

**HAWAI`I PRIMERS
ON
SPECIAL EDUCATION
AND
PUBLIC CHARTER SCHOOLS**

HAWAI`I AUTHORIZER PRIMER

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Acknowledgements

This set of primers was developed by the Hawai'i Department of Education (HIDOE) in collaboration with the Technical Assistance (TA) Customizer Project. It was funded by the U.S. Department of Education Charter Schools Program and conducted by the National Association of State Directors of Special Education (NASDSE). The primers are designed to meet the needs of charter school authorizers, operators and state officials for resources, training and other technical assistance related to special education in charter schools in the State of Hawai'i. The goal of the primers is to help prevent common potential problems and promote the successful inclusion of students with special needs into charter schools.

The HIDOE, Special Education Section, would like to thank the following organizations and groups that were vital to the development of the **Hawai'i Primers on Special Education and Charter Schools**:

National Association of State Directors of Special Education (NASDSE)
Public Charter Schools Program Office
Charter School Administrative Office
Charter Schools Resource Center – University of Hawai'i at Hilo
Public Charter School Administrators, Student Support Coordinators and staff
State and District Special Education Specialists and Resource Teachers
Ho'okako'o Corporation
Kamehameha Schools, Pauahi's Legacy Lives

The primers would not have been possible if not for their dedication, expertise, time and effort.

A special thanks to Dr. Eileen M. Ahearn and Ms. Elizabeth A. Giovannetti of the TA Customizer Project at NASDSE who were instrumental in the development of the **Hawai'i Primers on Special Education and Public Charter Schools**.

Note

The **Hawai'i Primers on Special Education and Public Charter Schools** may be subject to change to appropriately reflect changes as charter school legislation continues to evolve and impact the State of Hawai'i.

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HAWAI'I AUTHORIZER PRIMER

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HAWAI`I AUTHORIZER PRIMER

PRE-CHARTERING PLANNING PHASE

What is meant by charter school authorization in Hawai`i?

Authorization is the process by which a community group or an existing public school receives a charter. The three different types of charter schools, known as New Century Public Charter Schools in Hawai`i, are:

- the start-up or new charter school;
- the conversion charter school, a Hawai`i Department of Education (HIDOE) school that converts to charter status;
- the partnership conversion charter school, a HIDOE school that allows a nonprofit organization to manage and operate a charter school, and its local school board would consist of directors of the nonprofit organization. Schools receive the financial support of \$1.00 from the nonprofit organization for every \$4.00 of the State of Hawai`i charter school per pupil allocation.

All charter schools receive their charters from the State Board of Education (BOE). The BOE is the sole chartering authority in Hawai`i.

What is the pre-charter planning phase?

The pre-charter planning phase encompasses the planning activities preceding the submission of a charter application to the BOE. This stage generally starts out very informally and grows increasingly structured as potential charter school applicants work to turn their vision of a school into a concrete plan that can be implemented.

Any community, group of teachers, group of teachers and administrators, entity recognized as a nonprofit organization, or any program within an existing school may submit a letter of intent to the BOE to form a New Century Charter School, establish a Local School Board as its governing body and develop the Detailed Implementation Plan (DIP). A formal application to become a charter school can be obtained from the Charter School Administrative Office (CSAO).

A new start-up charter or traditional HIDOE school wanting to convert to a charter school needs to form an Interim Board of Directors. This board is essentially a "stakeholder" board in composition, that is, it must have minimum representation from the administration, teachers, parents, students, and community members. Once the charter is issued, the Interim Board is converted to a permanent Local School Board that is charged with implementing the charter.

This stage may be impacted by tight timelines. Nevertheless, it is a critical stage in the creation of a charter school. At this time, the BOE, through the HIDOE, has a unique opportunity to urge developers to integrate special education into their overall planning, rather than to incorporate it later to existing policies and procedures.

What is the BOE's role during the pre-chartering stage in relation to special education in a charter school?

The BOE's major role at this stage is to ensure that the HIDOE provides accurate and timely information and the technical assistance necessary for the provision of special education in the potential charter school to interested applicants and agencies. By doing so, the BOE anticipates that the charter school applicant will be likely to demonstrate understanding of special education responsibilities and be able to gather the resources necessary to meet them.

As a branch of the HIDOE, the Special Education Section (SES) is one of the State resources available to the BOE and to potential applicants. During the pre-chartering planning phase, the SES supports charter inquiries with access to appropriate special education information. SES also provides technical assistance to two charter school offices, the Public Charter Schools Program Office (PCSPO) and the CSAO.

