

OHIO'S PRIMER ON SPECIAL EDUCATION IN COMMUNITY SCHOOLS

OHIO COMMUNITY SCHOOL SPONSOR PRIMER

Note: In the state of Ohio, charter schools are referred to as community schools. A community school is considered a school district. For the purpose of this document, the terms community school and charter school will be used interchangeably. Similarly, Ohio uses the term sponsor rather than authorizer and the term administrator instead of operator. These terms will be used interchangeably.

INTRODUCTION

What is a community school sponsor?

A community school sponsor is the legal entity that has the authority to create a new public school by issuing a charter. (Note: Only local school districts (LEAs) may sponsor conversion schools). Sponsors have a legal position with specific responsibilities in the state public education system. As of 2008, there are 75 active sponsors of community schools in Ohio and qualified nonprofits. A list of all currently approved community school sponsors is online at the ODE Community School website.

Who can be a sponsor?

Pursuant 3301-102-02 Definitions sponsors eligible under Ohio law to establish a start-up charter school are:

- 1) The board of education of the district in which the school is proposed to be located;
- 2) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;
- 3) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;
- 4) The governing board of any educational service center, as long as the proposed school will be located in a county within the territory of the service center or in a county contiguous to such county;
- 5) The board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code [University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, The Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University, or a sponsoring authority designated by any such board of trustees, as long as a contractually specified

mission of the proposed community school will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the university's teacher preparation program approved by the state board;

- 6) Any qualified tax-exempt entity under section 501 (c) (3) of the Internal Revenue Code if all of the following conditions are satisfied:
 - a) The entity has been in operation for at least five years prior to the application date;
 - b) The entity has assets of at least five hundred thousand dollars and has demonstrated a record of financial responsibility;
 - c) The Ohio Department of Education's Office of Community Schools (OCS) has determined that the entity is an education-oriented entity and the entity has a demonstrated record of successful implementation of educational programs; and
 - d) The entity is not a community school.

What is the process for becoming a sponsor?

The Ohio Department of Education (ODE) authorizes sponsors of new start-up community schools, evaluates them and articulates their responsibilities. As stated in Ohio law:

The department of education shall be responsible for the oversight of sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools [§3314.015(A)].

Any public school district may convert all or a portion of a public school to a community school without ODE's approval.

What is the role of the ODE related to sponsors?

The law is very specific on the role of ODE related to sponsors of community schools. It specifies:

In carrying out its duties under this section, the department shall do all of the following:

- (1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;*
- (2) Approve entities to be sponsors of community schools and monitor the effectiveness of those sponsors in their oversight of the schools with which they have contracted;*

(3) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter; and,
(4) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools [§3314.015(A)].

What does a sponsor do?

See Ohio Revised Code Chapter 3301-102 Community Schools for specific information relating to sponsor responsibilities and Chapters 3314.015 Oversight of Sponsors, 3314.03 Specifications of contract between sponsor and governing authority – specifications of comprehensive plan for specific information on what a sponsor is required to do. The role of the sponsor includes:

- Accepting, analyzing and evaluating proposals from prospective charter school developers;
- Negotiating and executing charter school contracts, i.e. defining the charter;
- Monitoring the compliance and performance of the school it charters (At least twice annually while classes are in session.);
- Evaluating compliance and performance;
- Conducting bi-monthly fiscal meetings;
- Reporting the results of evaluations;
- Intervening as necessary;
- Renewing or non-renewing contracts, i.e. the charter of the community school;
- Providing technical assistance; and
- Providing services if requested under a separate service agreement agreed to by the community school and sponsor.

The duties and responsibilities of a sponsor are outlined in rule and law, and for those sponsors approved by ODE, in the sponsorship agreement as well as in the contract with each sponsored school.

Community school sponsors can receive a fee of up to 3% of a community school's operating budget. Sponsors are expected to exercise a proactive and ongoing role in supporting and providing services to its community school in accordance with the written contract between the sponsor and the community school that is required as a condition of the sponsoring process. The contract should clearly specify the level of the sponsor's involvement with special education in the school. A contract checklist is available on the ODE website.

Planning of a Community School

What is the Planning?

The Planning encompasses the planning activities preceding the submission of a community school application to a sponsor. This stage generally starts out very informally and grows increasingly structured as potential community school developers work to turn their vision of a school into a concrete plan that can be implemented. This is a critical stage in the creation of a community school. Sponsors shall ensure developers incorporate special education into their overall planning rather than add it later to existing policies and procedures.

What is a sponsor's role during pre-sponsorship related to special education in community schools?

Sponsors must be knowledgeable of the highly specialized area of special education, in order to monitor and provide technical assistance to their schools. Sponsors may have very limited knowledge of the highly specialized area of special education. Sponsors need to collaborate with others to access the expertise required to ensure that the community schools they sponsor can fulfill their obligations related to educating students with disabilities.

The Sponsor should confirm that within the contract, the governing authority of the community school will adopt admission procedures that specify, "That upon admission of any student with a disability, the community school will comply with all federal and state laws regarding the education of students with disabilities."

Sponsors' roles and responsibilities related to special education are highly dependent upon individual sponsor practices and procedures. Sponsors may encounter community applicants with limited knowledge of their responsibilities related to students with disabilities. Sponsors should ensure that community school developers are knowledgeable about federal and state laws related to educating students with disabilities and cognizant of their responsibilities related to special education. Sponsors that do not or cannot provide deeper technical assistance regarding special education themselves should refer school developers to qualified technical assistance providers who can give them the guidance applicants need throughout the planning phase.

At a minimum, community school application materials should inform the developers that special education is a sponsor assurance requirement to start a new school and they will be responsible for providing a full continuum of placements for students with disabilities. Sponsors should require that community school applicants demonstrate that they understand those responsibilities and can amass the capacity to meet them per ORC 3314.19 (B) demonstrate the capacity to provide those services in accordance with Chapter 3323 of the Revised Code and federal law.

How can I introduce potential community school applicants to the rationale behind special education laws?

