

“Rights of Children with Disabilities in Public Charter Schools”

**U.S. Department of Education
Office of Special Education and Rehabilitative Services
Office for Civil Rights**

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Coordinator: Welcome and thank you for standing by.

At this time, all participants are in a listen-only mode for the duration of today’s conference.

This call is being recorded. If you have any objections, you may disconnect at this time.

I would now like to turn the call over to Sonia Park.

Ma’am, you may now begin.

Sonia Park: Hello. Good afternoon, everyone. Thank you for joining us today for this Webinar on the Rights of Students with Disabilities in Public Charter Schools. My name is Sonia Park. I’m with the Office of Innovation and Improvement. And this presentation is through the Office of Special Education and Rehabilitative Services and the Office for Civil Rights through the US Department of Education.

And I will start the Webinar. But I’m turning it over to my colleague right now, Doreen Dennis, from the Office for Civil Rights.

Doreen Dennis: Thank you, Sonia.

A few introductory points before we go to our substance.

Slide 2 refers to the use of this presentation. The presentation provides general information and does not represent a complete recitation of the applicable law and policy. Please note that this presentation is a summary of guidance documents issued by the US Department of Education, ED, Office Special Education and Rehabilitative Services, OSERS, and Office for Civil Rights, OCR.

The guidance documents should be consulted directly for more information.

Please note that the language used in these slides is approved for the purposes of this presentation only and should not be used for other purposes.

In addition to consulting this guidance document, we want to bring your attention to the fact that both of our offices have additional guidance documents about the rights of students with disabilities in public elementary and secondary education. And we encourage you to consult them.

Moving onto Slide 3 which is an introduction to this presentation objective, this presentation outlines guidance issued by ED on December 28, 2016 to help parents, students, local educational agencies, LEAs, state educational agencies, SEAs, charter schools and others better understand the rights of students with disabilities in public charter schools under federal laws. These guidance documents are a joint Dear Colleague Letter from both offices, OSERS FAQ Document about rights and responsibilities under the Individuals with Disabilities Education Act, IDEA, and OCR's FAQ

document about rights and responsibilities under Section 504 of the Rehabilitation Act of 1973 Section 504.

Please note that this presentation covers selected issues from these guidance documents. And we encourage everyone interested in the rights of students with disabilities in charter schools to consult the guidance documents directly.

Moving onto Slide 4, we provided separate FAQ documents -- one on Section 504 and one on IDEA. Both the IDEA and Section 504 ensure rights to students with disabilities. Because the laws are sufficiently different in terms of purpose, population of students covered, and requirements, ED issued separate coordinated guidance documents. This presentation is similarly separated but coordinated.

OSERS will first present on IDEA, followed by OCR's presentation on Section 504. And then we will provide a list of joint resources.

I'm now turning the mic over to my OSERS colleague, Susan Murray.

Susan Murray: Thanks, Doreen.

By way of background in organization, the Education Department's Office of Special Education and Rehabilitative Services has two components as reflected in Slide Number 5. The Office of Special Education Programs, OSEP, is our point of reference today.

I'm Susan Murray, OSEP's staff lead in our work related to charter schools and children with disabilities and their families. And my colleague, Laura Duos, will introduce herself a little bit later.

As shown on Slide 6, OSEP's mission is improving results for infants, toddlers, children and youths with disabilities ages birth through 21, we do this by providing leadership and financial support to assist states, LEAs and other stakeholders in their efforts on behalf of children with disabilities. Of course, our primary job is to administer the Individuals with Disabilities Education Act, IDEA. Much of our guidance discussion today falls under the realm of Part B of the IDEA, which is the part of the law that authorizes our office to make formula grants to states and then also identifies and ensures the rights and protection that are afforded to all children with disability.

But it's also important to know that IDEA and our office also support many discretionary grants for research, demonstrations, technical assistance and dissemination, technology and personal development.

I especially want to mention the active national network of parent training and information centers in every state. These centers work with families who need information and assistance regarding their child's needs and educational program about how schools, including charter schools and families can work together on behalf of improving results for children with disabilities.

OSEP's work in implementing IDEA is a partnership with many entities all working on behalf of children with disabilities and their families, as shown on Slide 7. We work, among others, with states, school, parent, organizations and other stakeholders. OSEP also collaborates with every other office in the Department of Education to align policy and practice. For example related to charter schools, we work very closely with the Office for Civil Rights, with the Office of State Support which is in the Elementary and Secondary Program Office, and the Office of Innovation and Improvement's Charter Schools Program, among others.

