



# PUBLIC SCHOOLS OF NORTH CAROLINA

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## Dear Parents and Guardians:

This document outlines the educational rights of children with disabilities enrolled in North Carolina's free public charter schools. According to G.S. 115C-238.29F(g)(1), any student qualified to attend a public school in North Carolina is "qualified for admission to a charter school." Federal and State law stipulate that public charter school admission is conducted without regard to, or consideration of, whether the child has a disability. Public charter schools, therefore, must provide special education and related services to all eligible students. This document summarizes your child's right to attend and receive needed services from his or her charter school as stated in the Individualized Education Program (IEP).

### 1. Public charter schools accept and serve students with disabilities.

As free public schools, charter schools are open to all eligible students on a space available basis. If more students apply than there are available spaces, the law clearly states that a lottery must be held to randomly determine student enrollment. All students who wish to attend a charter school have an equal opportunity for admission regardless of, and without any consideration of, the need for special education and related services. Questions related to the status of your child's special education eligibility will not be sought prior to any blind lottery that may be held by the charter school.

Once your child is enrolled in a charter school, s/he will be able to retain that seat within the charter school until graduation, aging out of the program, willingly withdrawing to attend another school, or disciplinary action is taken by the school administration.

In disciplining students with disabilities, the public charter school must follow the signed charter agreement which states: "the public charter school shall comply with all applicable federal and state laws and regulations governing discipline of children with disabilities, including compliance with 20 U.S.C. Sec. 1400 et seq. and with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 706(8)." If, after following federal and state laws, the charter school proceeds with expulsion, the charter school must provide special education and related services.

*G.S. 115C-238.29F(g)(5) states that a charter school "shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability." That section continues by restating that a charter school cannot, except as stated in the approved charter document, "limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry."*

Furthermore, G.S. 115C-238.29(g)(6) indicates that your child, once enrolled, is "not required to reapply in subsequent enrollment periods." Thus, if a charter school serves grades kindergarten through twelfth grade, a student with disabilities has the right to continue enrollment in the charter school for the duration of his or her elementary, middle, and high school career.

### 2. Charter schools must ensure that your child receives special education and related services if the child is determined by the IEP Team to be an eligible student.

Charter schools must ensure that students with disabilities will receive the special education and related services to which they are entitled and must provide a free appropriate public education. The

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services must consist of special education instruction and related services in the least restrictive environment appropriate for each child. The frequency, duration, and location of services (where services will be delivered) are determined by the student's IEP team and are documented in the student's IEP. The full continuum of services must be made available for students enrolled in a public charter school.

The full continuum consists of the following:

- Regular Setting - the student participates with nondisabled peers for 80% or more of the school day;
- Resource Setting - the student participates with nondisabled peers 40-79% of the school day; and
- Separate Setting - the student participates with nondisabled peers less than 40% of the school day.

### **3. Your child must receive the related services determined by the IEP Team.**

Charter schools, as free public schools, must provide related services to students with disabilities if the IEP Team determines that the services are necessary for the student to benefit from his or her specially designed instruction. The IEP Team decision must be made based upon the unique needs of the student, rather than the financial or programmatic interest of the public charter school. Examples of these related services may include, but are not limited to, the following: speech therapy, occupational therapy, physical therapy, psychological counseling, nursing, and/or counseling.

### **4. Charter schools are required to meet the needs of eligible students with disabilities under Section 504 of the Rehabilitation Act of 1973, as amended, even if the student is not eligible for special education services.**

Charter schools are required to provide a free appropriate public education to students with disabilities under Section 504 of the Rehabilitation Act of 1973, as amended. Such education consists of accommodations, modifications, and services designed to meet the individual needs of students with disabilities as adequately as the needs of students without disabilities are met. An appropriate education for a student identified under Section 504 regulations could consist of education in general education classrooms, education in general education classes with supplementary services, and student specific modifications or accommodations. Schools generally include these services in a "504 Plan."

For more information, the following resources are available for parents to gain a better understanding of special education and 504 rights or services:

- 1) Federal Regulations – CFR 34  
<http://idea.ed.gov>
- 2) Policies Governing Services for Children with Disabilities  
<http://ec.ncpublicschools.gov/parent-resources/policies>
- 3) Procedural Safeguards: Handbook on Parent Rights  
<http://ec.ncpublicschools.gov/parent-resources/parents-rights-handbook>
- 4) Dispute Resolution  
<http://ec.ncpublicschools.gov/parent-resources/dispute-resolution>
- 5) Section 504 Information  
<http://www.ncpublicschools.org/parents/disabilities/section504>