Introducing community school developers to the reasons underlying special education may help lower barriers to implementing special education programs. In other words, sponsors should consider teaching potential operators why special education exists. Furthermore, it may be helpful to acknowledge that, while special education policies and procedures may appear complex, they have evolved over many years and stem from documented historical exclusion of children with disabilities from mainstream education. Community developers may require that community applicants attend a brief introduction to the civil rights origins of the Individuals with Disabilities Education Act (IDEA). An example of a resource that a sponsor could make available to community applicants is a publication from the *Future of Children* available on the background of special education available at the Future of Children website.

What does a sponsor need to know about basic IDEA concepts?

It is important that a sponsor have a clear understanding of some basic special education concepts that are incorporated into the federal laws. A "free appropriate public education" (FAPE) refers to special education and, if required, related services designed to meet the individual needs of students with disabilities based on an individualized education program (IEP). The "least restrictive environment" (LRE) is a requirement articulated in IDEA that stipulates that children with disabilities be educated in the general education classroom to the maximum extent appropriate and in the setting that they would be in if they did not have a disability unless the child's written plan or IEP requires otherwise. Where appropriate, students with disabilities are to be provided with supplemental aids and services to facilitate participation in regular education.

What responsibilities does a community school have for child find under special education?

IDEA requires each state to "have in effect policies and procedures to ensure that all children with disabilities residing in the State who are in need of special education and related services are identified, located, and evaluated" [34 C.F.R. §300.111 (Child find)]. The ODE requires each district to adopt policies and procedures for special education. Since each community school is its own LEA for special education, this adoption is required and "Child Find" is one of the responsibilities included. However, there are some differences for community schools since their status varies somewhat from the traditional LEA for whom the state procedures are written. The ODE has determined that community schools will carry out their child find responsibilities in the following manner:

- Community schools are primarily responsible for conducting formal "Child Find" activities on behalf of the students whose parents have enrolled them in their community school. However, they should also adopt a "Child Find" approach in

their recruitment efforts to parents and students who may apply to the school. The community school's recruiting materials and website should make it very clear that the school is open to any child who meets the school's age, grade and geographic enrollment criteria specified in the community school's contract, whose parents choose to apply, and that the school provides appropriate services for students with disabilities.

- A community school that has a target population and enrolls students from a wider area than its district of location must carry out an approach to child find that encompasses their geographic enrollment area as specified in their contract. The state has decided that this requirement can be met through notification about the availability of special education on the school's website or in other informational materials shared with the general public and families of enrolled students.
- Other community schools can meet this requirement in their local district in a variety of ways. According to the Ohio special education Rule: "The district may use methods such as screening of children, informational packets, and/or public notices in district mailings to parents as part of its child find activities" [34 C.F.R. §300.111 (Child find)].

Can a sponsor grant community school applicants waivers from federal special education requirements as part of their community school contract?

The federal government has not permitted any waivers from federal special education requirements for any public schools including community schools. Community schools, as public schools, must be open to, and serve the needs of, any student with a disability wishing to attend. However, state laws can grant community schools waivers from state and local requirements related to special education. Given that one of the tenets of the community school movement is the goal of fostering innovation, sponsors should strive to provide community school developers with the opportunity to develop special education programs in non-traditional ways as long as they operate within the parameters articulated in federal law. If in doubt, sponsors should contact the ODE to differentiate what is required at the federal, state and local level.

What are my responsibilities as a sponsor related to the No Child Left Behind Act (NCLB)?

Sponsors' responsibilities related to NCLB are determined by the Community School Law (Ohio Revised Code Chapter 3314).

The non-regulatory guidance provided by the U.S. Department of Education states that:

Section 1111(b)(2)(K) of the amended ESEA requires accountability for charter schools to be overseen in accordance with State charter school law. Thus, a State's charter school law determines the entity within the State that bears responsibility for applying the Title I, Part A accountability provisions, including AYP, to charter schools. This generally means that the charter authorizer is primarily responsible for holding charter schools accountable under the Title I,

Part A provisions unless State law specifically gives the State educational agency (SEA) direct responsibility for charter school accountability. We do not expect the local educational agency (LEA) in which the charter school is located to be this entity, unless it is also the charter authorizer.

For general information about NCLB, see the U.S. Department of Education website.

What issues should I encourage community school applicants to consider during the planning phase to ensure that they will be able to provide special education appropriately?

When working with community school developers, sponsors are wise to advise applicants of the value of the old adage, "an ounce of prevention is worth a pound of cure." When applied to developing a school that can educate students with disabilities, the "ounce of prevention" requires adequate planning during the community school development and start-up phase. The specific issues that community school operators should consider during the Planning phase can vary by individual sponsors within a state. The checklist at the end of this section is a list of issues sponsors should encourage applicants to consider related to special education. The list is not exhaustive, but rather a guide to key issues that potential community applicants should take into account. The answers to these questions will depend upon: 1) the contract negotiated between the sponsor and the school; and 2) the characteristics of the individual community school.

Are there any existing models of how to address special education during the planning phase?

A number of organizations (e.g., state education agencies (SEAs), local education agencies (LEAs), other sponsors, community school support organizations) have developed documents and orientation series that include information regarding special education relevant to community schools. Sponsors may want to visit the websites of the following organizations for relevant information:

- Ohio Department of Education: Office for Exceptional Children.
- Ohio Coalition for the Education of Children with Disabilities.
- Ohio Legal Rights Service Special Education.
- Ohio's State Support Team (SST) Network at the ODE website.
- Child Advocacy Center (Memorial, Inc.) in the Cincinnati area, at their website.
- Arizona Department of Education: Hot Topics in Special Education at their website.

- (Florida) Special Education: Information Briefs at their website.
- The Council for Exceptional Children is available at their website.
- The National Dissemination Center for Children with Disabilities (NICHCY) at their website.

Summary and Key Points

Per 3314.19 (B) Community Schools must submit a plan for providing special education and related services to students with disabilities and demonstrate the capacity to provide those services in accordance with Chapter 3323 of the Revised Code and federal law so the planning for special education is very important.

