

# Should Charter Schools More Special Education

*Education Next talks with Robin J. Lake, Gary Miron, and Pedro A. Noguera*



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# Enroll Students?

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**S**hould charter schools be required to enroll students labeled special needs at the same rate as local school districts, that is, educate their “fair share”? Or is it reasonable for a charter school to counsel special education students to go elsewhere, if another school would be a better fit? If “fair share” requirements are not appropriate, what is? Can any school be expected to meet every need of every child?



Exploring these questions are Robin Lake, director of the Center on Reinventing Public Education at the University of Washington; Gary Miron, professor in the College of Education at Western Michigan University; and Pedro Noguera, professor of education at New York University.



# The Key Is Innovation, Not Regulation

It's never acceptable for charters to refuse to provide special education services or to "counsel out" or refuse to serve students with disabilities, but it's a particular problem when charters comprise nearly half of all public schools in a district. In Detroit, where more than 40 percent of students attend charters, traditional district schools are slowly taking on a higher and higher proportion of students with special needs. Concentrating students with disabilities in a certain cluster of schools is not good for kids, and because these students represent higher-than-average costs, this imbalance is not financially sustainable for districts. It's also not good for the reputation of charter schools to say they serve the neediest students—just not *that* kind of needy. If charter schools want to be treated as a scalable solution, they have to act like it.

In terms of national averages, the difference between charter and district special-education enrollment is about 3 percentage points: according to the Government Accounting Office, roughly 11 percent of students enrolled in regular public schools were on special education plans in 2009-10, compared with 8 percent of charter school students. While the national differential is not huge, it concerns some and gives ammunition to others.

The problem is, when lawmakers become concerned about this issue, their instinct is to pass quotas or other special ed enrollment targets for charters, to ensure a "fair share" of students are being served. This is a bad idea, for a number of reasons. There is no magic number that will mean the charter sector has fulfilled its duty to special education, and policy should not be created under this assumption.

First, averages mask variation. The numbers differ greatly by state and city. Some charters serve large percentages of special education students, others very small. The same is true for district schools, as the Center on Reinventing Public Education (CRPE) found when it analyzed enrollment in New York City. Schools specialize: some are designed specifically for kids with special needs, some have pre-K special-ed programs that feed into certain schools, and so forth. Some schools, both charter and district, tell families that the school may not be a good "fit" for their child or that the school simply doesn't offer the special education programs or services their child needs. A fair-share policy, then, should be applied to both sectors. Even then, a quota pegged to the average would be impossible to achieve without drawing some students away from specialized programs that may be serving them perfectly well.

Second, sometimes a low special-education percentage doesn't mean that a school is failing to serve students with special needs, but that it is serving them without applying the often-overused special-education label. Charter schools frequently make the argument that, as researcher Marcus Winters found in his 2013 study of New York City charters, they are less likely than traditional schools to identify a student as having a disability. Instead of assuming a child is "learning disabled" if she falls behind her peers academically, they might provide intensive tutoring to help the student catch up. Rather than labeling a child with severe behavior problems "emotionally disturbed," they might create a strong set of schoolwide behavior norms and support their teachers'

by ROBIN J. LAKE

use of highly effective classroom-management techniques. Quotas work against these innovations by creating perverse incentives for schools to overidentify students as disabled.

Third, as schools of choice, not all charter schools will be equally attractive to, or effective with, kids with disabilities. A “no excuses” school may be a good fit for students who respond well to a highly structured and very strict culture but not be effective at all for others. Although a school’s “mission” should never be an excuse for a charter school to exclude students whose families feel it is the right fit, we also should not expect that all charter schools will attract an equal number of all types of students.

The right public policy approach, then, is not to set a magic number to ensure that students’ special needs are being met. Rather, it is to make sure that all students have equitable access to all public schools in a city, and to create funding policies and support structures that make it possible for charter schools to serve all students effectively.

Charter school authorizers play an important role in ensuring equitable access. Smart authorizer policies pay attention to a charter’s capacity to serve students with special needs before granting the school permission to open, and then closely monitor its student recruitment efforts and admission practices. If the special education numbers look unusually low, good authorizers try to understand why. States are paying more attention to special education funding formulas to ensure that when a charter school receives a student with special needs, the fair share of that student’s funding follows the student. Local foundations and nonprofits are also investing in local special education supports for charter schools.

