

# **Rights of Students with Disabilities in Public Charter Schools**

U.S. Department of Education

Office of Special Education and Rehabilitative Services

Office for Civil Rights

January 2017

## **Introduction: Use of Presentation**

- This presentation provides general information and does not represent a complete recitation of the applicable law and policy.
- This presentation is a summary of guidance documents issued by the U.S. Department of Education's (ED) Office of Special Education and Rehabilitative Services (OSERS) and Office for Civil Rights (OCR); the guidance documents should be consulted directly for more information.
- The language used in these slides is approved for the purposes of this presentation only and should not be used for other purposes.

## **Introduction: Presentation Objectives**

- This presentation outlines guidance issued by ED on December 28, 2016, to help parents, students, local educational agencies (LEA), state educational agencies (SEA), charter schools, and others better understand the rights of students with disabilities in public charter schools under Federal laws:
  - Joint Dear Colleague Letter (OSERS and OCR);
  - OSERS FAQ document about rights and responsibilities under the Individuals with Disabilities Education Act (IDEA); and,
  - OCR FAQ document about rights and responsibilities under Section 504 of the Rehabilitation Act of 1973 (Section 504).

## **Introduction: Separate FAQ Documents on Section 504 and IDEA**

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

# Office of Special Education and Rehabilitative Services (OSERS)

Rehabilitation Services Administration (RSA)

**Office of Special Education Programs (OSEP)**

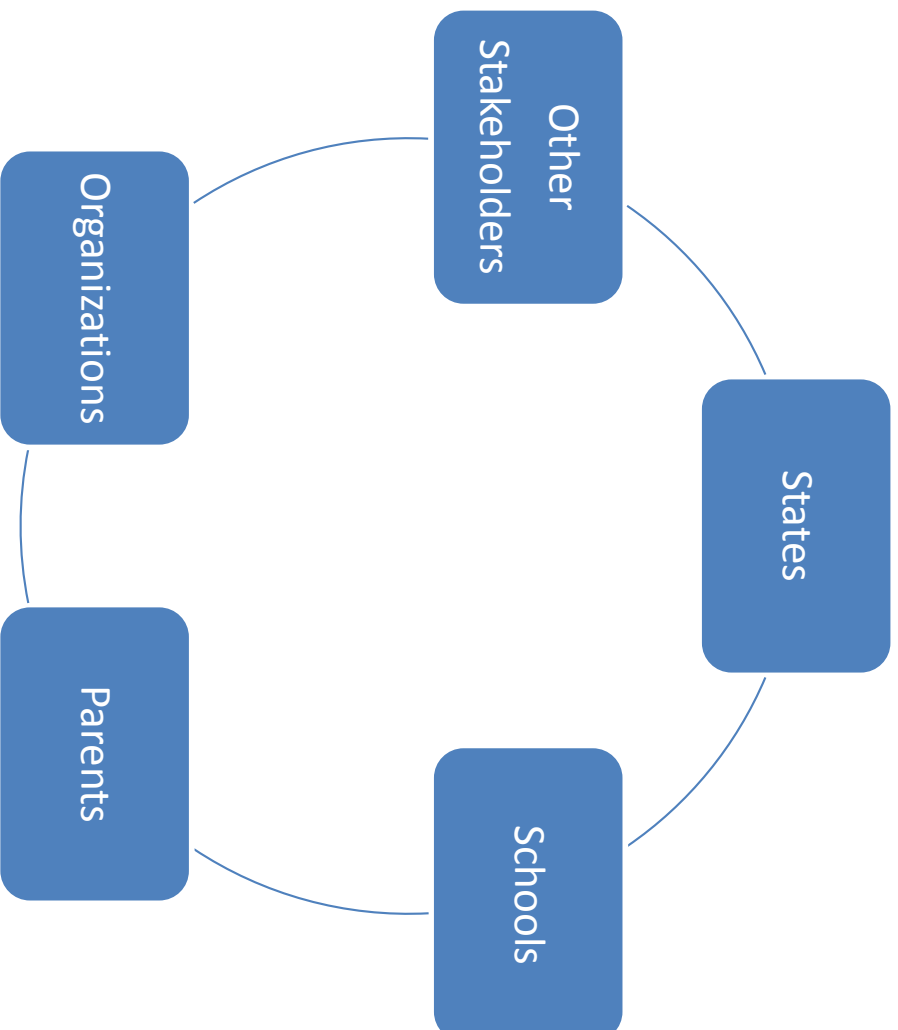
Laura Duos

Susan Murray

# OSEP's Mission

- OSEP is dedicated to improving results for infants, toddlers, children and youth with disabilities ages birth through 21 by providing leadership and financial support to assist states, local educational agencies, and other stakeholders.
- OSEP administers the Individuals with Disabilities Education Act (IDEA).
  - IDEA authorizes formula grants to states, and discretionary grants to institutions of higher education and other nonprofit organizations to support research, demonstrations, technical assistance and dissemination, technology and personnel development and parent-training and information centers.