The planning phase provides community school sponsors the critical opportunity to inform potential applicants about their responsibilities related to special education. While many state community school laws and applications require applicants only to provide a general assurance that they will not discriminate or, more specifically, an assurance to abide by IDEA, many community school developers are not aware of what these assurances entail. However, once community schools are authorized and have evolved to the operating phase, the pressures associated with start-up and day-to-day operations frequently limit operators' abilities and available options to create an effective and efficient special education program.

In an effort to pre-empt potential problems associated with not complying with IDEA requirements, community school sponsors can take advantage of applicants' planning phase to educate applicants about special education. By educating applicants earlier rather than later, sponsors can encourage applicants to build special education into their vision of a school rather than simply add special education after the school model is developed.

Issues for Community School Applicants to Consider During the Planning Phase

HUMAN RESOURCES

- How many students with disabilities should we estimate that our school will enroll?
- How many special education teachers will we need to employ?
- What kind of certification/licensure will the special education teachers need?
- How does our state define “highly qualified” teachers according to NCLB and “qualified personnel” under IDEA?
- Can our school hire dual-certified teachers?
- Can we hire part-time or retired special education teachers?
- Will we need to hire staff for health-related issues?
- What are the implications for salaries and benefits if we hire full- versus part-time employees?
- If our school needs to work with an LEA, how do we negotiate with the LEA to ensure our students will receive appropriate services?
- How will we provide for an entire continuum of LRE options, if necessary?
- Will we need to contract with providers for related services?

CURRICULUM AND ASSESSMENT

- What curricula and instruction will our school offer?
- How will we modify the curriculum and instructional delivery to address the unique needs of children with disabilities?
- How can we train general and special education teachers to modify/adapt the curriculum and instructional approach for children with disabilities in inclusive (instructional settings) classrooms?
- How will our school include children with disabilities in required assessments or (use) develop alternate assessment?
- How will curriculum and assessment decisions be considered and monitored by IEP teams and staff?

PROFESSIONAL DEVELOPMENT

- How will our school provide teachers with professional development?
- Will teachers need any specialized professional development related to educating and including children with disabilities?

- Does the district or the state operate a professional development program or network that we can utilize?

ADMINISTRATION/COORDINATION

- Do we have the capacity to coordinate special education or will we contract out this responsibility to an external entity?
- Who will administer the special education program?
- Who will be responsible for collecting, managing and reporting data related to children with disabilities?
- Can we create our own system to administer special education or will we adopt the policies/procedures dictated by our sponsor, local district, or other administrative unit?
- How will our school handle student records and other school property appropriately in the event of closure of the community school?
- Who will coordinate the special education program?
- Will we contract with an external provider to assist with administration of special education and develop internal policies and procedures?

SPECIAL EDUCATION FUNDING

- How will federal, state and local special education dollars flow?
- What does our school need to budget for special education during the first year of operation?
- Do we need to prepare financially to enroll a student with significant special needs?

FACILITIES

- Where will we conduct student evaluations?
- Where will we conduct IEP meetings?
- Where can we store confidential student records?
- Where will we provide pullout services?
- Where can related services personnel meet with individual students?
- Are entrances, classrooms, common areas and bathrooms accessible to individuals - including adults - with physical disabilities?
- Does the facility have space for a nurse to store and administer medications or use medical equipment?

TRANSPORTATION

- How will our school meet transportation needs of students who receive transportation as a related service articulated on their IEP?

SPONSORSHIP OF A COMMUNITY SCHOOL

What occurs during the sponsorship phase?

The sponsorship phase incorporates the stage in which the applicant completes the formal written application and seeks a community school contract. The application process typically conforms to broad requirements in Ohio's community school laws and is further developed by individual sponsors. Community school applicants are generally required to articulate in one form or another, the school's mission, governance structure, educational model, budget and assessment and accountability plan. In addition, individual sponsors usually develop their own policies and procedures. Prior to the school going forward, a contract is executed that articulates the formal relationship between the sponsor and the community school governing authority. Once a community school is granted, the sponsor and the community school negotiate a contract that articulates in greater detail the basis on which the sponsor will hold the community school accountable for performance. The contract will also outline how finances - including special education finances - will be managed.

During this stage, the community school developer transitions to a formal governing authority that has legal responsibilities for which they will be held accountable by their sponsor.

When reviewing community school applications, in what areas should I anticipate or require information regarding an applicant's plan to incorporate students with disabilities?

- Administration
- Curriculum, instruction and assessment
- Enrollment
- Special education evaluation and service delivery
- Specialized personnel (e.g., certified special education teachers, administrators, related services personnel)
- Budget
- Facility
- Transportation

What should sponsors ask applicants about their plans to provide special education services to students with disabilities?

Per ORC 3314.03 Sponsors must ask applicants at a minimum to articulate a plan regarding governance, service delivery, financing and capacity for providing of special education. It is critical that applicants demonstrate to sponsors that they have a well conceived, feasible plan to access the capacity they will need to meet their legal responsibilities. Sponsors should ask applicants to provide some or all of the following plans during the application and sponsorship phase:

- Plan to develop intervention assistance teams (e.g., pre-referral);
- Plan to evaluate and identify children with disabilities;
- Plan to develop, review and revise IEPs;
- Plan to provide access to the general education program for students with disabilities;
- Plan to provide opportunity for students with disabilities to be included in the least restrictive environment as determined by the IEP team;
- Plan to deliver special education and related services (e.g., in-house or contract out?);
- Projected cost of special education program (e.g., percent of operating budget);
- Plan to access and account for special education funds;
- Anticipated sources for ongoing legal guidance related to special education;
- Plan to ensure that the school facility meets the requirements of other related laws such as the Americans with Disabilities Act (ADA) and Section 504;
- Plan for enrollment/IEP transition from school to work procedure;
- Plan for IEP development and review meetings;
- Plan to address student discipline in accordance with federal and state laws;
- Plan to conduct manifestation determination hearings associated with discipline issues;
- Plan to address disputes and complaints involving parents;
- Plan to ensure confidentiality of special education records;
- Plan to comply with FERPA;
- Plan to comply with HIPPA;
- Plan to purchase services from special education vendors and thereafter develop a plan to monitor and hold the service provider accountable; and
- Plan to secure special education technical assistance and training.

