



Washington County School  
District  
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# District Policy 8000

## Special Education Policy

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# Special Education Policy

Washington County School District: Approved September 2017

~~Revised 10/2017. This policy is consistent with the Utah State Board of Education Special Education Rules (USBE SER October 2016) and the September 2017 District of~~

## I. GENERAL PROVISIONS.

### A. POLICIES AND PROCEDURES.

Washington County School District, a Local Education Agency (LEA) in the State of Utah, in providing for the education of students with disabilities enrolled in its schools, has in effect policies, procedures, and programs that are consistent with the Utah State Board of Education Special Education Rules (USBE SER October 2016) and are as described in this Policies and Procedures Manual.

### B. DEFINITIONS.

Washington County School District has adopted all of the definitions as found in USBE SER I.E.1-49.

### C. BUDGET INFORMATION AND CATEGORIES.

Washington County School District provides detailed budget information and budget categories in its annual application for IDEA Part B funding submitted to the Utah State Board of Education (USBE). 34 CFR §300.301-376; USBE SER IX.A.

### D. ASSURANCES.

Students are enrolled in Washington County School District without restrictions due to race, color, gender, national origin, disability status, or religion. Assurances with regard to compliance with IDEA Part A and Part B, as well as the National Instructional Materials Accessibility Standard, and

compliance with other Federal laws including "New Restrictions on Lobbying, "Debarment, Suspension, and Other Responsibility Matters," and the Drug-Free Workplace Act of 1988 are submitted to the USBE annually with the application for IDEA Part B funding.

**E. FREE APPROPRIATE PUBLIC EDUCATION (FAPE). 34 CFR 300.101; USBE SER I.E.17**

1. Free appropriate public education (FAPE) means special education or special education and related services that:

- a. Are provided at public expense, under public supervision and direction, and without charge;
- b. Meet the standards of the USBE and Part B of the IDEA;
- c. Include preschool, elementary school, and secondary school education in school districts in Utah; and
- d. Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements of Part B of the IDEA and these Rules.

**F. FULL EDUCATIONAL OPPORTUNITY GOAL (FEOG). 34 CFR 300.109; USBE SER IX.A.2.d.(2)(c)**

Washington County School District hereby affirms the goal of providing a full educational opportunity to all students with disabilities determined eligible for special education or special education and related services under the IDEA and the USBE SER, of the ages between three and 22, and in accordance with all of the timeline requirements of the IDEA with respect to the identification, location, evaluation, and provision of a FAPE.

## **II. IDENTIFICATION, LOCATION, and EVALUATION of STUDENTS SUSPECTED of HAVING DISABILITIES.**

**A. CHILD FIND. 34 CFR §§300.101, 111; USBE SER II.A.**

Washington County School District has policies and procedures to ensure that all students with disabilities are identified, located, and evaluated, regardless of the severity of the disability, including:

1. Students who are highly mobile,
2. Students who have been suspended or expelled from school;
3. Students who have not graduated from high school with a regular high school diploma; and
4. Students who are suspected of being a student with a disability and who are in need of special education or special education and related services even though they are advancing from grade to grade.

5. Homeschooled students and students enrolled in private schools within the school district's boundaries.
6. Students in State custody/care.
7. Students in nursing homes.
8. This includes a practical method for determining which students are currently receiving needed special education or special education and related services.
9. Washington County School District has no responsibility for Child Find for charter school students.

**B. CHILD FIND PROCEDURES. 34 CFR §300.131; USBE SER IXII.A.4.**

Washington County School District conducts the following procedures to ensure that students suspected of having a disability are identified and located:

1. Finding students who have been receiving needed special education or special education and related services.
  - a. The enrollment form includes questions about whether a student has received special education or special education and related services in a previous school or educational program.
  - b. Parents are asked during registration if the students received any services beyond the regular program in a previous school, and if parents respond in the affirmative, a phone contact is made with the previous school to locate the special education records.
  - c. Washington County School District follows all the procedures detailed on the In-State and Out-of-State Transfer Student Checklists on the USBE website. USBE SER III.C. (Adopted or developed new IEP needs to be done within 30 calendar days after the school is aware student has received services in the past.)
2. In identifying and locating students who are suspected of having a disability and have not been previously identified or determined eligible for special education or special education and related services, Washington County School District implements the following procedures:
  - a. Annual training of all staff on the Child Find obligation and on awareness of observed academic or social/emotional behaviors that might suggest a suspected disability.
  - b. Notice in a student or parent handbook and on the Washington County School District website of the referral procedures and of the availability of services for eligible students with disabilities.
  - c. If a parent or staff member is concerned about a child ages zero through two years old, the parent or staff member is referred to the appropriate IDEA Part C Infants and Toddlers' Program for the area of the district.
3. Washington County School District collaborates and coordinates with the local Department

of Health, the Part C Early Intervention Provider, through an interagency agreement aligned with the Part C to Part B statewide interagency agreement of the USBE to ensure that students with disabilities are identified, located, evaluated, and have FAPE available by age three.

**C. REFERRAL/REQUEST FOR INITIAL EVALUATION. 34 CFR §300.301; USBE SER II.B.**

1. Procedure.

When parent(s), adult student, or school staff member suspects a student may have a disability, a request for an initial evaluation may be made through the following referral procedure:

- a. Teachers document results of classroom instruction and intervention and submit to the school Intervention Team (I-team), which includes a general education teacher.
- b. Note: Pre-referral interventions or a Response to Intervention system are not used to delay an evaluation for eligibility when a staff member or parent(s) or adult student requests an evaluation.
- c. The person making the referral/request for initial evaluation completes and signs a referral form. If school personnel are making the referral, documentation of contacts with the parents about the concerns regarding the student's educational performance is embedded.
- d. The referral form is given to the building Principal/Administrator, who reviews existing data (including results of any interventions attempted and the Child Assessment Team recommendations) on the student and determines if the referral should go forward for a full evaluation.
- e. If it is decided that the evaluation should take place, the Principal/Administrator assigns a staff member to oversee/conduct the evaluation, including obtaining the parental or adult student consent.
- f. If the referral is not going to result in a full evaluation, the Principal/Administrator sends the parent a Written Prior Notice of Refusal to conduct an evaluation.
- g. Washington County School District responds to each request for evaluation within a reasonable timeframe.
- h. Note: Washington County School District shall provide an initial special education assessment for children who enter the custody of the Division of Child and Family Services (DCFS), upon request by that division, for students whose school records indicate that they may have disabilities requiring special education services. This assessment shall be conducted within 30 calendar days of the request by DCFS. 53A-15-304.5.

**D. EVALUATION.**

1. Parental/Adult Student Consent. 34 CFR §300.300; USBE SER II.C.

Prior to initiating a full and complete individual evaluation, Written Prior Notice (WPN) and consent from the parent(s) of the student or the adult student is required and obtained. The consent informs the parent(s) or adult student that the evaluation is being proposed because the student is suspected of having a disability that adversely affects the student's educational performance and that the student may be eligible for special education or special education and related services.

