

[Education Week's blogs](#) > [Charters & Choice](#)

## GAO Probes Charters on Serving Students With Disabilities

By [Sean Cavanagh](#) on June 19, 2012 11:00 PM | [2 Comments](#)

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Charter schools across the country, and in most individual states, enroll a smaller percentage of students with disabilities than traditional public schools, though the factors behind those disparities remain unclear, a new report from a federal investigative agency concludes.

The [report](#) from the Government Accountability Office, released late Tuesday, says some charter schools may be discouraging students with disabilities from enrolling or denying them admission, a charge that has been periodically levied at the independent public schools over the years.

But the GAO also explains that much of the information it could gather on that point is anecdotal, and that other factors are likely at work—such as individual families deciding that charter school with distinct missions or academic approaches are not the right fit for children with specific needs.

In other cases, the decision about whether to place special-needs students in a charter school may not belong to individual charters, but rather to school districts, the report said. State funding formulas can also influence whether students with disabilities end up in charters.

"[T]here are no comprehensive data to determine the extent to which charter schools may be discouraging students with disabilities from enrolling or the extent to which such practices actually contribute to differences in enrollment levels," the GAO states.

In a letter released with the report, U.S. Department of Education officials said they were planning to release new guidance to charter schools on their obligations to serve students with disabilities.

### Growing Charter Enrollment

The number of charter schools has grown steadily in the sector's two-decade history, and the schools now serve an estimated 2 million students nationwide. Their supporters, including the Obama administration, see charters as laboratories for testing innovative ideas in schools. Some critics, however, say the publicly funded, relatively independent schools are not always held to the same standards for accountability as traditional public schools, and say their academic performance is uneven.

Charter schools, as the GAO report explains, must adhere to a number of federal requirements for serving students with disabilities, including the Individuals with Disabilities Education Act.

Yet by most standards examined by the GAO, charter schools fall short of traditional publics in the extent to which they serve special needs populations.

Overall, the percentage of students with disabilities in charters was smaller, 8.2 percent, than in traditional public schools, at 11.2 percent, for the 2009-2010 year. Moreover, charter schools enrolled a lower percentage of students in each of 13 disability categories identified within the IDEA, which include learning disabilities, visual and hearing impairments, autism, intellectual disabilities, and emotional disturbances, the GAO said.

### State Picture

In most states, charter schools enroll a smaller percentage of students with disabilities than traditional public schools do, the report found. In New Hampshire, for example, about 6 percent of students in charters have disabilities, compared with 13 percent in traditional publics. That pattern was not uniform, however: In eight states—Iowa, Minnesota, Nevada, New Mexico, Ohio, Pennsylvania, Virginia, and Wyoming—charters enroll the same, or a higher percentage of students with disabilities than traditional public schools, the report found.

The GAO points out that the **last such guidance** on charter schools' disability was offered 12 years ago, and does not provide enough detailed information to charters. Department officials said they agreed with the recommendation and are "committed to providing meaningful updated guidance" to the schools.

The Department's office for civil rights is also conducting investigations in four states to determine whether charters are adequately serving students with disabilities, the letter said.

Greg Richmond, the president of the National Association of Charter School Authorizers, said the GAO was right to point out that some charters are discouraging families of students with disabilities from applying or enrolling.

"Absolutely that happens," said Richmond, though no one has quantified "how often it's happening."

But Richmond, whose Chicago-based organization seeks to improve charter quality, said other factors are also at work. Some states and districts, for instance, are far more adept than others in ensuring that special-education resources and services, as well as funding, are delivered equitably to both traditional public schools and charters, he said.

The GAO report notes that in states where charter schools essentially act as school districts, states make charters responsible for providing services to special-needs students. But in states where charters are a part of larger school districts, the report notes, the responsibility for providing federally required services belongs to the districts—not the individual charter. In those cases, school districts could "determine that traditional public schools, not charter schools, are in a better position" to serve the needs of a student, depending on the disability, the report says.

But partly as a result of those arrangements, many parents of students with disabilities have come to assume that charters aren't an option for their children, said Kim Hymes, the director of policy and advocacy for Council for Exceptional Children.