Both as background information about OSEP and as a framework for some of the IDEA charter school guidance we're discussing today, it's important to note on Slide 8 that because IDEA's Part B flow-through states OSEP's primary relationship is with state education agencies, or SEA. But much of our focus related to charter schools through and with states and others is around some major chunks of work in three important areas that are described on this slide.

One of those areas is helping make sure that charter schools appropriately receive IDEA funds and/or services as required by IDEA and by the Charter School Expansion Act and others. The other major areas have to do with helping ensure that charter schools provide equitable access to children with disabilities and their families, and that children with disabilities who are in charter schools have access to a free appropriate public education in the least restrictive environment.

And this is something that Laura will be talking more about shortly.

Slide Number 9 addresses state educational structures and charter laws which vary greatly among states. OSEP devotes much attention to helping states meet their responsibilities for what in the IDEA statute is called "general supervision." In short, this means that SEAs have to be sure that everyone in the state is meeting all of their IDEA responsibilities on behalf of children with disabilities.

The kind of nitty-gritty of SEA's general supervision responsibilities as it relates to charter schools and children with disabilities and their families is greatly impacted by items that tend to be complex and somewhat unique to each state. State charter laws, authorizing bodies, state-funding streams, state-specific definitions and regulations. The FAQ guidance that was released on

December 28th addresses many charter school special education topics that are covered by IDEA. But the state variations are still topics that sometimes require direct communication and consultation between OSEP, the SEA and other stakeholders within that particular state.

Slide 10 has language from the joint Dear Colleague Letter that OCR's and OSERS' assistant secretaries signed in releasing our charter school guidance documents. It references multiple technical assistance and related efforts in support of the important role that SEAs have in ensuring that charter schools and all educational programs for disabilities in the state meet state education standards and IDEA requirement.

OSEP strongly believes that increased communication and collaboration between SEAs, charter schools, families and children and youths with disabilities and other stakeholders will go far towards helping improve results for children with disabilities.

There is a lot of experience and expertise about IDEA that resides in state-level special education offices and programs. And we find that experience and expertise is often needed by charter school educators and leaders who are working hard to help children with disabilities improve and excel in their educational endeavors. It's our hope that this guidance will help increase dialogue in all the states and entities that have charter schools, and that OSEP can continue to support your efforts on behalf of children with disabilities and their families.

Laura?

Laura Duos: Thanks, Susan.

I'm Laura Duos, also from OSEP. And I work in the Director's Office as policy assistant.

I'm going to move on now to more information that's included in the OSERS FAQ Document. And that starts on Slide 11.

IDEA does include some provisions that are specific to charter schools. While charter schools are established according to individual state charter school laws, the term "charter school" as used in the OSERS FAQ Document and as defined in the current IDEA Part B regulation has the meaning of charter school in the Elementary and Secondary Education Act of 1965.

So the question then arises, how are charter schools treated under IDEA? And the Part B regulation includes a requirement for equitable treatment of charter schools within the LEA. That regulation also establishes three options of how charter schools are treated under IDEA. Charter schools can be public schools of the LEA. They can be LEAs themselves. Or charter schools can be non-profit entities that are neither LEAs nor schools of an LEA.

But it's also important to point out that notwithstanding these categories, state law may designate another public entity such as another LEA as initially responsible for ensuring that IDEA requirements are met for children with disabilities attending the charter school. And whether or not a state or SEA assigns primary or initial state responsibilities to another entity, OSERS expects that the responsible entity or agency will have the ability and capacity to either provide or ensure the provision of FAPE and meet applicable IDEA requirements.

The next slide, I'm on - the next slide, Slide 12, talks about the rights to children with disabilities in charter schools. And this is a common theme

throughout the OSERS FAQ Document. As you know, charter schools are public schools. And, therefore, 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. And this is true regardless of whether the charter school operates as an LEA under state law, as a public school of an LEA, or as a non-profit entity that is neither an LEA nor a public school of an LEA.

Slide 13 talks about definition of child with disability as used under IDEA. A child with disability is child evaluated in accordance with the IDEA evaluation procedures as having one or more specified disabilities and who, because of the disability, needs special education and related services. Under IDEA, states provide special education and related services to eligible children with disabilities who reside in a state and who are within the state's mandatory age range for the provision of FAPE. And under IDEA, entitlement to FAPE begins at a child's third birthday and could last until the child's 22nd birthday, depending on state law or practice.

