



REAL CONVERSATIONS ON PARENTING AND DISABILITY

**CHARTER SCHOOLS AND STUDENTS
WITH DISABILITIES**

Charter School Resources

United States Department of Education (US DOE)

- ★ • Know Your Rights: Students with Disabilities in Charter Schools
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-charter-school.pdf>
- ★ • Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the **Individuals with Disabilities Education Act**
<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/faq-idea-charter-school.pdf>
- ★ • Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under **Section 504 of the Rehabilitation Act of 1973**
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>

New York State Education Department (NYSED)

- ★ • Charter Schools and Special Education Overview
<http://www.p12.nysed.gov/psc/Footer/specialeduc.html>
- ★ • Complaints/Grievances Against Charter Schools
<http://www.p12.nysed.gov/psc/complaintprocess/complaint.html>

New York City Department of Education (NYC DOE)

- Charter school information and charter school enrollment process in NYC.
<https://www.schools.nyc.gov/enrollment/enroll-in-charter-schools/learn-about-charter-schools>

General Charter School Advocacy Resources

Wrightslaw

<https://www.wrightslaw.com/nltr/17/nl.0516.htm#2>

Advocates for Children

https://www.advocatesforchildren.org/who_we_serve/charter_schools

CHARTER SCHOOLS AND STUDENTS WITH DISABILITIES



Charter schools must accept students with disabilities, but are not equally accommodating. Independent reviews, school handbooks, and descriptions on school's websites will help you determine which schools are more supportive of students with disabilities.

Independent school review sites like [Insideschools.org](https://insideschools.org) can give a clearer understanding of the student experience with statistics about the student body, student achievement, and about how many students with disabilities attend the school.

School handbooks (generally available on a school's website) give you a sense of the school's vision, policies, and expectations, so you can consider how the environment will work for your child. Look for key words and ideas in the handbook (responsibility, diversity, rigor, etc.) the description of the school, its mission, and how they address the following:

- **Special Education:** All schools have special education services, but their handbook will not be specific. Don't assume specific programs (ICT, 12-1, etc) are available. Always ask.
- **Discipline:** If a handbook devotes multiple pages detailing its discipline policy, it may indicate an inflexible, 'no-nonsense' approach, which could be a concern if your child has behavioral challenges.
- **Promotion and holding students over:** Discuss the charter school's promotion policies and the process that leads to retention for a child with an IEP - what intermediate steps are taken and at what point are parents brought into the conversation.

Take tours, meet the staff, and ask:

- What specific special education services are available for students with disabilities?
- What are the academic and behavioral expectations?
- What is the school's approach to discipline?
- Do most students with disabilities remain at the school through graduation?
- What athletic and extracurricular opportunities are available, and are they linked to academic/behavioral requirements?

CHARTER SCHOOLS AND STUDENTS WITH DISABILITIES



Know Your Rights Under IDEA:

Charter schools are public schools that are privately managed. They are required to provide special education services. However, a charter school determines the type of services it will provide and may not offer all programs. The New York City Department of Education is responsible for providing services and programs when the charter school does not. Parents have the right to, and should, contact the Committee on Special Education to request evaluations, reopen cases, submit requests, or get assistance.

The Department of Education has primary responsibility for all the steps in the special education process as well as the delivery of services. Children with disabilities who attend charter schools and their parents retain all rights and protections under Part B of IDEA just as they would if the children were enrolled in other public schools.

Special Education:

All procedural safeguards apply, including access to Special Education Mediation, Impartial Hearings & State Complaints. Parents have the right and should contact the Committee on Special Education to request evaluations, reopen cases, submit requests, or get assistance.

Complaints About How the School is Run:

Complaints about how the school is run can be made to the school's Board of Trustees, the authorizer of the school, then the Board of Regents. Charter schools follow their charter or plan of operation, not necessarily all NYS or NYC DOE regulations.

