

## **CHARTER SCHOOLS AND SPECIAL EDUCATION**

Since the general assembly passed the Charter Schools Act in 1993, more than thirty charter schools have been founded in Colorado. These schools are defined in the statute as being “public, nonsectarian, non-religious, non-home-based” schools which operate within a public school district. A charter school is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or the need for special education services. (§22-30.5-(3).

Funding for charter schools comes from an allocation of the “per pupil operating revenue (PPOR)” which the local school district receives from the state and federal departments of education. The average PPOR in Colorado is approximately \$4200 per student, and the Charter Schools Act requires a district to fund charter schools at no less than 80% of this amount.

Charter schools represent one aspect of educational reform aimed at giving parents more choice in their students education. Magnate schools and the Public Schools of Choice Act (see February ‘97 issue of the Arc newsletter) are two other aspects of the choice movement.

Although charter schools may be granted waivers from specific local school district policies or rules, state department of education regulations, and Colorado laws, they may not seek waivers from federal laws that apply to students being educated in public schools with federal funds. For example, some charter schools have been granted a waiver from the statutory requirement that all teachers hold a Colorado teaching certificate in order that they might hire teachers who have alternative training such as Montessori training and experience.

Enrollment in a charter school is open to all students within the school district, as well as to students who reside outside of the school district boundaries. However, students may be admitted on a “space available” basis, preference may be given to students who reside within the school district over those residing outside the district, and charter schools may “cap” their enrollment.

In Colorado, a charter school is part of the school district in which it is located and is not a separate entity. The school is accountable to the local board of education for ensuring compliance with all applicable laws and the provisions of its charter. A major difference between a typical public school and a charter school is the way in which a charter school is governed. Although every charter school must have a governing body, that body generally consists of parents, educators, and members of the business community rather than a governing body consisting of school district administrators.

### **Charter Schools and Students with Special Needs**

Charter schools have been the subject of much controversy, especially within the community of persons with disabilities. Some people believe that charter schools by their very

nature are bound to discriminate against students on the basis of disability or need for special education services due to the bare bones budgets under which most charter schools operate. Others feel that charter schools will merely seek to enroll the best learners in the school district. In fact, reported data from charter schools in Colorado indicates that the percentage of students requiring special education services in charter schools exceeds the general percentage among all public schools. That is to say that Colorado's experience, like that of several other states with comparatively large numbers of charter schools, is that charter schools have tended to attract students who either have special needs or are "at risk" students in greater numbers than the traditional public school. Indeed, the Charter Schools Act states that no fewer than 16 of the maximum allowable 60 charter schools must be "designed to increase the educational opportunities of at-risk pupils..."

The fact is that charter schools, as they are configured under Colorado's Charter Schools Act, must abide by all of the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act, among other federal laws. Unfortunately, some charter school organizers and supporters do not fully understand their obligation to comply with these federal laws.

Students with disabilities applying to or enrolled in charter schools have the same right to a free appropriate public education, including special education and related services, as they do in any traditional public school. Some examples of these equal rights include:

1. The right to a complete assessment to determine eligibility for special education services;
2. The right to adequate notice before an IEP meeting or proposed change of placement;
3. The right to transition services;
4. The right to assistive technology devices and services;
5. The right to placement in the least restrictive environment;
6. The right to appeal the child's placement, delivery of a free appropriate public education, provision of related services, etc.
7. In cases of suspensions totaling more than 10 days or expulsion, the right to a manifestation determination meeting and the right to appeal the action taken.

Thus a charter school may not unilaterally terminate a student's enrollment if the student is receiving services under the IDEA. An IEP team meeting must be held to determine if the student's placement continues to be appropriate. Similarly, a manifestation determination meeting must be held when expulsion is being considered to determine whether the behavior leading to the recommended expulsion is a manifestation of the student's disability.

Furthermore, a charter school may not deny admission to a student merely because that student is receiving special education services under an IEP. An IEP team meeting is required to determine if the student's needs, as defined in the IEP, can be met at the charter school. Nor can a charter school terminate a student's enrollment because the student is determined eligible for special education services only after initial enrollment.

Parents of students with special needs should not automatically exclude charter school programs from the list of educational options. The availability of generally smaller class sizes, teachers who are interested in a particular philosophy of education, and generally lower school enrollments could make a charter school setting more appropriate for some students with special needs.