



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

## **SPECIAL EDUCATION POLICY BULLETIN**

### **IDEA Obligations for Adult-Serving Public Charter School Programs**

July 2022

The Office of the State Superintendent of Education (OSSE) provides this guidance on the responsibilities for serving students with disabilities in adult education programs at District of Columbia public charter schools. This document generally constitutes non-regulatory guidance and does not impose any additional requirements beyond those included in applicable federal and local law and regulations.

#### Background

Annual funding under the Individuals with Disabilities Education Act (IDEA) is made available by an allocation process based upon the number of eligible students with individualized education programs (IEPs) enrolled in a program. Adult-serving public charter school programs that do not offer regular high school diplomas<sup>1</sup> are not required to provide a free appropriate public education (FAPE) under IDEA; however, an adult-serving public charter school local education agency (LEA) that accepts IDEA funds is required to provide FAPE. If a public charter school operating an adult-serving education program receives notice from OSSE of a preliminary IDEA allocation based on the school's number of enrolled students of eligible school age, the program has the option of applying for IDEA funding through a two-phase process. This application process is designed to ensure that programs that accept funds can meet all requirements of IDEA. The following subsections detail the FAPE obligations and procedural requirements of adult-serving education programs relative to students with disabilities.

#### Adult-Serving Public Charter School LEAs that Provide FAPE

An adult-serving public charter school that chooses to accept IDEA funding is treated as an LEA<sup>2</sup> for purposes of the IDEA and must adhere to all federal and local requirements regarding the provision of FAPE to students with disabilities, including conducting evaluations and providing services in accordance

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<sup>1</sup> 34 C.F.R. 300.102(a)(3)(iv). In the District of Columbia, a regular high school diploma does not include an IEP Certificate of Completion, state diploma received as a result of passing the GED® tests or successfully completing the National External Diploma Program (NEDP), or any other credential earned by a student other than the regular high school diploma as provided for in 5-A DCMR §2203.

<sup>2</sup> Local education agency or LEA – An educational institution at the local level that exists primarily to operate a publicly funded school or schools providing elementary or secondary education in the District of Columbia. The term includes the District of Columbia Public Schools and a District of Columbia public charter school that has elected, pursuant to D.C. Official Code § 38-1800.00(29), to serve as the LEA for purposes of IDEA, with such election subject to the provisions of D.C. Official Code § 38-1802.10(c), requiring an LEA to be its own LEA for purposes of IDEA and the Rehabilitation Act unless waived by the District of Columbia Public Charter School Board.(5-A DCMR §3099)

with student IEPs. Students who have previously received a credential other than the regular high school diploma as provided for in 5-A DCMR § 2203 may enroll in an adult-serving public charter school LEA program to continue their education; some students may be seeking GED® programming while other students may be seeking vocational or technical training, basic literacy and/or numeracy instruction, English language instruction, or other forms of continuing education. If a student with a disability who is 22 years old or younger and has not previously received any credential or received a credential other than the regular high school diploma enrolls in an adult-serving public charter school LEA that accepts IDEA funds, the LEA must make FAPE available to the student. A student with a disability who is older than age 22<sup>3</sup> or who has previously received a regular high school diploma is not eligible to receive FAPE and if such student enrolls in an adult-serving public charter school LEA that accepts IDEA funds, the LEA shall not make FAPE available to the student.

#### Adult-Serving Public Charter Schools that Do Not Provide FAPE

An adult-serving public charter school that chooses not to accept IDEA funding must notify all students younger than age 22 identified as a student with a disability under IDEA that the program will not implement an IEP and advise students of the right to access special education services by enrolling in an LEA that provides FAPE (including the District of Columbia Public Schools [DCPS] or another public charter school LEA). Attached as Appendix A is a model notification developed for adult-serving public charter schools to use to notify a student with a disability of the program's decision not to provide FAPE. For students ages 16-17, the adult-serving public charter school must provide this notification to the parent of the student; for students ages 18 and older, notification must be provided to the student or other education decision maker if educational rights did not transfer at age 18.<sup>4</sup> For all students, this letter should be signed by the parent or adult student (or other education decision maker, as applicable) and uploaded into the student's record in the Special Education Data System (SEDS). The parent or adult student must decide to either waive IDEA rights and remain enrolled in the adult-serving public charter school, or unenroll from the school and seek an offer of FAPE elsewhere.

#### *Students Electing to Waive IDEA Rights and Remain Enrolled in the Adult Serving Public Charter School*

Students with disabilities enrolled in public charter schools operating adult-serving education programs that do not provide FAPE may elect to remain in the program but will forfeit rights under IDEA to receive special education services while enrolled. For students with disabilities who choose to remain enrolled in the adult-serving public charter school, the school must upload the signed notification letter, as well as a signed Revocation of Consent for Services Form and a Prior Written Notice (PWN) into the student's record in SEDS. Entering the student's Revocation of Consent for Services Form in SEDS will create an exit event that will convert the student to a general education student on the SEDS roster.

#### *Students Electing to Unenroll*

For students with disabilities electing to unenroll from a public charter school operating an adult-serving education program, the school must upload the signed notification letter into the student's record in

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<sup>3</sup> Eligibility for FAPE extends to the end of the school year in which a student turns 22. 5-A DCMR § 3028.1(c).

<sup>4</sup> See 5-A DCMR § 3036 regarding exceptions to the transfer of educational rights at the age of majority.

