

# LMR CONSULTING

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Good Morning, Ms. Chairwoman, Mr. Vice Chairman and Committee Members.

Thank you for the opportunity to appear before you and discuss important issues related to educating students with disabilities in charter schools. I am a researcher, evaluator, and consultant with 15 years of experience examining the complex issues that shape delivery of special education and related services in the charter sector nationwide. I hold a doctorate in education policy and I have both directed and collaborated on multiple federal grants examining issues related to special education in the charter sector and provided direct technical assistance to states, districts, and schools wrestling with the challenges involved with navigating the intersection of federal special education and state charter school statutes. I am currently an independent consultant but previously was a senior consultant with Public Impact, an education policy and management consulting firm based in Chapel Hill, NC. I recently collaborated to write a book about special education in the charter sector--**"Unique Schools Serving Unique Students--"** published by the Center on Reinventing Public Education. My testimony today is largely a summary of the research I conducted for the book which reflects my ongoing examination of the relevant issues. As you strive to not only bolster but grow the charter sector as one of multiple levers to improve public education in Texas, I urge you to exercise your authority to ensure that charter schools offer high-quality learning environments for ALL students.

Services delivered under the auspices of the federal Individuals with Disabilities Education Act or IDEA and related state laws, typically referred to as special education and related services, are designed to enable children with a wide range of disabilities to access public education to the same degree as their peers without disabilities. This access is considered a civil right for children who meet the eligibility requirements of the federal IDEA as opposed to simply a program enhancement. The law assigns primary responsibility for implementation to states, which in turn largely delegate the responsibility to individual districts.

State charter school laws have created new opportunities for education innovation and options but the intersection of federal laws and charter statutes create a complex maze of rules and regulations, a maze that is ill suited to adapt to the addition of new autonomous schools.

Nevertheless, charter schools hold particular promise for students who have traditionally been left behind in conventional settings because they can start from scratch and operate free from many of the constraints that make it difficult for public schools to change and meet diverse needs. In particular, charters present an opportunity to rethink how to educate children with disabilities, potentially showing the way for the wider system to close the large and enduring achievement gap between students with and without disabilities.

With this hypothesized opportunity in mind, I recently had the opportunity to study six charter schools identified for their exemplary programs for students with disabilities. Despite their very different approaches, the six schools had much in common in terms of the way they approach special education and what makes it possible for teachers to be successful with diverse student needs. In my remaining time, I would like to walk you through the key recurring themes that emerged from the six case studies.

***First, the leadership of the schools demonstrated a commitment to inclusion.*** Inclusion is an approach to special education wherein to the extent possible, students with disabilities are educating alongside their peers with requisite modifications and supports to help them succeed. School leaders at five of the six case study schools explicitly expressed a core commitment to incorporating children with disabilities in the overall school program, whether or not the schools were originally designed with a special education focus. Three of the six schools we examined were designed with special education populations foremost in the thinking of their founders. Not surprisingly, leaders at all of these schools had developed an infrastructure and set of processes to maximize student opportunity and potential within the school.

***Building on the leadership's commitment to inclusion, teachers' commitment to inclusion*** was also evident in our case study schools. Traditionally, general education teachers have not considered it their responsibility to teach students with special needs, instead generally referring these students to specific programs or teachers in the school who provided extra supports or interventions. In contrast, teachers in our study expressed a striking sense of ownership and responsibility for the achievement of students with disabilities. They felt responsible for the education of *all* of their students and did not abdicate their responsibility for a specific student simply because a special educator was in the classroom to provide assistance to the child.

*In alignment with the commitment to inclusion, we also observed a core commitment to the broader tenets of IDEA.* Rather than viewing IDEA as a law for which they had to demonstrate procedural compliance alone, personnel at the schools we studied saw the law as a starting point. The spirit of the law—to provide students with disabilities equal access to education alongside their peers without disabilities—was the focus, rather than merely meeting the letter of the law. For instance, at the Metro Deaf School in Minnesota, where all the students are deaf or hard of hearing, it may seem at first that the school does not adhere to an inclusive view of special education or the tenets of a “least restrictive environment.” But, the founders and leaders at Metro Deaf believe that providing students with hearing impairments an environment in which they can communicate with every student and staff member via American Sign Language (ASL) *is* providing the least restrictive environment in which their students can learn. They believe that access to fluent ASL communicators develops the students’ abilities to express themselves, progress academically, and develop the social skills necessary to succeed in the world.

*In addition to the commitment to IDEA, our case study schools demonstrated strong support for teachers* In particular, school leaders in our case studies reported focusing on specialized professional development and data-driven decision-making. Leaders and special educators at all of the case study *schools identified targeted, relevant professional development as key to implementing a successful special education program* and as an important element of building buy-in from *ALL* teachers related to educating children with disabilities

Related to *data-based decision-making*, reflecting what is a key component of effective school practice in general, all of the schools reported using formative assessments or other diagnostic data to inform and influence instruction and interventions. For example, at Charyl Stockwell Academy in Michigan, pre- and post-intervention testing enables school personnel to evaluate the efficacy of interventions. The data inform not only the services given to the child, but are also collected in aggregate to identify those resources that work most effectively with their students.

