



Massachusetts Primer on Special Education and Charter Schools

Section II: Information for State Officials and Others

February 2009

Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street, Malden, MA 02148-4906
Phone 781-338-3000 TTY: N.E.T. Relay 800-439-2370
www.doe.mass.edu



**Massachusetts Department of
ELEMENTARY & SECONDARY
EDUCATION**

Massachusetts Primer on Special Education and Charter Schools

Section II: Information for State Officials and Others

This information is intended for new staff in state agencies and others who need an overview of topics related to students with disabilities who are enrolled in Massachusetts charter schools. The information focuses on the main issues related to policies and procedures that govern special education in all stages of implementation for Massachusetts charter schools.

This document has been developed by the Massachusetts Department of Elementary and Secondary Education (ESE) with the assistance of the TA Customizer Project funded by the National Association of State Directors of Special Education (NASDSE).

Massachusetts Primer on Special Education and Charter Schools

Part II: Information for State Officials and Others

Part II provides an overview of topics related to Massachusetts students with disabilities enrolled in Massachusetts charter schools. The information focuses on the primary issues related to policies and procedures that govern special education in all stages of implementation for Massachusetts charter schools and is intended to answer questions frequently raised by employees of state agencies and others.

	Page
A. Background	1
1. What are charter schools?	1
2. When were charter schools established in Massachusetts?	1
3. How is a charter school in Massachusetts authorized?	1
4. What is the status of charter schools in Massachusetts?.....	2
5. What types of charter schools exist in Massachusetts?	2
6. What are the major differences between charter schools and other public schools in Massachusetts?	2
B. Department of Elementary and Secondary Education Responsibilities	2
C. Implementation of Quality Authorizer Practices.....	3
• Approval Procedures.....	3
• Opening Procedure.....	3
• Charter School Accountability and Oversight	3
• Site visits	3
• Coordinated Program Review	4
• Renewal procedures	4
D. Types of Charter Schools	4
E. Special Education in Charter Schools	5
7. What are the basic requirements of the Individuals with Disabilities Education Act?....	5
8. What common terms and acronyms should I know?.....	5
9. Do charter schools serve students with disabilities?.....	6
10. Can charter schools waive responsibilities for special education?	6
11. What does Individuals with Disabilities Education Act say about charter schools?	6
12. Responsibility for service	7
13. Administrator of Special Education.....	7

14. Special Education Instructional Staff.....	7
15. Individualized Education Program	7
16. Forms and Notice.....	7
17. Special Education Compliance Monitoring	7
18. Charter School Startup and Service Capacity.....	8
19. Child Find	8
20. Facility issues.....	8
21. Related Services.....	8
F. Finance.....	8
22. What are Massachusetts policies for the funding of charter schools?	8
23. How is a Horace Mann charter school funded?	9
24. Are there fiscal responsibility exceptions for charter schools regarding programs for students with disabilities?	9
25. Are there any additional state funds available for students with disabilities?	10
26. Are charter schools entitled to federal funds?.....	10
27. Can charter schools access Medicaid benefits for students who are eligible?.....	10
G. Transportation	11
28. What about transportation for students who attend charter schools?	11
H. Enrollment.....	11
29. What issues should charter schools consider when designing their enrollment forms?.....	11
30. Does the Department of Elementary and Secondary Education provide guidance on conflict resolution and due process?.....	12
31. What assistance does the Department of Elementary and Secondary Education offer persons who believe that a charter school is not meeting its obligations under federal and state laws and regulations?.....	12
Resources	12

Massachusetts Primer on Special Education and Charter Schools

Part II: Information for State Officials

This section is an introduction for new staff members of state agencies and others who need an overview of topics related to Massachusetts students with disabilities enrolled in Massachusetts charter schools. The information focuses on the primary issues related to policies and procedures that govern special education in all stages of implementation for Massachusetts charter schools.

A. Background

1. What are charter schools?

Charter schools are independent public schools that operate under a five-year charter granted by the Massachusetts Board of Elementary and Secondary Education (BESE). Charter schools are independent of any school committee and are governed by a board of trustees. The Massachusetts charter school statute, G.L. c. 71, § 89 (d), lists the following purposes for charter schools:

“(1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs; (6) to hold teachers and school administrators accountable for students’ educational outcomes; and (7) to provide models for replication in other public schools.”