So Slide 14 is the first of a series of slides that address a free appropriate public education under IDEA or FAPE. Under IDEA, FAPE is a statutory term. It is defined to include special education and related services that are provided at public expense, under public supervision and direction and without charge to the parent. They meet the standards of the SEA, including IDEA Part B requirements. It includes an appropriate preschool, elementary school or secondary school education for the state involved, provided in conformity with an Individualized Education Program, or IEP.

Slide 15, under IDEA, all students with disabilities, including charter school's students with disabilities must receive FAPE. The vehicle for ensuring the provision of FAPE to all students with disabilities is a properly developed

IEP. So, accordingly, all children with disabilities in charter schools must receive special education and related services and supplementary aids and services in accordance with the child's IEP.

Important to note on Slide 16 that a charter school LEA or the LEA of which the charter school is a part may not unilaterally limit the services they will provide a particular child with disability. The charter school LEA or the LEA that includes the charter school must provide a program of FAPE for the child in the least restrictive environment in which the child's IEP can be implemented.

Therefore, the IEP team is responsible for determining special education and related services and supplementary aids and services necessary to make FAPE available to a child with disability. And the general rule is that the IEP team must base the decision on unique needs of the child, taking into account evaluation information.

Now we move onto least restrictive environment provisions on Slide 17. A state must ensure that charter school LEAs and LEAs that include charter schools meet the LRE requirements and Part B of IDEA. The LRE provisions require that to the maximum extent appropriate, children with disabilities attending public schools -- and that includes public charter schools -- be educated with children who are nondisabled. We also note that special classes, separate schooling and other removal of children with disabilities from the regular education environment can occur only if the nature or severity of disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Slide 18 moves us onto the placement provisions. And placement decisions must be made by a group of persons, which is the placement team. And that

includes the parents of the child and other persons knowledgeable about the child, the meaning of the evaluation data and the placement options. Each child's placement decision must be made in conformity with IDEA's LRE provisions.

So the overriding rule under IDEA is that placement decisions must be determined annually on an individual case-by-case basis, depending on each child's unique needs and circumstances and based upon the child's IEP.

Slide 19 addresses how placement responsibilities differ based on whether or not the charter school is an LEA or a charter school of another LEA. The charter schools that are LEAs are responsible for ensuring that the IEP and placement requirement of Part B are met, unless state law assigns that responsibility to some other entity. In the case of a charter school that is a public school of an LEA, the LEA in which the charter school is located is responsible for implementing a child's IEP and placement.

If a charter school is its own LEA and retains responsibility under state law for ensuring that the requirements of Part B are met, it is required to make available the range of placement options needed by children with disabilities enrolled in a charter school. However, we note that responsibility rests with the LEA if the charter school is a school of that LEA and state law has not assigned responsibility to some other entity.

We have a number of placement questions in our Q&A. And they go through much more detail about the placement provisions. And those can be found, the Questions 26 through 21 of the IDEA FAQ Document.

So the remainder of our slides are a general overview of the remainder of topics in the IDEA FAQ. And the first of which is the Child Find

requirement. And the Child Find requirements in IDEA require and apply to charter schools and they require SEAs and LEAs to have policies and procedures in effect to ensure that all children with disabilities residing in a state who need special education and related services are identified, located and evaluated regardless of the severity of disability. The Child Find requirements apply to all children enrolled in charter schools, regardless of whether that charter school operates as its own LEA or is a public school of an LEA.

If a child is enrolled in a charter school that is part of an LEA, that LEA would be responsible for implementing Child Find requirements. If the child is attending a charter school that operates as its own LEA, the charter school LEA would then be responsible for implementing the Child Find requirements.

The Q&A also addresses response to intervention. And Question 24 emphasizes that RTI or any type of multi-tiered (unintelligible) cannot be used to delay or deny an evaluation.

And then we also address reevaluation in Question 25.

Slide 21 addressed these procedural safeguards. And as we said, each SEA must ensure that children with disabilities attending charter schools and their parents retain all rights under Part B of the IDEA, as applicable to children who attend public schools and their parents. So this includes procedural safeguards and due process rights, along with the discipline protections set out on a Part B regulation, along with the positive behavioral interventions that may be required.

And more information on procedural safeguards can be found on Q&As 32 through 34.

Our next topic is funding. And I'm going to turn back over to Susan for that.

Susan Murray: Slide Number 22 notes that we also included a number of IDEA funding topics in the FAQ Document.

