to a child with a disability for children aged three through six who is experiencing developmental delays, as defined by the state and as measured by appropriate diagnostic instruments and procedures, in two or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, needs special education and related services. Minn. R. 3525.1351.

DISAGGREGATE

Disaggregate means to separate a whole into its parts. Under ESSA, this term means that test results are sorted into groups of students who are economically disadvantaged, are homeless, are in foster care, are from military families, are from racial and ethnic minority groups, have disabilities, or have limited English fluency.

EARLY CHILDHOOD SPECIAL EDUCATION (ECSE)

ECSE is a Minnesota licensure category – a licensed teacher of early childhood special education is authorized to provide specifically designed instruction to children, birth through age six, who exhibit a broad range of developmental delays or disabilities or medical complications and to collaborate and consult with families, other classroom and special education teachers, and specialized service providers in designing and implementing IEP plans for students. Minn. R. 8710.5500.

ECSE is also one of three types of classroom settings: (1) Home includes the home of the pupil and parent or relative, or a licensed family child care setting in which the pupil is placed by the parent; (2) District ECSE classroom includes classrooms that are located in district schools or community center buildings housing elementary students or preschool-aged children who do not have disabilities; (3) Community- based programs include licensed public or private nonsectarian child care programs other than a family child care setting, licensed public or private nonsectarian early education programs, community cultural centers, Head Start programs, and hospitals. A school district must provide direct or indirect special education services by district special education staff to a pupil attending a community-based program. Minn. R. 3525.2335, subp. 2(B) (3).

EARLY INTERVENTION SERVICES

The term early intervention is used to describe the programs and services provided to infants and toddlers under Part C of IDEA who are experiencing developmental delays or have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

EMOTIONAL/BEHAVIORAL DISORDER (EBD)

EBD means an established pattern of one or more of the following emotional or behavioral responses: withdrawal or anxiety, depression, problems with mood, or feelings of self-worth; disordered thought processes with unusual behavior patterns and atypical communication styles; or aggression, hyperactivity, or impulsivity. The established pattern of emotional or behavioral responses must adversely affect educational or developmental performance, including intrapersonal, academic, vocational, or social skills; be significantly different from appropriate age, cultural, or ethnic norms; and be more than temporary, expected responses to stressful events in the environment. The emotional or behavioral responses must be consistently exhibited in at least three different settings, two of which must be educational settings, and one other setting in the home, child care, or community. The responses must not be primarily the result of intellectual, sensory, or acute or chronic physical health conditions. Minn. R. 3525.1329. Referred to as emotional disturbance in federal language. 34 C.F.R. § 300.8(c) (4) (i).

ERRORS OF MEASUREMENT

Errors of measurement are the differences between observed scores and the theoretical true score, the amount of uncertainty in reporting scores, the degree of inherent imprecision based on test content, administration, scoring, or examinee conditions within the measurement process that produce errors in the interpretation of student achievement.

EVIDENCED-BASED PRACTICES (See Scientific, Research-based Intervention)

EXTENDED SCHOOL YEAR (ESY)

ESY refers to special education and related services that are provided to a child with a disability beyond the normal school year of the public agency and in accordance with the child's IEP, at no cost to the parents of the child and meets the standards of the State Education Agency (SEA). Minn. Stat. § 125A.14 and Minn. R. 3525.0755.

EXTENDED STANDARDS

Extended standards are content standards that have been expanded while maintaining the essence of the standards, thereby ensuring that all students with significant cognitive disabilities have access to, and make progress in, the general curriculum.

FLEXIBLE LEARNING YEAR

A flexible learning year program means any district plan approved by the commissioner that utilizes buildings and facilities during the entire year or that provides forms of optional scheduling of pupils and personnel during the learning year in elementary and secondary schools or residential facilities for children with a disability. Minn. Stat. § 124D.121.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

FAPE is special education and related services that are: provided at public expense, under public supervision and direction, and without charge; meet the standards of the SEA; include an appropriate preschool, elementary school, or secondary school education in the state involved; and are provided in conformity with an IEP that meets the requirements of IDEA regulations. 34 C.F.R. §§ 300.320 through 300.324, 34 C.F.R. §§ 300.17 and 300.101.

HIGH STAKES TESTING

A test for which important consequences are attached to the results for students, teachers, schools, districts and states. Consequences may include promotion, graduation, rewards or sanctions.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA).