Like all public schools, charter schools are responsible for educating all students at no cost to parents and may not discriminate based on race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or prior academic achievement. As independent public schools, charter schools must attract enough children to stay open and must achieve results that merit renewal of their five-year charter. Sixteen years after the nation’s first charter school opened in Minnesota, there are approximately 4,300 charter schools serving 1.2 million students in 40 states and the District of Columbia.

2. When were charter schools established in Massachusetts?

The Massachusetts Education Reform Act of 1993 included among its provisions the creation of new, independent public charter schools. Twenty-five charter schools opened for the first time in the fall of 1995. Since then, charter schools have grown in number and enrollment and have become a significant part of the educational landscape in Massachusetts.

3. How is a charter school in Massachusetts authorized?

Massachusetts authorizes its charter schools differently than most other states. The state’s Education Reform Act sanctions only one authorizer for charter schools – the Board of Elementary and Secondary Education (BESE). As the sole authorizer, the BESE makes decisions regarding the approval, renewal, and revocation of all charters. Most other states allow multiple entities to authorize the creation of charter schools, including the state education agency (SEA), universities, municipalities, and others. Nationally, most charter schools are authorized by a local school district and function as part of that district.

4. What is the status of charter schools in Massachusetts?

In school year 2007-08, Massachusetts has 61 operating charter public schools - 54 are Commonwealth charters and 7 are Horace Mann charters. Total enrollment in charter schools is approximately 25,000 students, with an additional 15,000 students on charter school waiting lists.

5. What types of charter schools exist in Massachusetts?

The Massachusetts charter school statute G.L. c. 71 §89, available at www.doe.mass.edu/charter/laws.html, defines two types of charter public schools:

- A Commonwealth charter school shall be a public school, operated under a charter granted by the Board of Elementary and Secondary Education (BESE), which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a commonwealth charter school, upon receiving a charter from the BESE, shall be deemed to be public agents authorized by the Commonwealth to supervise and control the charter.
- A Horace Mann charter school shall be a public school or part of a public school operated under a charter approved by the local school committee in which the school is located and by the local collective bargaining agent; provided, however, that all charters shall be granted by the BESE. Horace Mann charter schools shall be operated and managed by a board of trustees independent of the school committees that approve said schools. The board of trustees may include a member of the school committee.

In Massachusetts, each charter school is its own local education agency (LEA), and is defined as a school district for all matters pertaining to special education. As LEAs, Massachusetts charter schools must comply with state laws and regulations regarding how to identify students who have special needs and refer those students for evaluation.

6. What are the major differences between charter schools and other public schools in Massachusetts?

There are three major ways in which charter schools differ from other public schools.

- Charter schools are schools of choice that provide parents with the option to enroll their child in a charter school instead of the school their child would otherwise attend.
- All charter schools operate under a charter granted by the Board of Elementary and Secondary Education (BESE) and governed by a board of trustees, independent of any school committee.
- Charter schools are held accountable for success of their academic program, viability of their organization and faithfulness to the terms of their charter by the BESE. Charter schools that fail to meet these criteria or are found in noncompliance with relevant state and federal laws and regulations may be subject to non-renewal, renewal with conditions, probation or revocation of their charter.

B. Department of Elementary and Secondary Education Responsibilities

In Massachusetts, the Board of Elementary and Secondary Education (BESE) is the sole authorizer of charter schools, making decisions regarding the approval, renewal, and revocation of all charters. The day-to-day operations of reviewing charter school applications, maintaining operational oversight, and

providing technical assistance and informational support to schools is the responsibility of the Department of Elementary and Secondary Education (ESE) Charter School Office (CSO).

C. Implementation of Quality Authorizer Practices

The Charter School Office (CSO) ensures that applicant schools are reviewed prior to receiving a charter and that operating charter schools receive regular oversight. The CSO is responsible for a number of oversight activities that provide multiple sources of evidence used by the Board of Elementary and Secondary Education (BESE) in making renewal determinations for each school. In part, oversight responsibilities include:

- Approval Procedures: The CSO institutes a multi-tiered, charter school application process designed to ensure that only applicant groups who submit high quality proposals will be granted a charter. The application process, including an initial prospectus and a full application stage, requires a description of how the school will provide students with disabilities and English language learners with access to the general curriculum. The applicant school must describe how programs will be implemented, including staffing projections for special education and related services for the term of the charter. Charter school applications undergo a panel review process and final applicant founding groups are interviewed on the specific content of the application as well as the goals for the school.

