

**COLORADO CHARTER SCHOOLS BEST PRACTICES
GUIDEBOOK:
SAMPLE SPECIAL EDUCATION AND
SECTION 504 COMPLIANCE PLAN FOR CHARTER AND
RENEWAL CHARTER APPLICATIONS**

Introduction:

Colorado law requires a charter school to comply with all federal laws prohibiting discrimination based on disability. A charter school is accountable to its authorizer for compliance with the Individuals with Disabilities Education Act (IDEA) and Colorado's Exceptional Children's Education Act (ECEA). Under the IDEA and ECEA, the administrative unit of the charter school's authorizer is responsible for ensuring that all students that are eligible for special education in the administrative unit receive a free and appropriate public education (FAPE).

Because a charter school is accountable for complying with special education laws and its administrative unit is responsible for ensuring that all students eligible for special education in its unit receive a FAPE, it is essential for a charter school and its authorizer's administrative unit to work together in developing a plan to ensure compliance with these laws. This *Sample Special Education and Section 504 Compliance Plan* (Sample Plan) is intended to be a practical guide for charter school developers/boards and charter school authorizers as they negotiate legal, procedural and funding issues related to special education and Section 504 services in new or renewal charter school applications.

While this Sample Plan addresses major issues involving the delivery of special education and Section 504 services in charter schools, it is not exhaustive. The use of the Combination Model in this sample plan does not constitute the CDE's endorsement of, or preference for, that model over other service delivery and funding models available for use by charter schools and their authorizers. Nothing in the Sample Plan is to be considered the rendering of legal advice for specific cases. Readers are responsible for obtaining such legal advice from their own attorneys.

SPECIAL EDUCATION and SECTION 504 COMPLIANCE PLAN

I. Compliance with Federal and State Special Education and Disability Laws

ACME Charter School (ACME) acknowledges and understands that it is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, including the Individuals with Disabilities Education Act (IDEA), the Colorado Exceptional Children's Educational Act (ECEA), Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA). ACME will be accountable to the board of education of the Lost Lake School District (District) for purposes of assuring compliance with federal and state special education and disability laws. The special education director of the District will ensure ACME's compliance with special education and disability laws through annual audits of ACME's special education program. ACME understands that noncompliance with federal and state special education and disability laws may result in revocation of its charter with the District.

II. Responsibility for Special Education Services

ACME acknowledges and understands that the special education director of the District is responsible for assuring that all special education students attending ACME receive a free appropriate public education (FAPE) under the IDEA and the ECEA.

ACME will use the combination model for special education service delivery. Specifically, ACME will be responsible for providing special education instruction according to the individualized education programs (IEPs) for each student with a disability enrolled at ACME. ACME will deliver special education instruction primarily within the regular classroom, and will provide resource room "pull-out" services as required by student IEPs. Within this framework, ACME will provide all necessary accommodations and instructional/curricular modifications as required by student IEPs.

The District will be responsible for providing special education related services and conducting initial evaluations and re-evaluations. The District will make available its continuum of alternative placements and Interim Alternative Educational Settings (IAES) to ACME as necessary. The District will be responsible for providing the special education procedural safeguards notice to parents and will provide ACME with assistance in resolving special education disputes. The District will make available its special education professional development and provide technical assistance to ACME staff.

A. Least Restrictive Environment Requirement and Age-Appropriate Classrooms

ACME will educate its special education students to the maximum extent appropriate in age-appropriate general education classrooms with needed accommodations, instructional/curricular modifications and other supports. The district will make available to ACME its continuum of alternative placements if an ACME student is unable to be involved in and progress in the general education classroom with such accommodations, instructional/curricular modifications

and supports. If ACME identifies such a student, ACME will timely notify the District Special Education Director to determine if a reevaluation is necessary and hold an IEP review meeting to discuss the appropriate placement for the student.

B. Special Education Teacher Qualifications

Because ACME is responsible for the special education instruction, ACME acknowledges and understands that it is not exempt from special education credentialing requirements under the IDEA and the ECEA. ACME will hire a special education teacher possessing a Colorado teacher's license with appropriate endorsements. If after reasonable efforts, ACME is unable to employ such an individual, ACME will hire an individual who will apply, through the District's special education director, for temporary teacher eligibility. ACME will provide the district with the opportunity to review and comment on the special education professionals providing services in ACME charter school.

