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

- 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

- Complaints/Grievances Against Charter Schools

New York City Department of Education (NYC DOE)

- Charter school information and charter school enrollment process in NYC.

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_servere/charter_schools
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 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?
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/2MaIg3Y

• 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/2MaI30f

CONTACT INFORMATION

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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.
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,

- *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,

- *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act*, Dec. 28, 2016,

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](mailto:ocr@ed.gov). You may also file a complaint online at [www.ed.gov/ocr/complaintintro.html](http://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](mailto:ideacharterschools@ed.gov) or by phone at 202-245-7468, (800)-877-8339 (TDD).
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]
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
¿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