Historically, about one-half of the groups that submit initial prospectuses are subsequently invited to submit full applications. Approximately one-half of final charter school applications are recommended by the Commissioner of Elementary and Secondary Education to the BESE. As the state's charter school authorizer, the BESE makes the final decision on granting charters.

- Opening Procedures: Once a charter is awarded, school leaders are required to attend trainings on the charter school opening procedures requirements. The Department of Elementary and Secondary Education (ESE) staff offer several days of training and technical assistance about the requirements for legally operating a school, including curriculum accommodations for diverse learners within the general education program and operating a special education program.
- Charter School Accountability and Oversight: Charter schools receive increased freedom in exchange for increased accountability for results. Specifically, the renewal of a public school charter is contingent on affirmative evidence in three areas: faithfulness to the terms of the charter, academic program success and organizational viability.

The evidence in these areas is obtained through a variety of sources, including materials provided by the school itself, ESE routine inspection visits, and a renewal inspection visit. All accountability documents used by ESE, including renewal and site visit protocols, are available at <http://www.doe.mass.edu/charter/acct.html>. The ESE gathers information and corroborates information provided by the school through the following oversight activities:

- Site visits: In conducting site visits, the CSO is carrying out the requirements of state charter school regulations which outline the ongoing review of charter schools. Charter school site visits are conducted by teams assembled and led by the CSO to review schools, usually in the second and third year of a charter. A fourth year site visit may occur if concerns exist about

the school's potential to receive a charter renewal, and additional site visits are scheduled as needed in cases when the BESE has imposed conditions on the renewal of a school's charter. Site visits may also include a federal programs review of special education and English language learner programs and certain civil rights requirements.

- Coordinated Program Review: In addition to the CSO accountability and oversight procedures, all Massachusetts public schools receive a Coordinated Program Review (CPR) on a six year cycle and a follow-up Mid-Cycle Review (MCR) of special education, English language learner and other selected criteria. These reviews are conducted by the Program Quality Assurance (PQA) unit of the ESE.
- Renewal procedures: Schools are awarded five-year charters. No earlier than March 1 of the school's third year or later than the first of August after the fourth year of operation, the school must submit an Application for Renewal. Following submission of the renewal application, each school undergoes a three to four day renewal inspection visit by a renewal inspection team. The renewal inspection team provides a report of the school's performance in relation to the three areas of inquiry: faithfulness to the terms of the charter, academic success, and organizational viability. CSO federal programs staff members conduct an inspection of the implementation of federal programs in each charter school receiving renewal consideration. Additional renewal evidence is gathered from the most recent CPR and MCR reports and the status of the school's CPR Corrective Action Plan.
- The CSO develops a Summary of Review for the BESE, based on the school's Renewal Application, Renewal Inspection Report, Site Visit Reports, CPR and MCR reports, federal programs inspection, annual audits, and other sources of evidence.
- The Commissioner makes a recommendation to the BESE on charter renewals and the BESE votes to either renew the charter, renew with conditions, or to not renew the school's charter. If a decision is made not to renew a charter, the school is closed, pending the right to an administrative hearing.

D. Types of Charter Schools

Massachusetts charter schools offer a variety of programs to serve children throughout the state. Schools are chartered to either give preference to students within a particular district or to serve a region. Schools serve a variety of grade spans, ranging from only elementary grades to K-12. Many charter schools offer extended day and school year programs and were chartered with a variety of missions. For example, several charter schools serve exclusively at-risk students, including schools in Amesbury, Boston, and Lowell, two charter schools are based on the Montessori curriculum, several are college-preparatory in focus, and the arts form the basis for others. Examples include:

Academy of the Pacific Rim in the Hyde Park area of Boston offers a rigorous, character-based program that incorporates successful educational approaches used in Asia and includes Mandarin as a required language <http://www.pacrim.org/>.

