|  |
| --- |
| Massachusetts Department of Elementary and Secondary Education Logo |
|  | Massachusetts Primer on Special Education and Charter Schools |
|  |
| Section III: Information for Charter School OperatorsAugust 2016 |
| Massachusetts Department of Elementary and Secondary Education75 Pleasant Street, Malden, MA 02148-4906Phone 781-338-3000 TTY: N.E.T. Relay 800-439-2370www.doe.mass.edu |
|  |  |



**Massachusetts Primer on Special Education and Charter Schools**

**Section III: Information for Charter School Operators**

**This information addresses the issues concerning the education of students with disabilities at all of the life stages of a Massachusetts charter school. The primer is intended to inform those who are responsible for the design, development, and operation of a charter school. The purpose is to focus on specific aspects of implementing a special education program during the pre-authorization, start-up and operating phases of the school.**

**This document has been developed by the Massachusetts Department of Elementary and Secondary Education (ESE) with the assistance of the TA Customizer Project funded by the National Association of State Directors of Special Education (NASDSE).**

**This document was revised by the ESE’s Office of Charter Schools and School Redesign in August 2016.**

# Massachusetts Primer on Special Education and Charter Schools

**Part III: Information for Charter School Operators**

Part III addresses the issues concerning the education of students with disabilities at all stages in the development and operation of a Massachusetts charter school. The Primer is intended to inform those who are responsible for the design, development, and operation of a charter school. The information is focused on specific aspects of implementing a special education program during the pre-authorization, start-up, and operating phases of the school.

Table of Contents

[A. Charter School Founding Groups - Special Education Planning 1](#_Toc456792868)

[Are charter schools required to accept students with disabilities and is a charter school required to be in compliance with federal civil rights laws? 1](#_Toc456792869)

[As a founding group, how should we plan for special education in our school? 1](#_Toc456792870)

[What special education services must a charter school provide? 2](#_Toc456792871)

[How can we plan for students with a wide variety of disabilities? 2](#_Toc456792872)

[What does a free appropriate public education mean? 3](#_Toc456792873)

[What does least restrictive environment mean? 3](#_Toc456792874)

[How does the charter school describe how it will meet the needs of special education students in accordance with federal and state statutes and regulations in the charter school prospectus and application? 4](#_Toc456792875)

[How do we deliver instruction to students with disabilities that will be aligned with our educational program? 5](#_Toc456792876)

[What should we consider as we plan effective special education services? 5](#_Toc456792877)

[B. Student Recruitment, Enrollment, and Records 8](#_Toc456792878)

[What steps should we take when recruiting students and providing outreach information to parents? 8](#_Toc456792879)

[What is our obligation to make sure that applications from students with disabilities are treated in a nondiscriminatory manner in admissions? 8](#_Toc456792880)

[What should we do to make sure we will be able to include all students with disabilities in our charter school? 8](#_Toc456792881)

[May we limit the participation of students with disabilities to certain aspects of our school’s program? 9](#_Toc456792882)

[Can we test students before enrollment or placement in a lottery? 9](#_Toc456792883)

[A student with a significant disability has enrolled in our school. What should we do? 9](#_Toc456792884)

[Do I need to have student records from previous schools? 9](#_Toc456792885)

[What is our school’s responsibility when a student with a disability transfers to another school? 9](#_Toc456792886)

[C. Policies and Procedures 10](#_Toc456792887)

[Does my school need policies and procedures for special education? 10](#_Toc456792888)

[D. Special Education Staff 10](#_Toc456792889)

[Are charter schools required to hire special education administrators? 10](#_Toc456792890)

[We are responsible for hiring our staff and faculty. How much flexibility do we have in the qualifications of special education teachers? 10](#_Toc456792891)

[Are there licensure requirements for related service providers working at charter schools? 11](#_Toc456792892)

[Do we have to hire full-time special educators in our charter school? 11](#_Toc456792893)

[Does Massachusetts have a teacher data collection system? 11](#_Toc456792894)

[E. Teacher Professional Development and Training 11](#_Toc456792895)

[What types of special education professional development should we offer our staff? 11](#_Toc456792896)

[What if the school’s faculty members need help in accommodating the needs of a student who has a disability? 12](#_Toc456792897)

[F. Planning for and Meeting the Needs of Students 12](#_Toc456792898)

[Does the Department of Elementary and Secondary Education have any resources to articulate parental rights and procedures related to special education? 13](#_Toc456792899)

[What should we do if a teacher or parent suspects a student might benefit from special education? 13](#_Toc456792900)

[Are federal and state timelines different for determining if a student is eligible for special education services? 14](#_Toc456792901)

[If we have concerns about our ability to meet the needs of a specific student with a disability, can we recommend other programs or schools? 14](#_Toc456792902)

[What kind of planning is needed to ensure all students’ needs are accommodated? 15](#_Toc456792903)

[G. Developing an Individualized Education Program 15](#_Toc456792904)

[What is an Individualized Education Program? 15](#_Toc456792905)

[We plan to develop individual learning plans for all of our students. Do we still have to develop an Individualized Education Program for students with disabilities? 15](#_Toc456792906)

[Who must be part of an individualized education program team? 16](#_Toc456792907)

[Are there specific individualized education program forms that must be used? 16](#_Toc456792908)

[Is our school responsible for the cost of a private school placement if a student with a disability who attends our school requires such a placement? 16](#_Toc456792909)

[H. Code of Conduct 16](#_Toc456792910)

[Can a student with a disability be suspended or expelled? 16](#_Toc456792911)

[I. Financial Support for Special Education 17](#_Toc456792912)

[Are funds available to support special education services? 17](#_Toc456792913)

[Is there financial support available for very high cost students with disabilities who attend charter schools? 17](#_Toc456792914)

[Can charter schools access Medicaid benefits for students who are eligible? 18](#_Toc456792915)

[Can charter schools in Massachusetts collaborate and pool their special education resources or form a consortium in order to provide special education and related services? 18](#_Toc456792916)

[J. Facilities 18](#_Toc456792917)

[Are there physical access requirements that apply for the facilities that will house our charter school? 18](#_Toc456792918)

[If we rent our school building, whose responsibility is it to make our school accessible? 19](#_Toc456792919)

[Are there different legal requirements that apply to charter schools located in existing facilities as compared to newer facilities? 19](#_Toc456792920)

[What impact will these accessibility requirements have on our operations? 19](#_Toc456792921)

[Where can we obtain information and technical assistance in making our school accessible? 19](#_Toc456792922)

[K. Transportation 19](#_Toc456792923)

[Are we required to provide transportation to students who attend our charter school? 19](#_Toc456792924)

[L. Understanding Section 504 of the Rehabilitation Act 20](#_Toc456792925)

[Are there other laws designed to protect the rights of students with disabilities? 20](#_Toc456792926)

[Who is protected under Section 504 of the Rehabilitation Act? 20](#_Toc456792927)

[How are students identified as eligible for services under Section 504 of the Rehabilitation Act? Is there a written plan? 21](#_Toc456792928)

[Is there funding to implement Section 504 of the Rehabilitation Act services? 21](#_Toc456792929)

[M. Parent Involvement 21](#_Toc456792930)

[What types of trainings and information sessions must be provided to parents of children with special needs? 21](#_Toc456792931)

[N. Accountability 22](#_Toc456792932)

[What are the special education accountability requirements at charter schools in? 22](#_Toc456792933)

[How will special education be included in the renewal of our school’s charter? 22](#_Toc456792934)

[How do students with disabilities participate in the Massachusetts accountability system? 22](#_Toc456792935)

[O. Student Reporting 23](#_Toc456792936)

[Is there a student reporting system to submit information about students with disabilities to the state? 23](#_Toc456792937)

[P. Special Education Monitoring 23](#_Toc456792938)

[How is special education monitoring carried out in Massachusetts? 23](#_Toc456792939)

[What resources are available to prepare charter schools to be successful in special education monitoring? 23](#_Toc456792940)

[Q. Resources 24](#_Toc456792941)

# Charter School Founding Groups - Special Education Planning

## Are charter schools required to accept students with disabilities and is a charter school required to be in compliance with federal civil rights laws?