Questions number 35 through 45 in the document address a number of topics such as eligibility requirements to receive an IDEA sub-grant, newly created and significantly expanding charter school and what funds may be due to those that are LEAs, base payment calculations and base payment adjustments, as they are covered under IDEA.

Slide 23 also shows that the document addresses how the funding formula is calculated for significantly expanding charter schools, whether an IDEA sub-grant is awarded even if the charter school LEA is not currently serving any children with disabilities and also funding and services requirements in Part B of IDEA that may apply to LEAs that have charter schools that are public schools within the LEA. In addition, the resources slide that you will see at the end of this presentation includes a link to fiscal information and resources for charter school. So keep an eye out for that.

On Slide 24, we note that the FAQ Document addresses a few issues surrounding the closure of charter schools, including funding, the responsibility for FAPE, the transfer of records for children with disabilities and also the disposition of any equipment that may have been purchased with IDEA funds for the use of children with disabilities.

On Slide 25, we provide an e-mail address and also contact numbers for further questions regarding IDEA and charter schools. And if you have questions in that arena, please send them to OSERS by e-mail. And I'll give you that e-mail address which is ideacharterschools - that's schools with an "s" on the end, ideacharterschools@ed.gov, G-O-V. Or by phone at 202-245-7468. And we also provided toll free TDD number which is 800-877-8339.

Now I'd like to turn the presentation over to our OCR colleague.

Elizabeth?

(Elizabeth Gretczek): Thank you, Susan.

My name is (Elizabeth Gretczek). And I am presenting today with my colleague, Doreen Dennis. We both work in the Office for Civil Rights in the Program Legal Group.

We're going to start today on Slide 26, so just the introduction of OCR.

OCR is the office within the Department of Education that enforces civil rights laws. A program and activity that receives federal financial assistance from the Department of Education is prohibited from discrimination on the basis of race, color, national origin, sex, disability or age. Our focus here today in this presentation is about disability rights laws and how they apply to charter schools.

The Office for Civil Rights is headquartered here in DC, but we have 12 regional offices, enforcement offices across the country. OCR's enforcement offices investigate and resolve complaints where there's allegations of

discrimination. OCR conducts their own initiated compliance reviews. And upon request, OCR can provide technical assistance.

And one disclaimer point that I want to make is that this presentation does not provide specific determinations of compliance. This presentation is really meant to be an overview of the OSERS - I'm sorry, the OCR and OSERS FAQ Document. And any OCR determinations of compliance depend on specific facts and are evaluated on a case-by-case basis.

So moving to Slide 27 is we're going to start with an introduction of Section 504 prohibits discrimination on the basis of disabilities in programs and activities that receive federal financial assistance.

So what does this mean? So, for example, local education agencies that receive federal financial assistance are required to follow Section 504. This would include traditional LEAs with charter schools and charter school LEAs.

In addition to Section 504, another disability law that OCR enforces is Title II of the Americans with Disabilities Act and the Title II Regulation. Title II prohibits discrimination on the basis of disabilities as well and it prohibits discrimination by state and local entities, regardless of whether those entities receive federal financial assistance. So any public and local entities including LEAs and SEAs and charter schools would be prohibited from discrimination on the basis of disability.

Turning to Slide 28 and continuing our overview of Section 504, this next -the first bullet point here is really important. Charter school students with disabilities or students with disabilities who are seeking to attend charter schools have the same Section 504 rights as other public school students with disabilities in elementary and secondary schools. And examples of this are

general non-discrimination requirements, equal treatment, students - charter school students would be entitled to FAPE and participation in extracurricular activities just like students with disabilities in other public schools in elementary and secondary education.

In that vein, the OCR's FAQ Document does not establish new requirements, but rather it explains existing legal requirements in the context of public charter schools.

Moving onto Slide 29, so public charter school students with disabilities, how are they protected? Well, Section 504 protects all qualified students with disabilities in charter schools. Section 504 defines "disability" and what it means to be a qualified student with disability. Under Section 504, "qualified" basically means that you are of the age in which schools need to provide education to you. So as long as you are qualified, as long as you meet certain age requirements and meet the definition of disability.

And then we move onto Slide 30, nondiscrimination and equal opportunity. So in general, Section - these are just a general overview. Section 504 prohibits treating qualified persons with disabilities differently than individuals without disabilities on the basis of disability, unless the different treatment is necessary to provide the person with the disability with aids, benefits or services that are as effective as those provided to others.

So for example, a charter school could not have a policy that explicitly excludes students with disabilities because students with disabilities would not also have the opportunity to attend that school like students without disabilities. Similarly, if there wasn't an explicit policy, but there was a practice that did the same thing, that would be prohibited.

