



May 2008

## Synthesis of Two Reports on Critical Issues for Special Education in Charter Schools

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### INTRODUCTION

The two reports synthesized in this document were developed for the website, *Primers on Implementing Special Education in Charter Schools*.<sup>1</sup> Each of those reports focuses on a distinctive type of charter school that has developed as part of the charter school movement in the United States that began in 1991 and is now part of the public education system in all but 10 of the 50 states. This synthesis contains a background on charter schools and a synthesis of the two reports and concludes with brief observations. Project Forum at the National Association of State Directors of Special Education (NASDSE) produced this document as part of its collaborative agreement with the U. S. Department of Education Office of Special Education Programs (OSEP).

### BACKGROUND

Charter schools are public elementary or secondary schools created under state charter school laws that permit their addition to a state's public education system. These schools are usually granted some autonomy from state or local regulations or other policies, but they must follow all federal laws that apply to any other public school. The first charter school law was passed in Minnesota in 1991 and the first school chartered under that law opened in 1992. As of the 2007-08 school year, there are more than 4,000 charter schools in the 40 states plus the District of Columbia.<sup>2</sup>

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<sup>1</sup> The website is at [www.uscharterschools.org/specialedprimers](http://www.uscharterschools.org/specialedprimers). It contains the original reports synthesized in this document as well as other resources on special education in charter schools. It was developed under a project at the National Association of State Directors of Special Education funded by the Charter Schools Program Office of the U. S. Department of Education.

<sup>2</sup> For more statistics on charter schools, see <http://www.edreform.com> or <http://www.publiccharters.org/>.

Each charter school is developed by an individual or group of individuals who are granted a charter for a specific number of years (most often five) by an authorizer<sup>3</sup> who is responsible for monitoring the charter school and granting renewal of its charter. States permit a variety of entities to serve as authorizers, and many allow more than one type of entity to grant charters. The most common charter authorizer is a school district (usually referred to as a local education agency or LEA). Others include state boards of education, state charter school boards and non-profit agencies.<sup>4</sup>

A charter school is based on a mission statement that expresses its intention to serve a specific type of student, use a particular curriculum or emphasize an area such as the arts or college preparation. Despite such plans, a charter school must maintain an open enrollment policy and must accept any student who applies and is eligible for the grade levels that school contains. In addition, if the school is oversubscribed, it must use a lottery to make its final student selection.

As part of the public education system, charter schools must follow federal requirements related to students with disabilities. The way special education is implemented in a charter school depends on the school's *legal status as an LEA or part of an LEA* and its *linkage* with a traditional LEA. The characteristics are as follows:

- A charter school that is considered an LEA under state law is responsible for all special education requirements in the same way as any other LEA in that state.
- A charter school that is part of an LEA carries responsibility at the level of a school within that LEA and, for the most part, the LEA retains most or all of the responsibility for special education in the charter school.

The exact way in which the identity of a charter school that is part of an LEA is implemented—that is, the charter school's *linkage* to that LEA—varies tremendously and should be detailed in a contract between the charter school and its LEA. Although written contracts or charter agreements are a protection for all parties involved, they are not required in all states. In addition, such documents are not always as clear or complete as they need to be to provide guidance for the delivery of services to students with disabilities in the charter school.

Two distinctive types of charter schools that have been established are schools designed for students with disabilities and virtual charter schools. These targeted charter schools are the focus of two reports released in January 2008. The remainder of this document is a synopsis of those reports.

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<sup>3</sup> Authorizer is the most common term to designate the entity named in state laws to perform this function and will be used in this document although there are other terms, such as sponsor, used in some states.

<sup>4</sup> For more information, see the publications from Project Intersect available at <http://www.education.umd.edu/EDSP/ProjectIntersect/presentations.html>.

## REPORT #1: CHARTER SCHOOLS DESIGNED FOR CHILDREN WITH DISABILITIES<sup>5</sup>

This report describes a study conducted by the author to identify, to the extent possible, the number and focus of charter schools designed for students with disabilities and to examine issues related to their design and operations. The initial list of schools was gathered from school websites and the Center for Education Reform's database of charter schools.<sup>6</sup> The study included telephone contacts with each school to identify its purpose and confirm its focus on students with disabilities. This synthesis summarizes the legal and policy context in which charter schools designed for children with disabilities exist and the operational information provided in the question-and-answer section of the report. The report also contains a list of references and two informational appendices—one that lists the identified charter schools designed for students with disabilities by state and a second that cites statutory language that may limit charter schools designed for children with disabilities.