Yes. When conducting outreach or accepting applications, public schools, including a public charter school, may not discriminate against students with disabilities. Charter schools are expected to make proactive efforts to reach out to students and families throughout the community in recruiting new students, and to administer their enrollment process in a way that is open, inclusive, and fair. Failure to do so may indicate that the school is using its enrollment process to discriminate and may result in sanctions by the Department of Elementary and Secondary Education (ESE). Each charter school in Massachusetts must have an enrollment policy that has been approved by the Office of Charter Schools and School Redesign (OCCSR) of the ESE. This [checklist](http://www.doe.mass.edu/charter/governance/EnrollmentChecklist.pdf) from the ESE OCCSE website should be used to develop enrollment policies.

## As a founding group, how should we plan for special education in our school?

During pre-authorization planning, founding groups have the opportunity to learn about special education and plan how implementation of their school’s required special education program will take place in the context of the school’s mission and educational program. Students entering the school through the open lottery process may bring a range of physical and learning disabilities, some of which may not have been previously identified. The following list provides the Massachusetts disability definitions that may require special education services. The links found on the next page should be used for more in depth information.

Massachusetts special education regulations define a student with a disability

as one who is evaluated and found in need of special education in one or more of the following disabilities:

* Autism
* Developmental Delay
* Intellectual Impairment
* Sensory Impairment
	+ Hearing Impaired or Deaf
	+ Vision Impairment or Blind
	+ Deaf-Blind
* Neurological Impairment
* Emotional Impairment
* Communication Impairment
* Physical Impairment
* Health Impairment
* Specific Learning Disability

The ESE’s December 10, 2007 [*Memorandum on Specific Learning Disability – Eligibility Process/Forms*](http://www.doe.mass.edu/sped/iep/sld/default.html) notified school districts about a series of required forms and technical assistance documents when finding a student eligible for special education with a Specific Learning Disability.

An ESE Special Education Planning and Policy (SEPP) [professional development module](http://www.doe.mass.edu/sped/cspd/mod5.html) is available for school district administrators, general and special educators, related service providers, and parents provides information regarding requirements when a student is being assessed for special education with a Specific Learning Disability. The ESE SEPP website includes the [disability definitions and related links](http://www.doe.mass.edu/sped/definitions.html).

## What special education services must a charter school provide?

Massachusetts charter schools must comply with federal and state laws and regulations when determining if a student is eligible for special education and, if so, what services the student will receive. Special education ensures that all students with disabilities have a free appropriate public education (FAPE) available to them that emphasizes special education and related services designed to meet their unique needs.

Special education is specially designed instruction that includes modifications that affect content, delivery of instruction, methodology, and/or performance criteria as necessary to assist the student in participating in and learning the general education curriculum. This instruction is designed by or with a qualified special education teacher or related service provider. Traditional and charter public schools must ensure that students with disabilities receive all special education and related services identified in the student’s individualized education program (IEP) in the least restrictive environment (LRE).

The range of special education supports must ensure that a continuum of alternative placements is available to meet the needs of all students with disabilities. This means that each charter school must have a range of special education placements available including, the majority of instruction in general education classes (full inclusion program); instruction in general and special education classes (partial inclusion program); or the majority of instruction in a special education classroom (substantially separate classroom). Special education may include related services, e.g., occupational and physical therapy, speech and language, orientation and mobility training, adapted physical education, counseling, transportation, or assistive technology. Many charter schools have developed creative solutions to providing services that may include contracting with a local school district to provide specific services or hiring a consultant.

The federal special education law and regulations, the Individuals with Disabilities Education Act (IDEA) are available at <http://idea.ed.gov>/. The Massachusetts state law, G.L. c. 71B, and Massachusetts state regulations, 603 CMR 28.00, are available at <http://www.doe.mass.edu/lawsregs/statelaws.html>.

## How can we plan for students with a wide variety of disabilities?

During the initial planning stages of the school, it is important to consider how the school’s mission and educational program can be relevant and accessible to a wide range of students, including students with learning disabilities, physical disabilities, or students who present behavioral challenges. It is important to keep in mind that the charter school will be its own local education agency (LEA) and is responsible for successful implementation of a special education program. As an LEA, the school is also responsible for the academic achievement of special education students on the Massachusetts Comprehensive Assessment System (MCAS) or other chosen state mandated assessment. The following six major legal principles that embody the requirements in Individuals with Disabilities Education Act (IDEA) should be considered in planning to include students with disabilities:

1. Equal educational opportunity
2. Individualized Education Program (IEP)
3. Free, appropriate public education (FAPE)
4. Least restrictive environment (LRE)
5. Procedural protections and parental involvement
6. Non-discriminatory evaluation

Definitions of these terms are found in subsequent sections of this document. Taking time to understand and consider these principles and how they relate to Massachusetts requirements for charter schools will help in developing a school that addresses the needs of all students.

## What does a free appropriate public education mean?

The Individuals with Disabilities Education Act (IDEA) requires that students with disabilities are entitled to a free appropriate public education (FAPE). This means that schools must provide eligible students who have a disability with specially designed instruction to meet their unique needs, at no cost to the child’s parents. This specially designed instruction is known as special education.

In order to provide FAPE, the school may need to train and employ professionals who are competent to design instruction and provide an appropriate education to each student with a disability. While each student’s education must be free, defining what is appropriate for a student requires an evaluation to identify the student’s areas of strength and weakness relative to his or her participation in the general curriculum. FAPE may require considering the effect of the student’s disability on, among other things, the proper functioning of hearing aids, non-academic services, recess, physical education, assistive technology, extended school day or year services, transportation, counseling and/or health services, and program options including art, music, and vocational education.

## What does least restrictive environment mean?

Historically, the federal special education law and regulations has included a strong preference for students with disabilities to be educated in the least restrictive environment (LRE), alongside their peers without disabilities, to the maximum extent appropriate. The individualized education program (IEP) team determines the placement (setting) that the student needs to provide the services on the student’s IEP and the team must choose the LRE available to provide those services. The team must also carefully consider whether supplemental aids and services and specialized instruction could make it possible for a student to be educated with non-disabled peers.

Supplementary aids and services can be accommodations and modifications to the curriculum or how the content is presented, or a student’s progress is measured. Supplementary aids can also include direct services and supports to the child, as well as support and training for staff who work with that student. If services can be appropriately provided in a less restrictive setting, the team must choose that type of program and setting. If the student’s program requires a more restrictive setting to be successful, then the team may consider other settings. The determination of the LRE is based on a student’s IEP, not on a diagnosis or specific disability label. Students cannot be placed in separate or more restrictive environments only because they require a modified curriculum. After the team has developed the IEP, it determines the most appropriate setting for services and LRE is an integral part of the placement determination. Free, appropriate public education (FAPE) and LRE are closely tied together. Both federal and Massachusetts special education laws require that an IEP team consider appropriate education in the LRE.

## How does the charter school describe how it will meet the needs of special education students in accordance with federal and state statutes and regulations in the charter school prospectus and application?

The ESE’s [*Application for a Massachusetts Public Charter School*](http://www.doe.mass.edu/charter/new/?section=app) requires a detailed description of the school’s special education program and services, as well as a signed statement of assurances certifying the school will adhere to all applicable provisions of federal law relating to students with disabilities. It is important to obtain a current application that includes a checklist of requirements (see link above), attend any information or training sessions that might be offered, read charter school law and regulations, and use other technical assistance information.