In addition, Section 504 prohibits criteria, policies and practices and procedures that although they might be neutral in their language and applied and implemented even handedly across the board, if they have the effect of discriminating against a student on the basis of disability, that also is prohibited.

So now I'm going to pass the mic to Doreen Dennis to discuss recruitment, admissions and enrollment.

Doreen Dennis: Thank you, Elizabeth.

OCR's FAQ Document had a specific focus on these areas because charter schools typically do recruit and have an application and admissions process. So we'll take a little time to cover those areas right now.

Moving to Slide 31, we're covering recruitment under Section 504.

Section 504 requires charter schools to conduct any recruitment activities and to provide the opportunity to apply to a charter school in a nondiscriminatory manner. This includes, for example, the content of recruitment materials. That is recruitment materials and certainly anything that would be said in connection with recruitment must not indicate that the school discriminates on the basis of disability.

Section 504 also applies to recruitment activities and application materials. Activities would include, for example, recruitment meetings. For example, where there are meetings, the facilities must be accessible to persons with mobility impairments. Similarly, upon reasonable advance request, the school must provide a sign language interpreter to make the meeting accessible to people who need a sign language interpreter.

Another example in connection with the applications which must be usable to persons with disabilities are hardcopy applications which must be made accessible to persons with low vision. For example, large print might be an appropriate way to make those usable. Similarly, online applications must be accessible to persons who are blind and use screen reader software.

Moving to Slide 32, we'll start to cover a series of slides on admissions and enrollment.

Section 504 prohibits disability discrimination in all aspects of application, admission and enrollment. Requirements related to admission procedures are separate from requirements related to Section 504 Free Appropriate Public Education, FAPE, requirements about placement. And in the next section, we will be discussing Section 504 FAPE, including placement. And that will happen in just a few minutes.

Section 504 also prohibits disability discrimination in charter school disenrollment criteria, policies, practices and procedures.

Moving to Slide 33, we cover criteria and policies related to admission and enrollment. In this area, Section 504 prohibits, among other things, admissions, policies or criteria that explicitly exclude students on the basis of disability, including a particular type of disability. The prohibitions include admissions practices that exclude students on the basis of disability. That is there wouldn't necessarily be an explicit or written policy of exclusion, but the practice works that way in effect. That is also discrimination prohibited.

504 also prohibits admissions, policies or practices that would exclude any student because the student needs special education or related aids or services

to ensure a free appropriate public education. And the prohibitions extend to admissions criteria, policies, practices and procedures that are neutral in language and even-handedly implemented with respect to students with and without disabilities, but that has the effect of discriminating against students on the basis of disability.

We encourage you to consult OCR's FAQ Document for more information on this area.

Moving onto Slide 34, which is a continuation of criteria and policies related to admission and enrollment. Section 504 requires overall an obligation to make reasonable accommodations where necessary to avoid disability discrimination. And this is subject to a fundamental alteration limitation. This requirement extends to admissions criteria, policies and practice and procedures of general applicability.

And an example of this would be if one of the admissions criteria happens to be that the school said that any student to be admitted needs to participate in the interscholastic athletics, the student could ask for a reasonable modification necessary to avoid disability discrimination. Let's say the student had a mobility impairment or another kind of disability that just made participation in interscholastic athletics impossible. The school could then consider whether it was necessary to avoid disability discrimination subject to the fundamental alteration limitation. And again, please consult the FAQ for more information on this issue.

Moving onto Slide 35, Section 504 generally prohibits questions about a prospective student's disability during the application process. Thus, a charter school generally may not ask a prospective student if he or she has a disability

at that stage in the process, the application, and prior to admission and enrollment.

There are limited exceptions. One would be for remedial action after OCR finds disability discrimination against that school. Another would be a school that's taking voluntary action to overcome the effects or conditions that resulted in limited participation in that recipient's program by qualified persons with disabilities.

Another limited exception would be where there's a charter school chartered to serve the educational needs of students with a particular disability and that the school may ask the students if they have that specific disability. But asking about other disabilities is off limits. The prohibition is limited to that specific - I'm sorry. The exception is limited to that specific disability.

Moving onto Slide 36 which addresses questions about disability after an enrollment. That's a complete turnaround. When a student with a disability is admitted to and enrolled in a charter school, the student is entitled to FAPE under Section 504. And of course we're going to be discussing FAPE in just a minute. After enrollment, a charter school may ask if a student has the disability, consistent with the FAPE obligation.