### Legal and Policy Context

Charter schools are part of the public education system and their student admission policy and practice cannot discriminate on the basis of disability. Therefore, as explained above, a charter school may not restrict admission only to students with disabilities even though they have a mission that emphasizes their intent to target such students.

Enrollment of a child with a disability in a public charter school may cause “policy tension” between a state's charter law and the complex requirements for placement under special education law, e.g., how to reconcile parental choice with special education team decision making. Other legal aspects may pose dilemmas, such as questions that could arise from meeting the purpose and intent of both special education requirements and charter school laws.

Special education law requires that children with disabilities be educated according to an individualized education program (IEP) that prescribes a program and services based on the individual needs of that child and that will constitute a free appropriate public education (FAPE) delivered in the least restrictive environment (LRE).<sup>7</sup> Historically, too many children with disabilities have been separated from their peers for instruction. Although the LRE principle holds that children with disabilities should learn with children who are not disabled, the law also requires that each LEA make available a continuum of placement alternatives since some children will require something other than the general education classroom to achieve FAPE. LRE is a determination that must be made with an individual child in mind and a separate setting may be an appropriate one for a child. LRE becomes whatever setting school officials and

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<sup>5</sup>Citation for this report is: Mead, J. F. (January 2008). *Charter Schools Designed for Children with Disabilities: An Initial Examination of Issues and Questions Raised* Available on the internet at:

[http://www.uscharterschools.org/specialedprimers/download/special\\_report\\_mead.pdf](http://www.uscharterschools.org/specialedprimers/download/special_report_mead.pdf).

<sup>6</sup> There is no source for complete data about charter schools in the U.S. aside from survey data gathered by the Center for Education Reform ([http://www.edreform.com/charter\\_directory/](http://www.edreform.com/charter_directory/)).

<sup>7</sup> For details on the requirements of FAPE and LRE, see 34 CFR §§300.101 to 300.120.

parents agree should be used to implement the IEP designed for that child. Complaint procedures are available if parents and school officials do not agree.

Conflicts related to FAPE and LRE have arisen frequently since the federal special education law now known as the Individuals with Disabilities Education Act (IDEA) was originally passed in 1975. Policy direction has established the principle that public choice programs may not discriminate by excluding children with disabilities or requiring that their services or rights be waived as a condition of participation. Thus, children with disabilities must be included appropriately in charter schools and all provisions of federal law must be respected.

## Issues Addressed through Questions and Answers

### *Number of Charter Schools Designed for Children with Disabilities*

A total of 71 charter schools specifically designed to serve children with disabilities were identified in 13 different states and the District of Columbia. The largest number of such schools (34) is located in *Florida* and the next highest incidence (16) is in *Ohio*. No other state has more than three charter schools of this type.<sup>8</sup>

### *Populations Served*

Charter schools identified as designed for students with disabilities fall into the following categories based on the population they were designed to serve:

- 1) children with a particular disability - a total of 40 schools of which 20 served children with autism or autism spectrum disorders, seven served children who are deaf and hearing impaired, five served those with severe cognitive or physical disabilities and four each targeted children with learning disabilities and children with emotional disabilities;
- 2) schools designed to serve children with any disability (25); and
- 3) schools designed to be “model inclusion schools” (6).

The last category may be termed “typical” schools, although they specifically target students with disabilities in their mission and aim to enroll more children with disabilities than might be expected in a random distribution of children.

### *State Charter Law and Schools Designed for Children with Disabilities*

Little explicit language exists in state laws concerning charter schools designed for children with disabilities. *Oklahoma’s* charter school law does contain a specific limitation: “No charter school shall be chartered for the purpose of offering a curriculum for deaf or blind students that is the same or similar to the curriculum being provided by or for educating deaf or blind students that are being served by the Oklahoma School for the Blind or the Oklahoma School for the Deaf” [§Section 42.18 (3)]. Only *Ohio* has statutory language that permits schools

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<sup>8</sup> For the names and state locations of these schools, see the appendix to this document.

designed for children with disabilities, but that law refers only to children who are identified as autistic. A new law in *Florida* contains support for collaboration among sponsors of charter schools to determine the feasibility of opening charter schools for students with disabilities.