C. Related Services

The District will provide all related services required by the IEPs, including but not limited to initial evaluations and re-evaluations, occupational therapy, physical therapy, paraprofessional services, school health care services, and an array of school psychology services for ACME students. ACME and the District will jointly select the related services providers who will be assigned to ACME.

III. Special Education Funding

ACME will use the combination model (a combination of the insurance and contract models) for special education funding. Specifically, the District will pass through to ACME all federal and state special education funds for which ACME is eligible pursuant to the Colorado Charter Schools Act, the IDEA, and the ECEA. ACME will contract and hire its own special education service providers. ACME will negotiate a per pupil fee with the District for District provided special education services.

Prior to the 2008-2009 school year, ACME representatives (consisting of board members and administrators) and the District's special education director will meet (1) to discuss in detail how special education is funded in the District, (2) to develop effective procedures for conducting the December special education count day, (3) to develop effective record-keeping and reporting procedures on required student, staff, revenue and expenditure data, and (4) to obtain copies of all District special education policies, procedures, guidelines and other resource documents. A major purpose of this dialogue will be to establish an agreement on how the District will pass through to ACME the federal and state special education funds for which ACME is eligible.

If ACME enrolls a special education student who is not a resident of the District and who is eligible for tuition reimbursement, ACME will immediately notify the District of the enrollment. ACME may submit a tuition cost application to the Colorado Department of Education to be charged to the student's district of residence. ACME will comply with all relevant requirements established in Rule 9.00 of the ECEA regarding out-of-district students.

IV. Nondiscriminatory Enrollment/Enrollment IEP Procedures

Enrollment at ACME will be open to any child who resides within the District. A majority of students attending ACME will reside in the District or in school districts that are contiguous to the District. ACME's initial enrollment application form will not ask a parent to state whether his or her child is on an IEP or a Section 504 plan. However, at the time that a child is accepted for enrollment at ACME, the parent will be asked those questions.

If a child who has an IEP is accepted for enrollment at ACME, ACME will immediately notify the District to facilitate the timely receipt of child's special education records. An IEP meeting will be timely scheduled to determine whether ACME can provide the child with a FAPE. The child's IEP team will make all placement decisions, including any decision to exit the child from special education or any determination that ACME is not an appropriate placement for the child. ACME will invite the District's special education director/designee to attend the IEP meeting, and if the child is not a resident of the District, ACME will also invite the special education director/designee of the child's district of residence to attend the IEP meeting.

If a child's IEP meeting cannot be scheduled prior to the onset of the academic school year, ACME and the District will provide the special education and related services specified by the child's current IEP, unless the child is a transfer student from another school district or public agency, in which case the procedures for transfer students set forth in Section V, below, will be followed.

V. Transfer Students

When a student who has an IEP developed by a school district other than the District enrolls at ACME, ACME will immediately notify the District's special education director as soon as ACME knows that the student is a child with a disability to facilitate the timely request of records from the child's last school district of attendance. In such a case, ACME will provide interim services comparable to those described in the student's IEP from the previous school district or public agency. Such interim services will continue to be provided until ACME and the District's special education director or their designee adopts the child's IEP from the child's previous school district or a new IEP is developed and implemented in accordance with the requirements of the IDEA and ECEA.

VI. System of Interventions

ACME acknowledges and understands that all children can learn and achieve high standards as a result of effective teaching, and will use the Response to Intervention (RtI) model to provide resources to students in need of academic and/or behavior support. ACME will regularly convene a problem solving team to identify students who are not making expected progress. ACME's problem solving team will be known as the "Student Support Team" and will typically include ACME's principal, a regular education teacher, a special education teacher, a school psychologist, and as appropriate, the student's parents and classroom teacher.

ACME will implement appropriate interventions for a student at the earliest indication of student need in order to ensure the student's success. The Student Support Team will consider all pertinent information and the unique needs of the child in order to generate strategies for meeting the child's needs in a non-special education setting. The Student Support Team will tailor appropriate interventions to meet the unique needs of each student identified.