RESOURCES

- **Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act (IDEA)**
Link: <http://bit.ly/2Malg3Y>
- **Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973**
Link: <http://bit.ly/2M83rSV>
- **NYSED Overview of Charter Schools and Special Education**
Link: <http://bit.ly/2MaI3Of>

CONTACT INFORMATION

Nelson Mar, Esq.

Senior Staff Attorney
Education Law Unit
Bronx Legal Services
349 East 149th Street
Bronx, NY 10451
nmar@lsnyc.org
(718) 928-3756 (t/f)



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

Know Your Rights: Students with Disabilities in Charter Schools

This document is designed to help parents, students, and the charter school community better understand the rights of students with disabilities under Federal disability-related laws.

Section 504 of the Rehabilitation Act of 1973 (Section 504), which the Office for Civil Rights enforces, prohibits disability-based discrimination.

The Individuals with Disabilities Education Act (IDEA), administered by the Office of Special Education and Rehabilitative Services, provides Federal funds to States, and through them, local educational agencies, to assist in providing special education and related services to children with disabilities.

Section 504

- Charter school students with disabilities (and those seeking to attend) have the same Section 504 rights as other public school students with disabilities. Among other things, these rights include:
 - a free appropriate public education (FAPE), which under Section 504 is regular or special education and related aids and services designed to meet the individual educational needs of a student with a disability as adequately as the needs of nondisabled students are met;
 - equal treatment and nondiscrimination in nonacademic and extracurricular activities such as counseling services and sports; and
 - accessibility (such as entrance ramps for people who use wheelchairs).
- Section 504 requires charter schools to conduct any recruitment activities and provide the opportunity to apply to a charter school on an equal basis.
- Section 504 FAPE requirements for placements are separate from requirements related to admission procedures. Section 504 provides that a charter school's admission criteria may not exclude or discriminate against individuals on the basis of disability, and that a school may not discriminate in its admissions process.
 - During the admissions process, a charter school generally may not ask a prospective student if he or she has a disability. Limited exceptions include that, if a school is chartered to serve students with a specific disability, the school may ask prospective students if they have that disability.
 - When a student with a disability is admitted to and enrolls in a charter school, the student is entitled to FAPE under Section 504. After enrollment, a charter school may ask if a student has a disability, which includes, e.g., whether a student has an individualized education program (IEP) or Section 504 plan.
- A charter school may not *counsel out*, i.e., try to convince a student (or parents) that the student should not attend (or continue to attend) the school because the student has a disability.



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

IDEA

- The primary purpose of the IDEA Part B program is for States and school districts to make FAPE available to eligible children with disabilities and to ensure that IDEA's rights and protections are afforded to eligible children and their parents.
- Students with disabilities attending charter schools and their parents retain all rights and protections under Part B of IDEA that they would have if attending other public schools.
- Under IDEA, all students with disabilities, including charter school students with disabilities, must receive FAPE through the provision of special education and related services in conformity with a properly-developed IEP.
- A charter school may not unilaterally limit the services it will provide a particular student with a disability. The responsible charter school LEA, or the LEA that includes the charter school, must provide a program of FAPE for the student in the least restrictive environment (LRE) in which the student's IEP can be implemented.
- States must ensure that charter school LEAs and LEAs that include charter schools meet all their responsibilities under Part B of IDEA, including the LRE requirements. In this context, the LRE provisions require that, to the maximum extent appropriate to their needs, students with disabilities attending public charter schools be educated with nondisabled students.

Resources

The U.S. Department of Education has issued the following documents that address these rights in more detail.

- *Joint OCR-OSERS Dear Colleague Letter*, Dec. 28, 2016, <http://www.ed.gov/ocr/letters/colleague-201612-504-charter-school.pdf>;
- *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973*, Dec. 28, 2016, <http://www.ed.gov/ocr/docs/dcl-faq-201612-504-charter-school.pdf>;
- *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act*, Dec. 28, 2016, <http://www.ed.gov/policy/speced/guid/idea/memosdcltrs/faq-idea-charter-school.pdf>.