What does the BOE need to know about PCSPO and CSAO and their relationship to special education in a charter school?

The PCSPO coordinates charter affairs on behalf of the HIDOE, administers the federal Public Charter Schools Program Grant, and currently establishes special education positions.

Before submitting a formal application to become a charter school, a group or existing HIDOE school may apply for a special planning grant from the PCSPO. The purpose of the grant is to explore the feasibility and specifics of the proposed charter schools as well as to develop a tentative plan.

The CSAO is an independent office, which reports to the BOE, and is responsible for ensuring that charter schools operate according to the law and distributes state funds to charter schools. The CSAO works in partnership with SES by sharing its expertise and knowledge of the chartering process.

What does the BOE need to know about basic IDEIA 2004 requirements?

The BOE must understand that federal law requires that the State "serve children with disabilities [in charter] schools in the same manner as it serves children with disabilities in [DOE] schools" The HIDOE has responsibility for all IDEIA 2004 compliance in

all public schools, including charter schools. The Superintendent authorizes the SES to:

- oversee matters related to implementation, compliance, and monitoring of special education students and adjunct services;
- provide technical assistance to all schools; and
- serve as a liaison to the CSAO and the local public charter school boards.

For more information, refer to Appendix 2, *Required Internal Management and Operational Guidelines for the 2005-06 Implementation of the Individuals with Disabilities Education Improvement Act (IDEIA) 2004 and Section 504 in Public Charter Schools*.

http://doe.k12.hi.us/specialeducation/sped_in_charterschools.pdf

State and federal laws for special education are very prescriptive, and it is not unusual for issues to become involved in due process procedures and legal proceedings. The federal government has not permitted any waivers from federal special education requirements for charter schools. Charter schools are public schools that must meet the needs of students with disabilities. Given that one of the goals of the charter school movement is to foster innovation, the BOE should provide charter school developers the opportunity to design special education programs in non-traditional ways while meeting the conditions of federal and state laws.

What are the BOE's No Child Left Behind Act (NCLB) responsibilities as applied to special education in charter schools?

The BOE approves the state plan for NCLB that establishes standards, levels of proficiency, and the assessment process for all subgroups, including students with disabilities, for purposes of determining adequate yearly progress. The BOE can also attend to issues related to highly qualified special education teacher requirements.

For general information about NCLB, see the U.S. Department of Education website.

<http://www.ed.gov/nclb/landing.jhtml?src=1n>

What concerns should charter applicants be encouraged to consider during the planning phase to ensure that they will be able to provide special education appropriately?

During the planning phase, applicants should consult with the HIDOE and the charter school offices as they address the following special education-related areas of concern:

- human resources
- curriculum, instruction, and assessment
- professional development
- administration
- special education funding

- facilities
- transportation

A checklist of such issues is appended to this document.

Are there any existing models of how charters might address special education during the planning phase?

States differ widely in this matter. The following states have developed resources that may provide useful information and references for Hawai'i applicants. Colorado offers a useful guidebook:

- *Colorado Department of Education, Charter Schools Guidebook.*
http://www.cde.state.co.us/index_charter.htm

Another is Florida's series of information documents,

- *Building Blocks: Building a Foundation for Starting a Charter School in Florida*
http://www.charterschools.usf.edu/pdf_files/BuildingBlocks7.15.pdf
- *(Florida) Special Education: Information Briefs.*
http://www.charterschools.usf.edu/pdf_files/esebrief.pdf

Summary and Key Points

The pre-planning phase gives the BOE the critical opportunity to provide access to information and assistance for interested applicants. To pre-empt potential problems associated with non-compliance to IDEIA 2004 requirements, the BOE, the charter school authorizer, can take advantage of applicants' planning stages to educate them about special education. By educating applicants at the onset of the available planning resources, applicants can be encouraged to build special education into their school visions rather than attempt to fulfill special education requirements after the school models are developed.

In short, the BOE's role is to ensure that special education for both charter and HIDEOE schools operate in accordance with state and federal law.

ISSUANCE OF A CHARTER

How is a charter issued?

The BOE issues all charters. The Legislature has not empowered any other authority to issue charters. The process includes the submittal of a Detailed Implementation Plan (DIP) and is subject to the approval by the BOE, which may require additional information or modifications as a condition of approval.

As part of a charter issuance, the CSAO plays a role by convening a review panel/committee, which reviews the DIP and makes a recommendation to the BOE concerning actions regarding charter applications.