And now I'm turning to Slide 37 which addressing counseling out on the basis of disability which is also prohibited by Section 504.

By counseling out, we are talking about a process by which a school would try to influence a prospective student with a disability not to apply to or enroll in a charter school because the student has a disability. That's prohibited, treating the student differently on the basis of disability. Similarly, counseling out to influence student, once the student is enrolled, to transfer to another

school because the student has a disability. This also is prohibited by Section 504.

And it should be noted that counseling out is distinguishable from a decision about placement for a particular student consistent with Section 504 FAPE requirements retaining placement.

And I'm now turning the mic back to Elizabeth who will be covering FAPE, including placement.

Elizabeth Gretczekic: Thank you, Doreen.

Yes. So starting with Slide 38, we're going to start to discuss the right to FAPE.

If you recall when I started this presentation, the OCR portion, we talked about how the rights of charter school students with disabilities are the same as the rights for students with disabilities in other public elementary and secondary schools. And one of the examples I gave you was the right to FAPE. So now we're going to expand on FAPE a little bit more and explain what we mean by FAPE under Section 504.

So the provision of FAPE under 504 includes a requirement to provide a student with a disability with regular or special education and related aids and services that are designed to meet the student's individual education needs as adequately as the needs of students without disabilities are met. So you have to provide services as adequately as the needs are provided for students without disabilities and you have to comply with the Section 504 requirements related to evaluation and in placement, educational setting, and procedural safeguard.

So let's delve into that a little bit more. Let's turn to Slide 39.

So when you start this process to identify, locate and evaluate a student, if a charter school student needs or the recipient has reason to believe the charter school need - the charter school student needs special education or related aids or services because of a disability, the recipient must conduct an evaluation of that student. An evaluation is required before you determine or to determine initial placement or prior to any subsequent significant change of placement. So an evaluation is required prior to an initial placement and prior to any subsequent significant change in placement.

So turning to Slide 40, let's talk a little bit about educational setting and placement.

Educational placement is an individualized decision. The decisions made about an educational placement are about what educational and related aids and services a student with a disability needs. When making those decisions, a group of persons knowledgeable about the student, including the meaning of the evaluation data and the placement options needs to make that decision. And when this group of knowledgeable persons are making this decision, they have to ensure that the student with the disability is educated with students without disabilities to the maximum extent appropriate to the needs of that student with the disability.

So to explain this even a little bit further, we'll turn to the third bullet point on the slide which says that a student with the disability is entitled to be placed in a charter school regular educational environment, unless the recipient can demonstrate that the education of that student cannot be achieved

satisfactorily even with the use of supplementary services in that charter school's regular education environment.

So turning to Slide 41, so now - we've talked about - given the general overview of FAPE and the evaluation requirements and the placement requirements. But recipients are required to ensure safeguards for this process. And they're required to develop and implement a system of procedural safeguards that address that address FAPE concern, specifically concerns regarding identification, evaluation and the educational placement of students with disabilities.

Examples of procedural safeguards are notice, an opportunity for parents or guardians to review the - their child's record. They also, parents and guardians, have a right to an impartial due process hearing. And in that due process, create an opportunity for participation by the student's parents or guardians and representation by counsel and a review procedure.

On Page 42 now, in addition and separate from the requirement of FAPE is the requirement - the Section 504 requirement for nondiscrimination, an equal opportunity for charter school students in academic - excuse me, in non-academic and extracurricular services and activity. So examples of such services and activities that could be separate from there as a separate non-discrimination requirement for it is counseling services, health services, school clubs and interscholastic athletics.

Finally, one other point that we want to raise under Section 504 is that charter school programs and facilities have to be mindful of accessibility. Recipients are required to ensure that students and others with disabilities -- and this includes parents -- are not denied access to the school's programs or activities because of inaccessible facilities. So what are inaccessible facilities? Well,

that can include things like the academic building, the walkways to the building, the restrooms within the building, athletic facilities, and parking space.

Now, when determining how to ensure accessibility, there are specific requirements that recipients must meet. And these requirements are based on the date that a building was built or altered. And more information about that is in our FAQ Document.

But the bottom line is, really, regardless of when a charter school facilities are built or altered, the recipient must ensure that qualified persons with disabilities are not excluded from or denied participation in the recipient's program or activity because the facility is inaccessible to or unusable by persons with disabilities. So, essentially, recipients have to ensure that persons with disabilities are not excluded from participation in the recipient's programs or activities because of inaccessibility issues.