HIPAA has several parts. A major component within Title II, Subtitle F mandates measures to protect the security and privacy of personally identifiable health care information. See 42 U.S.C. § 300gg and 29 U.S.C. § 1181 et seq. and 42 U.S.C. § 1320d et seq.

INCLUSION

Under special education, inclusion is an approach that stresses educating students with disabilities, regardless of the type or severity of that disability, in the regular classrooms of their neighborhood schools and delivering special education and related services within the classroom to the extent possible.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

An IEP is a written statement for a child with a disability that is developed, reviewed and revised in a meeting in accordance with IDEA regulations. 34 C.F.R. §§ 300.320 – 324.

INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

An IFSP is a written plan for providing early intervention services eligible under Part C of IDEA.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

IDEA is the major federal law related to special education that provides funding to states and sets specific procedural requirements for the identification and education of students with disabilities. 20 U.S.C. § 1400 et seq.

INTEGRATED DEPARTMENT OF EDUCATION AIDS SYSTEM (IDEAS)

IDEAS is the Minnesota computerized system used to distribute and report on the state funds provided to Minnesota school districts, charter schools and cooperatives.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

LRE is an IDEA requirement that, to the maximum extent appropriate, school districts must educate students with disabilities in their least restrictive environment. For example, students with disabilities must be educated in the regular classroom with appropriate aids and supports along with their non-disabled peers in the school they would attend if not disabled, unless the student's IEP requires some other arrangement. 34 C.F.R. § 300.114.

LINKAGE

Linkage is the type of connection that is mandated by state law or voluntarily established between a charter school and a traditional LEA.

LOCAL EDUCATION AGENCY (LEA)

The LEA is a public institution (often referred to as a school district) that has administrative control and direction of one or more public elementary or secondary schools. The term includes a public charter school that is established as an LEA under state law.

MATRIX SAMPLING

Matrix sampling is a measurement technique organizing a large set of test items into a number of relatively short item subsets, each of which then is administered to a subsample of test takers, thereby avoiding the need to administer all items to all examinees.

MINIMUM n

Under both NCLB and ESSA, "minimum n" is either the smallest number of students a state has determined can produce statistically reliable results for a subgroup, or the smallest number of students to be included in public reporting that will not violate the requirements of confidentiality for the students involved.

MINNESOTA AUTOMATED REPORTING STUDENT SYSTEM (MARSS)

MARSS is Minnesota's individual student record system that collects enrollment and demographic data on each public school student. Data collected via MARSS is used for a variety of purposes including state and federal funding, accountability, and meeting federal reporting requirements.

MODIFICATION

Modification is a change to the testing conditions, procedures, and/or formatting so that measurement of the intended construct is no longer valid and the score cannot be aggregated with scores from tests administered under standard conditions.

NATIONAL ASSESSMENT OF EDUCATION PROGRESS (NAEP)

NAEP is the only nationally representative and continuing assessment of what students know and can do in various subject areas. Students with disabilities participate according to [NAEP criteria](#).

NEW TO THE PROFESSION

Based upon former NCLB non-regulatory guidance issued by the United States Department of Education, Minnesota considers teachers to be new to the profession until they have taught a minimum of one year. MDE identifies teachers who are new to the profession by using data reported by school districts via the Staff Automated Reporting System (STAR) each October 1. In addition, IDEA regulations identify a fully licensed general education teacher who subsequently becomes fully licensed as a special education teacher as a “new” special education teacher when first hired as a special education teacher. 34 C.F.R. § 300.18(g) (2).

NO CHILD LEFT BEHIND ACT (NCLB)

NCLB refers to a former reauthorization of the Elementary and Secondary Education Act. 20 U.S.C. § 6319 et seq. On March 31, 2015, Minnesota was granted a waiver from certain provisions of the NCLB Act. Minnesota has received similar waivers yearly since 2012. On December 10, 2015, President Obama signed into law the Every Student Succeeds Act (ESSA) which reauthorized ESEA and supplanted NCLB.

NORM-REFERENCED TESTS (NRT)

An NRT is a standardized test designed, validated and implemented to rank a student’s performance by comparing that performance to the performance of that student’s peers.

OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP)

OSEP is that section of the U. S. Department of Education that is responsible for the implementation of the IDEA. It carries out activities related to state eligibility for IDEA funds and monitoring state compliance with IDEA requirements.

ORAL/AURAL

Teacher of oral/aural deaf education is a Minnesota teacher licensure separate from a teacher of deaf or hard of hearing who provides services for students only in oral/aural deaf education programs or itinerant services and only for students who do not require American Sign Language or other signed systems for their language of instruction. Minn. R. 8710.5250 and 8710.5200.