What is my responsibility as a sponsor to ensure that community schools serve children with disabilities?

The Ohio community school laws explicitly assign sponsors responsibility for the community schools that they sponsor. The full extent of sponsor responsibilities related to special education has yet to be established. At a minimum, per ORC 3314.06 (D) and 3314.03 sponsors have a legal responsibility to provide community schools with information regarding their obligation to serve all children, including children with disabilities. Under Ohio law, a community school has the same responsibilities regarding special education as the Local Education Agencies (LEA) in the state. Ohio sponsors are responsible for technical assistance, monitoring, and intervening in a timely fashion. As will be discussed later under oversight responsibilities, sponsors also have responsibility to ensure that community schools serve all students who enroll and to meet other special education requirements, although ultimately, it is the state's responsibility to ensure that districts or schools are in compliance with IDEA.

As a sponsor, am I, or is my agency, liable if community schools I authorize do not serve children with disabilities or otherwise do not implement special education properly?

Sponsors should seek legal counsel regarding local and state special education regulations and the degree to which community schools, parents, or the Ohio Department of Education may hold the sponsors accountable for the implementation of special education in the community schools that they authorize.

What are some issues sponsors should monitor related to discrimination against students with disabilities?

Sponsors should consider monitoring enrollment data to look at special education enrollment trends in the schools they sponsor. Sponsor may also receive parent complaints and should review such issues with the school administrator.

Can a community school "counsel-out" a student with a disability?

As public schools, community schools are not allowed to discriminate against students with disabilities. "Counseling-out" is the process of subtly or not-so subtly "counseling" a child with a disability to influence an enrollment decision inappropriately based on the child's disability. An issue that arises in both community schools and traditional public schools is "counseling-out" of students with disabilities.

Community schools are public schools and as such, they are legally required to maintain open enrollment policies. Advising students with disabilities that they are not allowed to attend, or that the community school cannot provide the modifications or accommodations necessary to enable them to attend, is discriminatory and illegal. All placement decisions for students with disabilities should be made in the forum of an IEP meeting and must be based on an individual student's educational requirements. The federal Office for Civil Rights (OCR) is charged with investigating issues raised about discrimination against students with disabilities.

What placements must a community school make available to students with disabilities that are enrolled in the school?

Because Ohio community schools are their own districts, they are responsible for a full continuum of special education placements in accordance with federal and state law. The IDEA regulations describe this requirement as follows:

Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services [CFR 34 §300.551].

That requirement is further described as follows:

The continuum must (1) include the alternative placements listed in the definition of special education (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

For a definition of special education see 34 C.F.R. § 300.39, for LRE requirements see 34 C.F.R. §300.14 for continuum of placements see 34 C.F.R. §300.115 and placements see 34 C.F.R. §300.116.

To ensure that appropriate LRE placement decisions regarding enrollment are made based upon each individual child, as opposed to groups of children with particular disabilities and upon the best interests of the child as opposed to the convenience of the community school, decisions regarding appropriate placement must be made by an IEP team. Note that it is important to not confuse an LRE placement with a related service.

To what degree are community schools required to modify their programs to accommodate a student with a disability?

Like all public schools, community school must accommodate the needs of their students with disabilities in accordance with IDEA and Section 504. For a more detailed explanation regarding access to community schools for students with disabilities, see the OCR document *Applying Federal Civil Rights Laws to Charter Schools*, at the US Charter School website.

What are examples of appropriate classroom adaptations, accommodations and modifications offered to children with disabilities?

Community schools should approach adaptations, accommodations, and modifications for students with disabilities with a good faith effort to include the student in the regular education curriculum and classroom to the maximum extent possible. Examples of appropriate classroom adaptations, accommodations and modifications that enable a child to access the curriculum include:

- changing the manner in which material is presented;
- creating personalized study guides;
- adapting textbooks;
- arranging the classroom environment to enhance student learning;
- altering task requirements;
- selecting an alternate task for a classroom assignment;
- managing classroom behavior;
- promoting social acceptance; and
- using assistive technology devices.

More information on classroom adaptations, accommodations and modifications is available from the National Dissemination Center for Children with Disabilities website.

Students with disabilities may need special accommodations to participate appropriately in district and statewide testing. The use of accommodations for a student is decided by the student's IEP team meeting and documented on the IEP. For State policy visit ODE's website.

What is my role in ensuring that community schools fulfill their mission while complying with their obligation related to adaptation, accommodations and modifications required by IDEA?

Sponsors should require applicants to articulate their mission explicitly and ensure that the community school is prepared to offer appropriate accommodations to children with disabilities who elect to attend the school to ensure FAPE. A key component of accommodations is a school culture that incorporates a commitment to offering accommodations to individuals with disabilities while integrating them into the nature of the school's mission. Sponsors should scrutinize community schools' admission policies to ensure that the policies don't block enrollment for particular students or groups of students.

Sponsors should ensure that school administrators are familiar with the *Operating Standards For Ohio's Schools Serving Children With Disabilities* available from ODE at the OEC website.

Can a community school's curriculum or instructional strategies alone meet the needs of students with disabilities?

The core tenet of the IDEA is that children are treated as individuals with unique abilities and disabilities that need to be addressed by providing unique support services, which are explicitly articulated in an IEP. Even if the school plans to provide all children with individualized learning plans loosely analogous to IEPs that address each student's unique cognitive and physical abilities and disabilities, the learning plan for a student with a valid eligibility determination must conform to all of the requirements of IDEA. To determine whether these learning plans or other approaches meet IDEA procedural requirements, community school administrators must be very familiar with special education rules and regulations. In general, any policy that aims to treat all children with disabilities *the same way* should raise a red flag to sponsors assessing applications. When reviewing community applications, sponsors can request additional information regarding how the community school plans to ensure that its particular curriculum or instructional approach can address the unique individual needs of students with disabilities.