- a. The consent indicates the areas in which the evaluation team may conduct tests or utilize other assessment tools or methods with the student.
- b. Reasonable efforts to obtain parental or adult student consent are made and documented by Washington County School District.
- c. For initial evaluations only, if the student is a ward of the State and is not residing with the student's parent(s), the School District is not required to obtain informed consent from the parent if, despite reasonable efforts to do so, the School District cannot discover the whereabouts of the parent(s); the rights of the parent(s) of the student have been terminated in accordance with State law; or the rights of the parents to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed to represent the student.
- d. If the parent(s) of a student or an adult student enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation, or fails to respond to a request to provide consent, the School District may, but is not required to, pursue the initial evaluation of the student by utilizing the Procedural Safeguards or the due process procedures in the USBE SER IV.I-P. The School District does not violate its obligation under Child Find provisions of USBE SER IV if it declines to pursue the evaluation by utilizing the Procedural Safeguards or the due process procedures.
- e. If the parent(s) of a student or an adult student who is homeschooled or placed in private school at their own expense does not provide consent for initial evaluation, or fails to respond to a request to provide consent, the School District may, but is not required to, pursue the initial evaluation of the student by utilizing the Procedural Safeguards or the due process procedures in the USBE SER IV.I-P. The School District does not violate its obligation under Child Find provisions of USBE SER IV if it declines to pursue the evaluation by utilizing the Procedural Safeguards or the due process procedures.
- f. When conducting psychological evaluations, Washington County School District implements the parental or adult student consent requirements of UCA 53A-13- 302 (Utah FERPA).
- g. Parental or adult student consent is not required before administering a test or other evaluation that is given to all students (unless consent is required for all students) or before conducting a review of existing data.

## 2. Written Prior Notice. 34 CFR §300.503; USBE SER IV.D.

The parent(s) of the student or adult student is given Written Prior Notice (WPN) that the evaluation will be conducted. (See Section IV.C of this Policy and Procedures Manual for

required components of Written Prior Notice.) Written Prior Notice is embedded in the Washington County School District Consent for Evaluation form.

- a. Parental or adult student consent for evaluation is not construed as consent to provide special education or special education and related services.
- b. Washington County School District does not use parent(s)'s or adult student's refusal to consent to one service or activity to deny the parent(s) or student any other service benefit, or activity of the Washington County School District.

3. Initial Evaluation. 34 CFR §300.301; USBE SER II.D.

- a. When the signed parental or adult student consent or refusal of consent for evaluation is received at the school, the case manager/special education teacher writes the date it was received on the form. If parental or adult student consent is obtained, this date documents the beginning of the timeline for the evaluation.
- b. The Washington County School District completes all initial evaluations within 45 school days of receiving the consent for evaluation, unless the initial evaluation was requested by DCFS, in which case it is conducted within 30 calendar days. UCA 53A-15.304.5. The 45 school day timeline does not apply if the parent(s) fails to produce the student for the evaluation or the adult student repeatedly fails or refuses to participate in evaluation activities.
- c. If the student enrolls in the Washington County School District after the timeframe has started in a previous LEA, the School District must make sufficient progress to ensure prompt compliance in accordance with a written agreement with the parent(s) or adult student as to when the evaluation will be completed.

4. Evaluation Process. 34 CFR §300.304; USBE SER II.F.

a. Review of Existing Data.

When conducting an initial evaluation (when appropriate), the assigned case manager gathers existing data about the student's educational performance for the evaluation team to consider. These may include student records of grades, courses completed, statewide test results, school-wide test results, classroom assessments, teacher interviews, parent(s) input, observations, notes in the student's cumulative file, and other available information.

b. Administration of Additional Assessments.

Washington County School District uses a variety of assessment tools to gather relevant functional, developmental, and academic information about the student as part of a full and individual initial evaluation, as indicated on the Consent for Evaluation form. This information may assist the Eligibility Team in determining whether the student is a student with a disability. Also, the information informs the IEP Team of the student's educational needs, including information relating to enabling the student to be involved in and make progress in the general education curriculum. Finally, the information supports the development of the contents of the IEP. The administration of the assessments follows all

of the requirements of USBE SER II.F including:

- i. Use of more than one procedure, assessment, and other evaluation materials tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;
  - ii. Use of technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors and consider the publication date and continued validity of assessments in use when new editions are published;
  - iii. Selection of tools which are not discriminatory on a racial or cultural basis;
  - iv. Administration in student's native language or other mode of communication, and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;
  - v. Administration of assessments to address specific areas of concern identified by the evaluation team including the parent(s) or adult student;
  - vi. Use of assessments for the purposes intended and in accordance with the publisher's administration standards;
  - vii. Selection, administration, and interpretation by trained and knowledgeable personnel in accordance with any instructions and administrator requirements provided by the producer of the assessments and the *Standards for Educational and Psychological Testing* (AERA, ACA, NCME, 2014);
  - viii. Administration of psychological testing and evaluation of personal characteristics, such as IQ, personality, abilities, interests, aptitudes, and neuropsychological functioning only by personnel who have been trained and fully meet the administrator/use/interpreter qualifications of the test publisher;
  - ix. School district assurance and documentation that all evaluators meet the assessment publisher's administrator/interpreter/user requirements for all assessments (e.g. appropriate degree, higher education coursework in tests and measures, and supervised practica);
  - x. Use of tools that assess what they purport to measure and not just the student's disability;
  - xi. Assessment in all areas related to the student's suspected disability; and
  - xii. Comprehensive assessment, not just in areas commonly associated with a specific disability.
- c. Specific Categorical Evaluation Requirements. Evaluations for students suspected of having a disability in each of the 13 areas of disability include the requirements for evaluation procedures and assessment of student performance in specific areas identified

in USBE SER II.J.1-13.

- i. Washington County School District contacts the Utah Schools for the Deaf and Blind for assistance with administering and appropriately interpreting assessments for students with visual and/or hearing impairments. USBE SER II.F.2.

#### **E. REEVALUATION PROCEDURES. 34 CFR §300.303; USBE SER II.G.**

1. Washington County School District conducts a reevaluation of each student with a disability when the educational or related services needs, including improved academic achievement and functional performance of a student, warrant a reevaluation; or if the student's parent(s), adult student, or teacher requests a reevaluation.
2. A reevaluation may not occur more than once a year, unless the parent(s) or adult student and Washington County School District agree otherwise.
3. A reevaluation must occur at least once every three years, unless the parent(s) or adult student and Washington County School District agree that a reevaluation is unnecessary as there are data available to continue eligibility and determine the educational needs of the student.
4. When the parent(s) or adult student and Washington County School District agree that a reevaluation is unnecessary, the team must document data reviewed and used in an evaluation report and complete an eligibility determination document.
5. Parental or adult student consent for reevaluations.
  - a. Washington County School District obtains informed parental or adult student consent prior to conducting any reevaluation of a student with a disability, if the reevaluation includes the administration of additional assessments to the student.
  - b. If the parent(s) or adult student refuses to consent to the reevaluation, Washington County School District may, but is not required to, pursue the reevaluation by using the dispute resolution procedures provided in the Procedural Safeguards, including mediation or due process procedures.
  - c. The reevaluation may be conducted without parental or adult student consent if the school can demonstrate that it made reasonable attempts to obtain such consent and the student's parent(s) or adult student has failed to respond. A written record of the attempts is maintained in the student's special education file.

#### **F. ADDITIONAL REQUIREMENTS FOR INITIAL EVALUATION AND REEVALUATION PROCEDURES. 34 CFR §300.305; USBE SER II.H.**

1. As part of any initial evaluation (if appropriate) and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the student. This review may be conducted without a formal meeting. The special education teacher/case manager may review and discuss the existing data with team members and the parent(s) or adult student individually. Existing data may include evaluations and



information provided by the parent(s) of the student; the student; current classroom-based, local or State assessments, and classroom-based observations; observations by teachers and related services providers; grades; attendance, and other information regarding the student's current educational performance.