MATCH Charter Public School in Boston, offers a program in which every student is in school from 8:30 a.m. to 5 p.m., receives two hours of one-on-one tutoring every day, and must pass at least one advanced placement class as well as take two Boston University classes in order to graduate <http://www.matchschool.org/>.

Hilltown Cooperative Charter School in Haydenville is a cooperative elementary school where parents are required to take an active part in the operation of the school and to support their child's education <http://www.hilltowncharter.org/>.

Pioneer Valley Performing Arts Charter School in Hadley provides its middle and high school students with a multi-disciplinary arts curriculum. <http://www.pvpa.org/>.

Health Careers Academy Charter School is a Horace Mann charter school in Boston for students interested in careers in care giving and public health <http://healthcareersacademy.org/HOME.html>.

Sturgis Charter School in Hyannis and Mystic Valley Regional Charter School, in Malden and Everett, offer the International Baccalaureate program, an internationally recognized program of academic excellence <http://www.sturgischarterschool.com/> and <http://www.mvracs.com/>.

A complete list of all Massachusetts charter schools is available at <http://profiles.doe.mass.edu/charter>.

E. Special Education in Charter Schools

7. What are the basic requirements of the Individuals with Disabilities Education Act?

The Individuals with Disabilities Education Act-2004 (IDEA), is a federal special education law, that requires that states and public schools provide students with disabilities a free and appropriate public education (FAPE) and access to the general education curriculum commensurate with their non-disabled peers, and that the educational placement of students with disabilities be in the least restrictive educational placement which still meets the unique needs of the student. How the school will do these things is described in a written education plan developed on an individual basis for each disabled student.

Federal IDEA entitlement funds are allocated through state education agencies (SEA) to the local education agencies (LEA) to support special education and related services. Every SEA receives these funds and must ensure that all LEAs, the state's school districts and charter schools, are in compliance with the mandates of IDEA.

8. What common terms and acronyms should I know?

The common terms are:

- IEP: A team of professionals and parents arrange for the student's evaluation, determine eligibility, decide on the individualized special education and related services for the student, and prepare an ***individualized education program*** containing student specific services that are reviewed at least annually. An IEP includes measurable annual goals, how the student will be included in state and district assessments, and how the student will access the general education curriculum in order to meet state's academic standards.
- FAPE: Students with disabilities are entitled to a ***free and appropriate public education***.
- LRE: The ***least restrictive environment*** refers to placement in a setting that most closely resembles the regular classroom. Students with disabilities must have available to them a

continuum of placements that range from full time in a regular classroom to a substantially separate placement. They are entitled to be placed in the setting that will meet their individual needs while removing them as little as possible from the regular education classroom.

- IEP Team: A group of persons, meeting participant requirements of federal special education law who, together, discuss evaluation results, determine eligibility, develop or modify an IEP, and/or determine placement. The U.S. Department of Education's (USED) Office of Special Education Programs (OSEP) provides information on the requirements of IDEA and is available at www.ed.gov/about/offices/list/osers/osep/index.html.

9. Do charter schools serve students with disabilities?

Yes. All charter schools in Massachusetts serve students with disabilities. Charter schools must accept all students who apply, and whose names are selected through a lottery. They may not discriminate in admissions against students on the basis of disability, special need or prior academic achievement.

10. Can charter schools waive responsibilities for special education?

No. Charter schools are public schools and must comply with all federal education laws, including the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (ADA). There is no provision to request a waiver from federal requirements pertaining to students with disabilities. However, all Massachusetts public school districts, including charter schools, may submit a written proposal (Request for Waiver) to the Department of Elementary and Secondary Education (ESE) for approval to satisfy the requirements of the *state* special education requirements in an alternative manner. ESE may approve the proposal if it demonstrates substantial promise of contributing to improvements in the methods for meeting the goals of the state special education regulations and does not conflict with any provision of state law.