SEDS and enter the appropriate exit code for the student in accordance with OSSE's Entry and Exit Code Guidance. If the student transfers to DCPS or another public charter school LEA within the District of Columbia, the charter school from which the student unenrolls should enter transfer code 2041; if the student elects to voluntarily discontinue all schooling, the charter school should enter disengagement code 1980. For further assistance with OSSE's Entry and Exit Code Guidance, the charter school should contact their assigned liaison in OSSE's Division of Data, Assessment and Research (DAR). The public charter school from which the student unenrolls must advise the parent or adult student that the student may enroll in their DCPS neighborhood school or a public charter school LEA that provides special education services to seek an offer of FAPE and may refer the student to the DC ReEngagement Center. The public charter school must provide OSSE with the names of all students who elect to un-enroll from the program by contacting Karen Morgan-Donaldson, IDEA compliance manager, at [Karen.Morgan-Donaldson@dc.gov](mailto:Karen.Morgan-Donaldson@dc.gov). OSSE will provide these students with information on other programs that provide special education services.

Please direct any questions regarding the content of this document to OSSE's Division of Systems and Supports, K-12 Office of Special Education at [OSSE.DSEPolicy@dc.gov](mailto:OSSE.DSEPolicy@dc.gov).

#### Resources

[OSSE's Entry and Exit Code Guidance](#)— This document lists the valid set of student entry and exit types to be used by District of Columbia LEAs and establishes procedural and documentation requirements for student entry and exit.

[OSSE's Secondary Transition Policy](#) – This policy establishes requirements for secondary transition planning in accordance with IDEA.

[OSSE Adult Education Information](#) – This resource provides information on adult and family education funding and programming available in the District of Columbia, including information regarding the GED®, the National External Diploma Program (NEDP), and the state diploma.

[DC ReEngagement Center](#)— The DC ReEngagement Center (REC) is a “single door” through which youth ages 16-24 who have dropped out of secondary school can reconnect to educational options and other critical services to support their attainment of a high school diploma or GED®.





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### **Notification of Educational Rights under the Individuals with Disabilities Education Act (IDEA)**

The purpose of this letter is to notify you of your or your child's right to receive special education services as an individual with qualifying disabilities under the federal Individuals with Disabilities Education Act (IDEA). The Office of the State Superintendent of Education (OSSE), as the state education agency (SEA) for the District of Columbia, is responsible for ensuring that special education services are made available to you or your child should you wish to receive them.

You or your child is enrolled in an adult-serving education program that is not obligated to provide special education services. Enrolling in this program is your choice and may make sense for you based on your current interests and the services offered. However, as the SEA for the District of Columbia, we want to make sure you are aware of the fact that the program will not implement your or your child's individualized education program (IEP) as would other traditional public school programs or other public charter school programs.

You may choose to remain enrolled in your current program or seek admission in your neighborhood school or one of the many public charter schools in the District:

- *District of Columbia Public Schools:* All District of Columbia students have a right to enroll in their neighborhood District of Columbia Public Schools (DCPS) school. DCPS also has specialty schools and programs with additional enrollment requirements. To locate your neighborhood school or to find out more information about enrolling at your neighborhood DCPS school, please visit [www.dc.gov/DCPS](http://www.dc.gov/DCPS) or call (202) 478-5738.
- *District of Columbia Public Charter Schools:* District of Columbia students have a right to enroll in any public charter school with open slots in the grade for which they seek admission. To identify a charter school that serves your grade level, please visit the District of Columbia Public Charter School Board's website at [www.dcpubliccharter.com/](http://www.dcpubliccharter.com/) or call (202) 328-2660.

Please be advised, should you choose to remain enrolled in the adult-serving education program, you will forfeit your right under IDEA to receive all services listed on your or your child's IEP while enrolled in the adult-serving education program. However, please also be aware that the adult-serving education program may have obligations under Section 504 of the Rehabilitation Act of 1973 to provide accommodations to you or your child in the implementation of its education program. Please contact your program administrator or counselor with questions regarding how services will be provided to you in the adult-serving education program. For more information on other adult-serving education programs available in the District of Columbia, you may contact the DC ReEngagement Center at (202) 671-2539, [backontrackdc.osse.dc.gov](http://backontrackdc.osse.dc.gov), or [backontrack@dc.gov](mailto:backontrack@dc.gov).

If you have any questions regarding this notice and the options available to you before making a decision, please contact your adult-serving education program.

Once you have considered your options, please make a note of your decision below and return this form to:

[ADULT PUBLIC CHARTER SCHOOL NAME]

[POINT OF CONTACT NAME]

[CONTACT INFORMATION]

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Parent or Adult Student Certification

\_\_\_\_\_ I have been notified of my or my child's rights under the Individuals with Disabilities Education Act (IDEA) and elect to seek enrollment in another program that provides special education services.

**Note to PUBLIC CHARTER SCHOOL LEA:** Please upload this signed certification form into the student's record in the Special Education Data System (SEDS).

\_\_\_\_\_ I have been notified of my or my child's rights under IDEA and elect to remain enrolled in the current program and decline special education services.

**Note to PUBLIC CHARTER SCHOOL:** Please upload this signed certification form and a signed Revocation of Consent for Services form in SEDS and provide the required Prior Written Notice (PWN) to the parent or adult student.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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