The application asks how the school will ensure that all students with disabilities have access to a *free and appropriate public education* (FAPE) and how the needs of special education students will be met in specific areas, including:

* A detailed plan for a responsive general education classroom that would support the needs of all students. The plan should include how the proposed curriculum and instructional methods will support high standards of achievement for students with a wide range of needs, and be accessible and appropriate for all students at all levels, including students with diverse learning styles; English language learners; students with disabilities; students who enter below grade level, or students identified as at risk; and advanced students who perform significantly above grade level. The plan should also describe the strategies the school will implement to ensure academic success for all students, including students struggling to meet performance standards.
* A description of the processes and procedures that the proposed school will employ to identify, assess, and provide specialized instruction to each student in need of special education services. Horace Mann charter schools will indicate what role, if any, the district will have in the assessment and delivery of services. **Descriptions will be considered incomplete if they do not include:**
	+ - a description of support services to be offered and some of the methods that will be used to provide a continuum of services;
		- how student identification and assessment will be conducted;
		- the development of individualized education programs;
		- the settings in which required services will be delivered;
		- how services for students in need of special education services will be delivered within the school’s daily schedule;
		- the qualifications of individuals who will be recruited to deliver services;
		- the titles, salaries, and qualifications of each position proposed; and
		- how the program will be evaluated.
* A description of the special education staffing levels the school intends to provide each year for each of the school’s first five years. Include the special education administrator who will work with the school, teachers, aides, and other staff, as well as the number of staff you propose to hire each year and their qualifications, salary, and the percentage of their time that will be devoted to special education. Indicate if you anticipate outsourcing services such as occupational therapy, physical therapy, or speech therapy and if possible, with whom you anticipate contracting for the provision of services.
* In the case of a Horace Mann charter school, the application clearly indicates the expectations surrounding district involvement in the provision of services for students with disabilities and English language learners.

## How do we deliver instruction to students with disabilities that will be aligned with our educational program?

Currently [operating charter schools](http://profiles.doe.mass.edu/search/search.aspx?leftNavId=11238) in Massachusetts are often willing to share their experience and expertise on this question. They are a resource as you plan your school and contact information for each school can be found on individual school profiles. [The Massachusetts Curriculum Frameworks (MCF)](http://www.doe.mass.edu/frameworks/current.html) are the general curriculum foundation that guides curriculum development and assessment in all public schools and curriculum planning. Additionally, the [Massachusetts Charter Public School Association](http://www.masscharterschools.org/) offers a wide variety of supports including [Communities of Practice](http://www.masscharterschools.org/charter-school-professionals/communities-practice-cops), which are job-alike groups for charter school leaders and staff to share best practices.

## What should we consider as we plan effective special education services?

There are many requirements to consider. The following list of basic guiding questions can be used to help focus your planning activities.

##### Checklist of Special Education Considerations

* Funding for Special Education
	+ What funds will we receive for special education services?
		- federal
		- state
* Space and Facilities
	+ Are the facilities we’re considering accessible?
	+ Where will we conduct student evaluations?
	+ Where will we conduct IEP meetings?
	+ Where can we store and secure confidential student records?
	+ Where will we provide pullout services?
	+ Where can related services personnel meet with individual students?
	+ Where will we 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?
* Human Resources
	+ How many total students with disabilities will the school enroll?
	+ How many teachers will I need to hire?
	+ How many special education teachers will I need to hire?
	+ What kinds of qualifications will the teachers need to have?
	+ Can I hire part-time teachers?
	+ Can we use student teachers from area colleges/universities?
	+ What type of related services personnel will we need?
	+ How will we obtain these services and contract with these individuals?
	+ What other types of services will our school need?
		- legal counsel with special education expertise
		- accountant/bookkeepers
		- school psychologist?
* Curriculum
	+ What curriculum will my school offer?
	+ How does our curriculum align with the state’s curriculum and standards for student learning?
	+ How will we modify the curriculum to address the unique needs of students with disabilities?
	+ How can we train general and special education teachers to modify/adapt the curriculum for students with disabilities in inclusive classrooms?
	+ What types of assistive technology will be needed by our students?
* Service Provision
	+ How will we provide special education related services (e.g., occupational and physical therapy, orientation and mobility, speech therapy)?
	+ How will we conduct student identification, evaluation, and special education determination meetings?
	+ Who will participate in IEP development and implementation?
	+ What types of special staff or consultants will we need to implement our students’ IEPs?
* Professional Development
	+ How will we provide teachers with professional development?
	+ What type of specialized professional development will be needed by school staff (including teachers, paraprofessionals, administrators) to support students with disabilities?
	+ Does the LEA or the SEA operate a professional development program or network that I can utilize?
* Administration
	+ Who will administer the special education program?
	+ Who will be responsible for collecting, managing, and reporting data related to students with disabilities?
	+ What equipment/supplies/programs will be needed to collect and store data and records? How will we obtain these? What training will be needed to use these efficiently and appropriately?
* Transportation
	+ How will we provide students with transportation?
	+ Can we access district or state transportation dollars to offset costs, if we provide our own?
	+ How will we meet transportation needs of students who receive transportation as a related service that is required by their IEP?
	+ How will we arrange transportation for a student in a wheelchair?

The Office of Charter Schools and School Redesign (OCCSR) access and equity staff members can provide technical assistance with questions that are not answered in this document. If you would like clarification of any part of this document, please contact the OCCSR at 781-338-3227 or via email at charterschools@doe.mass.edu.

# Student Recruitment, Enrollment, and Records

## What steps should we take when recruiting students and providing outreach information to parents?

Once chartered, schools need to write a Recruitment and Retention Plan that lists deliberate, specific strategies to attract, enroll, and retain a student population that, when compared to students in similar grades in schools from which the charter school enrolls students, contains a comparable demographic profile, including limited English proficient, special education, free lunch, and reduced-price lunch students, as well as those who are sub-proficient on the state assessments, at risk of dropping out of school, have dropped out of school, or other at-risk students who should be targeted to eliminate achievement gaps.

Additionally, charter schools are required to provide the [Right to Attend Notice for Students with Disabilities](http://www.doe.mass.edu/charter/sped/SWDnotice.pdf) to all families as part of the school’s application and recruitment materials. Department model notices regarding the rights of students with disabilities and English language learners (ELLs) to receive accommodations and support services at charter schools, as required by recent changes to the charter school regulations ([603 CMR 1.05(4)](http://www.doe.mass.edu/lawsregs/603cmr1.html?section=05)). The Student Right to Attend Notice outlines the educational rights of children with disabilities and ELLs to attend Massachusetts public charter schools. Every charter school must make information regarding the availability of services for students generally available in the school's outreach materials, through the student handbook, and on the school's website.

## What is our obligation to make sure that applications from students with disabilities are treated in a nondiscriminatory manner in admissions?

Under Section 504 of the Rehabilitation Act of 1973, Title II of the Americanswith Disabilities Act, and the Massachusetts Charter School Law and Regulations, schools may not deny admission to students on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in English language or a foreign language, or prior academic achievement in admitting students, and charter schools may not set admissions criteria that are intended to discriminate or that have the effect of discriminating on any of these basis. A student must be a resident of Massachusetts at the time of application to be eligible for a charter school’s enrollment process. The charter school must hold a lottery to determine which students to admit if there are more applicants received than seats available. Every time an admissions lottery takes place, the process must be fair and all rules must be consistently applied.

## What should we do to make sure we will be able to include all students with disabilities in our charter school?

Charter schools must offer open enrollment. Although a charter school admission application may ask whether a student is currently receiving special education services, the application form must include a nondiscrimination disclaimer stating all the protected categories and adhere, as required, to an open and fair lottery admissions policy. The non-discrimination requirement is at the core of charter school enrollment law pursuant [Massachusetts state law, G.L. c. 71, § 89(l),](http://www.mass.gov/legis/laws/mgl/71-89.htm) and Massachusetts state regulations, [603 CMR 1.05(2)](http://www.doe.mass.edu/lawsregs/603cmr1.html?section=05).

## May we limit the participation of students with disabilities to certain aspects of our school’s program?

No. Consistent with special education and civil rights laws, students with disabilities must be provided an equal opportunity to participate in the educational, nonacademic, extracurricular, and in general education programs as they are available to students without disabilities. Participation in the school’s programming also includes the range of nonacademic or extracurricular programs and activities offered at your charter school.