11. What does Individuals with Disabilities Education Act say about charter schools?

The Individuals with Disabilities Education Act (IDEA) states that students who attend charter schools are protected under this law. IDEA, 34 CFR, § 300.209, refers to charter schools and their students:

- Students with disabilities in charter schools and their parents retain all procedural safeguards.
- Charter schools are included in the local education agency (LEA) definition when established as an LEA by state law.
- Students with disabilities in charter schools that are part of an LEA must be served in the same manner as that LEA serves students with disabilities in its other schools, including the provision of supplementary and related services at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools. The LEA must also allocate funds to charter schools on the same basis that it provides funds to its other public schools.
- A charter school that functions as its own LEA is responsible for ensuring that the requirements of IDEA are met, unless state law assigns that responsibility to some other entity.
- The state's Special Education Advisory Council must include a charter school representative.
- The IDEA requires SEAs to implement specific procedures, including evaluations for students to determine if they are eligible for special education, to provide subsequent services and to re-evaluate eligible students. Under IDEA, SEAs receive grant funds which are allocated to LEAs to provide special education and related services to students with disabilities. All states are allocated these funds and are required to follow the IDEA mandates.

12. Responsibility for service: Charter schools are responsible for the provision of free and appropriate public education (FAPE), including a full continuum of services to students with disabilities, except that programmatic and financial responsibility for students who require an out-of-district day or residential school returns to the school district where the student resides. The state's charter school law is available at www.mass.gov/legis/laws/mgl/71-89.htm.

13. Administrator of Special Education: All charter schools in Massachusetts must appoint an individual to act as the Administrator of Special Education. This person must be qualified to perform all required duties, including supervision and oversight of all special education services and programming within the school, and ensure compliance with all federal and state special education laws. The state's special education regulations are available at: www.doe.mass.edu/lawsregs/603cmr28.html?section=03#start.

14. Special Education Instructional Staff:

All special education teachers in charter schools must satisfy the Massachusetts's charter school statute and regulations and, if they are the primary instructor of a core academic subject(s), satisfy the No Child Left Behind highly qualified standards. The licensure component of NCLB is waived for Massachusetts Commonwealth charter school teachers because it is not a requirement of the state charter school statute and regulations. Teachers in Horace Mann charter schools are required to hold an appropriate Massachusetts teaching license because employees of a Horace Mann charter school are, for collective bargaining purposes, employees of a school district. The Department of Elementary and Secondary Education (ESE) *Technical Advisory 07-01: Teacher Qualifications in Massachusetts Charter Schools* is available at www.doe.mass.edu/charter/tech_advisory/07_1.html.

15. Individualized Education Program: Students with disabilities at charter schools are required to receive services according to the elements of an approved individualized education program (IEP), developed by the IEP team. The state's IEP process guidelines are available at www.doe.mass.edu/sped/iep/proguide.pdf.

16. Forms and Notices: Charter schools must use individualized education programs (IEPs) forms and notice letters which contain all the required elements mandated in state regulations. The state's mandated forms and notices are available at www.doe.mass.edu/sped/iep/forms/.

17. Special Education Compliance Monitoring:

- The Department of Elementary and Secondary Education (ESE) oversees school district compliance with special education requirements through the Coordinated Program Review (CPR) process. All compliance reviews monitor selected special education and civil rights requirements; and as appropriate, selected English language learner and other general education requirements. Subsequent to the monitoring review, the ESE issues a CPR report identifying education requirements that are implemented and any areas of non-compliance identified during the school's onsite review. The school district is required to develop a Corrective Action Plan (CAP) that addresses the identified areas of non-compliance.
- The ESE compliance monitoring process occurs on a six-year cycle and maintains copies of all previous monitoring reports. In addition, Massachusetts requires a Mid-Cycle Review (MCR) follow-up visit three years after the CPR. The MCR verifies the implementation status and effectiveness of the school district's compliance and effectiveness in remedying previously identified noncompliance issues in the area of special education. The MCR also reviews special education criteria that have been substantially changed in response to IDEA-2004 and

selected English language learner requirements. The ESE is currently piloting a Program Quality Assurance (PQA) Web-based Monitoring System (WBMS) with some school districts and charter schools. As part of the WBMS, schools will conduct a special education program self-assessment including student special education records and required policies and procedures. It is expected that the WBMS will improve the monitoring process and increase school level compliance with federal and state laws and regulations.

