

Students with Disabilities in Charter Schools: Notice of Rights to Access and Equity of Educational Services

Dear Parent: This document explains the educational rights of students with disabilities to attend Massachusetts charter schools and to receive appropriate special education services in those charter schools. Both federal and state law requires that admission to a charter school be conducted without regard to or consideration of whether the child has a disability, and so charter schools are open to all students, whether or not they are eligible to receive special education services. Charter schools must provide special education services, up to the limits specified under the state charter school law, to all eligible students. This is a summary of your student's rights to attend and receive needed services from his or her charter school.

◆ **Charter schools accept and serve students with disabilities.**

Charter schools are open to all grade-eligible students within the school's service area on a space available basis. If more students apply than there are available spaces, a lottery is held to randomly determine who will be admitted. All students who wish to attend a charter school have an equal chance of getting in regardless of, and without any consideration of, any need for special education services.

See: M.G.L. c. 71 §89 (l) states that charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, gender identity, *mental or physical disability*, age, ancestry, athletic performance, *special need*, or proficiency in the English language or a foreign language, and academic achievement. (*Emphasis added*)

◆ **Charter schools must ensure that your student receives special education services if the student has been determined to be an eligible student with a disability by the Individualized Education Program (IEP) team.**

Charter schools must ensure that students with disabilities receive the special education services to which they are entitled. The services may consist of special education instruction and related services in the least restrictive environment, or consist only of related services needed to access the general education curriculum. The amount and location of services (where services will be delivered) is determined by the student's IEP team and is documented in the student's IEP. As determined by your student's IEP team, your charter school will provide services in a placement that is:

- Full inclusion- the student is in the general education classroom for 80%-100% of the school day; or
- Partial inclusion- the student is in the general education classroom 40-80% of the school day; or
- Substantially separate- the student is out of the general education classroom more than 60% of the school day.

◆ **Your student must receive related services if the IEP team determines the student needs them.**

Charter schools must provide related services to students with disabilities if the IEP team determines that the services are necessary for the student to benefit from special education or, if the student does not require special education instruction, that the related services are necessary to ensure the student's access to the general education curriculum. Examples of these services include: speech therapy, occupational therapy, physical therapy, psychological counseling, and/or adjustment counseling.

◆ **Charter schools are required to meet the needs of qualified students with disabilities under Section 504 of the Rehabilitation Act of 1973, as amended, even if the student is not eligible as a student with disabilities under federal and state special education laws.**

Charter schools are required to provide a free appropriate public education to qualified students with disabilities under Section 504 of the Rehabilitation Act of 1973, as amended. Such education consists of general education

accommodations and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met. An appropriate education for a student with a disability under Section 504 regulations could consist of education in general education classrooms with accommodations, education in general education classes with supplementary services, and/or related services. Schools would include these services in a “504 Plan.”

- ◆ **For students who may require special education services that are beyond what the charter school is required to provide, an IEP team meeting will be convened to arrange for provision of needed services.**

If the IEP team convened by the charter school believes that your student may require a full-time day or residential special education program, the charter school will convene a separate placement meeting to determine the appropriate placement. You will be invited to the meeting, as will the school district of the town where you reside. When the meeting occurs, the placement team must first consider whether the school district of residence has an in-district program that is able to provide the services that are recommended by the IEP team, either alone or as a supplement to services available at the charter school. If there is such in-district programming available, the placement team must propose an in-district program to the parent (which may be delivered in the charter school itself, through a program located in the school district of residence or a combination of both), the student will remain enrolled in the charter school, and the charter school retains programmatic and financial responsibility for the student. Please note that the charter school has full discretion over where it will propose to deliver any in-district programming, and is not required to contract with the school district of residence for service delivery unless the charter school chooses to do so.

If the placement team, including the school district of residence, agrees that the student cannot be served in-district, then the placement team shall determine that the student requires an out-of-district placement, in which case the student’s enrollment and responsibility for the student’s special education program reverts to the school district of residence.

Because enrollment at the charter school is always voluntary on the part of the parent, the parent may elect to disenroll from the charter school and enroll, instead, back at the school district of residence or another school for any reason and at any time. However, the charter school may not require the parent to disenroll as a condition for receiving any service, except when the student’s special education placement has been determined, as above, to be an out-of-district program.

See: Technical Assistance Advisory SPED 2014-5: Charter School Responsibilities for Students with Disabilities Who May Need an Out-of-District Program - 603 CMR 28.10(6)

<http://www.doe.mass.edu/sped/advisories/2014-5ta.html>

Relevant Laws and Regulations

Charter School Statute: G.L. c. 71 §89

Charter School Regulations: 603 C.M.R. §1.00

Massachusetts Special Education Law: G.L. c.71B

Massachusetts Special Education Regulations: 603 C.M.R. §28.00

Section 504 of the Rehabilitation Act of 1973

The Individuals with Disabilities Education Act, 20 USC 1400 *et seq*; and 34 CFR Part 300

If you have any questions, please contact the Massachusetts Department of Elementary and Secondary Education’s Office of Charter Schools and School Redesign (phone: 781-338-3227; email: charterschools@doe.mass.edu) or Office of Special Education Planning and Policy Development (phone: 781-338-3375; email: specialeducation@doe.mass.edu).

For additional information regarding special education and the rights of parents and students, please refer to the following:

- Notice of Procedural Safeguards <http://www.doe.mass.edu/sped/prb/>
- Parent’s Guide to Special Education http://www.fcsn.org/parents_guide/pgenglish.pdf