

DIVISION OF SPECIALIZED EDUCATION (DSE)

POLICY IN PRACTICE WEBINAR SERIES:

**Prohibition on Discrimination and
Mandatory Medication**





Agenda

- A. Legal Prohibitions Against Discrimination in Schools**
- B. Application Parameters (for public schools of choice)**
- C. State-Level Guidance: Prohibition on Mandatory Medication**
- D. Policy Application: LEA Practice**



LEGAL PROHIBITIONS AGAINST DISCRIMINATION IN SCHOOLS

Nondiscrimination Laws

Section 504 of the Rehabilitation Act of 1973

Applies to all programs receiving federal assistance

“No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”

29 U.S.C. §794

Title II of the Americans with Disabilities Act (ADA) of 1990

Applies to all public entities, including charter schools

“No qualified individual with a disability shall, by reason of her or his disability, be excluded from the participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

42 U.S.C. §12132

Nondiscrimination Laws

Overview of Federal Laws

- ❖ Prohibits denial of public education participation or enjoyment of the benefits offered by public school programs based on a student's disability status
- ❖ Definition of "disability" under the ADA and Section 504 of the Rehabilitation Act and is broader than IDEA

Guidance for Charter Schools

- ❖ "Applying Federal Civil Rights Laws to Public Charter Schools: Questions and Answers" (May 2000)
 - Key Point: Charter schools cannot categorically deny admission to children on the basis of disability
 - Issued by the U.S. Department of Education and U.S. Department of Justice
- ❖ Charter school mission cannot override federal law

Nondiscrimination Laws

DC School Reform Act of 1995

Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement.

DC Code §38-1802.06

- ❖ A public charter school must not restrict enrollment on the basis of:
- Race
 - Color
 - Religion
 - National origin
 - Language spoken
 - Intellectual or athletic ability
 - Measures of achievement or aptitude
 - Status as a student with special needs

OSSE State-Level Guidance

The Office of the State Superintendent of Education (OSSE) issued the *Guidance Related to Prohibitions on Discrimination Against Children with Disabilities in the Charter School Application During the Enrollment Process* on March 9, 2009 to address stakeholder concerns that charter schools within the District were not consistently applying student and parental safeguards guaranteed by law. As local education agencies (LEAs), all charter schools are bound by the same laws as other publicly funded schools; discrimination of any kind, particularly as it relates to a child's disability status, in the application process is expressly prohibited under federal and local law.



APPLICATION PARAMETERS (for public schools of choice)

Application Parameters

Application Process

❖ Application period

- Annual duration of time in which every charter school must accept applications from all interested students residing in DC for the purpose of submitting all received applications to a lottery process by random selection.

❖ DC School Reform Act - Random selection

- If an LEA receives more applications than there are spaces available, students shall be admitting using a random selection process.
- Exception: siblings of students already attending or selected for admission.

❖ Schools may only solicit essential information

- Basic contact information: name and phone number.

Application Parameters

Prohibited Application Practices

❖ Charter schools cannot:

- **Require parents to contact, visit, or tour the school in order to obtain application materials.**
- **Require students to interview or submit recommendations or referrals of any kind.**
- **Condition enrollment on submission of non-essential information.**
- **Provide application information or request additional information in a manner that effectively dissuades a student from enrolling.**

Application Parameters

Charter School Application Practices

- ❖ **Application materials and activities must be non-discriminatory in terms of presentation and substance.**
- ❖ **Applications must be made available in paper and electronic format.**
- ❖ **Schools may request previously prohibited information AFTER extending acceptance in order to serve individual students.**

Application Parameters

OSSE strongly recommends that public charter schools limit application forms to the items below to prevent discrimination in the admissions process and ensure compliance with federal and local law.