Even more promising, cities with large numbers of charter schools, like Denver, New Orleans, and New York City, have built special education collaboratives, co-ops, and financial risk pools so that all charter schools have the capacity to serve all disability categories well. Denver Public Schools has even partnered with its charter schools to create specialized charter-based programs for students with severe disabilities. The hope is that with the right financial resources and supports, Denver charter schools can use their autonomy to find innovative ways to serve severely disabled students even more effectively than the district has.

In New Orleans, schools receive more funding for students with more-severe disabilities. There is an insurance pool to help schools pay for higher-than-usual costs associated with special education. Schools can apply for grants to develop innovative new approaches to special education. One New Orleans KIPP school now has a program designed to serve students with severe or “low-incidence” disabilities. Another school has designed a technology-heavy curriculum for students with special needs.

Cities like Detroit could take a lesson from New Orleans, Denver, and New York by carefully monitoring charter schools to ensure they act on their responsibilities to serve all students. Just as important, city and district leaders should create funding structures and partnerships to make sure that charter school autonomies and entrepreneurialism lead to innovations and improvements in special education.

Let’s remember that fair access to public schools is very important, but so are quality and fit. Parents of students with special needs are often desperate for schools that will work for their student’s unique needs. They often find themselves in a situation where the public schools don’t serve their student well, but the private schools won’t serve them at all. Charter schools offer an important opportunity to meet those parents’ needs. There are now charter schools, like CHIME Institute and Aspire charter schools in

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California, that set a new standard in special ed inclusion. There are schools that provide specialized and highly effective programs for students with autism, and for those who are hearing impaired, face severe behavior problems, and have learning disabilities. The challenge for policymakers is how to create more of these innovations, not to regulate charter schools back into a district model.

Cities need to stop talking about what’s the “fair share” through the lens of a charter or a district, consider instead what students need, and leverage the right combination of resources to meet that need. Parents whose kids have special challenges don’t care what a school is called. They only care whether there are enough choices available in their city or neighborhood so that their child—and every child—can find a strong fit and receive an excellent public education. City and state leaders can accomplish this by ensuring that charter authorizers are paying attention to recruitment and admission practices, by ensuring that schools are getting their fair share of funding, by giving charter schools access to excellent special-education expertise and networks, and by promoting innovative new approaches through grants and charter–district partnerships. ■

# Charters Should Be Expected to Serve All Kinds of Students



Charter schools nationally serve far fewer students with disabilities—8 to 10 percent of their students on average—than district schools, which serve 13.1 percent. Some state funding formulas encourage charter schools to enroll students with disabilities, while in other states there are clear financial disincentives. In a few states, expenses for special education delivered by charter schools are paid by the local districts, or the services are delivered by special education teachers employed by the district. As a result, enrollment figures vary widely from state to state. On average, however, the disabled students charter schools enroll tend to have disabilities that are less severe and less costly to remediate than those of students in district schools.

Yet charter schools are public schools, supported by taxpayers and considered open to all students. If they market and recruit broadly from their communities, their population of students with disabilities should be comparable to that of district schools. But it isn't. Why not?

Some charter school officials have suggested that official records undercount their enrollments of disabled students, because the parents of some students who would qualify as “disabled” have deliberately avoided the label or even obscured its previous use. Research evidence to support this hypothesis is limited, but it deserves further investigation.

State evaluation reports and other research have shown that most charter schools do not actively market to or recruit students with disabilities and their families. The 50 to 60 U.S. charter schools that focus primarily or exclusively on children with disabilities and do actively recruit them are the exception.

Some families might consciously choose against sending their children with disabilities to charter schools. Charter schools are expanding their reliance on scripted instruction, which is less viable for students with disabilities, who benefit from more student-centered approaches. The expansion of networks of college-prep-oriented charter schools, which do not aim to serve a broad population of students, may also indicate to parents that charter schools are not the right choice for their disabled children.

There is considerable evidence that charter schools actively discourage families from enrolling disabled children and counsel them to leave when they do manage to enroll. The largest study on this topic was commissioned by the U.S. Department of Education, with the report published in 2000. That study found a pattern of charter schools systematically counseling out students with disabilities rather than making accommodations and providing the required services and supports; administrators at one-fourth of the charter schools in the study reported having advised parents that the school was not a good fit for their disabled children.