### *Rationale and Founding Entities*

Many of the schools designed for students with disabilities grew out of existing programs, often run by nonprofit organizations, that already served individuals with disabilities. For example, some existing daycare or therapeutic programs applied for and received charter status to expand or more fully develop their educational component. In other cases, schools of this type were begun by teachers who wanted to use a particular methodology or parents who wanted a different option for their children.

### *Admission Issues*

Issues related to whether these schools must admit students regardless of disability status were found to be of great concern to both school operators and state officials. Any limitation on enrollment raises questions of discrimination under a variety of federal sources of law including the Equal Protection Clause of the Fourteenth Amendment to the U. S. Constitution as well as specific laws such as Section 504, the Americans with Disabilities Act and state laws. However, even if limits on enrollment did not constitute discrimination, there could still be a potential conflict with IDEA requirements that children with disabilities be able to interact with nondisabled peers to the maximum extent appropriate.

From another perspective, one state official expressed the concern that, even if enrollment is not inappropriately limited by the school, a potential exists for increased conflict between parent choice and placement decisions that are in accordance with LRE. In addition, when charter schools conduct random lotteries to determine admission (as required when there are more applicants than there are available slots), attempts to include or exclude specific types of students would violate the required randomness of the process and may constitute a discriminatory practice.

### *Other Issues*

Charter leaders typically define their schools, including some of the charter schools designed for children with disabilities, as following an inclusion model. However, this claim raises the question of how an inclusive environment should be defined. How many students without disabilities must be present in an educational environment designed for students with disabilities for it to be considered inclusive? There is no widely accepted answer to this question.

Some school leaders interviewed for the study described ways they had tried to provide interaction for their students with nondisabled children. Strategies included locating in or near larger typical schools, sharing play or lunchroom spaces and arranging for extra-curricular clubs and sports opportunities with typically developing children.

State officials raised concerns about the pressures of testing and accountability measures being an incentive to develop separate schools as a means to remove children who might otherwise affect a traditional school's ability to meet required levels of adequate yearly progress. In another case, a state official expressed concerns that the state funding formula that provided additional funds to charter schools designed for children with disabilities may inadvertently provide an incentive for schools to over identify children with disabilities.

### *Need for Further Research*

This report is the first to focus on charter schools designed for children with disabilities and it provides an initial glimpse into this new and unique entity in the charter schools movement. The study raised a number of other questions that should be examined in more detail. They include obtaining a better understanding from parents of their interest in, and motives for, seeking out such schools for their children. No information was gathered for this study on fiscal matters related to these schools that clearly require more resources to operate. Another area for study is the operation of IEP teams in these schools and whether or not these schools serve some kind of regional need for specialized placements.

While further research would shed light on why and how these charter schools operate, there is no simple resolution to the policy tension created by parental choice and the requirements of team decision making—the disparate requirements of special education and charter school laws. In addition, while the number of these schools is small, policymakers may need to address how they can achieve their aims and, at the same time, implement the principles of our national policy on the education of children with disabilities.

## **REPORT #2: DEMYSTIFYING SPECIAL EDUCATION IN VIRTUAL CHARTER SCHOOLS<sup>9</sup>**

The information in this report was gathered through a review of existing research and other documents pertaining to virtual schools, and specifically special education in that type of school, interviews with individuals who have first-hand knowledge of virtual charter schools and visits to the office locations for two virtual schools. The focus of this study was to examine how these unique schools are educating students with disabilities and addressing the requirements of IDEA. The report contains links to resources, a list of references and a glossary of terms. This synthesis summarizes the background section on virtual schools, the overview of virtual charter schools and the main section of the report that covers aspects of special education in virtual charter schools in a question-and-answer format.

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<sup>9</sup> Rhim, L. M. & Kowal, J. (January 2008) *Demystifying Special Education in Virtual Charter Schools*. Available on the internet at: [http://www.uscharterschools.org/specialedprimers/download/special\\_report\\_rhim.pdf](http://www.uscharterschools.org/specialedprimers/download/special_report_rhim.pdf).