There are community schools that serve primarily or entirely students with disabilities (e.g., students with autism). When a child enrolls in this type of community school, the IEP team may determine to modify the IEP to reflect the unique environment in the special education community school while meeting the individual needs of the student.

What does it mean to have the capacity to provide special education services?

Special education capacity entails having the human, fiscal and legal resources required to fulfill the responsibilities articulated in IDEA. At a minimum, capacity includes the following abilities:

- to review and implement existing IEPs as appropriate to the student's new school placement in the community school,
- to refer students with suspected disabilities to special education,
- to conduct evaluations,
- to develop IEPs and
- to provide special education and related services for all entitled students enrolled in the school.

Sponsors need to be confident that applicants either have established, or can access, the capacity they will need to meet their special education responsibilities. This could involve securing related services.

Ohio State Support Teams (SSTs) and Education Service Centers (ESCs) may be able to assist community schools access some specialized personnel. Sponsors should encourage community schools to document their efforts to secure specialized personnel and develop a plan to provide compensatory services once the specialized personnel are secured. For a list of SSTs and ESCs see ODE's website.

Why is it important for sponsors to ensure that community school applicants have the capacity to provide special education services?

By ensuring that community schools have the capacity to provide special education services, sponsors can help community schools avoid potential liability and ensure that all students who enroll have the opportunity to obtain an appropriate education.

When does a community school need to have the capacity to provide special education services and comply with federal and state laws?

Community schools need to have the capacity to meet their legal responsibility for special education and comply with federal and state laws before they open their doors on the first day they open and thereafter for as long as they operate.

How are community schools developing the capacity to deliver special education services in the school?

Building special education capacity may entail various arrangements depending upon the characteristics of the community school. Examples of approaches community schools are using to increase their special education capacity include:

- 1) hiring appropriate administrative and instructional professionals to work at the community school;

- 2) contracting with external service providers;
- 3) contracting with local education agencies;
- 4) contracting with a regional education agency or cooperative;
- 5) contracting with individuals or organizations qualified to provide special education services to provide special education related services;
- 6) contracting with an education management organization or a charter management organization; or
- 7) some combinations of these approaches.

As long as community schools can ensure that children with disabilities enrolled in their schools have access to a free appropriate public education, they may utilize a variety of strategies to amass the capacity.

Do community schools have to hire licensed special educators?

The elements of flexibility that are extended to all teaching positions in community schools in Ohio have been also extended to those employed as special education teachers or intervention specialists. They have been required, at minimum, to hold an Ohio teaching certificate or license, which includes a "Long term substitute license".

However, this element of flexibility is changing in Ohio.

Ohio Revised Code 3323.11, which was amended by H.B.119 effective September 2007, clarified and prompted an analysis of special education licensure requirements for community schools. The analysis revealed that while Ohio community school law allows some flexibility in meeting teacher licensure requirements, community school law does not exempt community schools from meeting the special education requirements in ORC 3323. Though the Community School Special Education Licensure plan will provide a framework to phase-in licensure requirements over four years to provide teachers ample opportunity to meet the requirements without disrupting current programs, community schools are expected to comply with all federal and state laws for the education of students with disabilities, submit a plan for providing special education and related services to students with disabilities, and demonstrate the capacity to provide those services in accordance with Chapter 3323 of the Revised Code and federal law. Ohio's Operating Standards for Educational Agencies serving Children with Disabilities requires special education teachers and intervention specialists to be adequately prepared and trained, have content knowledge and skills, and hold appropriate licensure as defined by ORC 3301.24.

The timeline for implementation is as follows:

2009 – 10

- Current special education teachers and intervention specialists (IS) who do not presently hold intervention specialist licensure may continue to teach on a long-term substitute or out-of-field license but must agree to work towards receiving an appropriate license*.

- Current special education teachers and intervention specialists who meet requirements for the alternative educator license (AEL) or supplemental license pursue appropriate license*.

2010 – 11

- Current special education teachers and intervention specialists who have either an AEL or one-year supplemental license continue to work towards receiving an appropriate license*.
- All NEWLY HIRED special education teachers and intervention specialists must possess appropriate license*.

2011 - 12

- As above.

2012 - 13

- All special education teachers and intervention specialists possess appropriate license*.
- *Appropriate licensure for working as an intervention specialist or special education teacher is defined as one of the following: a two-year provisional or five-year professional IS license, an alternative educator license (AEL) for IS, a supplemental teaching license for IS, or an eight-year professional or permanent teaching certificate for education of the handicapped

How community schools deliver services to children with disabilities is vital in determining additional requirements. Intervention Specialists who are responsible for the instruction of children with disabilities are also bound by "Highly Qualified Teacher (HQT)" requirements just as any other teacher would be, for the specific grade level or content material that they are teaching. However, special education teachers who serve in a consultative role to other teachers and are not teaching content are not bound by such additional requirements.

It is important to note that Sponsors, by virtue of their contracts or "charters" with the Governing Authorities of their community schools, may establish more rigorous licensure requirements for special education teachers than those required by statute. Similarly, each community school's Governing Authority may also choose to establish additional licensure requirements for special education teachers as defined within their written policies.

Given the current shortage of special education teachers nationwide, what strategies can community schools use to hire teachers and related services professionals?

Community schools can employ creative strategies to access certified/licensed special education and related services professionals. Six strategies that community schools commonly use are:

- hiring faculty with dual licensure (e.g., elementary education and special education);
- hiring consultants to provide special education services;
- hiring retired teachers to work part-time;
- developing collaborative agreements with an LEA;
- developing collaborative agreements with other community schools to share special education teachers; and
- forming partnerships with a local non-profit entity (e.g., a hospital) or a post-secondary institution that employs related professionals.

Where can community schools learn more about their state's requirements regarding special education certification/licensure?

The Ohio Department of Education website contains detailed information about certification/licensure/licensure at the Office of Educator Licensure website.

Because special education is one of the areas in which there is currently a shortage of teachers, many states sponsor programs designed to encourage individuals to obtain special education credentials. Sponsors may want to make community school applicants familiar with the various teacher recruitment and induction programs offered in their state. These programs may be rich sources of qualified teachers, including special education personnel, for community schools. For additional resources, see the ODE website section on the Center for the Teaching Profession .