ACME will use a continuum of tiered interventions with increasing levels of intensity and duration to address the full range of student needs. ACME will use three levels of tiered interventions. Tier I instruction will include high quality, research-based curricula and instructional strategies and as core instruction for all students. Tier II interventions will involve offering supplemental instruction in addition to the Tier I instruction designed to meet the needs of students not progressing as expected. Tier III interventions will involve explicit instruction that is focused on a specific skill need.

ACME understands that student results are improved when ongoing academic and behavioral performance data are used to inform instructional decisions. The Student Support Team will regularly monitor and document the progress of a student when the intervention is implemented. ACME will also document how the interventions are implemented to ensure they are carried out as designed. The Student Support Team will develop criteria and indicators to determine whether a pre-referral intervention is successful. If the Student Support Team determines that an intervention has not been successful for a child, a new intervention with a higher degree of intensity will be implemented.

A referral to special education for an initial evaluation will be made if the Student Support Team suspects a child has a disability or the parent requests an evaluation. ACME understands that the documentation of a student's progress when implementing an intervention will become part of the body of evidence used in determining if a child has a disability and is eligible for special education services.

ACME understands that ongoing and meaningful involvement of families increases student success. The Student Support Team will be responsible for notifying the student's parents of the concerns involving the student and give the parents the opportunity to share information that may impact the student's learning or behavior problems. The Student Support Team will inform the parents of the intervention used for the child and the child's progress while receiving the intervention.

ACME acknowledges that all members of the ACME community must continue to gain knowledge and develop expertise in order to build capacity and sustainability under the RTI Model. At the beginning of each school year, the Student Support Team will conduct an in-service for ACME's general education staff. The purpose of the in-service will be to train ACME's general education classroom staff on pre-referral interventions and the criteria and indicators for determining whether the interventions are successful.

VII. Initial Evaluation and Re-Evaluation Procedures

The District's special education office will be responsible for conducting all initial evaluations and re-evaluations, obtaining written parental consent for evaluations, tracking required timelines, scheduling, and facilitating eligibility determination meetings. If a child is determined to be eligible for special education, the District's special education director or designee will obtain written parental consent for initial placement.

VIII. IEP Development and Review Meetings

ACME will be responsible for tracking IEP annual, triennial, and other review meeting timelines. ACME will coordinate with the District's special education director or designee regarding the scheduling and facilitation of IEP meetings. ACME will coordinate with the District's special education office to ensure that an appropriately constituted IEP team is assembled for each IEP meeting. ACME will be responsible for preparing and delivering legally compliant Notice of Meeting to parents.

IX. Extended School Year (ESY) Services

ACME will provide all special education instruction and the District will provide all related services for extended school year (ESY) services required by student IEPs. ACME acknowledges and understands that the purpose of ESY services is to maintain the student's current skills and not to develop new skills. Determination of whether a student is eligible for ESY services will be made by the IEP team. If a student attending ACME resides outside of the District, ACME may enter into a separate contract with the district of residence regarding tuition responsibility for ESY services.

X. Procedural Safeguards

The District will be responsible for providing the Procedural Safeguards Notice to the parents of ACME special education students. ACME understands that the District may place a copy of the Procedural Safeguards Notice on the District's website, but that the District will provide the Procedural Safeguards Notice to parents of ACME special education students at least once a school year or upon initial referral of a child to special education.

The District will be responsible for providing Prior Written Notice to the parents of ACME special education students whenever there is a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child.

XI. Student Discipline

ACME will immediately notify the District's special education director or designee when ACME is contemplating student discipline that is likely to result in a change of placement for one of its special education students. The District will respond in a timely manner to ensure that all federal and state special education and student discipline timelines are met.

ACME will coordinate with the special education director/designee and parent(s) to schedule a manifestation determination review by an appropriately constituted IEP team prior to implementing any change of placement. Disciplinary procedures will comply with IDEA requirements.

The District will make its IAES and accompanying procedures available to ACME for students who are involved in illegal drugs, controlled substances, dangerous weapons or for students whom ACME considers to be dangerous to themselves or others. The District will provide technical assistance, as needed, for conducting required functional behavioral assessments and developing required behavior intervention plans.