## Can we test students before enrollment or placement in a lottery?

No. State law prohibits a charter school from discriminating in its enrollment process on the basis of academic achievement. Charter schools may create eligibility thresholds for enrollment that are consistent with their grade levels. For instance, a charter high school may deny admission to students who have not completed the 8th grade based on the sending school’s determination of grade completion, but it may not deny admission to students on the basis of their inability to do 8th grade level work. Diagnostic exams may be given to all students once the students are enrolled and students may then be placed at the appropriate grade level.

## A student with a significant disability has enrolled in our school. What should we do?

As a local education agency (LEA), your charter school has to provide services to a student with a disability who is identified as eligible. The charter school must implement the student’s individualized education program (IEP) in a comparable setting without delay until a new IEP is developed and accepted. The charter school must review the existing IEP, which should be part of a student’s records and analyze its current capacity to provide the existing IEP services. If there are concerns about the existing IEP, the IEP team must meet immediately to discuss appropriate options. One strategy that charter schools have found effective is incorporating into the proposed IEP a provision for close tracking of the student’s adjustment in the first 30 days at the charter school, with a set date for the full IEP team to review progress and make any necessary revisions.

## Do I need to have student records from previous schools?

Once a student with disabilities is admitted to the charter school, it is critical that you receive the records from the student’s former school to ensure that prior IEP requirements are known and implemented until an IEP team meeting is convened to determine if a new IEP is required. When a student with an IEP enters a new school, regardless of whether the district is in or out of Massachusetts, the sending school must take reasonable steps to promptly respond to the new school’s request for records. If you do not automatically receive the records, initiate a request to the special education office of the former school.

## What is our 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 student records. At the point in time when the student is formally no longer enrolled in your charter school, your school no longer has a responsibility to provide services to the student.

# Policies and Procedures

## Does my school need policies and procedures for special education?

Yes. The charter school board of trustees should develop policies and procedures once the charter is granted. The OCCSR [*Opening Procedures Handbook: A Guide for Boards of Trustees and Leaders of New Charter Schools*](http://www.doe.mass.edu/charter/new/?section=handbook)is a guide to the opening procedures process for leaders of new charter schools. This handbook identifies the required action items that must be completed and contains documents, including due dates, that must be submitted to the OCCSR prior to the opening of the school. The OCCSR *Opening Procedures Handbook* ensures that school leaders are prepared to offer a full range of programs and services to their students, including special education (e.g., the school’s code of conduct which includes the students’ right to due process, the criteria for expulsion and discipline procedures for students with disabilities must be submitted. Included in the OCCSR *Opening Procedures Handbook* checklist and specific to special education, the Special Education Program Plan Statement (SEPP) is a written assurance that the school’s local special education policies and procedures are in compliance with IDEA requirements. The SEPP provides school district and charter school leaders with a means of verifying their awareness of the special education requirements and assuring the Department of Elementary and Secondary Education (ESE) that all of the school’s local policies and procedures are in compliance with federal and state special education laws and regulations to ensure uninterrupted access to federal special education funds.

# Special Education Staff

## Are charter schools required to hire special education administrators?

Yes. Unless the school determines that a full-time administrator is needed, a charter school may employ a part-time administrator or share an administrator with other charter schools. Charter schools are not required to hire a licensed special education administrator to fulfill the duties of that position. However, the person serving in that role must be qualified to perform all the duties of the position, or may hold appropriate state licensure, or hold a current waiver for an appropriate license. Consideration must be given as to whether the person is knowledgeable about special education requirements, accountable for implementation of the school’s special education programs, and able to provide administrative oversight.

## We are responsible for hiring our staff and faculty. How much flexibility do we have in the qualifications of special education teachers?

To satisfy the state charter school statute and regulations, all Commonwealth charter school teachers, including special education teachers, must pass the state’s two-part Massachusetts Tests for Educator Licensure (MTEL) comprised of the Communication and Literacy skill tests and the relevant subject matter knowledge test(s), within one year of employment or hold a valid and appropriate license to teach in Massachusetts. In Horace Mann charter schools, all teachers including special education teachers, must hold an appropriate Massachusetts teaching license. Except for teachers of English as a second language, teachers in Commonwealth charter schools, including special education teachers, are not required to be licensed.

Any staff implementing specialized instruction included in an Individual Education Program (IEP) must meet the qualifications for service delivery provider established by the Department pursuant to [IDEA § 34 CFR 300.156(a)](http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C300%2CB%2C300%252E156%2Ca%2C) The appropriate qualifications for a Commonwealth charter school staff to independently deliver specialized instruction are:

* Hold a valid in or out-of-state license or its equivalent as a special education teacher for the appropriate grades and severity level and/or
* Have successfully completed an undergraduate or graduate degree in an approved special education program

Specialized instruction provided by personnel who do not meet the above qualifications must be delivered in consultation with a qualified individual who provides supervision and oversight of the delivery of the specialized instruction. This information is posted on the [OCCSR website](http://www.doe.mass.edu/charter/sped/staffqualifications.html).

## Are there licensure requirements for related service providers working at charter schools?

Yes. Related services include, but are not limited to, speech and language, occupational or physical therapy, or interpreting services for students who are deaf or hard of hearing. Pursuant to Individuals with Disabilities Education Act (IDEA), [34 CFR 300.34](http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C300%2CA%2C300%252E34%2C) any person, including non-educational personnel, who provides related services, supervises paraprofessionals in the provision of related services, or provides support services directly to the regular or special education teacher must be appropriately certified, licensed, board-registered, or otherwise approved to provide such services by the relevant professional standards board or agency for the profession.

## Do we have to hire full-time special educators in our charter school?

No. The special education services identified in the students’ individualized education programs (IEPs) will determine the school’s level of need for full and/or part-time special education staff.

## Does Massachusetts have a teacher data collection system?

Yes. The Department of Elementary and Secondary Education (ESE) [Education Personnel Information Management System (EPIMS)](http://www.doe.mass.edu/infoservices/data/epims/) is a statewide data collection system that collects annual demographic data and work assignment information on individual public school educators in all school districts and charter schools.

# Teacher Professional Development and Training

## What types of special education professional development should we offer our staff?

Pursuant to Massachusetts state law, [G.L. c. 71§ 38(q),](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section38q) it is required that every school district adopt and implement a Professional Development Plan (Plan) for all principals and instructional staff. The Plan must provide on-going training for special education and general education personnel in order for all instructional staff to understand and acquire the skills necessary to work in teams to assist eligible students with disabilities to be involved in and make progress in the general curriculum. Both special and general education staff must receive training in:

* State and federal special education requirements and related local special education policies and procedures
* Analyzing and accommodating diverse learning styles of all student in order to achieve an objective of inclusion in the general classroom with diverse learning styles
* Methods of collaboration among teachers and paraprofessionals to accommodate diverse learning styles of all students in the general education classroom

All instructional staff must have ongoing access to training specifically 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 teachers in the planning of their own professional development.

## What if the school’s faculty members need help in accommodating the needs of a student who has a disability?

As a local education agency (LEA), the charter school is required to provide special education and related services and staff training in analyzing and accommodating diverse learning needs of all students. School leaders, in consultation with administrators of special education, must promote instructional practices responsive to student needs and ensure that adequate instructional support is available for students and teachers. The ESE’s Special Education Planning and Policy (SEPP) unit has instituted a series of training activities, including [*A Principal’s Role and Special Education in Massachusetts*](http://www.doe.mass.edu/sped/cspd/mod2.html). This overview highlights the importance of the principal or school leader’s role in accommodating the needs of diverse learners within the general education curriculum and coordinating the delivery and supervision of special education services with the special education administrator. The ESE’s Educator Evaluation unit has recently developed the [Educator Effectiveness Guidebook for Inclusive Practice](http://www.doe.mass.edu/edeval/guidebook/) that is aligned to the MA Educator Evaluation Framework and promotes evidence-based best practices for inclusion following the principles of Universal Design for Learning, Positive Behavior Interventions and Supports, and Social and Emotional Learning.

