

**Chapter 8**  
**CHARTER SCHOOLS**

**Chapter Contents**

Section 1. Definition and Parent/Student Rights .....116

Section 2. Responsibility for Services .....117

Section 3. Essential Components of a Special Education Program.....118

Section 4. Charter Schools and Dual Enrollment .....119

Section 5. Funding .....119



## **Chapter 8**

### **CHARTER SCHOOLS**

Federal law requires that students with disabilities be offered educational choices comparable to those offered to students without disabilities. One of these choices is the opportunity to attend a public charter school. Each public charter school, whether a charter school within a district (LEA) or a charter school LEA (Local Education Agency), shares in the obligation to accept and appropriately serve students with disabilities under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) in the same manner as any other public school.

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

##### **A. Definition of Charter Schools**

In Idaho, a charter school is a public school authorized by Chapter 52, Title 33-5205, Idaho Code. A charter school operates as a nonprofit, publicly funded, nonsectarian school in one of two ways:

1. as a school within a district, if authorized by the local board of trustees of a school district (LEA); or
2. as its own LEA, if authorized by the Idaho Public Charter School Commission.

A charter school is bound by the conditions of its charter, all federal laws, and Idaho Code.

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

A charter school student is a public school student. Students with disabilities who attend charter schools and their parents have all of the same rights granted to students who attend other public schools. These rights are provided under the IDEA 2004; the Elementary and Secondary Education Act (ESEA), reauthorized as the No Child Left Behind Act (NCLB); Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act (ADA); and the Family Education Rights and Privacy Act (FERPA). Idaho law specifically states that charter schools cannot discriminate against any student on any basis prohibited by federal or state constitutions or any federal, state, or local law. Under Idaho State Law, the charter of an authorized charter school outlines specific mission statements, policies and procedures.

## Section 2. Responsibility for Services

### A. Charter School Authorized by the District (See definition in Section 1.A.1)

The district is ultimately responsible to ensure that the requirements of the IDEA 2004 are met with respect to students attending charter schools authorized by the district. A charter school's compliance with the IDEA 2004, Part B, is required regardless of whether the charter school receives any Part B funds.

1. To ensure that a charter school authorized by the district meets the IDEA 2004 requirements, the district shall ensure services to students with disabilities attending the charter schools are provided in the same manner as the district serves students with disabilities in its' other schools, including providing supplementary and related services onsite at the charter school to the same extent to which the district has a policy or practice of providing such services on the site to its' other public schools.
2. The district shall have information on file with the State Department of Education (SDE) that demonstrates students with disabilities who attend charter schools authorized by the district will receive special education and related services from either the district or the charter school (or a combination of both).
3. The district will ensure that its charter schools participate in all monitoring activities conducted by the SDE.

### B. Charter School Operating as an LEA (See definition in Section 1.A.2)

Only the Idaho Public Charter School Commission has the authority to allow the creation of a public charter school that operates as an LEA. A charter school LEA, whether virtual or brick-and-mortar or combination thereof, has an obligation to accept and appropriately serve students with disabilities and is solely responsible to ensure that the requirements of the IDEA 2004 are met with respect to students enrolled. Compliance with the IDEA 2004, Part B, is required regardless of whether the public charter school receives any Part B funds. A charter school LEA shall:

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

## Section 3. Essential Components of a Special Education Program

The Idaho charter school law requires each petition for a charter to describe the manner by which special education and related services will be provided to eligible students with disabilities.

Prior to approving a petition for a charter school, the authorizing entity—either the district or the Idaho Public Charter School Commission—shall ensure the petition includes:

1. Nondiscriminatory enrollment procedures.
2. Adequate plans, policies, procedures, contractual or other arrangements, and budget to ensure that students with disabilities attending the charter school will receive special education and related services that meet all the requirements of the IDEA 2004. The petition should describe how the charter school and its authorizing entity will:
  - a. have special education and related services as identified in student IEPs, in place by the first day of the school year;
  - b. conduct Child Find activities and evaluations;
  - c. develop, review, and revise IEPs in accordance with state and federal law;
  - d. employ and use highly qualified special education personnel;
  - e. meet LRE requirements;
  - f. implement the IDEA 2004 discipline procedures; and
  - g. protect student and parent rights.
3. Provisions to employ special education and related services professionals who are appropriately licensed and/or certificated for the duties they are assigned.
4. A professional development plan for the training needs of special education personnel as well as general education teachers in order to meet the needs of students with disabilities who are enrolled in the charter school.
5. A plan that ensures access to charter school programs, as required by the ADA. This plan may include the actual location of the school, classrooms, and settings within the classrooms to permit access by students with disabilities.
6. A transportation plan for special education students who may, because of the nature of their disabilities, be entitled to specialized transportation as a related service, even if the charter school does not provide transportation to other students.
7. Provisions for notifying the authorizing entity in the event that a formal complaint or due process hearing request is filed by or on behalf of a charter school student.