While conducting nine evaluations of charter school reforms for state education agencies between 1997 and 2007, I learned of numerous cases in which families were counseled out and told that it would be some time before the charter school could offer special education supports. Parents can fight—and some do—but these parents are already overextended and tired.

Charter schools might understandably find it challenging to accommodate students with disabilities. Special

by GARY MIRON

education and charter schools would not seem to mix easily: charter schools were designed as deregulated and autonomous schools; special education is the most highly regulated component of public education, subject to state as well as federal oversight.

Charter schools lack economies of scale. School districts, with their larger numbers of students with disabilities, can distribute special education staff more efficiently and can concentrate some services at specific schools rather than provide all services at all schools. Districts spend a lower percentage of their total revenues on administration than charter schools do but still have larger central administrations that can more efficiently deal with special education’s extensive regulation. Charter schools, meanwhile, may find it especially difficult to recruit special education teachers, especially if they only wish to employ them part time.

Still, charter schools ought to enroll more students with disabilities, for several reasons:

Charter schools are public schools, required and expected to serve all families who seek them out. Regardless of where they are enrolled, children with disabilities are protected by the same federal laws and regulations guaranteeing a free and public education delivered in the least restrictive environment.

Charter schools that do not serve special needs students also can place unfair burdens on district schools. College-prep-oriented charter schools with selective entry and exit processes leave surrounding district schools with higher-than-expected concentrations of students requiring additional resources: students with disabilities, particularly moderate to severe disabilities; English language learners; and students with disciplinary problems or those who could not handle the rigor of the college-prep charter schools. With special education already not fully funded, the burden on district schools is that much greater.

Requiring charter schools to enroll more students with disabilities would benefit society and charter schools alike.

First, having special education staff in charter schools will make these schools more accommodating for every student. The presence of special education teachers can help balance and complement the teacher corps. Furthermore, practices developed for special education students over the years have proven helpful for nondisabled students as well.

Second, repeated studies, including two national studies conducted in 2010 by the Civil Rights Project and the National Education Policy Center, have shown charter schools are accelerating the resegregation of public schools by race and ethnicity, social class, language of instruction, and special education status. By serving more diverse populations, charter schools would enrich the experience of all their students, exposing them to the diverse range of people in

our communities and thus better preparing them for both work and citizenship. After all, nearly everyone at some time will require special attention or supports due to disabilities, illness, or emotional duress. Disability is not an issue that should separate us.

Third, charter schools could find it in their best interest to enroll more students with disabilities: it would qualify them for additional public revenue and allow the schools to hire additional special education teachers. Several studies have confirmed that, on average, charter schools receive 20 to 23 percent less in public revenues than traditional public schools, leading charter school advocates to complain that charter schools are shortchanged. In a 2010 study for the National Education Policy Center, however, I found that most of the difference reflects the district schools’ higher spending on special education and student support services—spending made possible because those schools qualified for categorical funding based on the number of children with disabilities served and the costs for remediating their particular disabilities.

Charter school leaders who believe charter schools should receive equal funding ought to be willing to recruit and enroll their fair share of students with special needs. Policymakers can help by fully funding special education

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so that charter schools might be more willing to take on this responsibility. Charter school networks and authorizers can facilitate collaboration among charter schools to share special education staff and more efficiently distribute these human resources. The federal government should update its guidance on civil rights regulations for charter schools and include provisions to promote diverse or inclusive student bodies. State education agencies and charter authorizers can also support inclusion of students with disabilities by requiring—or giving preference to—charter applications with diversity considerations. At a minimum, however, it’s time to expect charter schools to live up to the premise under which they were established, as alternatives within the public school system, by requiring them to recruit from all segments of the community, including the special education population. ■



# School Quality Matters Most, Whether District or Charter

When it comes to serving students who learn differently or have other special educational needs, we should be most concerned with whether or not the schools they attend have the ability to serve them well. This is what the Individuals with Disabilities Education (IDEA) Act requires, this is what the legally binding Individualized Educational Plans (IEPs) specify, and this is what most parents want for their children. Of course, many parents also want to ensure that their child is not marginalized, isolated, or separated from other children. Rather than insisting that a school accept a student, however, we should first seek to ensure that school has the resources and staff to meet the child's needs.