# Planning for and Meeting the Needs of Students

How is a student identified as possibly needing special education and related services?

If a student is having difficulty in school, which may include academic, behavioral, physical, emotional or social concerns, there are a variety of people that may express concern such as teacher, parent, coach, guidance counselor, etc. To determine whether or not a student needs special education or related services, a full and individual evaluation of the student must be conducted.

Massachusetts has developed a blueprint outlining a single system of supports that is responsive to the academic and non-academic needs of all students. This blueprint, the [Massachusetts Tiered System of Support (MTSS)](http://www.mass.gov/edu/government/departments-and-boards/ese/programs/accountability/tools-and-resources/massachusetts-tiered-system-of-support/), provides a framework for school improvement that focuses on system structures and supports across the district, school, and classroom to meet the academic and non-academic needs of all students, including students with disabilities, English language learners, and students who are academically advanced. It guides both the provision of high-quality core educational experiences in a safe and supportive learning environment for all students and academic and/or nonacademic targeted interventions/supports for students who experience difficulties and for students who have already demonstrated mastery of the concept and skills being taught. Schools and districts are encouraged to work toward an integrated approach to support students’ academic and social-emotional competencies. All students receive academic instruction and behavioral supports that include differentiation and extension activities and are guided by the three Universal Design for Learning principles (multiple means of representation, multiple means of action and expressions, and multiple means of engagement).

An evaluation is one step in the special education process for a student with a suspected disability. The purposes of evaluation are to see if the student is a “student with a disability,” to gather information that will help determine the student’s educational needs, and to guide decision making about the appropriate educational programming for the student. The law requires a student to be assessed in all areas related to his or her suspected disability, including information relative to the student’s participation in the general curriculum in order to determine an appropriate educational program. The data gathered during the evaluation process will determine the nature and extent of the special education and related services the student needs, so that a comprehensive and appropriate individualized education program (IEP) can be developed and implemented. If the IEP team makes a determination that a student has a disability and requires special education, an IEP is developed. If it is determined that a student is not eligible for special education, the reasons are recorded and parents are provided written notice of the finding. The ESE’s Special Education, Policy, Planning and Development document [*The Basic Special Education Process under IDEA*](http://www.doe.mass.edu/sped/iep/process.pdf)*,* a step-by-step summary of how a student is identified as having a disability and in need of special education and related services and how to develop an IEP.

Individuals with Disabilities Education Act (IDEA) (§ 300.111) also requires schools to conduct “child find” activities to identify, locate, and evaluate all children with disabilities, aged birth to 21 years. Charter school “child find” responsibilities differ from traditional public school because charter schools do not have jurisdiction over a geographical area as most traditional public schools. Charter schools must only conduct “child find” activities for the students who are actually enrolled in the school.

## Does the Department of Elementary and Secondary Education have any resources to articulate parental rights and procedures related to special education?

Yes. The ESE’s Special Education Planning and Policy (SEPP) Development unit offers an extensive list of resources for parents available at [www.doe.mass.edu/sped/parents.html](http://www.doe.mass.edu/sped/parents.html). Charter schools should be familiar with these resources and share them with parents. Additionally, the Federation for Children with Special Needs (FCSN) operates a Parent Center in Massachusetts that offers a variety of services to parents, parent groups, and others who are concerned with children with special needs. The FCSN, in collaboration with ESE wrote [*A Parent’s Guide to Special Education*](http://fcsn.org/parents-guide)*.*

## What should we do if a teacher or parent suspects a student 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 student 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 referral for a special education evaluation. The ESE’s [*Is Special Education the Right Service?*](http://www.doe.mass.edu/sped/2001/eligibility.pps)provides guidance to practitioners and parents on how the capacity of general education can be maximized to ensure that referrals to special education are made appropriately.

However, a parent or any person in a care giving or professional position who is concerned that a student may have a disability or who is concerned about a student’s development can refer a student for an initial evaluation. A school may not refuse or delay a referral in order to try other supportive services. Once the parent consents to a special education evaluation to determine if a student is eligible, the charter school must be prepared to use existing, evaluative information and conduct an evaluation, without delay, in all areas related to the student’s suspected disability.

## Are federal and state timelines different for determining if a student is eligible for special education services?

Yes. In Massachusetts, the special education system is based on the federal special education law, the Individuals with Disabilities Education Act (IDEA), in combination with the state’s special education laws and regulations. IDEA allows a 60 calendar day timeline to determine if a student is eligible for special education services. In Massachusetts, the team process must be completed within 45 school working days of the school’s receipt of a family’s written consent. The school district must provide an evaluation (within the first 30 of the 45 school working days), convene a team meeting to review the evaluation to determine eligibility, and develop an individualized education program (IEP), if required, and provide the parents with two copies of the proposed IEP and proposed placement. The team process and development of the IEP timelines regulation are described in 603 CMR 28.05(7). Since 2000, an IEP provided to a parent within 3-5 days of the team meeting fulfills the requirement for “immediate” delivery of the IEP to the parent, and the parent has an additional 30 days to respond to the proposed IEP. The Department of Elementary and Secondary Education (ESE) December 1, 2006 Memorandum[*Implementation of 603 CMR 28.05(7): Parent response to proposed IEP and proposed placement*](http://www.doe.mass.edu/news/news.aspx?id=3182)is a best practice guidance to school districts and parents in how to implement and comply with the “immediate” standard.

## If we have concerns about our ability to meet the needs of a specific student with a disability, can we recommend other programs or schools?

It is important for charter school leaders to discuss the future or current services and supports provided to students with disabilities and to explore potential strategies for meeting the needs of all students who attend your school. The initial focus should be on understanding the needed supports and services and identifying strategies for delivering them within the context of your school. All issues about the appropriateness of a student’s placement should be discussed with the student’s individualized education program (IEP) team.

Pursuant to Massachusetts special education regulations, [603 CMR 28:10(6)](http://www.doe.mass.edu/sped/advisories/2014-5ta.html), if the charter school’s IEP team determines that a student with disabilities may need an out-of-district placement, the team shall conclude the meeting without identifying a specific placement type. The charter school must then notify the school district where the student resides within two school days and schedule another meeting to determine the placement. The charter school must invite a representative from the district where the student resides to participate in determining the placement as a member of the IEP team. Please refer to the [Technical Assistance Advisory SPED 2014-5: *Charter School Out of District Placement "28.10" Guidance*](http://www.doe.mass.edu/sped/advisories/2014-5ta.html) for more information.

## What kind of planning is needed to ensure all students’ needs are accommodated?

All schools are required to develop a District Curriculum Accommodation Plan (DCAP) detailing the school’s strategies to strengthen and improve the general education program for the benefit of all students and avoid unnecessary referrals to special education. For example, the school’s DCAP must describe the various strategies, such as professional development or instructional strategies, used by general classroom teachers to accommodate the learning needs of English language learners and students with disabilities and effectively manage student behavior.

# Developing an Individualized Education Program

## What is an Individualized Education Program?

An individualized education program (IEP) is a written statement for a child with a disability that is developed, written, and revised by the student’s IEP team in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Massachusetts special education law and regulations. Each IEP must include a statement of the student’s present levels of academic achievement and functional performance, including how the student’s disability affects the student’s involvement and progress in the general education curriculum. The statement of the student’s present levels is intended to comprehensively describe a student’s abilities, performance, strengths, and needs. A fully developed, well-written “present levels” is the foundation upon which the rest of the IEP can be developed to specify appropriate goals, services, supports, accommodations, and placement for the student. Once all the elements of the IEP are determined, including services and supports, an educational placement is determined. The first placement option considered for each student with a disability must be the general education classroom with the provision of supplementary aids and services. Concerns about instruction are discussed during the IEP team meeting and described in the student’s IEP so that all team members can contribute and understand how the student will have access to the general curriculum. Students may not be denied education in an age-appropriate general education classroom solely because the students’ education requires modification to the general curriculum. Other placement options should be considered only when the nature and severity of the disability would prevent satisfactory achievement within the general education environment. The state’s mandated IEP forms, notices, and directions are available at <http://www.doe.mass.edu/sped/iep/eng_toc.html>.