## Background

### *Definition*

Virtual schools are new and rapidly evolving in all areas of education. They are referred to by several different terms such as cyber schools, online schools, non-classroom-based education or e-learning. For clarity, the report uses the term virtual school to refer to “a wholly public educational organization that offers full-time instruction at the K-12 level at least partially through Internet-based methods with time and/or distance separating the teacher and learner.” The definition clearly distinguishes virtual schools from traditional ‘brick-and-mortar’ schools as well as from other kinds of distance learning or online learning integrated into conventional classrooms that are supplemental programs and not schools.

Two terms applied to characteristics of virtual instruction are:

- Asynchronous—instruction that occurs when the student is not receiving the instruction at the same time as the instructor is delivering it, such as a course delivered on software or via email; and
- Synchronous—instruction that occurs when the teacher is delivering content at the same time the students are receiving it.

In addition, a ‘learning management system’ is the core of most virtual instructional environments. It includes tools that allow parents to review grades, assignments or updates and get teacher feedback on the student’s progress.

## Issues Addressed through Questions and Answers

### *Legal Issues*

All charter schools, regardless of where they deliver their program, are publicly funded schools and must abide by all federal laws and regulations analogous to traditional public schools. States differ in their requirements for charter schools concerning state laws. Most states allow waivers from some or all state and/or district requirements, but no waivers can be granted from federal laws. Responsibility for educating students with disabilities in accordance with IDEA depends on the charter school’s *legal identity* as an LEA or as part of an LEA and its *linkage* to another LEA (see background section above).

Some aspects of the implementation of special education are different, however, for virtual charter schools. For virtual charter schools, students are typically instructed in their homes, so the home is their “placement.” Removal from the home might occur for delivery of related services, such as speech therapy, but the virtual charter school is not usually involved in other types of placement options unless the child is found by the IEP team to need placement in a



private day or residential school. In such a case, the level of responsibility for the virtual charter school depends on the legal identity of the school and its charter contract.

### *Planning for Special Education*

Similar to all charter schools, virtual charter schools need to integrate the development of a high quality special education program into their application for a charter and planning for their school. The report includes exhibits that address specific questions to be considered by applicants during the application phase prior to opening their virtual charter schools.

### *Enrollment*

As with all charter schools, virtual charter schools must maintain open enrollment and may not discriminate against students with disabilities in their admission policies. Although there are no national data available on the enrollment of students with disabilities in these charter schools, operators should anticipate that they will enroll approximately the same percentage of students with disabilities as other public schools and plan accordingly.

It is not uncommon for the virtual charter school to have no information about the special education status of their applicants. Sometimes parents look to transferring their student to a virtual school because of a desire on their part or their child's to avoid a special education label. An application can include questions about the existence of an IEP, but it must be presented in a way that will assure parents that the information is being requested so that the school can plan to provide the services the student needs and not to exclude that student. It may be helpful to hold an in-person meeting or orientation session to give parents an opportunity to provide information about their child's special needs in person.

### *Instructional Personnel*

Teacher credentialing or licensing requirements are the same for virtual charter schools as for all other public schools. Furthermore, while parents play an active role in the education of their child who is enrolled in a virtual charter school, they are not considered their child's teacher. Rather, all students enrolled in a virtual charter school must be assigned to a highly qualified teacher for the core academic subjects at a minimum. Parents should be considered the equivalent of a paraprofessional or coach working with the teacher unless state law requires otherwise.

Some virtual charter school teachers are required by the school to report to a central location to teach whereas other teachers are allowed to work from their own homes. Generally, virtual charter schools must follow state and—if the school is part of an LEA—district policies related to caseload/class size.



There are specialized skills that teachers working in a virtual environment need to have. Numerous colleges and universities offer a certificate in online teaching that provides the necessary preparation.

### *IEP Meetings*

An IEP for a student who attends a virtual charter school is similar to one for a student in a more traditional setting. It must specify how the program and services will be delivered reflecting the virtual model. All components and procedures required under IDEA and state law apply to the virtual charter school.

IDEA designates who must participate in IEP meetings, but the law does not prescribe where the meeting must be held. The virtual charter school may hold IEP team meetings in its central office or other location that is convenient to the parents and other team members. However, the school could use a conference call or other technology to allow the team to work on an IEP even if they are not all in the same physical location.