OTHER HEALTH DISABILITIES (OHD)

OHD means having limited strength, endurance, vitality, or alertness, including a heightened or diminished alertness to environmental stimuli, with respect to the educational environment that is due to a broad range of

medically diagnosed chronic or acute health conditions that adversely affect a pupil's educational performance. Minn. R. 3525.1335, subp. 1. Referred to as other health impairment in federal language. 34 C.F.R. § 300.8(c) (9).

OUT-OF-LEVEL TESTING

Out-of-level testing is a term applied to the administration of a test designed for a level above or below a student's present grade level to enable the student to be assessed at the level of instruction rather than the level of enrollment.

PAYS

PAYS is the Minnesota computerized system used to distribute and report on the federal funds provided to Minnesota school districts, charter schools and cooperatives and for the school nutrition funds distributed to nonpublic schools.

PHYSICALLY IMPAIRED (PI)

PI means a medically diagnosed chronic, physical impairment, either congenital or acquired, that may adversely affect physical or academic functioning and result in the need for special education and related services. Referred to as orthopedic impairment in federal language. 34 C.F.R. § 300.8(c) (8).

PORTFOLIO ASSESSMENT

Portfolio assessment is an organized collection or documentation of student-generated or student-focused work typically depicting the range of individual student skills that is evaluated and graded according to an established set of criteria.

PRE-PROFESSIONAL SKILLS TEST (PPST)

The PPST is a basic skills examination covering reading, writing and mathematics that is required of all new teachers.

QUALIFIED PERSONNEL

Under IDEA, "qualified personnel" means personnel who have met SEA-approved or SEA-recognized certification, licensing, registration or other comparable requirements that apply to the area in which the individuals are providing special education or related services. Also see Appendix A.

RELATED SERVICES

Related services means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. § 300.34(a).

RESPONSE TO INTERVENTION (RTI)

RTI is a practice of providing high-quality instruction and intervention matched to student needs using data on the child's learning rate and level of performance to make important educational decisions about the necessity for more intense interventions or as part of evaluating eligibility for special education.

RELIABILITY

Reliability is the consistency of a test instrument or the extent to which it is possible to generalize a specific behavior observed at a specific time by a specific person to observations of similar behavior at different times or by different behaviors.

SCIENTIFIC RESEARCH-BASED INTERVENTION (SRBI)

SRBI means research and evidenced-based educational approaches such as Response to Intervention (RTI), School-Wide Positive Behavior Intervention and Supports (PBIS) and others.

SPECIAL EDUCATION DATA REPORTING APPLICATION (SEDRA)

The Special Education Data Reporting Application (SEDRA) program is the means by which districts, charter schools and other eligible entities report their special education expenditures. More information available on the Minnesota Department of Education [website](#).

SEVERELY MULTIPLY IMPAIRED (SMI)

SMI means a pupil who has severe learning and developmental problems resulting from two or more disability conditions determined by an evaluation. Minn. R. 3525.1339. Referred to in federal language as multiple disabilities. 34 C.F.R. § 300.8(c) (7).

SPECIAL EDUCATION

Special education means specially designed instruction, provided at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education. Special education may also include speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under state standards including travel, training and vocational education. 34C.F.R. § 300.39(a).

SPECIAL EDUCATION ADVISORY PANEL (SEAP)

SEAP is a panel comprised of twenty appointed members. A majority of the members must be individuals with disabilities or parents of children with disabilities. The members shall be representative of the state population and composed of individuals involved in, or concerned with the education of children with disabilities.

SPECIFIC LEARNING DISABILITY (SLD)

SLD is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, and spell or to do mathematical calculations. This includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The disorder is manifested by interference with the acquisition, organization, storage, retrieval, manipulation or expression of information. This results in the child not learning at an adequate rate for the child's age or to meeting state-approved grade-level standards when provided with the usual developmental opportunities and instruction from a regular school environment. It is demonstrated primarily in academic functioning, but may also affect other developmental, functional and life adjustment skill areas; and may occur with, but cannot be primarily the result of: visual, hearing or motor impairment; cognitive impairment; emotional disorders; or environmental, cultural, economic influences, limited English proficiency or a lack of appropriate instruction in reading or math. Minn. R. 3525.1341, and 34 C.F.R. § 300.8(c) (10).

