



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

December 28, 2016

Dear Colleague,

Students with disabilities who are enrolled in public charter schools, like students with disabilities enrolled in other public elementary or secondary schools, have important rights under two Federal laws, Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Individuals with Disabilities Education Act (IDEA). Similarly, students with disabilities who seek to enroll in public charter schools or traditional public schools have important rights secured by these two laws.

Today, we are pleased to issue two documents to provide the charter school community with information about the rights of charter school students with disabilities and prospective charter school students with disabilities. These documents are “Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973,” issued by the United States Department of Education’s (ED) Office for Civil Rights (OCR), www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf, and “Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act,” issued by ED’s Office of Special Education and Rehabilitative Services (OSERS), www2.ed.gov/policy/speced/guid/idea/memosdcltrs/faq-idea-charter-school.pdf. Because the laws for which our respective offices are responsible are sufficiently different in terms of purpose, population of students covered, and requirements, we are issuing two documents to clarify the rights of students with disabilities in charter schools under these laws.¹

Section 504 prohibits entities that receive Federal financial assistance from discriminating on the basis of disability, ensuring that students with disabilities are provided an equal opportunity to participate in or benefit from the aid, benefits, services, and opportunities provided to others in federally-assisted programs. The Section 504 document outlines the rights of charter school students with disabilities (and prospective charter school students with disabilities) on a variety of issues, including the right to a free appropriate public education (FAPE) as defined in ED’s regulations implementing Section 504. A key message of the Section 504 document is that charter school students with disabilities have the same Section 504 rights as other public school students with disabilities at the elementary and secondary education levels. For this reason guidance applicable to the Section 504 rights of public elementary and secondary school students

¹ Another Federal law, Title II of the Americans with Disabilities Act of 1990 (Title II), prohibits discrimination on the basis of disability by public entities regardless of whether they receive Federal financial assistance. Violations of Section 504 that result from a public entity’s failure to meet the obligations identified in the Section 504 document also generally would constitute violations of Title II. To the extent that Title II provides greater protection than Section 504, entities covered by Title II must comply with Title II’s substantive requirements. For additional information on Title II, see www.ada.gov.

generally applies to charter school students regardless of whether charter schools or charter school students are specifically mentioned. In addition, the Section 504 document offers information about the applicability of requirements for disability nondiscrimination and equal opportunity in recruitment, application, and admission to charter schools because the admissions policy or enrollment practices of a charter school may differ from the admissions policy or enrollment practices of a traditional public school or school district.

The IDEA is the Federal law that assists States, and through them, local educational agencies in providing special education and related services to children with disabilities. The primary purpose of the IDEA Part B program is for States and school districts to make FAPE, as defined in IDEA, available to all eligible children with disabilities and to ensure that IDEA's rights and protections are afforded to those children and their parents. The IDEA document outlines the rights of charter school students with disabilities and their parents on a variety of issues. Specifically, the IDEA document emphasizes that children with disabilities who attend charter schools and their parents retain all rights and protections under Part B of IDEA just as they would at other public schools. It also addresses the provision of FAPE, the State educational agency's general supervisory authority over all educational programs for children with disabilities in the State, including charter schools, child find and evaluations, placement, procedural safeguards, IDEA funding, IDEA obligations related to charter school closures, and other topics. The IDEA document is part of multiple technical assistance and related efforts by OSERS in support of the important role that State educational agencies play in ensuring that all educational programs for children with disabilities in the State meet State education standards and the requirements of Part B of the IDEA.

Thank you for your continued efforts to ensure that all students, including students with disabilities, receive a meaningful educational benefit and have equal opportunities at school, including in public charter schools.

Sincerely,

/s/

Catherine E. Lhamon
Assistant Secretary for Civil Rights

/s/

Sue Swenson
Deputy Assistant Secretary,
Delegated the authority to perform the
functions and duties of the Assistant
Secretary for Special Education and
Rehabilitative Services