What are the major expenses associated with special education?

Expenses associated with special education fall into four general categories: personnel, equipment, facility modifications and transportation.

How can community schools in Ohio plan for their expenses related to special education?

As a general rule of thumb, community schools should anticipate that approximately 13 percent of their student population will be students with disabilities and budget accordingly.

How do community schools pay for the costs associated with providing special education services?

There are federal, state and local resources to pay for special education. However, historically these resources are less than what districts spend to fulfill the requirements of IDEA. Sponsors should ensure that applicants know how to access all the federal,

state and local resources that are available to their students with disabilities. Community schools need to have a plan in place and anticipate the expenses associated with the plan to deliver a continuum of placements to students with disabilities. The plan should include the anticipated growth outlined in the community school's five year forecast. Community school developers should be advised to consider developing a financial reserve in case their special education expenses exceed revenue.

Funding for special education in Ohio is based on a weighted student count. The weights are based on the student's category of eligibility and the weights are assigned by the state according to the following categories, with increased funding accompanying more involved disabilities:

1. Speech
2. LD, CD, Other Health – minor
3. Hearing Impaired, Visually Impaired, ED
4. Other Health – major, Orthopedic
5. MD
6. TBI, Autism, Deaf-Blind

What is excess cost as it relates to special education?

Excess costs are the costs a school or district incurs as a result of providing special education services but which are not covered by state or federal special education funding sources. One component of the Ohio school finance program is Catastrophic Aid for special education. For further information, see the documents available at [the](#) OEC website.

Sponsors do not have any responsibility related to excess costs for students with disabilities enrolled in the community schools they sponsor.

What is the legal basis for requirements related to public school facilities' accessibility to students with disabilities?

Legal requirements regarding accessibility are complex and stem from the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act. To read these laws and see documents regarding their implementation in public schools please see the following websites:

- Americans with Disabilities Act of 1990
- Section 504 of the Rehabilitation Act of 1973
- ADA and Section 504, Kids source

What should sponsors advise community schools about accessible facilities?

Community schools are required to provide accessible facilities. Negotiating the parameters of the ADA and 504 is challenging and sponsors should strongly encourage the schools they authorize to seek legal counsel regarding their obligations associated with accessibility. (See the Frequently Asked Questions document at ODE's website.

Sponsors also should obtain counsel, to be familiar with the requirements themselves.

If a community school is required to make its facility accessible to an individual with a disability, whose responsibility is it to make the building accessible?

Responsibility to modify a facility, even in the event of unforeseen need, should be articulated in the lease between the community school and the owner of the facility. Sponsors should strongly encourage community operators to seek experienced legal counsel prior to signing any contracts to lease or purchase a facility for their school. Ultimately, the community school governing authority is responsible for ensuring that the school facility is accessible to individuals with disabilities.

What responsibility do community school sponsors have for monitoring accessibility of community school facilities?

Community school administrators must seek occupancy permits and meet all local health and safety codes. Sponsors are responsible for ensuring that the school has obtained the required permits to operate the community school prior to its opening. Community school sponsors are ultimately responsible for ensuring that community school administrators fulfill their obligations outlined in their contract and comply with all applicable laws. Thus, sponsors are required to ensure that community school facilities are accessible to individuals with disabilities in accordance with federal and state laws.

Where should a sponsor direct its community school administrator to obtain information about accessible facilities?

- See the ODE Community Schools FAQ document on the ODE website.:
- See the US DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS website.
- See the AMERICANS WITH DISABILITIES ACT website.

Do community schools have to provide transportation to students with disabilities?

The district of residence where the community school is located shall provide transportation for students who live no more than ten miles and less than a thirty-minute ride of the community school. Additionally, school districts or residence are required to provide the same level of transportation services to students enrolled in community

schools as they do to students enrolled in their traditional district schools. See the Office of Community Schools FAQ website.

Transportation can be a related service provided as a component of a child's IEP. If transportation is identified as a related service, the responsibility for transporting the child to the community school is a special education cost and is the responsibility of the community school, consistent with resident district practice.

Summary and Key Points

The sponsorship stage is critical to the development of successful community schools. Building on the foundation established during the Planning, the sponsorship process provides sponsors the opportunity to verify potential operators' knowledge about their responsibilities and to assess the degree to which an applicant is capable of fulfilling these responsibilities. Community school sponsors should be knowledgeable about special education. This basic knowledge will enable sponsors to ensure that: 1) community school applicants fully understand and are prepared for their responsibility to educate students with disabilities, 2) community school applicants integrate their plan to provide adequately for special education within their application and 3) the IEP team include someone who serves as the representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district as well as someone who can interpret the instructional implications of evaluation results. By providing community developers early guidance on how to anticipate and adequately address the application process, sponsors can help community schools preempt a variety of challenging issues that will emerge once a child with a disability enrolls in the community school.

Oversight, Accountability and Renewal

What is my role as a sponsor to hold community schools accountable in the area of special education?

Once the community school doors open and the students arrive, community sponsors' responsibility shifts from granting contracts to create community schools to overseeing the schools and holding them accountable for the goals and objectives outlined in the community school's charter or contract and in rule and law. The community school charter is a performance contract and the sponsor is responsible for technical assistance, monitoring and intervening in a timely manner to ensure that community schools fulfill the responsibilities articulated in their contract.

Do sponsor agencies have any obligation to complete paperwork related to special education in the community schools they sponsor?

Sponsors monitor and oversee community schools' paper work including random onsite reviews, but the community school personnel are responsible for completing all paper work. If community schools hire external entities to help manage special education issues, the community school remains ultimately responsible for its reporting obligations.

Where or when is my role related to accountability formally articulated to the community schools I authorize?

Community school approval includes the submission of an accountability plan developed by the community school that contains specific means by which the sponsor will monitor whether the community school is fulfilling its goals. The plan includes a site visit prior to when the school first opens; bi-monthly financial reports, annual submission of reports pertaining to enrollment, achievement and finance; annual site visits/evaluations/reviews; and, eventually, a formal assessment associated with the community school renewal process.