What should the BOE, as the charter authorizer, look for in a charter school's application regarding its plans to provide special education services to students with disabilities?

The BOE should expect the applicant's DIP to include a plan regarding special education service delivery and its legal responsibilities. It is critical that an applicant demonstrates to the review panel and the BOE that it has a feasible plan that meets the legal state and federal requirements for the provision of special education and related services that is non-discriminatory.

Adequate plans entail the fiscal and legal resources and personnel required to fulfill the responsibilities articulated in IDEIA 2004. The applicant's DIP describes how it will address identification of eligible students, evaluation of students, development and implementation of Individualized Education Programs (IEP), and provision for special education and related services for all eligible students enrolled in the school. The BOE needs to be confident that an applicant can meet these special education responsibilities from the first day of operation.

An abbreviated example of an applicant's statement of intent follows in a *Sample Statement (from Colorado) of a Charter School's Plan to Provide Special Education*. However, take note that additional information is often required.

**Special Education and Section 504 Compliance Plan:
Compliance with Federal and State Special Education and Disability Laws**
(ACME Charter School) 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 Education 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) for purposes of assuring compliance with federal and state special education and disability laws.

To what degree are charter schools required to modify their programs to accommodate a student with a disability?

Students with disabilities have a right to access charter schools in the same way as students without disabilities. However, this is a complex issue. For a detailed explanation regarding access to charter schools for students with disabilities, see the Office of Civil Rights (OCR) document, *Applying Federal Civil Rights Laws to Charter Schools*.

http://www.uscharterschools.org/pdf/fr/civil_rights.pdf

Summary and Key Points

The authorization stage is critical to the development of successful charter schools. By building on the foundation established during the pre-authorization phase, the authorization process provides the BOE the opportunity to verify the potential operators' knowledge about their IDEIA 2004 responsibilities and to assess their capability to fulfill these responsibilities.

OVERSIGHT, ACCOUNTABILITY, AND RENEWAL

How has the BOE held the charter schools accountable in the area of special education?

The BOE has designated the Superintendent as its agent to:

- oversee matters concerning program implementation, compliance, and the monitoring of special education students and related services,
- provide technical assistance to all schools, and
- serve as a liaison to the public, CSAO and the local public charter school boards.

For more information, refer to Appendix 2, *Authority for Special Education in Hawai'i Public Schools*.

http://doe.k12.hi.us/specialeducation/sped_in_charterschools.htm

Should the BOE consider special education a part of the charter school multi-year review process and a part of the BOE review process for amendments to a charter school's DIP?

All aspects of a charter school's operations, including special education, need to be considered during the multi-year review process and when amendments are made to a school's DIP.

What responsibility does the BOE have for monitoring accessibility of the charter school facilities?

Responsibility for ensuring that charter school facilities are accessible rests with the BOE and the charter schools. For issues related to an individual charter school, the HDOE will work with the charter school in developing a solution.

As the entity that authorizes charter schools, is the BOE liable if a charter school does not serve children with disabilities or does not implement special education properly?

Yes. Although the BOE is ultimately responsible for the implementation of special education in charter schools, those responsibilities may also be shared by the charter school. Therefore, it is critical that applicants are knowledgeable about the special education laws and regulations and are meeting the needs of students with disabilities.

NON-RENEWAL, REVOCATION, AND RELINQUISHMENT

If the BOE revokes or does not renew a charter, or if a school relinquishes its charter, what happens to its special education students?

The BOE must ensure an appropriate transition process for those special education students.

Charter schools are obligated to transfer records. All student educational records are protected by the **Family Educational Rights Privacy Act (FERPA)** 20 USC 31 §1232g; 34 CFR Part 99 that stipulates how the records are to be handled. Information about FERPA is available online.

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Charter school personnel are responsible for closing and preparing special education files for transfer to either the next school or the district in accordance with these regulations. The charter school personnel may also be required to participate in IEP meetings at the students' next school.

All charter school assets and equipment, including special equipment purchased by public funds for students with disabilities, revert back to the state. In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or be returned to the local district. Federal requirements dictate the disposal of equipment purchased with special education dollars, requirements that may be different from what is typical for other school equipment. The charter school is to contact the CSAO, as well as the HIDEOE, to obtain additional guidelines and policies regarding school closure.