Student/family information:

- Name (Last name, First name)
- Home address
- Phone/e-mail
- Date of Birth
- Gender
- Guardian/student relationship
- Anticipated grade level for application year
- Siblings already attending charter school

School-specific information:

- Application date
- School name and contact information
- Campus (in the case of multiple campuses)
- Deadline for submission of application
- Date for the public lottery for available spaces
- Date of lottery selection and public notification of numbers drawn

Application Parameters

Prohibited Application Fields

Student Information:

- Past or present Individualized Education Plan (IEP)
- History of receiving English as Second Language (ESL) services
- History of early intervention services
- Medical/health records
- Social Security or Alien Number
- Birth Certificate/Citizenship/Country of birth
- Recent photo of student
- Previous school(s) attended
- Academic records in any form
- Attendance/truancy records
- Disciplinary records in any form
- Evidence of transfer or reasons for leaving current school
- Legal records in any form

Family/Parent Information:

- Language spoken at home
- Parental education level
- Parental employment/income information
- Parental marital status
- Mandatory parental volunteer hours
- Mandatory media release
- Proof of legal Guardian's identity
- History of any government assistance
- History of free/reduced family meals application
- Current living arrangement or explanation of related economic hardship
- Legal records in any form

Sample Application

XYZ PUBLIC CHARTER SCHOOL APPLICATION FOR ENROLLMENT SY _____		
STUDENT INFORMATION		
Name: _____		
Date of birth: _____	Phone: _____	Grade level for upcoming school year: _____
Home address: _____		
City: _____	State: _____	ZIP Code: _____
Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>		
FAMILY INFORMATION		
Parent/Guardian 1: _____		
Parent/Guardian 2: _____		
Parent/ Guardian Home Address 1: (if different from student) _____ City: _____ State: _____ ZIP Code: _____		
Parent/ Guardian Home Address 2: (if different from student) _____ City: _____ State: _____ ZIP Code: _____		
Parent/ Guardian Phone 1: _____	Parent/ Guardian E-mail 1: _____	
Parent/ Guardian Phone 2: _____	Parent/ Guardian E-mail 2: _____	
Do any siblings currently attend school? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, name(s)/grade: _____	

Source: D.C. Public Charter School Board

Sample Application

Required Language

NON-DISCRIMINATION POLICY

XYZ PCS prohibits discrimination on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs.

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

The Family Educational Rights and Privacy Act (FERPA), a Federal law, requires that XYZ PCS, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, XYZ PCS may disclose appropriately designated "directory information" without written consent, unless you have advised the LEA to the contrary in accordance with LEA's procedures. The primary purpose of directory information is to allow the XYZ PCS to include this type of information from your child's education records in certain school publications.

If you do not want XYZ PCS to disclose directory information from your child's education records without your prior written consent, you must notify the LEA in writing by Date.

PENALTY FOR FALSE INFORMATION

Any person, including any District of Columbia public school or public charter school official, who knowingly supplies false information to a public official shall be subject to payment of fine of not more than \$500, or imprisonment for not more than 90 days, or any combination thereof. The case of any such person may be referred to the Office of the Attorney General for consideration for prosecution.

FOR OFFICE USE ONLY

Date Received:

Time:

Signed:



STATE-LEVEL GUIDANCE: PROHIBITION ON MANDATORY MEDICATION

OSSE State-Level Guidance

The Office of the State Superintendent of Education (OSSE) issued the *Prohibition on Mandatory Medication Guidance* on June 2, 2010 to clarify that all students with disabilities in the District of Columbia have access to a Free Appropriate Public Education (FAPE), as outlined in the requirements of the Individual with Disabilities Education Act (IDEA), without regard to parental or adult student decisions about medication.