This is not what is occurring in several cities where school districts have developed choice systems. The data suggest that in many districts, school choice has increased the likelihood that the neediest children—special education students, English language learners, homeless children, and others who

are typically low-achieving—will be concentrated in a small number of schools.

Under existing policies that judge schools based on student test scores, schools that serve a disproportionate number of such “high need” students are also more likely to be labeled as failing. Many such schools are more likely to fail not only because they are overwhelmed by their students’ needs, but because in many cases they lack resources to meet their students’ needs and are often staffed by the least-prepared personnel.

This is what has happened over the last 10 years in New York City. A 2009 report by Parthenon Group, a private consulting firm commissioned by the NYC Department of Education, showed that the city’s “failing schools” had enrolled a disproportionate number of “high need” students. Though vague on how the city’s choice system had contributed to the problem, the report implied that because a small number of schools were serving a disproportionate

by PEDRO A. NOGUERA

share of “high need” students, their likelihood of failure had increased. The report also suggested that the problem was related to the fact that many selective public and charter schools were allowed to screen out or counsel out the most disadvantaged children. In explaining why some schools were outperforming others, the report found, “Nearly 80% of variance among individual schools performance can be explained by a few factors, amongst which, enrollment size and concentration of low level students (both ELA and Math) are the most important.”

This report reminds us that it is not only charter schools that may have found ways to avoid serving significant numbers of special education students. Many high-performing public schools employ strategies to screen out such students as well, either by not providing the services needed for special education students, or by employing admissions policies that make it difficult or unlikely for such students to gain access.

Charter schools frequently point to the fact that they admit students based on a lottery to defend themselves against accusations of bias in admissions. Anecdotal evidence obtained from the parents of special education students, however, suggests that in some cases, parents are counseled to take their children out of a school due to a lack of “fit,” or told explicitly that their school of choice lacks the resources to meet the learning needs of their child. While the extent of such practices is difficult to document, there is evidence that the lottery process itself is unlikely to include parents of some of the most disadvantaged children. Parents of undocumented or homeless children, and parents who may be overwhelmed by life circumstances, are less likely to participate in a lottery.

While these are all significant concerns, we should not lose sight of the most important issue: special education students should be in schools—whether public or charter—that have the resources and trained staff to meet their needs.

The Autism Spectrum Disorder (ASD) Nest program at New York University has shown that by providing training and support to teachers who serve children on the autism spectrum, those students can be successfully mainstreamed in local public schools. This has been done effectively at local public schools such as PS 396 in the Bronx, where a significant percentage of children have special needs and all of the students could be characterized as economically disadvantaged. Rather than objecting to the high presence of ASD children, former school principal Lawrence Wright sought to ensure that all of the children who receive special education services were educated in “regular classrooms.” Wright found that the techniques he and his staff utilized for students with learning disabilities help them with

other students as well. For example, teachers developed a “visual management” system for autistic children that utilizes pictures posted on cards on the walls to reinforce desired behavior and classroom rules, such as a child with a raised hand and a child looking directly at the teacher.

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Additionally, teachers at the school report that techniques for teaching letter recognition, such as raised letters made of foam, have also been useful in supporting the literacy of other children.

PS 396 is not alone. Several public schools have demonstrated that mainstreaming special education students can work when the IEP is treated with fidelity and educators are trained to provide necessary services and to plan and collaborate with their non-special education colleagues. But there are many schools across the country where special education students are being denied learning opportunities because support systems are not in place. This is the problem we should be most concerned about.

The issues involving special education students are complex and cannot be addressed through simplistic policies that pit charter schools against public schools or through the laws that now guide special education. These laws make it possible for schools to be in compliance with state and federal policy, even when there is ample evidence that student needs are not being met.

If it is possible to meet the needs of special education students at a public school serving low-income children in the Bronx, it can be done at other public schools and at charter schools, too. Rather than simply demanding that charter schools or specialized public schools accept their “share” of special education students, we should be concerned that all students, particularly students in need of special education, are in schools that can meet their needs. By focusing on the needs of students and the quality of education they receive rather than pointing fingers over where they are served, we will do more to ensure that our most vulnerable children have access to the education they need and deserve. ■