TECHNICAL ASSISTANCE AND RESOURCES

Successful delivery of special education services requires early and ongoing technical assistance. The BOE ensures that charter schools address all responsibilities related to special education by promoting access and the means to technical assistance from the HIDOE. Schools can also use a variety of networks to learn more about special education as well as those issues related to special education in charter schools. The following is a list of resources prepared for authorizers and potential charter school applicants.

Hawai`i Department of Education

- The **Charter Schools Section of the Hawai`i Public Schools**. This section maintains a website with links to individual charter schools as well as to other resources.
http://165.248.6.166/data/schoollist_pcs.asp
- The **Special Education Section of the Hawai`i Public Schools**. It also has an information/resource website.
<http://www.doe.k12.hi.us/specialeducation>

Hawai`i Charter School Support Organizations

- **Hawai`i Charter Schools Resource Center**. This organization supports the development of charter schools through information resources and training events.
<http://www.uhh.Hawaii.edu/~charter>
- **Hawai`i Association of Charter Schools**. It is a non-profit organization created to represent and nurture Hawai`i's New Century Charter Schools.
<http://www.k12.hi.us/~bwoerner/hacs>

U.S. Department of Education

- Several offices in the **U.S. Department of Education (ED)**. These offices support websites which may be helpful to charter school applicants. The U.S. Department Office of Special Education Programs (OSEP) maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education.
<http://www.ed.gov/about/offices/list/osers/osep/index.html>
- The **Office of Innovation and Improvement**. This office provides general resources for charter schools.
<http://www.ed.gov/about/offices/list/oii/index.html>

National Charter School Authorizer Network

- **National Association of Charter School Authorizers (NACSA).** This is a nonprofit membership association of educational agencies across the country that authorizes and oversees public charter schools. Created in 2000 by a diverse group of charter school authorizers nationwide, NACSA is dedicated to supporting and strengthening the capacities of authorizers to charter successful schools. It provides many resources of significant value to charter school authorizers through its website.

<http://www.charterauthorizers.org/site/nacsa/>

National Special Education Networks

- **National Association of State Directors of Special Education (NASDSE).** NASDSE offers a wide range of information regarding special education including research reports and technical assistance documents pertaining to special education in charter schools.

<http://www.nasdse.org/>

- **National Information Center for Children and Youth with Disabilities (NICHCY).** As an information and referral center, NICHCY provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus.

<http://www.kidsource.com/NICHCY>

National Charter School Networks

- **US Charter Schools website.** Extensive information about charter schools, including research reports, state contacts and upcoming events related to charter schools, is available on this site.

http://www.uscharterschools.org/pub/uscs_docs/index.htm

- **Center for Education Reform.** The center provides up-to-date information about state charter school laws.

<http://www.edreform.com>

QUESTIONS TO CONSIDER DURING THE PLANNING PHASE

HUMAN RESOURCES

- How many students with disabilities should we estimate that our school will enroll?
- How many special education teachers will we need to employ?
- What kind of certification will the special education teachers need?
- How does our state define “highly qualified” teachers according to NCLB and “qualified personnel” under IDEIA 2004?
- Can our school hire dual-certified teachers?
- Can we hire part-time or retired special education teachers?
- Will we need to hire staff for health-related issues?
- What are the implications for salaries and benefits if we hire full- versus part-time employees?

CURRICULUM AND ASSESSMENT

- What curricula and instruction will our school offer?
- How will we modify the curriculum and instructional delivery to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive classrooms?
- How will our school include children with disabilities in required assessments or develop alternate assessment?
- How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?

PROFESSIONAL DEVELOPMENT

- How will our school provide teachers with professional development?
- Will teachers need any specialized professional development related to educating and including children with disabilities?
- Does the district or the state operate a professional development program or network that we can utilize?

ADMINISTRATION

- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- Can we create our own system to administer special education or will we adopt the policies/procedures dictated by our authorizer, local district, or other administrative unit?
- How will our school handle student records and other school property appropriately in the event of closure of the charter school?

SPECIAL EDUCATION FUNDING

- How will federal, state, and local special education dollars flow?
- What does our school need to budget for special education during the first year of operation?
- Do we need to prepare financially to enroll a student with significant special needs?

FACILITIES

- Are the facilities (i.e., entrances, classrooms, common areas and bathrooms) in compliance with ADA requirements and accessible to all individuals with physical disabilities--?
- Does the facility have space for a nurse to store and administer medications or use medical equipment?
- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential student records?
- Where will we provide pullout services?
- Where can related services personnel meet with individual students?

TRANSPORTATION

- How will our school meet transportation needs of students who receive transportation as a related service articulated on their IEP?