So that's the substantive part of OCR's presentation. On Page 44, we have a list of resources for you. And this provides the joint Dear Colleague Letter between OSERS and OCR that was released on December 28th. And there's a URL Web site for that. We also list the OCR FAQ, the OSERS FAQ and the joint Know Your Rights Document, Know Your Rights for Students with Disabilities in Charter Schools. Those four documents were all released on December 28th.

In addition, the very last slide, Slide (45), provides more resources for you. There's a resource from OSERS on fiscal information on IDEA funds in charter schools. And there's a link to that. Also, for assistance related to civil rights, you may contact OCR's headquarters office that is in DC or OCR's enforcement office that serves your territory or state. And there's contact

information on our Web site. There's a dropdown menu you can put in your state and find out the contact information. You may ask or contact us by phone at 1-800-421-3482 or our TDD number which is 1-800-877-8339. Thank you.

Sonia Park: And that is the end of the actual presentation. We are going to be using the remaining time to answer pre-submitted questions. Given time constraints, we won't be able to address all the ones that were submitted. And again, thank you very much, Susan, Laura, Elizabeth, and Doreen for your information.

Okay. We're going to start with first question. Are charter schools required to offer all that goes along with IEPs, such as behavior intervention plans and assistive technology evaluations? If so, to whom with the parents send the request? For example, in our area, the ISD provides AT evaluations. In the case like that, does the parent request AT to the charter school or through the ISD?

Laura Duos: So under IDEA, the answer, yes, is yes. As we've said, children with disabilities who attend charter schools and their parents retain, excuse me, all rights under IDEA. And that includes all of the rights that go along with the IEP. So charter schools are required to implement all the IEP provision, discipline provisions that include deciding whether a child could benefit from a behavior intervention plan, and if so drafting one during the IEP meeting includes functional behavior assessments if that's required or necessary, it includes assessing whether a child could benefit from assistive technology.

As to how the (unintelligible) evaluations should be requested, it's usually done through an IEP team. But how that is actually done is going to depend on the structure of the charter school in your state and whether or not the charter school is an LEA or whether it's a part of another LEA. But

regardless, it should be make clear to the parent as to how those requests should be made.

OCR, do you all want to add anything?

Doreen Dennis: Yes. Thank you, Laura.

Because the question raised the issue of behavior intervention plans and because OCR's presentation does not address discipline, although our FAQ did, I'd just like to tag on this, a little note about 504 and discipline because we think that that's such an important issue.

With regard to disciplinary actions, including suspensions or expulsions, the Section 504 rights of charter school students with disabilities are the same as other public elementary and secondary school students with disabilities. Section 504 prohibits charter schools from unnecessarily treating students differently on the basis of disability. And this includes discipline of students with a disability more harshly than students without disabilities through the same type of behavior. In addition, the Section 504 FAPE rights of charter school students with disabilities extend to disciplinary actions that constitute a significant change in placement. And charter schools must comply with applicable legal requirements related to FAPE.

When addressing discipline for students with disabilities, it is important that charter schools comply with applicable legal requirements, governing the discipline of the child for misconduct that is caused by or related to the child's disability.

Thank you. Back to you, Sonia.

Sonia Park: Thank you very much, Doreen.

Okay. The next question, are charter schools required to offer transportation in extracurricular activities to children with special needs?

Laura Duos: So I think I'll - OCR can take that first if that's okay.

Doreen Dennis: For the purposes of Section 504, the short answer with respect to transportation is it depends. And I should mention that we covered extracurricular activities in our presentation. So, you know, that's a straightforward answer. Extracurricular activities are covered by Section 504. And they have to be provided on an equal basis to students without disabilities in a nondiscriminatory manner.

The transportation, the answer is it depends. The rights of charter school students with disabilities to transportation under Section 504 are the same as other elementary and secondary school students with disabilities and other schools - other public school.

So if a recipient is providing transportation to other charter school students, a student with a disability is entitled to transportation services in a manner that is necessary to provide an equal opportunity to the student. Even if the recipient is not providing transportation to other charter school students, however, a particular charter school student with the disability is entitled to transportation if the group responsible for the student's placement determines that transportation is a related service necessary to provide FAPE as required by Section 504 to the student.

And I'm now turning the floor over to Laura to speak to this issue under IDEA.

Laura Duos: So under IDEA, transportation is included as a related service under the (FAPE) regulation. So if a child with disability requires transportation as a related service, then either the charter school LEA or the LEA that includes the charter school is going to be responsible for providing that transportation.