## We plan to develop individual learning plans for all of our students. Do we still have to develop an Individualized Education Program for students with disabilities?

Yes. All students receiving special education services must have an individualized education program (IEP) that is developed by an IEP team following the procedural requirements of the Individuals with Disabilities Education Act (IDEA) and Massachusetts special education law and regulations. The IEP may complement the learning plans your school will develop for all students. However, the IEP will be the legal, binding document for all special education related services provided to a student who has been found to be eligible for special education.

## Who must be part of an individualized education program team?

The individualized education program (IEP) team consists of, at minimum, a chairperson, a representative of the school who can authorize school resources (and who may act as chairperson), the parent, general education and special education teachers, the student (as appropriate), and an individual who is qualified to interpret evaluation results. The IEP team meeting creates an opportunity for teachers, parents, school administrators, other individuals with knowledge and special expertise regarding the student, including related services personnel and the students themselves (whenever appropriate), to work together to develop the IEP. These individuals combine their knowledge, experience, and commitment to design an educational program that must help the student to be involved in, and progress in, the general education curriculum. The IEP guides the delivery of special education services.

More detailed information can be found in the Department of Elementary and Secondary Education (ESE) [*Guidance for Implementing IDEA 2004: Team Meetings*](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/?section=keypoints_team).

## Are there specific individualized education program forms that must be used?

Yes. The ESE has developed mandated individualized education program (IEP*)* [*Forms and Notices*](http://www.doe.mass.edu/sped/iep/eng_toc.html). All elements of the state’s mandated forms must remain unchanged; however, schools may change the form design and may add elements. The [*IEP Process Guide*](http://www.doe.mass.edu/sped/iep/proguide.pdf), a companion document that links sound special education practices with program requirements, is designed to be used with the *IEP Forms and Notices*. The IEP forms and notices are translated into sixteen languages and there is a glossary corresponding to each language that translates common special education terms. The IEP is not intended to be a curriculum for the student but serves as a guide for how to “open the doors” to improve access to the general education curriculum and include the necessary special education and related services that will assist the student to succeed.

## Is our school responsible for the cost of a private school placement if a student with a disability who attends our school requires such a placement?

No. Massachusetts special education regulations require that tuition for a private school placement is the responsibility of the charter school student’s district of residence. Please refer to the [Technical Assistance Advisory SPED 2014-5: *Charter School Out of District Placement "28.10" Guidance*](http://www.doe.mass.edu/sped/advisories/2014-5ta.html) for more information.

# Code of Conduct

## Can a student with a disability be suspended or expelled?

Yes. Students with disabilities can be disciplined for misconduct like all students, but special considerations and protections are required before imposing a student’s removal exceeding 10 school days from his or her current education placement, including transportation. School authorities can suspend a student with a disability from his or her current placement for less than 10 consecutive or cumulative days for any violation of school rules if non-disabled students would be subject to removal for the same offense. However, removal of a student for more than 10 consecutive days is considered a change of placement and triggers a mandatory consideration as to whether the behavior is a manifestation of the student’s disability. The student’s individualized education program (IEP) team must conduct a “manifestation determination” by reviewing all relevant information and determine if the student’s conduct has a direct and substantial relationship to the disability and is a direct result of the school’s failure to implement the IEP. If the misconduct is determined to be a manifestation of the student’s disability, the IEP team must conduct a functional behavioral assessment and implement a behavioral intervention plan for the student and, except under special circumstances, return the student to the placement from which the student was removed, unless the parent and the charter school agree to a change of placement as part of a modification of the student’s behavioral intervention plan.

If the behavior was not a manifestation of the disability, discipline can be implemented in the same manner as for nondisabled students, except that appropriate educational services must continue to be provided during the exclusion period. When a student is suspended from school, education services are provided by a teacher or paraprofessional in either the student’s home or at a “neutral site”, such as the local library. This means that if non-disabled students are long-term suspended or expelled for a particular violation of school rules, the student with a disability may also be long-term suspended or expelled, but must continue to receive an academic program sufficient to enable the student to progress in the general curriculum and appropriately advance toward the goals set out in the student’s IEP. If a special education student is suspended or expelled from school, procedures must be in place to ensure that the student continues to receive an education even though their education will no longer be provided at the school. Charter school personnel should be carefully trained on the specific discipline requirements related to such removals so that correct procedures can be consistently followed in compliance with the law. The Individuals with Disabilities Education Act (IDEA) regulation pertaining to discipline procedures, 34 CFR § 300.530 - § 300.537, is available at <http://idea.ed.gov/explore/home>. The Department of Elementary and Secondary Education (ESE) flowchart [*Discipline of Special Education Students under IDEA 2004*](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc) provides further guidance. The ESE [*Implementation Guide* *IDEA 2004 Laws*](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/)provides a summary of the IDEA discipline statute.

# Financial Support for Special Education

## Are funds available to support special education services?

As a local education agency (LEA), Commonwealth and Horace Mann charter schools can apply for entitlement/allocation funds for special education. Charter schools, like all public schools, are entitled to federal funds provided under a formula grant program, if the school is in compliance with the program application requirements. Eligibility for these entitlement/allocation grants (also called “formula grants”) is usually based on a set of demographic criteria, such as the proportion of low-income or special education students a school serves. U.S. Department of Education (USED) regulations ensure that charter schools opening for the first time or significantly expanding their enrollment will receive funds from the state in a timely manner. The ESE special education federal entitlement grant information is available at <http://www.doe.mass.edu/sped/grants.html>.

## Is there financial support available for very high cost students with disabilities who attend charter schools?

Yes. The Department of Elementary and Secondary Education (ESE) Special Education [Circuit Breaker](http://www.doe.mass.edu/finance/circuitbreaker/) program, first implemented in FY04, reimburses a school district for students with disabilities who require individualized education program (IEP) services that cost greater than four times the statewide foundation budget. A school district may be reimbursed, subject to appropriation, for up to 75% of these costs. Although the majority of charter school students who meet this service threshold are served at special education day or residential placements and are the programmatic and financial responsibility of the their school district of residence, some charter schools may qualified for “circuit breaker” reimbursement.

## Can charter schools access Medicaid benefits for students who are eligible?

Yes. Massachusetts school districts, because they are considered Medicaid providers, can file Medicaid claims to obtain federal reimbursements for students who receive special education services, as delineated on an individualized education program (IEP), and who have MassHealth. This is called the [School Based Medicaid Program](http://www.mass.gov/eohhs/provider/insurance/masshealth/school-based-medicaid/). Parents and guardians of a student with IEP have the right to decide if they want to give school districts permission to share information with MassHealth for the purpose of billing the Municipal Medicaid Program. Please refer to the [*Administrative Advisory SPED 2013-1: Parental Consent to Access MassHealth (Medicaid)*](http://www.doe.mass.edu/sped/advisories/13_1.html)for more information.

In Massachusetts, the federal match for state dollars spent on Medicaid services is 50%. For every dollar that the Commonwealth spends on Medicaid-eligible services, the federal government contributes 50 cents. Therefore, schools can bill for half of the cost of the services they provide. This can be a significant source of additional funding for schools.

There are two categories of Medicaid billable services that schools provide:

* + Direct services to students – this includes physical therapy, occupational therapy, speech and language services, audiological services, behavior management and/or counseling, and 1:1 nursing services; and
	+ Administrative activities – these indirect services that are not child-specific, and include: providing resources and referrals, overall planning for all student health services, prenatal/postnatal counseling for pregnant students, and outreach to identify and enroll eligible students in MassHealth (including helping families with the MassHealth application).

## Can charter schools in Massachusetts collaborate and pool their special education resources or form a consortium in order to provide special education and related services?