### **Section 4. Charter Schools and Dual Enrollment**

The Board of Trustees of a district shall adopt procedures governing dual enrollment. The parent or guardian of a student of school age who is enrolled in a public charter school shall be allowed to enroll the student in a public non-charter school for dual enrollment purposes. Any charter school student participating in dual enrollment may enter into any program in the non-charter public school that is available to other students. Special education services (specially designed instruction and related services designed to meet the unique needs of a student with a disability) will be provided as appropriate only in conjunction with enrollment in academic or non-academic programs so the students can meet the education standards of the district.

For detailed requirements and responsibilities governing dual enrollment of charter school students, see Idaho Code 33-203 in Appendix 8.

### **Section 5. Funding**

#### **A. State Funds**

The SDE will make apportionment payments (from state general funds) to each charter school based on attendance figures. The SDE will pay state funds directly to charter schools using the funding formula described in state law. A charter school may also be eligible for the following funds:

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

#### **B. Federal Funds**

The SDE disburses federal flow-through funds to all authorized local education agencies (LEA's).

1. Charter School Authorized by the District

The district provides funds under Part B to those charter schools that are part of the district on the same basis as the district provides funds to the other public schools. This includes proportional distribution based on relative enrollment of students with

disabilities. This distribution is made at the same time as the district distributes funds to their other public schools and must be consistent with Idaho's charter school law. The individual school's approved charter will identify whether the district will provide funding or services of comparable value.

- a. The amount of funds or comparable services will generally be equal to the per student amount the district is allocated from the SDE in the current year multiplied by the charter school's December 1 Child Count from the **previous** school year.
- b. Under certain circumstances the district shall allocate Part B funds to an eligible charter school based on the number of special students enrolled and served in the **current** school year.
  - (1) The district will allocate funds to a charter school within 5 months of opening or significantly expanding its enrollment if the charter school notifies the district at least 120 calendar days before it opens or significantly expands its enrollment due to a significant event that is unlikely to occur on a regular basis (such as the addition of one or more grades or educational programs in major curriculum areas), and it takes place before February 1.
  - (2) When these conditions are met, the district will allocate funds to the charter school as follows:
    - i. If the opening or expansion occurs prior to November 1, the charter school will be allocated funds in the current school year based on the current school year's December 1 Child Count.
    - ii. If the opening or expansion occurs after November 1 but before February 1, the charter school will be allocated a pro-rata share of funds in the current school year based on the number of enrolled special education students with active IEPs 30 days after the opening or expansion. The pro-rata share will be the number of days the charter school will be open or expanded, divided by the number of days in the school year, multiplied by the number of special education students.
  - (3) If the opening or expansion occurs on or after February 1, the charter school will be allocated funds in the following school year based on the **following** school year's December 1 Child Count.
- c. For school districts that have authorized a virtual charter school and the charter school's students are enrolled in the district but live outside district boundaries and receive education outside the district, the SDE will determine the district's Part B funding in the following way:

- (1) The calculation of the district's allocation will be made exclusive of the charter school's enrollment and special education enrollment (student count).
- (2) After calculating the allocations for all districts using the federal funding formula and the distribution formula for any supplemental award, the SDE will determine the statewide average per-student allocation.
- (3) The SDE will add to the district's base allocation an amount equal to the statewide average per-student allocation times the number of students with disabilities enrolled in and determined to be eligible for and receiving special education services.

## 2. Charter School Operating as an LEA

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

- a. In the second and subsequent years of operation, Charter School LEAs will be allocated Part B funds in the same manner as all school districts – in accordance with the federally prescribed funding formula for the distribution of flowthrough funds.
- b. The policy for providing federal special education funds to new charter LEAs in the first year of operation, as required by federal regulation, includes the following steps:
  - (1) The LEA submits its December 1 Child Count as required by IDEA 2004.
  - (2) A SDE Special Education monitoring team visits the new LEA to review the files of the students reported on the Child Count.
  - (3) The monitoring team determines the number of students meeting all eligibility requirements and receiving appropriate special education and related services.
  - (4) Based upon the number of students determined to be eligible, amounts of first-year Part B funds for allocation to the charter LEA are calculated as follows:
    - i. The statewide average per-student amount of Part B funding in the current year is determined.
    - ii. That amount is multiplied by the number of students who meet all eligibility requirements and are receiving appropriate special education services to determine the total allocation.

- (5) The charter LEA then shall complete the Part B application documents. These include:
- i. Assurances and Policies and Procedures Adoption
  - ii. Maintenance of Effort Assurance
  - iii. Title Part B Budget Form
- (6) Once the application is submitted and approved, the charter LEA may begin drawing down these funds for the approved special education purposes.