18. Charter School Startup and Service Capacity: During the state's charter school application phase, Charter School Office (CSO) federal programs specialists review each proposal for evidence of a special education program that can effectively identify, assess, and serve special student populations. The applicant must demonstrate knowledge of program requirements and implementation; appropriate staffing levels and program organization to support delivery of quality student services; and program evaluation procedures that indicate the special education program can effectively serve the targeted student populations. Once the charter is awarded, new school leaders are required to participate in CSO trainings prior to the opening of the school. The trainings provide an overview of the state's special education program requirements and the Department of Elementary and Secondary Education (ESE) Coordinated Program Review (CPR) compliance review procedures. Subsequent to the trainings, a follow-up school visit is scheduled with the school leader and special education administrator, and a determination is made as to whether the school building meets the handicapped accessibility and special education instructional space requirements. During the first year of operation, the CSO conducts a federal programs onsite visit to observe the special education program and the implementation of individualized education program (IEP) services; to review the program's policies, student special education records and IEPs; and to verify that special education program requirements are in place.

19. Child Find:

The Individuals with Disabilities Education Act (IDEA) requires each state to "have in effect policies and procedures to ensure that all students with disabilities residing in the state who are in need of special education and related services are identified, located and evaluated." States develop procedures that their local education agencies (LEAs) must follow to carry out these responsibilities. Because a charter school is its own LEA for special education, the school must follow the Massachusetts procedures just like any other LEA. Charter schools are responsible for students only when they are actually enrolled in the charter school. It is clear that all charter schools must conduct "child find" activities for their full student population so that students who may need special education are appropriately identified and, if necessary, referred for evaluation.

20. Facility issues: All charter schools must be fully programmatically accessible to persons with disabilities.

21. Related Services: Charter schools must provide related services (i.e., speech and language therapy, occupational and/or physical therapy) as determined necessary by the student's individualized education program (IEP) team in order for the student to receive a free and appropriate education (FAPE). All related service providers at charter schools must comply with all professional licensure and certification requirements.

F. Finance

22. What are Massachusetts policies for the funding of charter schools?

Charter school funding information is available at <http://finance1.doe.mass.edu/charter/>.

23. How is a Horace Mann charter school funded?

Funding for a Horace Mann charter school comes directly from the school district in which the school is located, through a Memorandum of Understanding with the district. An application for a Horace Mann charter school will specify a total budget allocation that the school committee has approved for the charter school's first year. Each year thereafter, the board of trustees of a Horace Mann charter school will submit a budget request for the following fiscal year to the superintendent and school committee of the district. Under the charter school statute, a Horace Mann charter school cannot receive less than it would have under the district's standard budgetary allocation rules. A school may appeal a disproportionately small budget allocation to the Department of Elementary and Secondary Education, commissioner's office. For purposes of entitlement grants, a Horace Mann charter school is considered to be its own LEA and can receive its funds directly or through the district, depending on the terms of the Memorandum of Understanding. Horace Mann charter schools may apply for private grants and receive individual contributions.

24. Are there fiscal responsibility exceptions for charter schools regarding programs for students with disabilities?

Yes. For purposes of special education implementation and accountability, Commonwealth charter schools function as stand alone local education agencies (LEAs). They are responsible for all aspects of special education programming and operation, similar to any Massachusetts city or town *except* that they are not required to provide out-of-district placements to students who may require a full time day or residential program of special education. Pursuant to M.G.L. c. 71A §89 (t), if a charter school expects that a special needs student currently enrolled in the charter school may be in need of the services of a private day or residential school, it shall convene an individual education plan team meeting for said student. Notice of the team meeting shall be provided to the special education department of the school district in which the child resides at least five days in advance of the meeting. Personnel from the school district in which the child resides shall be allowed to participate in the team meeting concerning future placement of the child.