2. The IEP Team and appropriate other qualified professionals, based on their data review and input from the student's parent(s) or the adult student, identifies what additional data, if any, are needed to determine whether the student is or continues to be a student with a disability and the educational needs of the student, and

a. The present levels of academic achievement and related developmental needs of the student;

b. Whether the student needs special education or special education and related services; or, in the case of a reevaluation of a student, whether the student continues to need special education or special education and related services; and

c. Whether any additions or modifications to the special education or special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

3. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine continuing eligibility and student needs, the parent(s) or adult student is given Written Prior Notice of that decision and of their right to request additional assessment.

4. Washington County School District then prepares a new Evaluation Summary Report, including new and previous data as appropriate, and sends a Notice of Meeting for Eligibility Determination.

5. At the Eligibility Team meeting, a new Eligibility Determination form is completed and signed by the participating Team members, and the parent(s) or adult student is given Written Prior Notice of that determination along with a copy of the Evaluation Summary Report and the Eligibility Determination documents. Written Prior Notice is embedded in the Eligibility Determination document.

6. If the parent(s) or adult student requests additional assessment as part of the reevaluation, Washington County School District obtains written parental or adult student consent for evaluation and then completes the assessment in the areas of educational functioning requested.

7. When the additional assessment is completed, the School District then prepares a new Evaluation Summary Report, including new and previous data as appropriate, and sends a Notice of Meeting for Eligibility Determination.

8. At that meeting, a new Eligibility Determination form is completed and signed by the Team to indicate participation in the meeting, and the parent(s) or adult student is given Written Prior Notice of that determination along with a copy of the Evaluation Summary Report and the Eligibility Determination documents. Written Prior Notice is embedded in the Eligibility

Determination document.

9. Evaluations before change in eligibility. 34 CFR §300.305; USBE SER II.H.6.

a. Washington County School District evaluates students with disabilities before determining that students are no longer eligible for special education or special education and related services. However, an evaluation is not required before the termination of a student's eligibility due to graduation from secondary school with a regular diploma, or due to the student's reaching age 22, as provided under State law.

b. For a student whose eligibility terminates due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for FAPE under State law, Washington County School District provides the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.

**G. EVALUATION TIMELINES.** 34 CFR §§300.301, 303; USBE SER II.D., II.G.

1. An initial evaluation must be completed within 45 school days of the date the school receives parental or adult student consent for the evaluation.

2. Upon completion of the evaluation or reevaluation, the IEP Team and other appropriate professionals determine eligibility within a reasonable time.

3. A reevaluation:

a. May not be conducted more than once a year, unless the parent(s) or adult student and the LEA agree otherwise; and

b. Must occur at least once every three years, unless the parent(s) or adult student and the LEA agree that a reevaluation is unnecessary.

**H. ELIGIBILITY DETERMINATION.** 34 CFR §300.306; USBE SER II.I.

1. Notice of Meeting

Upon completion of the evaluation, the special education teacher or case manager arranges a meeting of the Eligibility Team at a mutually agreeable time and place. A Notice of Meeting will be sent to the parent(s) or adult student and other members of the Team stating the meeting purposes, time, place, who is expected to be in attendance, and informing the parent(s) or adult student that they may bring others who have knowledge or special expertise about the student to the meeting.

2. Evaluation Summary Report

The special education case manager collects all of the results of the evaluation, and writes an Evaluation Summary Report of the evaluation information. This Evaluation Summary Report is included in Washington County School District's Eligibility Determination document for each disability category.

### 3. Eligibility Team Membership

The Eligibility Team shall include a group of qualified professionals and the parent(s) or adult student. In the Washington County School District, this may include the special education teacher, regular education teacher, speech-language pathologist, school psychologist, occupational therapist, physical therapist, a representative of the LEA, and others who have conducted parts of the evaluation, as appropriate.

### 4. Eligibility Categories, Definitions, and Criteria

The Washington County School District has adopted the definitions, evaluation requirements, and eligibility criteria in USBE SER.II.J.1-13. Details for the category of Specific Learning Disability are provided below.

a. Specific Learning Disability (SLD). The Washington County School District has selected the Combination method of determining whether a student has a Specific Learning Disability. 34 CFR §300.307; USBE SER II.J.10.b-h.

b. Team members. 34 CFR §300.308; USBE SER II.J.10.b(2).

The determination of whether a student suspected of having a specific learning disability is a student with a disability must be made by the student's parent(s) or adult student and a team of qualified professionals, including:

i. The student's regular teacher; or

ii. If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of the student's age; or

iii. At least one person qualified as defined by the examiner qualifications outlined in the administration manual of each of the specific diagnostic examinations to conduct individual diagnostic examinations of students and interpret the results of those assessments (as per the administration assessment criteria), such as a school psychologist, speech/language pathologist, reading teacher or reading specialist, or special education teacher.

c. Determining the existence of a specific learning disability. 34 CFR §300.309; USBE SER II.J.10.b(3).

i. The team described may determine that a student has a specific learning disability if:

- The student does not achieve adequately for the student's age or to meet State-approved grade-level standards, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, in one or more of the following areas:

- Oral expression;

- Listening comprehension;
- Written expression;
- Basic reading skills;
- Reading fluency skills;
- Reading comprehension;
- Mathematics calculation
- Mathematics problem solving; and
- For the combination method, the student meets the requirements of:

ii. Response to Intervention (RtI) Method

The student does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified above when using a process based on the student's response to scientific, research-based intervention (The team must refer to the *USBE Specific Learning Disability Eligibility Guidelines* when using this method.); and

iii. Discrepancy Method

The student's scores demonstrate that a severe discrepancy exists between the student's intellectual ability and achievement in one or more of the areas of specific learning disability listed above.

iv. The group determines that its findings are not primarily the result of:

- A visual, hearing, or motor disability;
- Intellectual disability;
- Emotional disturbance;
- Cultural factors;
- Environmental or economic disadvantage; or
- Limited English proficiency

v. The learning disability must adversely affect the student's educational performance.

vi. The student with the learning disability must need special education or special education and related services. 34 CFR §300.8(a).

vii. Evaluation. 34 CFR §300.309(b-c); USBE SER II.J.10.c.

- An evaluation must include a variety of assessment tools and strategies and cannot rely on any single procedure as the sole criterion.
- To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation:
  - Data that demonstrates that prior to, or as a part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
  - Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parent(s) or adult student.
- Washington County School District promptly requests parental or adult student consent to evaluate the student to determine whether the student is a student with a disability and needs special education or special education and related services, and must adhere to the 45-school-day evaluation time frame, unless extended by mutual written agreement of the student's parent(s) or adult student and a group of qualified professionals:
  - If, prior to a referral, a student has not made adequate progress after an appropriate period of time as determined by the Washington County School District when provided appropriate instruction, and
  - Whenever a student is referred for an evaluation.

viii. Observation. 34 CFR §300.310(a-c); USBE SER II.J.10.c.(4).

Washington County School District ensures that the student is observed in the student's learning environment (including the regular classroom setting) to document the student's academic performance and behavior in the areas of difficulty. The team must decide to:

- Use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation; or
- Have at least one member of the team conduct an observation of the student's academic performance in the regular classroom after the student has been referred for an evaluation and parental consent or consent of the adult student is obtained.
- If the student is a homeschooled student, the School District may determine how to conduct the observation and who will conduct it.
- . In the case of a student who is out of school, a group member must observe

the student in an environment appropriate for a student of that age.

ix. Specific documentation for the eligibility determination. 34 CFR §300.311; USBE SER II.J.10.c.(5). The team's documentation of the determination of eligibility with a specific learning disability must contain a statement of:

- Whether the student has a specific learning disability;
- The basis for making the determination;
- The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;
- The educationally relevant medical findings, if any; and
- Whether the student meets the criteria for both the Response to Intervention and Discrepancy methods below:

x. Response to Intervention (RtI) Method. 34 CFR §300.311(a)(7); USBE SER II.J.10.c.(5)(f).