# OSEP works with....



# IDEA funds flow by formula to States

## **OSEP supports SEAs in ensuring that:**

- Charter schools provide equitable access to children with disabilities and their families;
- Charter schools appropriately receive IDEA funds and/or support services, as required by IDEA and by the Charter School Expansion Act; and
- Children with disabilities in charter schools have access to a free appropriate public education in the least restrictive environment.



# Complex and varied State charter laws and State structures

- States must ensure that charter school LEAs and LEAs that include charter schools meet all of their responsibilities under Part B of the IDEA

# General Supervision

The IDEA FAQ document is part of multiple technical assistance and related efforts by OSERS in support of the important role that State educational agencies play in ensuring that charter schools and all educational programs for children with disabilities in the State meet State education standards and the requirements of Part B of the IDEA.

# Charter schools under IDEA

- Charter school, as used in IDEA, has the meaning of “charter school” in the Elementary and Secondary Education Act of 1965.
- Three options under Part B regulations:
  - 1) charter schools can be public schools of the LEA;
  - 2) charter schools can be LEAs themselves; or
  - 3) charter schools can be nonprofit entities that are neither LEAs nor schools of an LEA

# Rights of children with disabilities in charter schools under IDEA

- Students with disabilities attending charter schools and their parents retain all rights and protections under Part B of IDEA that they would have if attending other public schools.

# Child with a Disability under IDEA

- A child with a disability is a child evaluated in accordance with the IDEA evaluation procedures as having one or more specified disabilities and who, because of disability, needs special education and related services.

# Free Appropriate Public education (FAPE) under IDEA

- FAPE includes special education and related services that:
  - are provided at public expense, under public supervision and direction, and without charge;
  - meet the standards of the SEA, including IDEA Part B requirements;
  - include an appropriate preschool, elementary school, or secondary school education in the State involved; and
  - are provided in conformity with an IEP.

# FAPE under IDEA

- Under IDEA, all students with disabilities, including charter school students with disabilities, must receive FAPE.
- The vehicle for ensuring the provision of FAPE to all students with disabilities, including charter school students with disabilities, is a properly-developed IEP.

## FAPPE under IDEA

- A charter school may not unilaterally limit the services it will provide a particular student with a disability.
- The responsible charter school LEA, or the LEA that includes the charter school, must provide a program of FAPPE for the student in the least restrictive environment in which the student's IEP can be implemented.



# Least restrictive environment under IDEA

- States must ensure that charter school LEAs and LEAs that include charter schools meet all their responsibilities under Part B of IDEA, including the LRE requirements.
- The LRE provisions require that, to the maximum extent appropriate to their needs, students with disabilities attending public charter schools be educated with nondisabled students.

# Placement under IDEA

- Placement decisions must be made by a group of persons (the placement team), including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.
- Each child's placement decision also must be made in conformity with IDEA's LRE provisions.

# Placement under IDEA

- Charter schools that are LEAs are responsible for ensuring that the IEP and placement requirements of Part B of IDEA are met, unless State law assigns responsibility to some other entity.
- When 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, unless State law assigns responsibility to some other entity.

# Child Find and Evaluation

## Requirements under IDEA

- What happens if a charter school suspects that one of its students may be a child with a disability?
- How may a charter school implement a response to intervention (RTI) framework as part of its child find process?
- When is a reevaluation required for an IDEA-eligible child with a disability who attends a charter school?

# Procedural Safeguards under IDEA

- Procedural Safeguards and dispute resolution
- Positive behavior interventions and supports
- Applicability of discipline procedures

# IDEA Funding

- Eligibility to receive subgrants under Part B of IDEA;
- Provisions related to newly-created charter school LEAs;
- Base payment calculations for charter school LEAs under IDEA;
- Base payment adjustments for new or expanding charter school LEAs.

# IDEA Funding

- How the funding formula is calculated for expanding charter schools;
- Whether an IDEA subgrant may be made even if the charter school LEA is not serving any children with disabilities;
- Funding requirements in Part B of IDEA that apply to LEAs that have charter schools that are public schools within the LEA.

# Charter School Closures under

## IDEA

- Issues surrounding the closure of charter schools including:
  - Funding
  - The responsibility for FAPE
  - Transfer of records, and
  - Equipment purchased with IDEA funds for children with disabilities.



# Contact information

- If you have questions regarding IDEA, please send them to the Office of Special Education and Rehabilitative Services by email at [ideacharterschools@ed.gov](mailto:ideacharterschools@ed.gov) or by phone at 202-245-7468, (800)-877-8339 (TDD).

## **Introduction: OCR**

- Office within ED that enforces the civil rights laws, including laws prohibiting discrimination on the basis of race, color, national origin, sex, disability, or age, that apply to programs and activities that receive Federal financial assistance from ED;
- Headquartered in Washington, D.C.; 12 regional offices;
- Investigates/resolves complaints alleging discrimination; conducts OCR-initiated compliance reviews; and, upon request, provides technical assistance.
- This presentation does not provide specific determinations of compliance; OCR's determinations of compliance depend on specific facts and are evaluated on a case-by-case basis.
- OCR attorneys Doreen Dennis and Elizabeth Greczek are presenting today.