Since movement to a virtual charter school is a significant change in how instruction is delivered, it will require at least some changes to the child's IEP. Examples of common changes needed include removing language about specialized classroom seating or instruction with peers or buddies, or adding language about assistive technology required to support online instruction. The full report contains excerpts from a sample virtual charter school IEP.

### *Instruction and Services*

There are many types of virtual charter schools ranging from the student receiving all instruction in the home to a hybrid model where a student may take some classes in a brick and mortar building and some at home. Most virtual charter schools provide students with a computer, a printer and Internet access. They may also have to provide other assistive technology depending on the student's needs, e.g., alternative keyboards or mouse systems, text-to-braille conversion capacity and voice recognition systems. The school must also train students and parents in the use of the equipment and materials as part of their program.

Related services personnel provide prescribed related services to children with disabilities who enroll in virtual charter schools in one or a combination of ways: 1) in person at the student's home; 2) at the therapist's office or other in-person location; or 3) via synchronous or asynchronous online communication. The latter option is referred to as "teletherapy."<sup>10</sup> This is an emerging field and may improve students' access to therapists in fields with shortages such as speech therapy and occupational therapy.

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<sup>10</sup> See <http://www.asha.org/about/publications/leader-online/archives/2006/060815/060815f.htm> for more details about this approach in an example of how teletherapy is being used in a rural area.

*Discipline*

Attending school at home removes many of the situations in which discipline problems arise in traditional school settings. A discipline issue that may arise in virtual schools is truancy. As with any other aspects of the program for a child with a disability, the virtual charter school must follow the discipline provisions in IDEA and state special education law if a child with a disability is involved in a disciplinary action.

*Monitoring and Technical Assistance*

Like all charter schools, virtual charter schools are responsible to their authorizers for implementing their program appropriately for all students in their school. Authorizer oversight includes a review of the school when it applies for a renewal of its charter. A virtual charter school will also be included in some way in the special education monitoring that every state must carry out to ensure that all its districts and schools are in compliance with federal and state special education laws and regulations. The Pennsylvania System of Cyber Charter Review is an example of a comprehensive review system to support and monitor all virtual charter schools in that state. The full report contains a list of the guiding principles of this process and a copy is available at [http://www.pde.state.pa.us/charter\\_schools/lib/charter\\_schools/PASCCR.pdf](http://www.pde.state.pa.us/charter_schools/lib/charter_schools/PASCCR.pdf).

Virtual schools are so new that most states have not yet developed technical assistance materials to address them. One resource that is contained in the original report is the “Basic Education Circular” from Pennsylvania that provides guidance for all charter schools and LEAs and it is particularly relevant for virtual schools in the state.<sup>11</sup> Other resources provided in the report include an “Authorizer Special Education Checklist” that addresses items for part of a renewal review, and the “Colorado Draft Process for On-Line Enrollment.”

**OBSERVATIONS**

Charter schools are a relatively new component of the American education system. The two types of charter schools examined in the reports synthesized in this document are a small, but significantly important, part of the charter movement. Each type poses a unique set of challenges related to meeting the needs of students with disabilities enrolled in their schools. The reports synthesized in this document are the first analyses of special education in charter schools designed for children with disabilities and virtual charter schools and they provide a baseline of information. Additional research could provide more knowledge to the field in general and to those directly involved in, or responsible for oversight of, these unique schools. In addition, further studies could help to identify successful practices to provide direction for effectively meeting the needs of students with disabilities in these and potentially other settings.

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<sup>11</sup> See <http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&Q=54323&pp=12&n=1>.