If you want to learn more about your rights, or if you believe that your school is violating Federal law, you may contact the U.S. Department of Education, Office for Civil Rights, at (800) 421-3481, (800) 877-8339 (TDD), or ocr@ed.gov. You may also file a complaint online at www.ed.gov/ocr/complaintintro.html. If you have questions regarding IDEA, please send them to the Office of Special Education and Rehabilitative Services by email at ideacharterschools@ed.gov or by phone at 202-245-7468, (800)-877-8339 (TDD).



Charter School Office

Complaints/Grievances Against Charter Schools

[Proceso de Quejas para las Escuelas Charter en Español.](#)  [Word](#) 

Resolving Complaints “Informally”

Often, issues or complaints can be resolved informally between the complainant and the charter school, and do not need to involve the formal complaint process described below. Where appropriate, you may wish to use this more informal approach, which may result in a more timely resolution of the issue and which is also suited to dealing with issues that do not involve a violation of the charter or law. Even issues involving a violation of the law or charter may be able to resolved informally and you may wish to use this avenue before making a formal complaint (though the School cannot require you to do so and using any informal route the School may have does not prevent you from using the formal complaint process later). In the case of schools for which the Board of Regents is the Charter Entity/Authorizer, the Charter Schools Office would be happy to work with you in trying to resolve your complaint informally. In the case of schools authorized by other Charter Entities, you should contact the appropriate Charter Entity for assistance in resolving your complaint informally.

Formal Complaint Process

Section 2855 (4) of the [NYS Charter Schools Act](#) provides a formal complaint process for use by individuals (including parents) or groups who believe that a charter school has violated a term of its charter, a provision of the NYS Charter Schools Act, or any other provision of law relating to the management or operation of the charter school. **That process requires that the complaint be brought first to the School’s board of trustees** (or its designee as described in the School’s complaint/grievance policy). The charter school is required to provide you with a copy of its complaint/grievance policy upon request.

If, after making your complaint to the School’s board of trustees, you believe that the board of trustees has not adequately addressed your complaint, or if, after a reasonable period of time, the board of trustees or its designee does not respond to your complaint in writing - or does not respond within the time that the School provides in its formal complaint/grievance policy - you then have the right to bring your complaint to the entity that authorized the charter school (the “Charter Entity” or “Authorizer”), which will be one of the following entities: the NYS Board of Regents, the Trustees of the State University of New York (SUNY), the Chancellor of the NYC Department of Education, or the Buffalo Board of Education. (Please refer to the Charter Schools Directory located on this web site at: <http://www.p12.nysed.gov/psc/csdirectory/CSLaunchPage.html> to identify the Charter Entity/Authorizer for each school.) Charter Entities/Authorizers have their own guidelines for filing complaints and you should check their web sites (below) or contact them directly for information about their complaint processes:

Trustees of the State University of New York (SUNY):

<http://www.newyorkcharters.org/contact/> 

Chancellor of the NYCDOE:

<http://schools.nyc.gov/Offices/FACE/KeyDocuments/Parent+Complaint+Procedures.htm> 

Buffalo Board of Education:

For information about filing a complaint with the Buffalo Board of Education concerning the charter schools that it authorizes please contact the Buffalo Board of Education directly at 716-816-3500.

If, after first following the complaint process with the School and the School's Charter Entity/Authorizer, you believe that the Charter Entity/Authorizer has not adequately addressed your complaint, you may then bring your complaint to the NYS Board of Regents following the process described below. **Please note that, in the case of schools that are not authorized by the NYS Board of Regents, the law requires that you bring your complaint to the School's board of trustees and then to the Charter Entity/Authorizer before bringing it to the Board of Regents.**

In the case of schools that are authorized by the Board of Regents, you must first bring your complaint to the School's board of trustees and then to the Regents as the Charter Entity following the process described below.