Examples of voluntary monitoring implemented by individual sponsors:

- Monthly and annual reports;
- Attend governing authority meeting;
- Regional representatives within 50 miles of the school that regularly visit community schools;
- Data review; and,
- Work with other agencies that have a stake in the schools to monitor community schools

Since data collection and documentation are important aspects of IDEA, what types of data and documentation regarding students with disabilities should sponsors require that community schools collect and report?

Data and documentation are two major accountability tasks. Community schools' responsibility to collect and report data regarding special education is dictated by state law and ODE policy. Community schools are obligated to collect and report the same information that all school districts in Ohio must report such as statistical data on students, results of standardized tests and financial information. Examples of special education data and documentation that a community school must compile include student counts as well as more procedural documents that would be reviewed as part of special education monitoring. Each community school must assign someone to coordinate data submission. See the Education Management Information System (EMIS) information on ODE's EMIS website.

What should sponsors know about the federal and state special education monitoring processes?

The federal Office of Special Education Programs (OSEP) monitors every state on its compliance with IDEA requirements. In turn, each state must monitor how its districts comply. Community schools are held accountable for special education in the same manner as all districts.

The ODE Focused Review of Special Education Programs monitors districts to ensure compliance with federal and state laws and regulations applicable to children with disabilities. Focused monitoring activities require selected districts to analyze their instructional practices and research-based interventions that impact student performance. As part of the monitoring process, ODE requires the school to assemble a team to review district procedures in order to ensure that LEAs comply with the requirements of special education law. Districts are reviewed randomly or selected on the basis of EMIS data. Examples of issues that trigger compliance monitoring visits include data related to LRE, disproportionality, and suspension and discipline. A report documenting the findings is issued after the review and the monitored entity must correct any identified compliance violations.

Sponsors should ensure that community schools understand how they will be monitored and their responsibilities for the process. Details about state monitoring are available at: OEC's website.

What is the process for resolving disputes about special education between parents and schools?

Federal law requires every state to establish a formal complaint system and to make available mediation and due process hearings at no cost to parents. Information and related forms for dispute resolution in Ohio are available on the ODE/OEC website.

Should sponsors consider special education part of the community school renewal process?

Failure to fulfill obligations related to special education could be a criterion contributing to non-renewal. Special education and specifically the performance of students with disabilities should be considered explicitly as a regular part of the community school's progress toward meeting its overall goals.

A key factor that sponsors may want to assess when contemplating renewal is whether community schools have been the subject of any informal or formal complaints related to special education service delivery or procedures. While complaints can arise from a variety of issues separate from the quality of special education services provided, multiple complaints should raise a red flag at renewal time. Multiple or persistent complaints may be an indication of a substantive failure to provide a free appropriate public education to students with disabilities. Low enrollment of students with disabilities in a community school may serve as a "yellow flag" that triggers further inquiry regarding enrollment practices and questions regarding "counseling-out."

Summary and Key Points

Accountability is a core tenet of the community school concept and one of the critical responsibilities of all community school sponsors. State community school laws generally provide broad guidelines regarding how community schools will be held accountable for fulfilling the goals and objectives articulated in their communities while leaving sponsors the discretion and responsibility to develop an adequate renewal decision-making process. Community schools are also required to participate in federally required monitoring and accountability processes. As with most issues, the manner in which community schools are held accountable for educating students with disabilities and participating in federal and state monitoring processes is dictated by individual states and specifically by the community school's legal status and linkage to an LEA.

Non-Renewal, Revocation, and Relinquishment

What is the meaning of the terms expiration, probation, suspension, termination, non-renewal, and relinquishment in relation to community schools?

Specific conditions connected with each of these actions may be determined by the individual sponsor and should be clearly delineated in the contract between the sponsor and the community school.

EXPIRATION of the contract for a community school between a sponsor and a school is the date of the end of the contract's term of operation. A successor contract may be entered into according to the community schools law unless the contract is terminated or not renewed, and no new sponsor is secured.

PROBATION occurs when a community school is required to submit a corrective action plan as a result of findings of non-compliance issues.

SUSPENSION occurs when the sponsor temporarily suspends the operation of a school for more serious issues of non-compliance. Suspension is intended to correct any errors in the governing authority's compliance with the terms of the school's contract and the law and is not intended to be an alteration of the terms of that contract. All state and federal funding stops during the suspension. Any such suspension shall remain in effect until the governing authority submits a corrective action plan which the sponsor finds acceptable and sufficient.

TERMINATION occurs when a sponsor proactively (prior to a regular renewal process) terminates its contract with a school and, consequently, the school's legal authority to operate as a school district because the community school has failed to meet the obligations articulated in its community school contract with the sponsor.

NON-RENEWAL is what occurs when a community school seeks renewal and the sponsor does not grant the community school a new contract. As a result of not

having its contract renewed, the community school loses its authority to operate and can no longer exist as a public school, unless it secures another sponsor.

RELINQUISHMENT is a voluntary release or surrender of an authorized contract by the community school's governing authority, in contrast to a termination, which is initiated by a sponsor. Relinquishments may occur either prior to, or after, a community school's opening.

A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

- (a) Failure to meet student performance requirements stated in the contract;
- (b) Failure to meet generally accepted standards of fiscal management;
- (c) Violation of any provision of the contract or applicable state or federal law; or,
- (d) Other good cause [3314.07(B)].

See the OCS website for information on Community School Closing Procedures and Closing Assurances.

If a community school ceases to exist, what has to be considered relative to students with disabilities?

To ensure appropriate procedures will be followed in the event of a closure, sponsors should require that specific responsibilities for student records and the allocation of other school property are addressed in the application process and subsequently codified in the school's charter or contract with the sponsor. When a community school is closed, the community school governing authority has an obligation to ensure that student records are sent to the school district of residence or the school where the student plans to enroll. Sponsors must work with governing authorities (if still functional) of closed community schools to ensure that records are handled appropriately. If there is no known school of transfer for the child, the sponsor should consult the Community School Closing Procedures Guidance (link below) and/or seek counsel from the SEA regarding the appropriate transfer of student records.

