

January 8, 2014

To: Representative Pridemore, Chair  
Representative Thiesfeldt, Vice Chair  
Members, Assembly Committee on Urban Education

From: Lisa Pugh, Public Policy Coordinator

**Re: AB 549 – Independent Charter Schools**

Nationally charter schools have been expanding rapidly and AB 549 would accelerate this expansion in Wisconsin. Like traditional public schools, charter schools must comply with various federal requirements to educate and protect students with disabilities from discrimination, including Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). These laws ensure parent rights including a student's right to a Free and Appropriate Public Education (FAPE).

States with more extensive charter school systems show us that there are ongoing questions about whether charter schools are appropriately serving students with disabilities.

[A 2011 Florida investigation](#) showed that more than 86 percent of that state's charter schools did not serve a single child with a severe disability (a category that would include students with autism, Down syndrome, and cerebral palsy) compared to more than half of district schools which did serve these children. This pattern of enrollment was also reported in charter school systems in Texas, California, Louisiana and New York. In 2011 [the Government Accountability Office](#) (GAO) found that compared to traditional public schools, charter schools enrolled a lower percentage of students in each of the 13 disability categories. Special education experts refer to this as "a pattern of exclusion" which means that a charter system tends to either develop segregated charter schools specifically for students with disabilities (going against best practice research that integration and inclusive schools offer the best educational outcomes for a student with a disability) or students with disabilities are disproportionately served in the traditional district school.

In states with mature charter school systems data indicates that funding mechanisms serve as a disincentive to enroll students with disabilities because they cost more to educate. Unfortunately, without additional protections, AB 549 sets up the scenario for this to occur in Wisconsin. Although there can be multiple reasons for the national charter school enrollment trends, we strongly advise that any Wisconsin expansion of charter school systems ensures accountability to educate students of all disability types and specific monitoring of enrollment data to prevent unintended consequences.

It is Disability Rights Wisconsin's experience with existing Wisconsin charter schools that accountability and understanding of the rights of students with disabilities is inadequate. DRW was recently involved in a case in which a student was returned to the Milwaukee Public School system because they were suspended and eventually expelled without the charter school following state law. In this case, DPI required immediate corrective action on basic measures to ensure the school would properly respond to parent requests for special education evaluation, follow proper procedures for placing a child in special

MADISON OFFICE  
131 W. Wilson St.  
Suite 700  
Madison, WI 53703

608 267-0214  
888 758-6049 TTY  
608 267-0368 FAX  
800 928-8778 consumers & family  
disabilityrightswi.org

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education and properly follow special education disciplinary requirements. AB 549 must ensure the rights of students with disabilities are protected.

In addition, the funding mechanism for AB 459 is concerning as it allows for per-pupil payments to charter schools from a reduction in general aid paid to every public school district in Wisconsin. This potentially significant reduction will have a negative impact on the students with disabilities (likely those with the most severe needs) who remain in the public school.

Finally, this bill presents another opportunity to emphasize that Wisconsin's school accountability system must ensure that outcomes of students with disabilities are disaggregated by disability and compared equally across all school types whether they be public, charter, magnet or voucher. Accurate data comparison is the only way to ensure transparent school choice for parents and funding accountability for taxpayers.