Bringing a Complaint to the Board of Regents

The Board of Regents has delegated the authority to the Commissioner of Education to handle complaints brought to the Regents concerning charter schools. All complaints brought to the Board of Regents/Commissioner concerning charter schools **must be submitted in writing** to the State Education Department's Charter School Office, either via mail at: Charter School Office, NYS Education Department, 89 Washington Avenue, Albany, NY 12234, or via email to: charterschools@nysed.gov. The subject line of the email should read: Complaint: [Name of School].

The contents of the letter/email should include:

- A detailed statement of the complaint including the provision of the School's charter or law that you allege has been violated.
- What, if any, response you received from the School's board of trustees (and the School's Charter Entity in the case of schools not authorized by the Board of Regents).
- Copies of all relevant correspondence between you and the School and you and the Charter Entity if applicable. (You should maintain copies of all correspondence and materials for your own files.)
- **What specific action or relief you are seeking.**
- Contact information for you – name, address, email address, telephone number.

Investigation of a Complaint brought to the Board of Regents

The Charter School Office, on behalf of the Commissioner and the Board of Regents, will conduct any investigation that it determines necessary and appropriate regarding complaints that have been appropriately filed concerning charter schools. This investigation may include contacting the School and the relevant Charter Entity concerning the complaint, providing a copy of the complaint to the School and the Charter Entity, and requesting additional information or materials from you and/or the School.

Upon completion of the investigation of a complaint brought to the Board of Regents, a decision will be issued by the Commissioner, which may include a remedial order as appropriate. A copy of the Commissioner's decision will be provided to you, the School and the Charter Entity as applicable.

Join us for monthly series of live streamed, interactive online workshops on a wide variety of disability topics.

Below is an archive of all of our past episodes with resources you can use to follow along.

[You can also register for an upcoming episode here.](#)



Disability vs. Language Barrier for English Language Learners
Video | Resources



Positive Supports for Young Children with Challenging Behaviors
Video | Resources



Applied Behavior Analysis (ABA) for Infants and Toddlers with Autism
Video | Resources



How to Talk to Your Child About Bullying
Video | Resources



Supported Decision Making - Alternative to Guardianship for People with Disabilities
Video | Resources



From School to Work
Video | Resources



How to Get Assistive Technology on Your Child's IEP
Video | Resources



Moving from Early Intervention to Preschool Services
Video | Resources



Autism & Wandering
Video | Resources



Accessibility for Young People with Disabilities
in NYC Schools
Video | Resources



Life Planning for Families of Loved Ones
with Disabilities
Video | Resources



Kindergarten for Children with Autism Spectrum
Disorder
Video | Resources



Student-led Individualized Education Program (IEP)
Process
Video | Resources



Get the Special Education Services You Want
Through Mediation
Video | Resources



Discover how accessible reading materials work
for students with disabilities
Video | Resources



Ask an Expert: Special Education
Video



Independence & Travel Training
Video | Resources



love, equity, & access for young people with disabilities

Is your child **struggling** in school?

Does your child have
special needs or an **IEP**?

Do you have questions about your
young person with a **disability**?

WE CAN HELP FOR FREE

INCLUDEnyc provides one-to-one help, information resources,
and workshops on topics that are important to you, **at no cost.**



CALL US
(212) 677-4660



TEXT US
(646) 693-3175



VISIT INCLUDEnyc.org
FOR INFORMATION
AND UPCOMING WORKSHOPS



amor, equidad, y acceso para jóvenes con discapacidades

¿Su hijo **tiene problemas** en la escuela?

¿Su hijo tiene un **IEP**
(Programa de Educación Individualizada)?

¿No sabe cómo ayudar a su hijo con
necesidades especiales?

**NOSOTROS LO PODEMOS
AYUDAR GRATUITAMENTE**

INCLUYEnyc proporciona ayuda individualizada, recursos de información,
y talleres gratuitos sobre temas que son importantes para usted.



LLÁMENOS
(212) 677-4668



ENVÍE UN MENSAJE DE TEXTO
(646) 693-3157



VISITE INCLUYEnyc.org
INFORMACIÓN, RECURSOS Y TALLERES