Washington County School District has a process that assesses a student's response to scientific, research-based intervention as part of determining if the student has a specific learning disability. This process includes:

- High quality research-based instruction delivered by qualified staff in the general education setting; and
- Assessment of student performance that specifically includes universal screening and progress-monitoring; and
- Multiple tiers of evidence-based interventions to address individual student difficulties; and
- Documentation of systematic and regular parent(s) or adult student, and/or family involvement and communication as well as notification about:
  - The State's policies regarding the amount and nature of student performance data that are collected and the general education services that are provided (The team refers to the *USBE Specific Learning Disability Eligibility Guidelines* when using this method.);
- Strategies for increasing the student's rate of learning; and
- The parent(s)' or the adult student's right to request an evaluation; and
- System supports (e.g., leadership, problem-solving, data management systems, coaching and collaboration, professional development, and measures of fidelity) in place to ensure effective implementation; or

- The instructional strategies used and the student-centered data collected; AND

xi. Discrepancy Method. 34 CFR §300.311; USBE SER II.J.10.c.(5)(g).

Washington County School District uses a severe discrepancy between the student's achievement and intellectual ability as part of its process to determine if the student has a specific learning disability, and the team documents:

- The student's performance on a standardized, norm-referenced, individually administered achievement measure in the area of the suspected disability, and
- That the student scored above the intellectual disability range on a standardized, norm-referenced, individually administered measure of intellectual ability, and
- The comparison of the standard scores on the tests of achievement and intellectual ability using local board-approved and USBE staff-reviewed discrepancy analysis method.
- The team documents consideration of the discrepancy analysis and the team's determination of whether or not it represents a severe discrepancy.
- The determination of the team concerning the effects of a visual, hearing or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level.
- The requirements of USBE SER II.D-H are followed. Each team member certifies in writing whether the report reflects the member's conclusion. 34 CFR §300.311(b). If it does not reflect the member's conclusion, the team member submits a separate statement presenting the member's conclusions.

xii. Determining Eligibility. 34 CFR 300.306; USBE SER II.I.

- Using the criteria for each category of disability as described above, the Eligibility Team determines:
  - Whether the student has a disability that
  - Adversely affects his educational performance, and
  - Whether the student requires special education or special education and related services.

*Special education* is defined as specially designed instruction to meet the unique needs of a student with a disability and may include related services if they meet the definition of special education. Special education services are services provided to the student and do not include consultation between teacher or monitoring a student's grades or work completion. 34 CFR §300.39; USBE SER I.E.43.

*Specially designed instruction* is adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability, and to ensure access of the student to the general curriculum, so that the student can meet educational standards of the School District that apply to all students. 34 CFR 300.39(b)(3); USBE SER I.E.44.

- A student is not determined to be a student with a disability if the determinant factor is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction (phonemic awareness, alphabetic principle, vocabulary, comprehension, and fluency);
- Lack of appropriate instruction in math; or
- Limited English proficiency; and
- If the student does not otherwise meet the eligibility criteria.

- Procedures for determining eligibility and determining need. In interpreting evaluation data for the purpose of determining if a student is a student with a disability and the educational needs of the student, Washington County School District:

- Draws upon information from a variety of sources, such as aptitude and achievement tests, parent(s) or adult student input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
- Ensures that information obtained from all of these sources is documented and carefully considered.

- The determination of eligibility is documented on the appropriate "Team Evaluation Summary Report and Written Prior Notice of Eligibility Determination" form with signatures of team members.

- The parent(s) or adult student is provided with a copy of the Team Evaluation Summary Report and Written Prior Notice of Eligibility Determination document(s).



xiii. Evaluations before Change in Eligibility. 34 CFR §300.305; USBE SER II.H.6.

- The Washington County School District evaluates a student with a disability before determining that the student is no longer an eligible student with a disability.
- An evaluation is not required before the termination of a student's eligibility due to graduation from secondary school with a regular high school diploma, or due to exceeding the age of eligibility for FAPE under Utah law (i.e., age 22).
- For a student whose eligibility terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility for FAPE under Utah law, Washington County School District provides the student with a summary of the student's academic achievement and functional performance, which includes recommendations on how to assist the student in meeting the student's postsecondary goals.

### III. IEP DEVELOPMENT and SERVICE DELIVERY.

Washington County School District implements the following policies and procedures to address the IEP requirements of USBE SER III.A-V.

#### **A. IEP TEAM MEETING.** 34 CFR §300.306; USBE SER III.D.

1. Within 30 calendar days of the determination of eligibility, Washington County School District assigns a special education teacher/case manager who arranges a meeting of the IEP Team to develop an IEP at a place and time that is mutually agreed-on by the parent(s) or adult student and the School District.
2. A Notice of Meeting is sent to the parent(s) or adult student and other members of the team stating the purpose(s), time, place, who is expected to be in attendance, and explaining that the parent(s) or adult student or the School District may bring others who have knowledge or special expertise about the student to the meeting. The determination of knowledge or expertise of the invited person is made by the party who invited that person.

#### **B. PARENTAL OR ADULT STUDENT OPPORTUNITY TO PARTICIPATE.** 34 CFR §300.322; USBE SER III.G.

1. The parent(s) or adult student is expected to participate along with school team members in developing, reviewing, and revising the IEP. This includes providing important information about needs and strengths of the student, contributing to discussions about the student's need for specialized instruction, determining how the student will be involved and make progress in the general curriculum, deciding how the student will participate in the statewide and school wide assessments, and deciding what services the Washington County School District will provide and in what settings.
2. When conducting IEP Team meetings, placement meetings, and other administrative

matters, the student's parent(s) or adult student and the School District may agree to use alternative means of meeting participation such as video conferencing or conference call.

3. Washington County School District documents in writing its attempts to obtain parent(s) or adult student participation in IEP meetings. If the parent(s) or adult student cannot attend, participation by other means such as teleconference may be used. Parent(s) or adult student must be given whatever help is needed to understand the proceedings of the IEP meetings, such as interpreters. If the School District cannot obtain parental or adult student participation, it proceeds with the development of the IEP as required by Part B of the IDEA and USBE SER.

#### **C. IEP TEAM MEMBERSHIP. 34 CFR §300.321; USBE SER III.E.**

1. Washington County School District ensures that the team for each student with a disability includes the parent(s) or adult student, at least one special education teacher of the student, at least one regular education teacher of the student, an administrator, a person who can interpret the results and instructional implications of the evaluation results, and the student, when appropriate. At the discretion of the parent(s), adult student, or School District, other individuals who have knowledge or special expertise regarding the student, including related services personnel may also be included as appropriate.

2. If a purpose of the IEP Team meeting is consideration of post-secondary goals for the student and the transition services needed to assist the student in reaching those goals, Washington County School District invites the student with a disability to attend the student's IEP meeting. If the student does not attend the IEP meeting, the School District will take other steps to ensure that the student's preferences and interests are considered.

3. To the extent appropriate, with the written consent of the parent(s) or adult student, Washington County School District must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

4. The School District representative must be qualified to provide, or supervise the provision, of specially designed instruction to meet the unique needs of students with disabilities, and have knowledge of the general education curriculum and of the availability of resources of the School District. Washington County School District may designate a School member of the IEP Team (upon approval of the school administrator) to also serve as the School representative, if the above criteria are satisfied.