We do have a transportation question in our FAQ. It's Question Number 21. Within that answer there is a link to a transportation Q&A document that OSEP put out. So that could be helpful, too.

In terms of extracurricular activities just to add onto what OCR said in their presentation, if a child does need supplementary aids and services to be able to participate in extracurricular activities, then that is a responsibility that falls to the IEP team to determine what of those aids and services would be needed.

Do we have time for another question?

Sonia Park: Yes, we actually do. Thank you very much.

Who is responsible for ensuring the guidance is followed?

Susan Murray: As mentioned in the FAQ document itself, in OSERS, we would refer you to the state's responsibilities for general supervision under IDEA. And that the state educational agency is responsible for ensuring that IDEA requirements are carried out in that state. So that addresses the ultimate responsibility.

But also under IDEA, either the charter school LEA or the LEAs which the charter school is a part has some of the specific responsibilities. As mentioned earlier also, some of this depends on a state's own unique structure

and to what entity specific IDEA responsibilities have been assigned within that structure.

If you have any questions about this for your own state, we would refer you to the SEA's Special Education Office under IDEA.

And OCR?

Elizabeth Grezcek: Yes.

Susan Murray: Do you want to respond?

Elizabeth Grezcek: Yes. Thank you, Susan.

So the overriding requirement is that as a condition of receiving federal financial assistance, every recipient -- and that would include both a charter school LEA and their traditional LEA -- is responsible for compliance for Section 504 in all of its operations.

So, for example, LEAs that receive federal financial assistance either directly from ED or indirectly, such as from the SEA, must comply with the requirement of 504 in all of its operations. So for charter schools, this includes nondiscrimination requirements applicable to activities, such as recruitment and admissions, treatment of students in academic and nonacademic and extracurricular activities, and providing safe and accessible programs and facilities. All things we touched upon in our presentation today.

And another point is that although 504 does not prohibit a recipient from contracting with or otherwise arranging for a non-recipient entity to carry out all or some of the recipient's responsibilities in the operation of a charter

school, the contractual relationship or other arrangement with the non-recipient does not affect the recipient's obligation to ensure nondiscrimination for a charter school student with disability.

The ultimate - again, 504 legal responsibility for the recipient's charter school students remains with the recipient. So the ultimate responsibility is with the recipient, the recipient being who receives federal financial assistance.

And with that I will turn it back over to Sonia.

Sonia Park: Thanks. So, really, what authority does the guidance carry?

Elizabeth Grezcek: So, thank you. For the purposes of Section 504, OCR's legal authority is the statute and the Department of Education's regulations. In order to explain the requirements of the statute and regulations, OCR issues guidance documents, including general statements of policy. This is in order to further assist student - I'm sorry, to further assist schools in understanding how to comply with what policies and practices will lead OCR to initiate proceedings to terminate federal financial assistance, absent a resolution by voluntary means for violation of the statute and regulations.

The Department does not view guidance such as OCR's Charter School FAQ to have the force and effect of law. Instead, it advises the public of OCR's construction of the Section 504 statute and ED's Section 504 regulations.

Sonia?

Sonia Park: And I think we have time for maybe one or maybe two additional questions.

Does the guidance introduce any new policies?

Doreen Dennis: No. The guidance does not create any new obligations, but rather clarifies the responsibilities of such charter schools, LEAs and SEAs under both IDEA and Section 504. The guidance clarifies responsibilities under Section 504 related to the admission process, such as recruitment, application, admission and enrollment for charter schools because those processes typically differ from those used by traditional LEAs for enrollment of students based on residence within the boundaries of its jurisdiction.

Sonia?

Sonia Park: Great. And I think we have one last question that we can address.

What level of training in IDEA and 504 regulations is required for principals and administrators?

Laura Duos: (Unintelligible) we're required to have a special education teachers?

Sonia Park: Yes. Right. Yes.

Laura Duos: And so under IDEA, the personnel qualifications are included in Part B of IDEA. And those personnel qualifications do apply to personnel who teach students with disabilities in charter schools. And this includes qualification for special education teachers, related service personnel and care professional.

So therefore in order to properly implement a child IEP, charter school must have qualified personnel who can provide the required special education and related services in conformity with child's IEP.

Woman: That's all, I think.

Sonia Park: I think that's it.

Thank you, everyone, very much for participating on the Webinar. We encourage you look at the resources and especially the resource pages ED provided. And we hope that you have garnered additional information about what we've presented today.

Thank you very much. And have a nice day.

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