Yes. The Massachusetts state statute, [M.G.L. c. 40, § 4E](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40/Section4E) allows charter schools to pool resources to form an education collaborative with other charter schools.

# Facilities

## Are there physical access requirements that apply for the facilities that will house our charter school?

Yes. Charter schools in Massachusetts may not deny persons with disabilities, including families and students, the benefits of any programs or activities offered because of inaccessible facilities. When selecting a school building, one should consider whether or not it is accessible and the potential costs incurred to make the building programmatically accessible to persons with disabilities prior to opening the school.

## If we rent our school building, whose responsibility is it to make our school accessible?

The responsibility to modify a facility should be articulated in the lease between your school and the owner of the facility. If your school is purchasing a building, the responsibility lies with the school. It is very important that you seek legal counsel on this issue prior to signing any contracts to lease or purchase your facility.

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

Yes. Generally for existing facilities, a charter school’s programs and activities, when viewed in their entirety, must be readily accessible to individuals with disabilities. The regulations for Section 504 and Americans with Disabilities Act (ADA) Title II permit considerable 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. For new construction and alterations (i.e., construction begun since June 1977), Section 504 and ADA Title II requires that a new or altered facility (or the part that is new or altered) must be readily accessible to, and usable by, individuals with disabilities.

## What impact will these accessibility requirements have on our operations?

You must make sure that a student with a physical disability has access to every part of the new building or the parts that are newly altered. For example, if your charter school is in a new building, all parts of the building including a third-floor chemistry lab must be accessible for use by persons with disabilities. In contrast, if your charter school is in an existing facility, you might be able to meet the program accessibility requirement by locating at least one chemistry lab in an accessible location, such as the first floor. However, the specific federal, state, and local requirements on this issue are complicated and you should obtain legal counsel when acquiring a facility to house the charter school.

## Where can we obtain information and technical assistance in making our school accessible?

The Massachusetts special education regulations require all school districts and charter schools to provide facilities and classrooms for students with disabilities that maximize their inclusion into the life of the school. Facilities and classrooms serving only students with disabilities shall be at least equal in all physical respects to the average standards of general education facilities and classrooms. All eligible students shall have access to school facilities including, but not limited to, those areas necessary to implement the student’s individualized education program (IEP). In addition to reviewing the requirements of Section 504 of the Rehabilitation Act (Section 504) and the Title II of the Americanswith Disabilities Act (ADA), schools may request further information from the Massachusetts Office of Civil Rights at: OCR\_Boston@ed.gov. Since charter schools in Massachusetts came into existence after these federal laws were enacted, the “grandfather” provision does not apply to charter schools. When considering whether to lease or buy a facility, a charter school should not assume that the facility meets the handicapped accessibility requirements, even if the facility has previously been occupied by a non-charter or charter public school.

# Transportation

## Are we required to provide transportation to students who attend our charter school?

The Massachusetts charter school statute, [M.G.L. Ch. 71 § 89(cc)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89), requires that students who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident school district in the same manner as transportation is provided to students attending its local district schools. The Department of Elementary and Secondary Education (ESE) [*Charter School Technical Advisory 16-1: Transportation*](http://www.doe.mass.edu/charter/guidance/2016-1.html) is a guidance document that clarifies the obligations to provide transportation to charter school students and the reimbursement programs currently available to charter schools for the provisions of transportation services. Students with disabilities, who have transportation specified as a related service in their individualized education program (IEP) or Section 504 of the Rehabilitation Act Plans, are provided transportation in the same manner as students without disabilities unless the charter school opts to provide these services and be reimbursed as described in the ESE Local District Transportation Reimbursement program. For students with disabilities, who are enrolled in a regional charter school and reside outside of the district in which the charter school is located, the regional charter school is obligated to provide these services, whether or not the charter school provides transportation to any regular education student or participates in any transportation reimbursement program.

# Understanding Section 504 of the Rehabilitation Act

## Are there other laws designed to protect the rights of students with disabilities?

Yes. In addition to Individuals with Disabilities Education Act (IDEA), other important federal laws that protect students with disabilities are Section 504 of the Rehabilitation Act (Section 504) and the American with Disabilities Act (ADA). Section 504 is a civil rights law that prohibits discrimination on the basis of disability and requires that the educational needs of disabled students are met as adequately as the needs of nondisabled students. The ADA is a civil rights law that prohibits discrimination on the basis of disability in employment, public services (including public schools), and accommodations. The ADA seeks to eliminate barriers to access in buildings, transportation, and communication for people with disabilities. Both Section 504 and ADA protect not only eligible students but extend basic access and participation rights to other persons with disabilities who are involved with public education. These rights extend to parents, teachers, staff, volunteers, board of trustee members, and members of the public, etc. Section 504 and ADA resources are available at [www.doe.mass.edu/sped/links/sec504.html](http://www.doe.mass.edu/sped/links/sec504.html).

## Who is protected under Section 504 of the Rehabilitation Act?

Under Section 504 of the Rehabilitation Act (Section 504), any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such impairment or (3) is regarded as having an impairment is protected. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. The Section 504 regulations do not provide an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments or major life activities because of the difficulty of ensuring the comprehensiveness of such a list. The Section 504 regulations require a charter school to provide a free appropriate public education (FAPE) to each qualified student with a disability that is comparable to that provided to students without disabilities. An appropriate education could consist of a blend of general education or special education, related aids, and services created specifically for a student with disabilities to meet his/her needs as adequately as the needs of general education students are met. Students can receive related services (e.g., speech-language therapy, physical and occupational therapy, and health services) under Section 504 even if they are not provided any special education services.

## How are students identified as eligible for services under Section 504 of the Rehabilitation Act? Is there a written plan?

Like the Individuals with Disabilities Education Act (IDEA) evaluation and placement procedures, Section 504 of the Rehabilitation Act (Section 504) requires schools to draw from a variety of sources and that decisions are made by persons knowledgeable about the student and evaluation data. Section 504 requires notice to parents regarding the identification, evaluation, and planned accommodations. The Office Civil Rights (OCR) has interpreted Section 504 to require schools to obtain parental permission for initial evaluations. In the Section 504 context, “evaluation” refers to a gathering of data or information from a variety of sources so that persons knowledgeable about the student can make the required determinations. Common sources of evaluation data for Section 504 eligibility are the student’s grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, teacher comments, etc. If a student is found eligible under Section 504, an Accommodation Plan is developed that includes the accommodations that will compensate for the disability so that the student has equal access to the educational benefits of the school’s program. While curricular modifications may be available to special education students with IEPs, Section 504s is not about modifying or reducing expectations for disabled students, but to provide accommodations so the students have an equal opportunity to succeed in school.

## Is there funding to implement Section 504 of the Rehabilitation Act services?

No. The Individuals with Disabilities Education Act (IDEA) is an education act that provides federal funds to supplement local and state expenditures for special education and related services and assists schools in meeting special education requirements for students on IEPs. Section 504 of the Rehabilitation Act (Section 504) is an antidiscrimination law and does not provide any type of funding. IDEA funds may not be used to serve children found eligible under Section 504.

# Parent Involvement

## What types of trainings and information sessions must be provided to parents of children with special needs?

It is important to reach out to family members of students with disabilities to ensure they are part of the activities that involve all parents and meet their needs for information. Massachusetts state regulations governing parent involvement, [603 CMR 28.07(4)](http://www.doe.mass.edu/lawsregs/603cmr28.html?section=07#start), requires a charter school to create a Parent Advisory Council (PAC) offering membership to all parents of eligible students and other interested parties. In cooperation with the PAC, the school must offer at least one workshop annually on the rights of students with disabilities to their parents and guardians. The Individuals with Disabilities Education Act (IDEA) defines “parent counseling and training” to mean:

* Assisting parents in understanding the special needs of their child
* Providing parents with information about child development, and
* Helping parents to acquire the necessary skills that allow them to support the implementation of their child’s individualized education program (IEP)

The ESE’s Special Education Planning and Policy (SEPP) Development unit offers an extensive list of resources for parents available at [www.doe.mass.edu/sped/parents.html](http://www.doe.mass.edu/sped/parents.html).