5. The signatures of team members on the IEP indicate participation in the development of the IEP.

#### **D. IEP TEAM ATTENDANCE. 34 CFR §300.321; USBE SER III.F.**

1. A required member of the IEP Team is not required to attend all or part of a particular IEP Team meeting if the parent(s) of a student with a disability or adult student and the School District agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

2. A required member of the IEP Team may be excused from attending all or part of a particular IEP meeting when the meeting does involve a modification to or discussion of the member's area of the curriculum or related services, if the parent(s) or adult student and the School District consent to the excusal in writing; and the member submits written input into the development of the IEP to the parent(s) or adult student and the other IEP Team members, prior to the meeting.

**E. NOTICE OF MEETING. 34 CFR §300.322; USBE SER III.G-H.**

1. Washington County School District takes steps to ensure that one or both of the parents of a student with a disability or the adult student is present at each IEP Team meeting or are afforded the opportunity to participate, including:

a. Notifying parent(s) or adult student of the meeting early enough to ensure that they will have an opportunity to attend and

b. Scheduling the meeting at a mutually agreed-on time and place.

c. If the parent(s) or adult student cannot attend, Washington County School District uses other methods to ensure participation of the parent(s) or adult student, including individual or conference telephone calls. The parent(s) of a student with a disability or adult student and the School District may agree to use alternative means of meeting participation, such as video conferences and conference calls. 34 CFR §300.328.

d. A meeting may be conducted without parent(s) or the adult student in attendance if the School District is unable to convince the parent(s) or adult student that they should attend. In this case, the School District must keep a record of its attempts to arrange a mutually agreed-on time and place, such as:

i. Detailed records of telephone calls made or attempted and the results of those calls;

ii. Copies of correspondence sent to the parent(s) or adult student and any responses received; and

iii. Detailed records of visits made to the parent(s)' or adult student's home or place of employment and the results of those visits.

e. The School District takes whatever action is necessary to ensure that the parent(s) or adult student understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parent(s) or adult student with deafness or whose native language is other than English.

f. The parent(s) of a student with a disability or the adult student is a participant along with school personnel in developing, reviewing, and revising the IEP for the student. This is an active role in which the parent(s) or adult student:

- g. Provides critical information regarding the strengths of the student and expresses their concerns for enhancing the education of the student;
- h. Participates in the discussion of the student's need for special education or special education and related services, and supplementary aids and services; and
- i. Joins with other participants in deciding how the student will be involved and progress in the general curriculum, how the student will participate in State and school wide assessments, and what services the School District will provide to the student and in what setting.

**F. IEP TIMELINES. 34 CFR §§300.323, 324; USBE SER III.B., III.I.**

1. Washington County School District actively strives to have an IEP in effect for each identified student with a disability prior to the beginning of the school year.
2. In Washington County School District the IEP Team reviews the IEP at least annually to determine whether the annual goals for the student are being achieved.
3. The team may decide to meet at the request of the parent(s) or adult student or other IEP Team member to revise the IEP to address any lack of expected progress toward annual goals and lack of progress in the general curriculum, the results of any reevaluation, information about the student provided to or by the parent(s) or the adult student, the student's anticipated needs, or other matters.
4. An IEP is developed within 30 calendar days of initial determination that a student is an eligible student with a disability.
5. Once parental or adult student consent for the initial provision of special education or special education and related services is obtained, the special education services, related services, and supplementary aids and services are provided as soon as possible.

**G. TRANSFER STUDENTS. 34 CFR §300.323; USBE SER III.C.**

1. Washington County School District provides a student transferring from another LEA in or out of the state with comparable services to those listed on an existing IEP while it determines next needed steps in accordance with the In-State and Out-of-State Transfer Student Checklist on the USBE website.
2. If an evaluation for eligibility is determined to be needed, that evaluation is considered an initial evaluation and follows the required procedures and timelines for such an initial evaluation. USBE SER III.C.2.b.
3. The requirements of USBE SER III.C also apply for students transferring from an LEA placement to a local juvenile or adult correctional facility or temporary State placement for observation and assessment.

**H. IEP DEVELOPMENT AND CONTENT. 34 CFR §§300.320, 324; USBE SER III.I-J.**

1. The IEP Team develops an IEP that addresses each of the student's needs based on the student's disability to provide a free appropriate public education for the student.
2. In developing the IEP, the IEP Team must consider the student's strengths, parent(s) or adult student input for enhancing the student's education, evaluation results, academic, developmental, and functional needs of the student, and special factors.
3. The IEP must include:
  - a. A statement of the student's present level of academic achievement and functional performance (PLAAFP), including baseline data on achievement and how the student's disability affects the student's involvement and progress in the general curriculum (i.e., the same grade-level curriculum as for nondisabled students). For students who are blind, the statement should also include results from a braille-related or braille skills assessment. UCA 53A-25a-104.
  - b. Measurable annual goals, including academic and functional goals, based on the present level statement that enable the student to be involved and make progress in the general education curriculum and addressing each of the student's educational needs resulting from the student's disability.
  - c. For eligible students with significant cognitive disabilities who will participate in grade-level alternate achievement standards (i.e., Essential Elements), the parent(s) or adult student is notified that the student's academic achievement will be measured through an assessment of the grade-level Utah alternate achievement standards, such as the Dynamic Learning Maps (DLM) or the Utah's Alternate Assessment (UAA), and how participation in such alternate achievement assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma. Short term objectives are included for these students who will participate in a statewide alternate assessment, and for other students if determined needed by the IEP Team.
  - d. How the student's progress toward meeting the annual IEP goals will be measured and when progress will be reported to the parent(s) or adult student on a periodic basis.
  - e. The special education or special education and related services, and the supplementary aids and services (including assistive technology) to be provided to the student or on behalf of the student, based on peer-reviewed research to the extent practicable; and the program modifications or supports for school personnel that will be provided to enable the student to make progress on the IEP goals and in the general curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other students with disabilities and without disabilities.
  - f. Program options. 34 CFR §300.110.
  - g. Washington County School District takes steps to ensure that its students with disabilities have available to them the variety of educational program and services available to nondisabled students, including art, music, industrial arts, consumer and homemaking education, and vocational education.

- h. An explanation of the extent, if any, to which the student will not participate with other similar-aged non-disabled students in the regular education environment and in the activities listed above.
- i. The dates that services, accommodations, and program modifications will begin and end (no more than one year from the date of the IEP); and the frequency, location, and amount of each service listed. Services listed must be specific, such as "reading comprehension," not "resource."
- j. Consideration of special factors as follows:
- i. In the case of a student with limited English proficiency, consider the language needs of the student as those needs relate to the student's IEP; and
  - ii. In the case of a student who is blind or visually impaired, provide for instruction in braille and the use of braille unless the IEP Team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in braille or the use of braille), that instruction in braille or the use of braille is not appropriate for the student; and
  - iii. Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communication with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
  - iv. Consider whether the student needs assistive technology devices and services in school and on a case-by-case basis, in a student's home or other setting; and
  - v. In the case of a student whose behavior impedes the student's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
    - When making decisions on behavioral interventions, the IEP Team must refer to the *USBE Least Restrictive Behavioral Interventions (LRBI) Technical Assistance (TA) Manual* for information on research-based intervention procedures.
    - Emergency safety interventions may only be included in an IEP as a planned intervention when the IEP Team agrees that less restrictive means which meet circumstances in R277-608 have been attempted, a functional behavior assessment (FBA) has been conducted, and a positive behavior intervention plan based on data analysis has been developed and R277- 609.
    - The purpose of the *LRBI TA Manual* related to the use of positive behavioral supports and behavioral inventions is to protect the safety and well-being of all students, provide protection for students, teachers, other school personnel, and

LEAs, and ensure that parent(s) or adult students are involved in the consideration and selection of behavior interventions to be used.