SPEECH OR LANGUAGE IMPAIRMENTS (SPL)

SPL are a fluency disorder which means the intrusion or repetition of sounds, syllables and words; prolongations of sounds; avoidance of words; silent blocks; or inappropriate inhalation, exhalation or phonation patterns. These patterns may also be accompanied by facial and body movements associated with the effort to speak. Fluency patterns that are attributed only to dialectical, cultural or ethnic differences or to the influence of a foreign language must not be identified as a disorder (Minnesota Rules 3525.1343, and 34 C.F.R. § 300.8(c) (11)).

STANDARDIZED TEST

A standardized test is a test administered with the same directions and under the same conditions (time limits, etc.) and scored in the same manner for all students to ensure the comparability of scores. Standardization allows reliable and valid comparison to be made among students taking the test. The two major types of standardized tests are norm-referenced and criterion-referenced.

STANDARDS

There are multiple definitions of the term standards. As used under the NCLB law and regulations, there were two types of standards:

1. Academic content standards - the basis of the general education curriculum covering what all students are expected to know and be able to do. These standards apply to all types of assessment for NCLB including alternate assessments.
2. Academic achievement standards - the degree of proficiency students demonstrate about what they know and are able to do in each of the content areas.

There were three subtypes of academic achievement standards:

- a) Grade level achievement standards;
- b) Alternate achievement standards for students with the most significant cognitive disabilities (performance criteria for a small percent of students); and

c) Modified achievement standards (performance criteria for an additional group of students who can make progress toward grade-level achievement standards but may not reach them in the same timeframe as other students).

STANDARDS-BASED ASSESSMENTS

Standards-based assessments are assessments constructed to measure how well students have mastered specific content standards or skills.

STANDARDS-BASED IEP

A standards-based IEP is a process and a document that is framed by state standards and contains goals aligned with, and chosen to facilitate the student's achievement of, state grade-level academic standards.

STAFF AUTOMATED REPORTING (STAR)

STAR is a Minnesota web-based system used by school districts to report Employment and Assignment information to MDE of Education. This system is also used by districts to access the Licensure/Assignment Discrepancy Report and to complete "Highly Qualified" reporting.

STATE EDUCATION AGENCY (SEA)

An SEA is the component of state government that is primarily responsible for the state supervision of public elementary and secondary schools.

STUDENT (CHILD) WITH A DISABILITY

In the Individuals with Disabilities Education Act, a child with a disability is defined as "a child evaluated in accordance with 34 C.F.R. §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, or other health impairment, a specific learning disability, deaf blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services." Section 504 of the Rehabilitation Act of 1973 defines a "handicapped person" [outdated terminology] as "any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment." 34 C.F.R. § 104.3(j).

TRANSITION SERVICES

A coordinated set of activities for a child with a disability that are designed to be within a results-oriented process and focused on improving the academic and functional achievement of the child with a disability in order to facilitate the child's movement from school to post-school activities. This includes multiple areas and is based on the individual child's needs, strengths, preferences and interests. It includes instruction, related services, community experiences, employment and other post-school adult living objectives and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. 34 C.F.R. § 300.43.

In Minnesota, by grade nine or age 14, whichever comes first, the first IEP in effect shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment and community living and will be updated annually (Minnesota Rules 3525.2900, Subpart 4). Thereafter, the IEP must include: appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and transition services (including courses of study) needed to assist the child in reaching those goals. 34 C.F.R. § 300.320(a) (7) (b).

TRAUMATIC BRAIN INJURY (TBI)

TBI is an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that may adversely affect a pupil's educational performance and may result in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as: cognition, speech/language, memory, attention, reasoning, abstract thinking, judgment, problem- solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions and information processing. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. Minn. R. 3525.1348, and 34 C.F.R. § 300.8(c) (12).

UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS (UFARS)

UFARS is Minnesota's legally prescribed set of accounting standards for all school districts.

VALIDITY

Validity is the extent to which a test measures what it was designed to measure. Multiple types of validity exist. Common types of validity include the following:

Construct validity: The extent to which the characteristic to be measured relates to test scores measuring the behavior in situations in which the construct is thought to be an important variable.

Content validity: The extent to which the stimulus materials or situations composing the test call for a range of responses that represent the entire domain of skills, understandings or behaviors that the test is intended to measure.

Convergent validity: The extent to which the assessment results positively correlate with the results of other measures designed to assess the same or similar constructs.

Criterion-related validity: The extent to which test scores of a group or subgroup are compared to other criterion measures (ratings, classifications, other tests) assigned to the examinees.