In the event that an individualized education program (IEP) team determines that a full time day or residential placement may be necessary and the student's school district has *not* been previously invited to the team meeting, the school should follow the state special education regulation procedures described in 603 CMR 28.10 (6)(a):

- a) The IEP team shall conclude the meeting pursuant to 603 CMR 28.06(2)(c) without identifying a specific placement type, and shall notify the school district where the student resides within two school days.
- b) Upon a determination as in 603 CMR 28.10(6)(a), the program school shall schedule another meeting to determine placement, and shall invite representatives of the school district where the student resides to participate as a member of the placement team pursuant to 603 CMR 28.06(2)(e)(1).
- c) The IEP team meeting convened by the program school shall first consider if the school district where the student resides has an in-district program that could provide the services recommended by the IEP team, and if so, the program school shall arrange with the school district where the student resides to deliver such services or develop an appropriate in-district program at the program school for the student.
- d) If the placement team, in accordance with the procedures of 603 CMR 28.06(2)(d), determines that the student requires an out-of-district program to provide the services identified on the student's IEP, then the placement proposed to the parent shall be an out-of-district day or residential school,

depending on the needs of the student. Upon parental acceptance of the proposed IEP and proposed placement, programmatic and financial responsibility shall return to the school district where the student resides. The school district where the student resides shall implement the placement determination of the team consistent with the requirements of 603 CMR 28.06(3).

25. Are there any additional state funds available for students with disabilities?

Yes. First implemented in fiscal year 2004, the "circuit breaker" program reimburses a local education agency (LEA) for students with disabilities who require individualized education program (IEP) services that cost greater than four times the statewide foundation budget. An LEA may be reimbursed, subject to appropriation, for up to 75% of these costs. Although the majority of charter school students who meet this service threshold are served at private day or residential placements and are the programmatic and financial responsibility of their school district of residence, some charter schools may be qualified for "circuit breaker" reimbursement.

26. Are charter schools entitled to federal funds?

Yes, charter schools are eligible for the same federal funds that go to all public schools. Each federal program has its own requirements. Special education grant information is available on the Department of Elementary and Secondary Education website at <http://www.doe.mass.edu/sped/grants.html>.

27. Can charter schools access Medicaid benefits for students who are eligible?

As of 2007, Massachusetts school districts, because they are considered Medicaid providers, can file Medicaid claims to obtain federal reimbursements for students who receive special education services, as delineated on an individualized education program (IEP), and who have MassHealth. This is called the Municipal Medicaid Program. In Massachusetts, the federal match for state dollars spent on Medicaid services is 50%. For every dollar that the Commonwealth spends on Medicaid-eligible services, the federal government contributes 50 cents. Therefore, schools can bill for half of the cost of the services they provide. This can be a significant source of additional funding for schools.

There are two categories of Medicaid billable services that schools provide:

- Direct services to students - this includes physical therapy, occupational therapy, speech and language services, audiological services, behavior management and/or counseling, and 1:1 nursing services; and
- Administrative activities - these are indirect services that are not child-specific, and include: providing resources and referrals, overall planning for all student health services, prenatal/postnatal counseling for pregnant students, and outreach to identify and enroll eligible students in MassHealth (including helping families with the MassHealth application).

No family is required to enroll their child in MassHealth in order for him or her to become eligible for special education and receive a free and appropriate public education (FAPE). In order for a local education agency (LEA) to bill MassHealth for Municipal Medicaid services, the parent or guardian must give consent, as the school will be sharing information about the student with MassHealth in order to submit a claim for Medicaid reimbursement for school-based health services. The school should also have a written policy and procedures for documenting all health services. Additionally, school personnel must meet both federal and state provider qualifications for the service he or she provides. Not all Massachusetts school districts participate in the Municipal Medicaid Program. For local school districts, the federal reimbursement goes to the city or town treasurer. Each municipality then decides whether to pass this money along, in part or in whole, to the school. Commonwealth charter schools receive the reimbursement directly. Information about Medicaid is available at

www.mass.gov/masshealth and an Office of Health and Human Services bulletin is available at www.doe.mass.edu/sped/advisories/Parent520Auth.doc.

G. Transportation

28. What about transportation for students who attend charter schools?

Massachusetts charter school regulation 603 CMR 1.08(11) requires that, for students attending a charter school located in their town of residence, school districts provide transportation for charter school students to and from school on the same basis as it is provided to other public school students in the district. The charter school may also choose to arrange for alternative transportation if an agreement cannot be reached with the district, in which case the charter school's transportation costs are deducted from the district's funding, and used to reimburse the charter school.