- When an emergency situation occurs that requires the immediate use of an emergency safety intervention to protect the students or others from harm, the staff shall comply with requirements in R277-609 with regard to time limitations and parental or adult student notification.
- Emergency is defined in Administrative Rule R277-609. Washington County School District follows the emergency notification procedures as written.
- Washington County School District ensures that all staff members who interact with students receive the training necessary to effectively implement a continuum of behavioral interventions and supports.
- As appropriate, the student should receive a functional behavioral assessment and behavior intervention services and modifications that are designed to address the behavior.

vi. If the IEP Team in considering the special factors described above decides that a student needs a particular device or services for educational purposes, (including an intervention, accommodation, or other program modification) in order to receive a FAPE, the team must include these in the IEP.

k. How the student will participate in statewide and school wide assessments, such as the Student Assessment of Growth and Excellence (SAGE).

i. While every student with a disability must participate, an individual student may be determined to participate with some accommodations based on the student's disability, or with modifications.

ii. Students who have the most significant cognitive disabilities, and meet other criteria in the USBE Assessment Participation and Accommodation Policy, may be assessed with alternate assessments, such as the DLM or UAA, as required by the USOE. The IEP Team must indicate this on the IEP Assessment Addendum, along with the reason that the student cannot otherwise participate in the statewide assessment program.

iii. In Washington County School District, all students, including students with disabilities, participate in all State mandated assessments and alternative assessments. Students with disabilities may participate in the assessments with appropriate accommodations and modifications as determined by the IEP Team and documented in the student's IEP.

l. How the student will participate in physical education services, specially designed or adapted, if necessary. The student must be afforded the opportunity to participate in the regular physical education program available to nondisabled students, unless the student needs specially designed instruction as prescribed in the student's IEP.

m. IEP Teams should discuss and address, if appropriate, student participation not only

in the grade-level Core Standards, but other general education activities and courses (e.g., health and maturation, suicide prevention), as well as the Statewide Online Education program or other online, distance, blended, or competency-based courses, as well as courses taken through Career and Technical Education (CTE) programs and concurrent enrollment. Students with disabilities may require special education and related services and accommodations for equitable participation, in conjunction with Part B of the IDEA, USBE SER, R277-418, and R277-726.

n. The IEP Team determines whether the student will need Extended School Year (ESY) services in order to receive a free appropriate public education. This determination of the need for ESY services in the Washington County School District is based on regression and recoupment data collected over at least two breaks in the school year consisting of 4 or more weekdays when there is no school. If the student's recovery from measured regression on pinpointed skills directly related to the IEP goals takes so long that the student would not receive a FAPE without services during the summer or other school break, the IEP Team must find the student eligible for ESY services. Other factors are considered in determining if the student needs ESY in order to receive a FAPE. These include but are not limited to:

- i. the degree of the student's impairment,
- ii. the ability of the parent(s) or adult student to provide the educational structure at home,
- iii. the student's rate of progress,
- iv. the student's physical or behavioral problems,
- v. the areas of the student's curriculum that need continuous attention (such as emerging skills),
- vi. the student's vocational and transition needs,
- vii. the availability of alternative resources,
- viii. whether a requested service is extraordinary to the student's condition,
- ix. information from parent(s) or adult student and other caregivers, and
- x. other available data.

x. If the student is eligible for ESY services, the IEP Team shall develop a written document that indicates which IEP goals the student will work on during the ESY, what services will be provided, how long and how often the ESY services will be provided, and the setting(s) in which the services will be provided. The IEP Team refers to the USBE ESY Technical Assistance Document on the USBE website.

o. Assistive Technology. 34 CFR §300.105; R277-495; USBE SER III.M. Washington County School District makes assistive technology devices or assistive technology services, or both, available to a student with a disability if required as part of the student's



special education, related services, or supplemental aids and services. On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings will be required if the IEP Team determines that the student needs access to those devices in order to receive a FAPE.

**I. IEP TEAM ACCESS TO IEP INFORMATION. 34 CFR §300.323; USBE SER III.B.**

1. The Washington County School District makes the student's IEP accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider is informed of the teacher or provider's specific responsibilities related to the implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

2. Washington County School District prepares a summary of the present level of academic achievement and functional performance, goals, services, and program modifications and supports for each teacher of the student. This summary is provided to the teacher prior to the time of initial implementation of the IEP as well as when any changes to the IEP are made. Teachers keep this information in a secure place to ensure that confidentiality is maintained.

**J. PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT (LRE). 34 CFR 300.114; USBE SER III.P.**

1. Placement decisions are made by a group of persons, including the parent(s) or adult student and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. This group may be the IEP Team, including the parent(s) or adult student. The group determines the placement on the continuum of placement options in which the student will receive special education or special education and related services.

2. Washington County School District ensures that the parent(s) of each student or adult student are members of any group that makes decisions on the educational placement of the student. If neither parent nor the adult student can participate in a meeting in which a decision is to be made relating to the educational placement of the student, Washington County School District will use other methods to ensure their participation, including individual or conference telephone calls or video conferencing. A group may make a placement decision without the involvement of the parent(s) or adult student if the School District is unable to obtain either parent(s)' or adult student's participation, after repeated and documented attempts to ensure their involvement. 34 CFR §§300.327, 501; USBE SER III.S.

3. No initial placement and provision of services are put in place without written parental or adult student consent.

4. Placement is determined at least annually, based on the student's present levels of performance, goals, services, and program modifications as detailed in the IEP.

5. Identified students with disabilities, including students in public or private institutions or other care facilities (e.g. nursing homes), shall receive the special education or special education and related services in the Least Restrictive Environment (LRE) to the maximum extent appropriate to meet the student's needs, with similar-aged non disabled peers.

6. Special classes, separate schooling, or other removal of students with disabilities from the regular education environment occurs only if the nature or severity of the disability, the student's educational needs cannot be addressed satisfactorily in the regular education environment, even with the use of supplementary aids and services. In the case of a student who is deaf or hearing impaired, consideration of a special class or school may be the least restrictive environment in that it provides opportunities for direct communication and instruction in the student's language and communication mode with professional personnel and peers.

7. LRE provisions apply to transition programs and placement.

8. Washington County School District has available the IDEA required continuum of placement options, including placement in:

a. A *regular education classroom* (A student is placed in the grade-level general education classroom and the specialized instruction—and related services, if any—is provided there.),

b. A *regular classroom with itinerant services* (A student is placed in the grade-level general education classroom and the specialized instruction—and related services, if any—is provided, in a different setting.);

c. A *special class* (A student is placed in a classroom with other students with disabilities and the specialized instruction—and related services, if any—is provided there.);

d. A *special school* (A student is placed in a separate day school made up solely of students with disabilities and the specialized instruction—and related services, if any—is provided there for more than 50% of the day.);

e. *Home instruction* (A student is placed in the student's home and specialized instruction—and related services, if any—is provided there. The IEP Team determines the amount of service time required for the student to make progress in the general curriculum and on IEP goals.); and

i. *Instruction in hospitals and institutions* (A student is placed in a hospital or institutional setting [often residential] made up solely of students with disabilities and the specialized instruction—and related services, if any—is provided there. The IEP Team determines the amount of service time required for the student to make progress in the general curriculum and on IEP goals.).

f. Washington County School District provides supplementary services, such as resource or itinerant instruction, in conjunction with placement in the regular education classroom, when needed.

g. In selecting the LRE, consideration is given to any potential harmful effects on the

student or on the quality of services that the student needs, and the student is not removed from education in age-appropriate regular classrooms solely due to needed modifications in the grade-level curriculum.