OSSE State-Level Guidance

Prohibition on Mandatory Medication Guidance

- ❖ **The IDEA prohibits state and local education agency personnel from requiring any student to obtain a prescription for medication as a condition of:**
 - **Attending school,**
 - **Receiving an evaluation,**
 - **Receiving a reevaluation, or**
 - **Receiving services under the IDEA.**
- ❖ **The provision of an evaluation, reevaluation and/or services may not be conditioned upon a parent's decision to medicate a student.**
- ❖ **All policies, procedures and practices of an LEA must be consistent with the IDEA's prohibition on mandatory medication.**

OSSE State-Level Guidance

School Health Services

School nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

34 CFR §300.34(c)(13)

- ❖ If a student does require medication during the school day, the LEA must have qualified staff available to administer the medication.**
- ❖ Contact District of Columbia Department of Health (DOH) for information on accessing a school nurse.**



POLICY APPLICATION: LEA PRACTICE

Policy Application: LEA Practice

Individualized Health Plans (IHPs)

- ❖ A plan developed under Section 504, Title II, and as appropriate IDEA, that details the specific diabetes care needs of – and diabetes-related aids and services to be provided to – a student with diabetes (e.g., insulin dosages).
- ❖ Medication and health services administered consistent with the treating physician's medical orders.
- ❖ Developed through cooperation between family, health care providers, and school personnel.
- ❖ Includes information on the manner in which the student should complete blood-glucose testing, insulin dosing, monitoring food intake and physical activity.
- ❖ List student's symptoms and prescribed treatment for both hyperglycemia (high blood glucose) and hypoglycemia (low blood glucose).
- ❖ Schools may elect to create a standardized form.

Policy Application: LEA Practice

Case Studies

Scenario	LEA Response
A parent of a student with ADHD informs your LEA that the student no longer will be taking medication	The LEA CANNOT require a parent to obtain a prescription for a controlled substance for a child as a condition of attending school, receiving an evaluation under the IDEA, or receiving special education and related services.
A student with diabetes requires a daily insulin shot to be administered during the school day	The LEA MUST have qualified staff to administer school health services to students with disabilities in order to provide FAPE. Qualified staff means that school nurse services are provided by a qualified school nurse and school health services are provided by a qualified school nurse or other qualified person.

Policy Application: LEA Practice

DCPS Prohibited Practices for Diabetes Care

- ❖ **Cannot send students with diabetes home to receive diabetes-related care unless requested to do so by the parent or guardian.**
- ❖ **Cannot require or request students to transfer to a particular school, or deny or threaten to deny admission of students to particular schools, based on student's diabetes or need for diabetes-related care.**

Policy Application: LEA Practice

DCPS Requirements for Diabetes Care

- ❖ **Maintain a private location for administration of diabetes-related care and testing if requested by parent or guardian.**
- ❖ **Complete diabetes care provider training for sufficient numbers of staff at each school.**
- ❖ **Designate at least two full-time diabetes care providers on staff to provide adequate diabetes care.**
- ❖ **Ensure presence of at least one diabetes care provider at each school during all regular school hours.**
- ❖ **Complete assistant diabetes care provider training for all staff who are or may be responsible for the immediate custodial supervision or care of students with diabetes.**

Policy Application: LEA Practice

DCPS Requirements for Diabetes Care (cont.)

- ❖ Complete transportation emergency first aid training for all staff who are or may be responsible for transporting students with diabetes to or from school or school-sponsored field trips or functions.
- ❖ Ensure the presence of at least one diabetes care provider during each school-sponsored field trip or school function in which a student with diabetes participates.
- ❖ Ensure that a trained transportation provider, assistant diabetes care provider, or diabetes care provider is on board a bus at any time that a student with diabetes is being transported on bus.
- ❖ Before the beginning of each school year, send a letter to ALL parents notifying them of LEA's policies and practices on the care of students with diabetes and request notification if their student is in need of diabetes-related aids or services.

Additional Resources

- ❖ **Prohibitions on Discrimination Against Children with Disabilities in the Charter School Application During the Enrollment Process Guidance**
- ❖ **Prohibition on Mandatory Medication Guidance**
- ❖ **All policies and guidance documents available at:**
<http://osse.dc.gov/service/specialized-education-policies-and-regulations>

Thank You

For questions, please contact the
Training and Technical Assistance Unit:

osse.tta@dc.gov