# Accountability

## What are the special education accountability requirements at charter schools in?

In addition to the OCSSR accountability and oversight procedures, all Massachusetts public schools, including charter schools, receive a Coordinated Program Review (CPR) on a six year cycle and a follow-up Mid-Cycle Review (MCR) of special education, English language learner and other selected criteria. These reviews are conducted by the Program Quality Assurance (PQA) unit of the ESE. Information about the ESE compliance monitoring system is available at [www.doe.mass.edu/pqa/review/cpr/default.html](http://www.doe.mass.edu/pqa/review/cpr/default.html).

## How will special education be included in the renewal of our school’s charter?

ESE Charter school law obligates the Board of Elementary and Secondary Education (BESE) to conduct an ongoing review of charter schools and by the fifth year of a school’s operation, determine whether a school’s charter should be renewed. Charter schools can find specific information on the renewal process in the ESE [*Charter School* *Renewal Inspection Protocol*](http://www.doe.mass.edu/charter/guides/RenewInspect.pdf), specifically, Criteria 2: Access and Equity, Criteria 6.2: Instruction, Criteria 6.4: Supports for Diverse Learners, and Criteria 7: Culture and Family Engagement.

## How do students with disabilities participate in the Massachusetts accountability system?

All Massachusetts districts and schools with sufficient data are classified into one of five accountability and assistance levels, with the highest performing in Level 1 and lowest performing in Level 5. In general, a district is classified into the level of its lowest performing school, unless the district was classified into Level 4 or 5 as a result of action by the Board of Elementary and Secondary Education. Massachusetts uses the Progress and Performance Index (PPI) to assess the improvement of each district and school toward its own targets. The PPI combines information about narrowing proficiency gaps, growth, and graduation and dropout rates into a single number. All districts, schools, and student subgroups with sufficient data are assigned an annual PPI based on two years of data and a cumulative PPI between 0 and 100 based on three annual PPIs. For a district or school to be considered to be making progress toward narrowing proficiency gaps, the cumulative PPI for both the "all students" group and high needs students must be 75 or higher.

Beginning in spring 2016, all students, including students with disabilities, will be required to participate in all MCAS tests (or PARCC ELA/literacy and mathematics tests) that are scheduled for their grade. Students with significant disabilities who are unable to take the standard tests, even with accommodations, must take the MCAS Alternate Assessment (MCAS-Alt).

During its annual meeting, a student’s individualized education program (IEP) or Section 504 of the Rehabilitation Act (Section 504) team must determine how the student will participate in state assessments for each subject scheduled for assessment. This information, including any accommodations that a student will use, must be documented in the student’s IEP or Section 504 plan. The ESE guidance document for educators and parents, [*Requirements for the Participation of Students with Disabilities*](http://www.doe.mass.edu/mcas/participation/?section=sped), includes a list of standard MCAS and PARCC accommodations, and the requirements to use nonstandard MCAS accommodations and alternate assessments.

# Student Reporting

## Is there a student reporting system to submit information about students with disabilities to the state?

Yes. The [Student Information Management System (SIMS)](http://www.doe.mass.edu/infoservices/data/sims/) is a student-level data collection system that allows the ESE to collect and analyze information that includes a unique student identifier for *all* students receiving a publicly funded education in Massachusetts. This data for all students is transmitted to the ESE from all school districts via a security portal. SIMS has over fifty student-level data elements, including special education data elements, which include special education placement, type of disability, level of need, and special education evaluation results.

# Special Education Monitoring

## How is special education monitoring carried out in Massachusetts?

The ESE oversees school district compliance with education requirements through the Coordinated Program Review (CPR). All compliance reviews monitor selected special education, civil rights requirements, English language learner, and other general education requirements. After the monitoring review, the ESE issues a CPR report identifying all implemented educational requirements and any areas of non-compliance cited during the school’s onsite review. The school district is required to develop a Corrective Action Plan (CAP) that addresses the identified areas of non-compliance.

The ESE compliance monitoring process occurs on a six-year cycle. In addition, Massachusetts requires a Mid-Cycle Review (MCR) follow-up visit three years after the CPR. The MCR verifies the implementation and effectiveness of how the school district CAP is correcting previously identified noncompliance issues. The MCR also reviews special education criteria that have been substantially changed in response to IDEA and selected English language learner requirements. The ESE Program Quality Assurance (PQA) unit has instituted a Web-based Monitoring System (WBMS) with all schools. As part of the WBMS, schools conduct a special education program self-assessment that includes special education student records and required policies and procedures.

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

The ESE Program Quality Assurance (PQA) unit provides a CPR orientation visit to schools to review the CPR’s purpose and procedures. Prior to a CPR, a PQA chairperson will schedule a school visit to discuss the school coordinator’s role and responsibilities, submission of required documents, and set dates and timelines for the CPR visit. The ESE CPR [*School District Information Package: Special Education*](http://www.doe.mass.edu/pqa/review/cpr/instrument/sped.pdf) contains detailed descriptions of the review procedures including the scope of the review and compliance components; pre-onsite preparation; program self-assessment; local orientation meeting; student record review format; documentation requirements; parent surveys, and an onsite schedule.

# Resources

Massachusetts Department of Elementary and Secondary Education

<http://www.doe.mass.edu>

National Association of State Directors of Special Education (NASDSE)

<http://www.nasdse.org>

Massachusetts Office of the Attorney General

<http://www.mass.gov/ago/>

Massachusetts Office of the Inspector General

*Designing and Constructing Public Facilities* <http://www.mass.gov/ig/publications/manuals/dcmanual.pdf>

ESE Special Education Policy, Planning, and Development Unit

<http://www.doe.mass.edu/sped/>

ESE Office of Charter Schools and School Redesign

<http://www.doe.mass.edu/charter/>

Massachusetts Charter Public School Association <http://www.masscharterschools.org/schools/>

ESE *Technical Assistance Advisory SPED 2007-1: Autism Spectrum Disorder*

<http://www.doe.mass.edu/sped/advisories/07_1ta.html>

ESE *Memorandum on Specific Learning Disability–Eligibility Process/Forms*

<http://www.doe.mass.edu/sped/iep/sld/default.html>

ESE Training Module: *Specific Learning Disabilities: Eligibility Determination under IDEA 2004*

<http://www.doe.mass.edu/sped/cspd/mod5.html>

ESE Student Records Regulations

<http://www.doe.mass.edu/lawsregs/603cmr23.html>

ESE *Student Records Questions and Answers* <http://www.doe.mass.edu/lawsregs/advisory/cmr23qanda.html?section>

ESE *Parent’s Notice of Procedural Safeguards*

<http://www.doe.mass.edu/sped/prb>

National Association of State Directors of Special Education (NASDSE)

[http://www.nasdse.org/Projects/CharterSchoolsandSpecialEducation/tabid/416/Default.aspx](http://www.nasdse.org/Projects/CharterSchoolsandSpecialEducation/tabid/416/Default.aspx%20)

Massachusetts Federation for Children with Special Needs

[www.fcsn.org](http://www.fcsn.org)

Massachusetts Association of Special Education Parent Advisory Councils

[http://fcsn.org/masspac/](http://fcsn.org/masspac/%20%20)

ESE Massachusetts Tests for Educator License (MTEL)

[www.doe.mass.edu/mtel](http://www.doe.mass.edu/mtel)

ESE Massachusetts Curriculum Frameworks

<http://www.doe.mass.edu/frameworks/current.html>

Massachusetts Special Education Regulations

<http://www.doe.mass.edu/lawsregs/603cmr28.html>

ESE Federal Programs Compliance Monitoring System

<http://www.doe.mass.edu/pqa/>

ESE Principal’s Role and Special Education in Massachusetts

[www.doe.mass.edu/sped/cspd](http://www.doe.mass.edu/sped/cspd)