**K. NONACADEMIC SETTINGS, ACTIVITIES, AND SERVICES. 34 CFR §300.117; USBE SER III.U-V.**

1. The Washington County School District ensures that each student with a disability participates with nondisabled students in the extracurricular services and activities to the maximum extent appropriate to the student's needs. This includes meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, referrals to agencies that provide assistance to individuals with disabilities and employment of students, including both employment by the School District and assistance in making outside employment available, and other activities and services of the School District.
2. Washington County School District ensures that each student with a disability has the supplementary aids and services determined by the student's IEP Team to provide the nonacademic and extracurricular services and activities in such a way that students with disabilities are given an equal opportunity to participate. 34 CFR §300.107; USBE SER III.V.
3. A student with disabilities (under the age of 20) who has not graduated from high school with a regular high school diploma, whose IEP Team recommends participation may not be denied the opportunity of participation in public school programs or extracurricular activities solely because of the student's age unless the participation threatens the health or safety of the student. The School District, in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor. UCA 53A-15-303.5.

**L. PARENTAL OR ADULT STUDENT CONSENT FOR INITIAL PLACEMENT AND PROVISION OF SERVICES. 34 CFR §300.300; USBE SER III.T.**

1. In order for the IEP to be implemented and the special education services the team has decided on to begin, written parental or adult student consent must be obtained. If the parent(s) or adult student refuses consent for the provision of those services, the School District may not implement the IEP and may not access due process procedures.
2. Washington County School District does not use parent(s)' or adult student's refusal to consent to one service or activity to deny the parent(s) or student any other service, benefit, or activity of the School District, or to fail to provide a student with a FAPE.
3. If, at any time subsequent to the initial provision of special education or special education and related services, the parent(s) of a student with disabilities or the adult student revokes consent in writing for the continued provision of special education or special education and related services, the School District:

- a. Does not continue to provide special education or special education and related services to the students, but must provide Written Prior Notice to the parent(s) or the adult student before ceasing the provision of special education or special education and related services;
- b. Does not use the due process procedures in order to obtain agreements or a ruling that the services may be provided to the student;
- c. Is not considered in violation of the requirement to make FAPE available to the student, and
- d. Is not required to convene an IEP Team meeting or develop an IEP for the student.
- e. Consent means that the parent(s) or adult student understands that the granting of consent is voluntary on the part of the parent(s) and may be revoked at any time. 34 CFR §300.9. If a parent(s) or adult student revokes consent, that revocation is not retroactive, that is, it does not negate an action that occurred after consent was given and before the consent was revoked.

**M. DOCUMENTATION OF PARTICIPATION. 34 CFR §300.501; USBE SER IV.B.**

1. All members of the IEP Team sign the IEP document indicating that they participated in the development of the IEP. A parent(s)' or adult student's signature on the IEP does not mean that the parent(s) or adult student is in full agreement with the content of the IEP and does not abrogate the parent(s) or adult student's right to access the IDEA Procedural Safeguards. USBE SER III.E.11.
2. If the School District, despite at least two documented attempts, is unsuccessful in having parental or adult student attendance at the meeting, the rest of the IEP Team proceeds with the meeting.
3. Parent(s) or the adult student may participate via telephone conference or video conference.
4. Parent(s) or the adult student is provided with a copy of the completed IEP at no cost, and Written Prior Notice of the School District's intent to implement the program and services in the IEP. This Notice is embedded in the IEP form. If the School District refuses to include in its offer of FAPE (as detailed on the IEP) any goals, services, program modifications, or other IEP content that the parent(s) or adult student has requested, a Written Prior Notice of that refusal is provided to the parent(s) or adult student.

**N. CHANGES TO THE IEP. 34 CFR §300.324(a)(4,6); USBE SER III.I.2.**

1. In making changes to the IEP after the annual IEP Team meeting for a school year, the parent(s) of a student with a disability or adult student and Washington County School District may agree not to convene an IEP meeting for the purposes of making those changes and instead develop a written document to amend or modify the student's current IEP.

2. Changes may be made in a meeting or by amendment to the existing IEP, at the request of any member of the IEP Team.
3. Changes may be needed if there is new information about the student's performance.
4. Amendments to the IEP without a team meeting may be made only with the agreement of the School District and the parent(s) or adult student.
  - a. Amendments such as a change in the amount of special education or special education and related services that is no more than 30 minutes per week, a change of location that is no more than 60 minutes per week, or a goal change that is the next logical step forward or backwards and is based on the student's progress may be made without a team meeting. Parents will be informed and then special education teacher will have documentation showing this.
  - b. If the change involves a move on the continuum of Least Restrictive Environment placement options, or the amount of services to be changed is more than indicated above, or a service is to be added, an IEP Team meeting is held, with a Notice of Meeting to all team members.
5. Upon request, the parent(s) or adult student is provided with a copy of the IEP with the amendments incorporated. The parent(s) or adult student is provided with Written Prior Notice that these additional actions or changes in actions will be implemented.
6. If changes are made to the student's IEP through the amendment process, the School District ensures that the student's IEP Team, including teachers and related service providers of the student, is informed of those changes.

#### O. IEP AND SERVICES FOR PRESCHOOL STUDENTS AND POSTSECONDARY STUDENTS.

See Section VII—TRANSITIONS.

## IV. PROCEDURAL SAFEGUARDS.

The Washington County School District, consistent with the requirements of Part B of the IDEA and the USBE Special Education Rules, has established, maintains, and implements Procedural Safeguards for students with disabilities and their parent(s) as described below.

### **A. OPPORTUNITY FOR PARENTAL OR ADULT STUDENT PARTICIPATION IN MEETINGS. 34 CFR §300.501; USBE SER IV.B.**

The Washington County School District affords parent(s) or adult students the opportunity to participate in all decisions related to the location, identification, evaluation, and provision of FAPE for their student, including decisions related to the Discipline requirements of Part B of the IDEA. This includes arranging meetings at a mutually convenient time and place, providing Notice of Meeting at least one week prior to a scheduled meeting, unless mutually agreed upon by Washington County School District and the parent(s) or adult student to meet sooner than the one

week recommendation, and making at least two documented attempts to obtain parental or adult student participation in meetings.

