

## Charter Schools and Students with Disabilities



### Can Students with Disabilities Apply to Charter Schools?

Yes. Students with disabilities have the right to attend any charter school. Charter schools may not discriminate against students on the basis of their disability.

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Yes, but the Charter Schools Act [C.R.S. 22-30.5-104 (3)] and State Board Rule 1 CCR 301-88, Sections 2.02(D)&(E), prohibit discrimination based on a student's academic ability. As with other public schools, a charter school may create baselines for enrollment that are consistent with their area of focus or grade levels, but the school's methods for determining eligibility cannot be used to discriminate on the basis of a child's knowledge, skills, or disability. For instance, a charter high school may deny admission to a student not completing the 8th grade, but it cannot deny admission to a student who has an "unsatisfactory" score on assessments.

### Must Charter Schools Follow the Same Federal Laws as Traditional Schools?

Yes. Charter schools must follow all federal laws that apply to any other public school, such as the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act (Section 504). This also includes ensuring that charter school data is included when reporting to the federal government every year on student progress and in the IDEA data reports submitted by State Education Agencies (SEA's) each year to the Office of Special Education Programs at the U.S. Department of Education.

### Do Charter Schools Need to Make Reasonable Accommodations to Their Policies to Meet the Needs of Students with Disabilities?

Yes. Charter schools must make reasonable accommodations, including reasonable changes to policies and practices, to enable students with disabilities to participate fully at the school. A charter school's policies may not be applied in a discriminatory manner under any circumstances.

## What Does Enrollment Discrimination Look Like?

Some examples of enrollment discrimination are when a school “counsels out” or dissuades students from attending by saying they do not serve students on IEP’s or that the student would be better served by another school.

## Must Charter Schools Follow the Child Find Mandate Required in IDEA and 504?

Yes. If a charter school suspects a child of having a disability and is need of special education services in an IEP or accommodations under 504, the school must request consent from the parent to initiate evaluations. If a child’s parents request special education evaluations or evaluations for accommodations, the charter school must have written consent from the parents and proceed with evaluations. If the charter school refuses to evaluate, the charter school must provide the parents with prior written notice of the refusal along with procedural safeguards explaining how parents can dispute the charter school’s decision not to evaluate.

## Who Is Responsible for Developing and Implementing Students’ IEP’s and 504 Plans at Charter Schools?

Charter schools are responsible for developing and implementing IEP’s and Section 504 plans for students with disabilities attending their schools. Section 504 plans are not substitutes for Individualized Education Plans (IEP’s). Students attending charter schools have the right to receive all programs and services on their IEP’s or 504 plans.

## When Are IDEA’s Disciplinary Protections Triggered?

IDEA’s disciplinary protections are triggered when a change of placement occurs. A change of placement occurs if a school removes a student from his or her placement for more than 10 consecutive school days or when a child has a series of removals that constitute a pattern. For identified students, a school must hold a Manifestation Determination Review (MDR) within 10 school days of the removal decision.

## What Are Common Discipline Violations?

Schools violate disciplinary protections for students with disabilities when they remove struggling or disruptive students who have not yet been identified under IDEA or 504, and when identified students are removed without the required procedural protections, such as an MDR.

- U.S. Department of Education FAQs about Charter Schools & Section 504: <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>
- U.S. Department of Education FAQs about Charter Schools & IDEA <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/faq-idea-charter-school.pdf>
- Know your rights: Students with Disabilities in Charter Schools: <https://sites.ed.gov/idea/files/dcl-factsheet-201612-504-charter-school.pdf>