Sponsors will also need to ensure that there is a specific accounting for special education funds. Special education programs receive funding from federal, state and local sources. As such, dismantling a special education program requires careful accounting of how special education dollars were spent and the disposition of materials and equipment purchased with special education dollars. (See the document, *Community School Closing Procedures Guidance*, for advice to sponsors on the full range of sponsor responsibilities in the closing of a community school.

In the case of termination, non-renewal or relinquishment, how should community schools dispose of any special equipment that was purchased for students with disabilities?

Ohio law dictates how a community school's assets are to be distributed should the school close. In general, special equipment purchased for a student with a disability should follow the child to his or her next public school placement or alternatively, be returned to the local district that is the student's district of residence. Disposing of equipment purchased with federal special education dollars is dictated by federal requirements that may be different from what is typically articulated in a community contract. Sponsors should check state and federal requirements for disposal or transfer of equipment purchased with state or federal special education money.

In the case of school closure, are there special procedures for handling special education student files?

All students' educational records are protected by the Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g; 34 CFR Part 99 that stipulates how the records are to be handled appropriately. Community school administrators are primarily responsible to prepare these files for transfer. If a school administrator is not available to prepare these files for transfer, then the sponsor assumes responsibility for them. These files must be maintained separately from general student records and should be transferred to the person responsible for special education records in the receiving school/district. When requested by the next educating school, a student's special education records cannot be withheld under any circumstances. Information about FERPA is available at the FERPA website.

Summary and Key Points

Ensuring the proper transfer of student records and appropriate disposition of all assets in the event of closure, including those specifically for special education is a responsibility for which sponsors must always be prepared. Regardless of the environment in which a school closes, sponsors are responsible for ensuring that the necessary steps are taken to protect students' rights to privacy and maintain the integrity of records. Establishing the procedures for closing a school, including special education considerations, should be incorporated into the initial community contract to ensure that all parties are aware of their roles and responsibilities in the event of closure.

Technical Assistance and Resources

Technical Assistance and Resources

Providing special education in community schools, not unlike traditional public schools, is challenging for a variety of reasons, and amassing the capacity to deliver special education requires early and ongoing technical assistance related to the complex requirements stemming from IDEA. Although sponsors may vary in how they perceive their relationship to the schools they sponsor, sponsors do play a critical role in informing community schools of their responsibilities related to special education, and also are tasked with providing technical assistance related to special education.

Community schools can tap into a variety of networks to learn more about special education in general and issues related to special education in community schools specifically. Following is a partial list of resources that sponsors should be familiar with and to which they may direct potential community school applicants.

Ohio Department of Education

ODE can be a rich source of general information regarding special education and, in some cases, specific information regarding special education in community schools. See ODE 's web page for community school.

Local Education Agencies

Traditional school districts in and out of Ohio may have resources posted on their websites that could be helpful to community school sponsors. Prior to developing new policies or procedures, sponsors may benefit from exploring these websites or engaging in collaborative conversations with traditional school districts.

Special Education Regional Resource Centers (SERRC)

There are 16 State Support Teams SSTs in Ohio and they serve a geographic region. Their responsibilities, service delivery, and projects are driven by ODE. SSTs are federally funded under IDEA funds. SERRCS provide training, professional development, resources for parents and professional, technical assistance, parent surrogate training, parent advocates. It is important for sponsors to assist community schools link with their local SSTs. See ODE's website for detailed information on the SSTs.

Educational Service Centers (ESC)

ESCs are support educational entities including traditional and community public school districts and they operate on a fee-for-service basis. Examples of services provided by ESCs are: personnel, fiscal, printing, and transportation. Each ESC is somewhat unique and some are community school sponsors. See ODE's website for detailed information on the ESCs.

Ohio Center for Autism and Low Incidence (OCALI)

OCALI is a statewide federally funded project under the direction of the Ohio Department of Education, Office for Exceptional Children. OCALI serves as a statewide clearinghouse for information about autism spectrum disorders and low incidence disabilities; responds to individual requests for information; maintains a collection of resources for public distribution; and monitors information on resources, trends, policies, services, and current educational interventions. Information is available at the OCALI website.

Ohio Coalition for the Education of Children with Disabilities (OCECD)

Special education non-profit advocacy organization dedicated to advancing the educational interests of children with disabilities that supports families/parents. Information is available at OCECD website.

Information Technology Centers (ITCS, FORMERLY DA SITES)

There are 19 ITCs in the state. ITCs are funded by services and ODE. ITCs provide resources regarding the collection of data and student management data systems (e.g.,

Education Management Information System EMIS).

Regional School Improvement Teams (RSITS)

There are 12 RSITS across the state, they provide professional development and technical assistance to schools and districts that are in school improvement status under NCLB. For additional information, see ODE's website.

U.S. Department Of Education (ED)

Several offices in the U.S. Department of Education maintain websites that may be helpful to community school applicants. OSEP maintains a Technical Assistance and Dissemination web page that provides links to a variety of resources related to special education. Another office that has more general resources for community schools is the Office of Innovation and Improvement.

National Association of Charter School Authorizers (NACSA)

NACSA is a nonprofit membership association of educational agencies across the country that authorize and oversee public community schools. Created in 2000 by a diverse group of community school sponsors nationwide, NACSA is dedicated to supporting and strengthening the capacities of sponsors to community successful schools. It provides many resources of significant value to community school sponsors through its website.

National Special Education Networks

- NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION (NASDSE) provides a wide range of information regarding special education including research reports and technical assistance documents pertaining to special education in community schools .
- NATIONAL DISSEMINATION CENTER FOR CHILDREN AND YOUTH WITH DISABILITIES (NICHCY) is an information and referral center that provides free information on disabilities and disability-related issues. Children and youth with disabilities (birth to age 22) are NICHCY's special focus .

National Charter School Networks

- US CHARTERSCHOOLS website contains extensive information about community schools, including research reports, state contacts and upcoming events related to community schools.
- CENTER FOR EDUCATION REFORM provides up-to-date information about state community school laws .