"Forgetting about capacity issues and who is technically responsible—it comes down to: Parents have a right to choose," Hymes said. "[Charters] are not allowing the parents of students with disabilities to have that choice if they abdicate any role they have in carrying out IDEA."

### **Chronic Concerns**

Access to charter schools—or a lack thereof—has been a longstanding concern among advocates for students with disabilities, especially students with less common or more severe needs. Those worries have emerged in the **Los Angeles**, **New York**, and **Chicago** school systems, among other districts.

Like traditional public schools, "charter schools are required to provide children with disabilities a free appropriate public education provided in the least restrictive environment," Hymes said.

She said the report raises many questions about the barriers special education students encounter at charter school doors.

"Financial challenges to providing special education services cannot be a barrier to enrollment for students with disabilities. In order for parents to have a fair choice about what school their child can enroll in, charter schools have to be able to provide the infrastructure and specialized services for all students."

The GAO report found that some students with certain kinds of disabilities are less likely to be enrolled in charter schools than others—such as those with more significant needs, including students with intellectual disabilities.

"I am glad this report dug deep enough to see the discrepancy between disability types," said Ricki Sabia, associate director of education for the National Down Syndrome Society. "We have always known that when charters take students with [intellectual disabilities] it is usually in separate charters for students with disabilities."

Some of the anecdotal issues raised in the GAO report are the same as those that have come to the attention of the National Center for Learning Disabilities, said Laura Kaloi, the group's public policy director. These include parents feeling they were "counseled out" of sending their students to a particular charter school, even after they had won admission through a lottery process, because the schools spelled out what would be demanded of students and said they simply couldn't offer all of the services a child was found to need.

The GAO cited [a 2010 lawsuit](#) filed in Louisiana over charter schools' denial of access to students with disabilities in New Orleans, which is home to more than 50 charters that act as independent school districts. The case is still open, said Eden Heilman, the lead attorney on the case, which is being fought on behalf of students by the Southern Poverty Law Center.

In researching the New Orleans case, her organization knew the issue wasn't unique to New Orleans, but the GAO report gets at just how widespread it is. Some of her clients, whose disabilities range from ADHD to autism, missed months of school as they couldn't find one that would admit them. Eventually, Heilman said, every school in New Orleans may be a charter, leaving them with schools unable or unwilling to serve them and with nowhere to go.

"If they are going to investigate the issues in this report, that's highly encouraging," Heilman said.

Agreed, said Kaloi of the National Center for Learning Disabilities.

"We've never seen that kind of response. That's very positive."

In fact the Education Department noted that it has launched investigations in four states over a variety of issues concerning students with disabilities and charter schools, said Russlynn H. Ali, the assistant secretary for civil rights, in an interview. Those investigations are being conducted in Ohio, Pennsylvania, Texas, and Wisconsin, she said, and the office for civil rights is looking at access issues as well as whether students' needs are being met once they are enrolled in the schools. Her agency has received 263 complaints against charter schools alleging disability discrimination under federal law during the last five years.

### **Departmental Guidance**

The GAO recommended that the Education Department provide more guidance to schools about charter schools' responsibilities to students with disabilities under federal laws that ban discrimination on the basis of a disability.

Much has changed in the charter landscape since the department last issued guidance in 2000, Ali said. Now, there are single charter schools that also function as entire school districts, such as many of those in New Orleans. And there are simply more charter schools than ever. In addition, there are charter schools that enroll students, who then get special education services from the school district where the charter is located, she said. And there are large-scale charter management operators that run dozens of schools in different states across the country.

Kaloi said she was shocked to see that in several states, there was no data on students with disabilities enrolled in charter schools, including the District of Columbia, Mississippi, New York, Rhode Island, Tennessee, and Utah.

"Where are those kids?" Kaloi said.

That's a good question, said Ali. "As a recipient of federal funds you are signing an assurance with the Education Department that you are complying with all civil rights laws. If you don't even know how many students with disabilities you're enrolling ... that seems like an important piece of information to ensure compliance."

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