XII. Programming Disputes Involving Parents

If a student's parent or legal guardian, or a student (when the student is emancipated or over the age of 18) expresses verbal or written dissatisfaction with the student's special education program and of his/her intent to dispute it, ACME will immediately contact the District's special education director. Examples of parent/student dissatisfaction include situations when (1) a parent retains an attorney, (2) the parent threatens to request a due process hearing or to file a state complaint with the Colorado Department of Education, or (3) the parent withdraws his/her child from the charter school, expressing his/her dissatisfaction with the child's special education services and the intent to (a) enroll the child in a private school and (b) seek reimbursement for the private school tuition. The District will make available to and assist ACME with the procedures available for resolving special education disputes. In the event a parent of an ACME student requests mediation or files a state or due process complaint, ACME staff will be made available as necessary to participate in the District's investigation and/or meetings to resolve the dispute.

The District will allow ACME to access the District's legal counsel regarding special education legal issues and disputes upon ACME's reasonable request. Reasonable requests include situations involving programming disputes and student discipline issues that may involve a change of placement for an ACME student. Access to the District's legal counsel must be pre-approved in writing by the District's special education director, in which case the District will pay for such legal services. In the event that the District's legal counsel determines that it/he/she has a conflict of interest in advising ACME, ACME will obtain separate legal counsel at its own cost.

ACME agrees to indemnify and hold the District harmless for any errors and omissions committed by ACME in connection with special education disputes. ACME will maintain liability insurance for special education disputes if such insurance is available. ACME will timely notify the District if such insurance is unavailable.

The District agrees to indemnify and hold ACME harmless for any errors and omissions committed by the District in connection with special education disputes involving ACME. The District will obtain liability insurance for special education disputes if such insurance is available. The District will timely notify ACME if such insurance is unavailable.

XIII. Confidentiality and Special Education Records

Pursuant to the IDEA, the ECEA, the federal Family Educational Rights and Privacy Act and the Colorado Public Records Act, ACME will establish policies and procedures to maintain the confidentiality of personally identifiable information in special education records during all stages of their collection, storage, disclosure and destruction. ACME will timely notify the District's special education office when a parent or student requests access to, or requests copies of, the student's special education records so that all locations and formats for storage of the requested records within the District can be fully identified for proper production to the parent or student.

XIV. Professional Development, Technical Assistance and Other Communications

The District's special education director or designee will timely notify ACME of District sponsored special education in-service training opportunities and their dates. Appropriate ACME personnel will attend District-sponsored special education in-service training whenever possible.

ACME will contact the District special education director when ACME is in need of technical assistance. The District will provide technical assistance to ACME in a timely manner. The District will also include ACME in the District's communications to its schools regarding new and important special education information and updates.

XV. Special Education Vendors

The District will provide to ACME a list of resources, vendors and contacts in order to facilitate ACME's purchase of special education materials. The District will require its vendors to provide the same discounts to ACME as are provided to the District and its other public schools. ACME will afford the District the opportunity to review and comment on ACME's special education vendors.

XVI. Section 504 Eligibility, Services, Technical Assistance and Training

ACME will use the District's Section 504 policies and procedures for compliance with Section 504 requirements. ACME will appoint a staff member to be the building level Section 504 coordinator and the Student Support Team will attend Section 504 training in order to become knowledgeable about Section 504 requirements and procedures. The Student Support Team will conduct an in-service at the beginning of each school year to train regular education staff on Section 504 requirements, including instructional modifications and accommodations in the general education classroom setting.

ACME will include in its student handbook a notice of nondiscrimination on the basis of disability and also appropriately post the nondiscrimination notice within its facility. ACME will be responsible for determining student eligibility for Section 504 services, and, as a best practice, will convene a Section 504 team as necessary when an ACME student has been determined to be ineligible for services under the IDEA and the ECEA.

ACME will develop a written Section 504 plan for eligible students. It will also be responsible for delivering Section 504 services and for holding manifestation determination reviews in connection with student discipline proceedings. The District will make available to ACME the District's dispute resolution mechanisms in the event of a Section 504 dispute.

Upon ACME's request, the District will timely provide technical assistance to ACME personnel regarding Section 504 requirements and issues. The District will include ACME in the District's communications to its schools regarding new and important Section 504 information and updates. The District will also invite appropriate ACME personnel to District-sponsored Section 504 in-service training, and ACME personnel will attend such training whenever possible.