Face validity: Concept based on a judgment concerning how relevant the test items appear to be, it relates more to what a test appears to measure than to what the test actually measures.

VISUALLY IMPAIRED (VI)

VI is a medically verified visual impairment accompanied by limitations in sight that interfere with acquiring information or interaction with the environment to the extent that special education instruction and related services may be needed. Minn. R. 3525.1345. Referred to as visual impairment including blindness in federal language. 34 C.F.R. § 300.8(c) (13).

SECTION 4: ACKNOWLEDGEMENTS

The Primer definitions were compiled from many sources. Some of the assessment terms were quoted with permission from a publication of the Council of Chief State School Officers' ASES SCASS Project.

Additional reference sources include:

[The Individuals with Disabilities Education Act](#)

[Minnesota Office of the Revisor of Statutes](#)

[Minnesota Department of Education](#)

[The Every Student Succeeds Act](#)

[The No Child Left Behind Act](#)

[Special Education Technical Assistance for Charter Schools Project Team](#)

Appendix A: Connecting Federal/Minnesota Disability Categories and Teacher Licensure

Federal Disability Category	Federal Citation	Minnesota Disability Category	Minnesota Citation	Licensure Requirement	Age to which it applies
Autism	34 C.F.R. §300.8	ASD Autism Spectrum Disorders	Minn. R. 3525.1325	No license in this area. Must be licensed in Special Ed and have knowledge of autism. Several IHE have ASD Certificate programs.	Birth-21
Special Physical Education	34 C.F.R. §300.108	DAPE Developmental Adapted Physical Education	Minn. R. 3525.1352	Developmental Adapted Physical Education (DAPE)	3-21
Deaf-blindness	34 C.F.R. §300.8	DB Deaf-Blind	Minn. R. 3525.1327	No license in this area. Must be licensed in Special Ed.	Birth-21
Mental Retardation	34 C.F.R. §300.8	DCD Developmental Cognitive Disability a) mild-moderate b) moderate to severe	Minn. R. 3525.1333	Developmental Disabilities (DD)	K-21

Federal Disability Category	Federal Citation	Minnesota Disability Category	Minnesota Citation	Licensure Requirement	Age to which it applies
Developmental Delay	34 C.F.R. §300.8	DD Developmental Delay	Minn. R. 3525.1351	Early Childhood Special Education	Age 3-6
Deafness and Hearing Impairment	34 C.F.R. §300.8	DHH Deaf and Hard of Hearing	Minn. R. 3525.1331	Deaf or Hard of Hearing (DHH)	Birth-21
Emotional Disturbance	34 C.F.R. §300.8	EBD Emotional or Behavioral Disorders	Minn. R. 3525.1329	Emotional Behavioral Disorders (EBD)	K-21
Infant or toddler with a disability	34 C.F.R. §300.25	DD Developmental Delay	Minn. R. 3525.1350	Early Childhood Special Education	Birth-Age 2
Other Health Impairment	34 C.F.R. §300.8	OHD Other Health Disabilities	Minn. R. 3525.1335	No license in this area. Must be licensed in Special Ed.	Birth-21
Orthopedic Impairment	34 C.F.R. §300.8	PI Physically Impaired	Minn. R. 3525.1337	Physical and Health Disabilities (P/HD)	Birth-21
Specific Learning Disability	34 C.F.R. §300.8	SLD Specific Learning Disability	Minn. R. 3525.1341	Learning Disabilities (LD)	K-21
Multiple Disabilities	34 C.F.R. §300.8	SMI Severely Multiply Impaired	Minn. R. 3525.1339	No license in this area. Must be licensed in Special Ed.	Birth-21

Federal Disability Category	Federal Citation	Minnesota Disability Category	Minnesota Citation	Licensure Requirement	Age to which it applies
Speech or Language Impairment	34 C.F.R. §300.8	SPL Speech or Language Impairments	Minn. R. 3525.1343	Speech/Language Pathologist (Sp/L)	Birth-21
Traumatic Brain Injury	34 C.F.R. §300.8	TBI Traumatic Brain Injury	Minn. R. 3525.1348	No license in this area. Must be licensed in Special Ed.	Birth-21
Visual Impairment Including Blindness	34 C.F.R. §300.8	BVI Blind/Visually Impaired	Minn. R. 3525.1345	Blind or Visually Impaired (BVI)	Birth-21
Limited English Proficient	34 C.F.R. §300.8	LEP Limited English Proficient ELL English Language Learners EL English Learner	Minn. R. 8710.4400	English as a Second Language (ESL)	K-12