**Appendix  
Identified Charter Schools for Children with Disabilities by State**

| <b>State</b> | <b>Charter Schools for Children with Disabilities</b>  |
|--------------|--|
| Arizona      | 1. Sequoia School for the Deaf and Hard of Hearing   |
| California   | 1. CHIME Charter Elementary School<br>2. CHIME Charter Middle School   |
| Colorado     | 1. Rocky Mountain Deaf School<br>2. Vanguard Classical Charter School  |
| Florida      | 1. A.C.E. Charter School<br>2. Achievement Academy - Bartow Campus (formerly Child Development Center)<br>3. Achievement Academy - Lakeland Campus (formerly Child Development Center)<br>4. Achievement Academy - Winter Haven (formerly Child Development Center)<br>5. ARC of St. John's, The<br>6. Believers Academy<br>7. Capstone Academy<br>8. Chatuaga Learn & Serve Charter School<br>9. Early Beginnings Academy - Civic Center<br>10. Early Beginnings Academy - North Shore<br>11. Early Beginnings West<br>12. Easter Seals Charter School - Daytona Beach<br>13. Easter Seals Charter School – DeLand<br>14. Ed Venture Charter School<br>15. Einstein Elementary and Middle School<br>16. Hope Center, The<br>17. HOPE Charter School<br>18. National Deaf Academy<br>19. Our Children's Academy<br>20. Palm Beach Academy for Learning<br>21. Potentials Charter School<br>22. Potentials South Charter School<br>23. Princeton House Charter School<br>24. Quest Middle School<br>25. Renaissance Learning Center<br>26. Tampa Bay Academy<br>27. Tampa Transitional School of Excellence<br>28. UCP Transitional Learning Academy<br>29. UCP - Pine Hills Charter School<br>30. UCP Child Development Center - Osceola<br>31. UCP of Central Florida - Holloway<br>32. UCP Transitional Learning Academy<br>33. Westminster Academy<br>34. UCP Early Beginnings Charter School |
| Michigan     | 1. McComb Academy  |
| Minnesota    | 1. Metro Deaf School<br>2. Minnesota North Star Academy  |
| New York     | 1. Child Development Center of the Hamptons Charter School<br>2. New York Center for Autism  |

| State                | Charter Schools for Children with Disabilities   |
|----------------------|--|
| Ohio                 | <ol style="list-style-type: none"> <li>1. Autism Academy of Learning</li> <li>2. New City School</li> <li>3. Oakstone Academy</li> <li>4. Outreach Academy</li> <li>5. Summit Academy Community School - Canton Elementary &amp; Secondary</li> <li>6. Summit Academy Community School - Columbus</li> <li>7. Summit Academy Community School - Lorain Elementary &amp; Secondary</li> <li>8. Summit Academy Community School - Middletown</li> <li>9. Summit Academy Community School - Parma Elementary &amp; Secondary</li> <li>10. Summit Academy Community School - Toledo</li> <li>11. Summit Academy Community School - Warren</li> <li>12. Summit Academy Community School - Xenia</li> <li>13. Summit Academy Community School - Youngstown Elementary &amp; Secondary</li> <li>14. Summit Academy Community School for Alternative Learners - Akron</li> <li>15. Summit Academy Community School - Cincinnati</li> <li>16. Summit Academy of Dayton</li> </ol> |
| Pennsylvania         | <ol style="list-style-type: none"> <li>1. Spectrum Charter School, Inc.</li> </ol>   |
| Rhode Island         | <ol style="list-style-type: none"> <li>1. Kingston Hill Academy</li> </ol>   |
| South Carolina       | <ol style="list-style-type: none"> <li>1. Meyer Center for Special Children</li> <li>2. Youth Academy Charter School</li> </ol>  |
| Texas                | <ol style="list-style-type: none"> <li>1. Trinity Charter School - Krause Campus</li> <li>2. Trinity Charter School - Nelson Campus</li> <li>3. Trinity Charter School - New Life Campus</li> </ol>  |
| Wisconsin            | <ol style="list-style-type: none"> <li>1. School for Early Development &amp; Achievement (SEDA)</li> </ol>   |
| District of Columbia | <ol style="list-style-type: none"> <li>1. Bridges Public Charter School</li> <li>2. City Lights PCS</li> <li>3. St. Coletta Special Education Public Charter School</li> </ol>   |
| <b>TOTAL</b>         | <b>71</b>  |

**Source:** Mead, J. F. (January 2008). *Charter Schools Designed for Children with Disabilities: An Initial Examination of Issues and Questions Raised*. Available on the internet: [http://www.uscharterschools.org/specialedprimers/download/special\\_report\\_mead.pdf](http://www.uscharterschools.org/specialedprimers/download/special_report_mead.pdf).

This report was supported by the U.S. Department of Education (Cooperative Agreement No. H326F050001). However, the opinions expressed herein do not necessarily reflect the position of the U.S. Department of Education and no official endorsement by the Department should be inferred.

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