Transportation for students with disabilities who attend a charter school in their town of residence must be provided by the school district of the town. Special education transportation for students who live outside the town in which the charter school is located must be arranged and paid for by the charter school. The Department of Elementary and Secondary Education *Charter School Technical Advisory 07-2: Transportation* is available at www.doe.mass.edu/charter/tech_advisory/07_2.html

H. Enrollment

29. What issues should charter schools consider when designing their enrollment forms?

Under Section 504 of the Rehabilitation Act of 1973 (Section 504), the Title II of the Americans with Disabilities Act (ADA) and the Massachusetts Charter School Law and Regulations, schools may not categorically deny admission to students on the basis of disability. The Department of Elementary and Secondary Education (ESE) Charter School Administrative and Governance Guide defines the enrollment policy and nondiscrimination requirement:

"Massachusetts law is clear; charter schools may not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or prior academic achievement in admitting students, and charter schools may not set admissions criteria that are intended to discriminate or that have the effect of discriminating on any of these bases. A student must be a resident of Massachusetts at the time of application to be eligible for a charter school's enrollment process. The charter school must hold a lottery to determine which students to admit if there are more applications received than seats available. Every time an admissions lottery takes place, the process must be fair and all rules must be consistently applied".

Although a charter school application may ask whether or not a student is currently receiving special education services, the application form must include a nondiscrimination disclaimer with all the protective categories and adhere, as required, to an open and fair lottery process.

Although it is essential that the charter school has this information in order to plan and hire staff for the school year, the information obtained may not be used in a discriminatory manner. Charter schools may not administer tests to potential applicants or predicate enrollment on results from any test of ability or achievement. The charter school may also initiate student records requests from the student's home district.

30. Does the Department of Elementary and Secondary Education provide guidance on conflict resolution and due process?

The Department of Elementary and Secondary Education (ESE) Bureau of Special Education Appeals (BSEA) conducts mediations, advisory opinions, and hearings to resolve disputes among parents and school districts, charter schools, private schools and state agencies concerning eligibility, evaluation, placement, individual education programs (IEPs), special education services and procedural protections for students with disabilities. In addition, a parent may request a hearing on any issue involving the denial of the free appropriate public education (FAPE) guaranteed by Section 504 of the Rehabilitation Act of 1973 (Section 504). The BSEA derives its authority from federal IDEA law and regulations and Massachusetts law and regulations. The BSEA is located with the Massachusetts Department of Elementary and Secondary Education, but is independent from the ESE. Information about the BSEA is available at <http://www.doe.mass.edu/bsea/>.

31. What assistance does the Department of Elementary and Secondary Education offer persons who believe that a charter school is not meeting its obligations under federal and state laws and regulations?

The Program Quality Assurance Unit (PQA) manages the ESE's Problem Resolution System (PRS). The PRS is the process for receiving, reviewing and resolving concerns from the public regarding students who allegedly are not receiving education services under federal and state laws and regulations as required. Information about the PRS is available at <http://www.doe.mass.edu/pqa/prs/>. Individuals who believe that any charter school student is not receiving special educational services or procedural protections that by law must be provided to disabled students may access the PRS by contacting PQA Services at:

Massachusetts Department of Elementary and Secondary Education
Program Quality Assurance Services, Problem Resolution Intake Specialist
75 Pleasant Street, Malden, MA 02148
Telephone: 781-338-3700
TTY:N.E.T. Relay: 1-800-439-2370
FAX: 781-338-3710
E-mail: compliance@doe.mass.edu

Resources

- ESE Charter School Office www.doe.mass.edu/charter/
- ESE *Charter Schools Technical Advisory 03-1: Horace Mann Charter Schools* http://www.doe.mass.edu/charter/tech_advisory/03_1.html
- ESE Charter School Administrative and Governance Guide <http://www.doe.mass.edu/charter/governance/adminguide.pdf>
- ESE Special Education Policy, Planning and Development Unit <http://www.doe.mass.edu/sped>
- Massachusetts Charter Public School Association www.masscharterschools.org/
- U.S. Charter Schools www.uscharterschools.org
- National Association of Charter School Authorizers www.qualitycharters.org
- Charter School websites http://edreform.com/charter_schools/websites/massachusetts.html
- ESE *Problem Resolution System compared to BSEA Due Process Complaint* <http://www.doe.mass.edu/sped.docs.html>