Building in no small part off of these practices, these successful schools provided *highly individualized programs for all of their students*, general and special education alike. This individualization essentially takes the stigma out of being part of special education because all

students receive individualized services, not just those with an IEP. This “normalization” of individualized education and use of best instructional practices for all students reportedly facilitated access to the general education curriculum and academic success for students with disabilities by encouraging teachers to accommodate a variety of learning needs.

Ultimately, individualized programs, intensive teacher training, and the normalization of individual help would be meaningless in an *environment that did not feel safe and inclusive for students with special needs*. A purposeful culture of respect was considered central to success with students with disabilities in five of the six case study schools. The schools intentionally cultivated the feeling of “family” in addition to implementing no-tolerance policies on teasing, bullying, and disrespectful behavior—attributes likely fostered by the relatively small size of the five schools. Individuals who identified a safe environment as a central part of their school’s success argued that if students are afraid to try, they will never have the opportunity to succeed.

Before I shift to some of the challenges, I wanted to say a word about *transferability to traditional public schools*. While in some cases, the schools’ status as charter schools may have facilitated ready adoption of promising practices, there is no apparent reason why traditional public schools could not adopt very similar approaches. In fact, personnel at all six schools proposed that their programs could be replicated in traditional public schools as long as such schools are deeply committed to change and have: *(1) the ability to build their own teaching team, (2) adequate resources, and (3) strategies to involve parents*.

While the charter space holds great promise in terms of opportunity to innovate, it also presents challenges that you as state legislators need to be aware of as you work to develop cogent policy. Speaking in broad brushes, the challenges are procedural and operational.

**The first procedural challenge pertains to the legal status of charter schools.** In Texas, as well as many other states, charter schools may be independent local education agencies/districts or they may operate as part of an existing traditional district. Not unlike a young adult living independently for the first time, legal recognition as a district has notable programmatic and financial implications.<sup>1</sup> Charter schools that operate under state law as independent LEAs often have greater freedom—and responsibility—in designing curricula, hiring teachers and staff, controlling their budget and implementing programs. On the other hand, charter schools that are part of a district typically receive many types of assistance from the district’s central office and have access to accompanying economies of scale. However,

much like a young adult still living at home, they are also denied some of the programmatic and financial freedoms typically deemed crucial to the development of new and innovative schools.

Aside from issues associated with navigating legal identity, *charter schools must also navigate broader state education systems that may or may not be open to supporting them.* These publicly-funded entities—such as the ESC network in TX—are typically charged with providing a host of services to multiple districts; including special education. Due in some cases to the fact that statutory language pertaining to these intermediate agencies was drafted prior to development of charter schools and in other instances resistance on the part of personnel in these agencies, charter schools are not always able to access these intermediate agencies in the same manner as traditional public schools. The lack of access may impact multiple areas of charter school operations but the impact on special education programs is particularly notable given the complexity and costs associated with developing programs.

Overall, charter schools operate in a policy space that wasn't constructed for them,<sup>ii</sup> a space in which public schools are primarily a state responsibility, but are markedly influenced by both federal and local policies, programs and practices. Eighteen years after the nation's first charter law was passed, policymakers still struggle to fit charter schools into the rules and regulations of a traditional and multi-layered public education system.

I wrap up my testimony by reviewing the primary **operational challenges** charter schools face when educating students with disabilities. Providing special education and related services to individual students with disabilities requires not only a clear understanding of legal responsibilities and procedures and access to state intermediate systems, it also requires *adequate funding*, as well as *instructional and administrative capacity* to provide the specialized services. In particular, charter schools face unique operational challenges associated with their governance structure, size, mission, and newness. All of these factors potentially hinder charter schools' ability to provide a free and appropriate public education or FAPE.<sup>1</sup> These operational challenges may potentially influence every aspect of providing special education and related services to children with disabilities.

In closing, as I noted in my description of the exemplary charter special education programs, a charter represents a chance to create a new school, ideally absent the shackles of past practice and presumptions about how children can and “should” be educated. In particular,

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<sup>1</sup> Ahearn et al., 2001

charter schools present an important opportunity to accelerate change, experiment, and advance the knowledge base related to educating children with disabilities. Yet, ensuring the growth of successful charter schools requires special attention to a variety of the aforementioned challenges associated with providing high quality specialized services to children with disabilities. Overall, the multiple practices noted hold promise to pave the way for growing high quality charter schools that offer dynamic learning environments for all students.

Thank you for the opportunity to speak to you this morning.

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<sup>i</sup> Green, P. C. & Mead, J. F. (2004). *Charter schools and the law: Chartering new legal relationships*. Norwood, MA. Christopher-Gordon Publishers; Heubert, J.P. (1997). *Schools without rules? Charter schools, federal disability law, and the paradoxes of deregulation*. *Harvard Civil Rights-Civil Liberties Law Review*, 32, 301–353; Rhim, L. M., Ahearn, E., & Lange, C. (2007). *Toward a more sophisticated analysis of the charter school sector: Considering legal identity as a critical variable of interest*. *Journal of School Choice* 1(3).

<sup>ii</sup> Jennifer Cohen, New America Foundation, personal communication, October 19, 2009.