**B. INDEPENDENT EDUCATIONAL EVALUATION (IEE). 34 CFR 300.502; USBE SER IV.C.**

1. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by or contracted with the School District responsible for the education of the student in question.
2. Washington County School District has established and implements the following policies and procedures related to independent educational evaluation that meet the requirements of Part B of the IDEA and the USBE SER.
  - a. The parent(s) of a student or adult student with a disability has the right to obtain an independent educational evaluation of the student at public expense if they disagree with an evaluation obtained by the School District.
  - b. Upon request for an independent educational evaluation, Washington County School District provides a copy of Washington County School District's written criteria for IEEs, including information about what the School District will pay for, a list of potential evaluators, and, if available, the range of fees each evaluator Washington County School District updates this list periodically to reflect any changes in fees and evaluators.
  - c. Additional criteria for the evaluation are that the evaluation procedures meet all of the same standards as those listed in Section II.D-H of this Policy and Procedures Manual.
  - d. If Washington County School District's criteria includes a monetary cap on IEEs, the criteria also allows parent(s) or adult student the opportunity to request a waiver in the student's circumstance.
  - e. In addition, Washington County School District considers any other evaluator or agency proposed by the parent(s) or adult student to conduct the IEE if the examiner and the evaluation meet the School District's criteria. A qualified examiner is one who meets the USBE criteria for qualified personnel as a special education teacher, school psychologist, psychologist with expertise in administration and analysis of assessments, or other equivalent qualifications as determined by the School District.
  - f. The Washington County School District either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent(s) or adult student.
  - g. When parent(s) or adult student requests an IEE, either the School District files a due process complaint to request a hearing to show that its evaluation is appropriate or it ensures that the independent educational evaluation is provided at public expense, unless the School District demonstrates in a hearing that the evaluation obtained by the parent(s) or adult student did not meet the School District criteria as described above. If a Due Process Hearing Officer finds the School District evaluation was appropriate, an IEE obtained by the parent(s) or adult student is considered by the team, but not at public expense.

- h. Parent(s) or adult student is entitled to only one IEE at public expense each time the School District conducts an evaluation with which the parent(s) or adult student disagrees.
- i. If the parent(s) or adult student obtains an IEE at public expense or shares an evaluation obtained at private expense with Washington County School District, the results of the evaluation, if it meets School District criteria, are considered by the School District in any decision made with respect to provision of a FAPE to the student.
- j. Except for the criteria described above, Washington County School District does not impose additional conditions or timelines related to obtaining an IEE at public expense.
- k. An independent educational evaluation conducted at the School District's expense becomes the property of the School District, in its entirety.

**C. WRITTEN PRIOR NOTICE. 34 CFR §300.503; USBE SER IV.D.**

Washington County School District provides Written Prior Notice to parent(s) or adult student a reasonable time before it proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or provision of a free appropriate public education to the student.

The notice includes:

1. A description of the action proposed or refused;
2. An explanation of reasons for the proposal or refusal;
3. A description of evaluations or other information the proposal or refusal is based on;
4. A statement that the parent(s) and eligible student have protection under the Procedural Safeguards and how to obtain a copy of the Safeguards;
5. Sources of assistance to understand Part B of the IDEA;
6. Description of other options the IEP Team considered and why the other options were rejected; and
7. A description of other relevant factors to the proposal or refusal.
8. Written in language understandable to the general public; and
9. Provided in the native language of the parent(s) or adult student or other mode of communication used by the parent(s) or adult student, unless it is clearly not feasible to do so.
10. If the native language or other mode of communication of the parent(s) or adult student is not a written language, the School District takes steps to ensure that:
  - a. The notice is translated orally or by other means to the parent(s) or adult student in his/her native language or other mode of communication;
  - b. The parent(s) or adult student understands the content of the notice; and

- c. There is written evidence that the requirements have been met.

**D. PROCEDURAL SAFEGUARDS NOTICE. 34 CFR §300.504; USBE SER IV.E.**

1. A copy of the Procedural Safeguards Notice is given to the parent(s) or adult student once a year at the annual IEP review, except that a copy also is given to the parent(s) or adult student upon initial referral or parental or adult student request for evaluation, upon receipt of the first State complaint or due process complaint in that school year, and upon request by the parent(s) or adult student at any time.
2. Washington County School District uses the USBE Procedural Safeguards Notice that is posted on the USBE website, [www.schools.utah.gov](http://www.schools.utah.gov). Washington County School District may place a current copy of the Procedural Safeguards Notice on its website. USBE SER IV.E.2.
3. The special education teacher or case manager provides a brief explanation of the main provisions of the Procedural Safeguards to the parent(s) or adult student at consent for evaluation, eligibility determination, and annual IEP meetings.
4. The WPN contains an explanation of the Procedural Safeguards related to:
  - a. Independent educational evaluations;
  - b. Written prior notice;
  - c. Parental or adult student access to educational records;
  - d. Opportunity to present and resolve complaints through State complaint or due process complaint procedures;
  - e. Opportunity for the School District to resolve the complaint;
  - f. Availability of mediation;
  - g. Student's placement during pendency of hearings;
  - h. Procedures for students placed in an interim alternative educational setting;
  - i. Requirements for unilateral placement of student in private schools at public expense;
  - j. Hearings on due process complaints;
  - k. Civil actions; and
  - l. Attorney's fees.

**E. PARENTAL OR ADULT STUDENT CONSENT. 34 CFR §300.300; USBE SER II.C., III.T., IV.F.**

1. Informed written parental or adult student consent is obtained for evaluation and reevaluation, initial placement and provision of special education, and for release of records to certain parties. Reasonable efforts to obtain informed consent are documented in writing.
2. No student receives special education or special education and related services without the



signed Initial Consent for Placement contained in the student's special education file.

3. Other relevant parental or adult student consent requirements are addressed in Sections II and III of this Policies and Procedures Manual.

## F. DISPUTE RESOLUTION.

The Washington County School District follows the Dispute Resolution requirements of the USBE SER IV.G-U as written and accesses the USBE SER Dispute Resolution Manual for more in-depth information. The procedures address State Complaints, Mediation, Due Process Complaints, Resolution Process, Due Process Hearings, Civil Actions, Attorney's Fees, and Student's Status during Proceedings. State complaint procedure changed from two-tier (30-day LEA investigation, with option to request an appeal and 30-day State investigation) process to one-tier (60-day State investigation with no appeal option) process (USBE SER IV.G.).

## G. SURROGATE PARENTS. 34 CFR §300.519; USBE SER IV.V.

1. The Washington County School District assigns a surrogate parent for a student under the age of majority when (1) the parent(s) cannot be identified or cannot be located, (2) the parent(s)' rights to make educational decisions has been taken away by a court, (3) the student is a ward of the State, or (4) the student is an unaccompanied homeless youth.

2. Washington County School District determines whether a student under the age of majority needs a surrogate using information from the student's registration form and information from agencies involved with the student.

3. The School District assigns a surrogate after contacting the Utah Parent Center for assistance in obtaining names of trained surrogates.

4. Washington County School District ensures that a person selected as a surrogate parent (1) is not an employee of the USBE, the School District, or any other agency that is involved in the education or care of the student, (2) has no personal or professional interest that conflicts with the interest of the student the surrogate parent represents, and (3) has knowledge and skills that ensure adequate representation of the student.

5. A person otherwise qualified to be a surrogate parent is not an employee of Washington County School District solely because he or she is paid by Washington County School District to serve as a surrogate parent.

6. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates until a surrogate can be appointed that meets all of the above requirements.

7. The surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student, and the provision of a FAPE to the student.

8. The USBE and School District staff must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 calendar days after the School District determines that

the student needs a surrogate.

#### **H. TRANSFER OF RIGHTS. 34 CFR §300.520; USBE SER IV.W.**

When a student with a disability reaches age 18, the age of majority in Utah, and has not been determined incompetent under State law or has not already been married or emancipated, all rights accorded to parent(s) under Part B of the IDEA and USBE SER transfer to the student. Washington County School District provides written notice to the parent(s) and student of this transfer of rights at least one year prior to the student's 18th birthday.

#### **I. CONFIDENTIALITY OF INFORMATION. USBE SER IV.X.; R277-487.**

Washington County School District takes appropriate steps to ensure the protection of the confidentiality of any personally identifiable data, information, and records it collects or maintains related to Part B of the IDEA.

##### 1. Definitions. As used in the Procedural Safeguards:

a. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

b. *Education records* means the type of records covered under the definition of "education records" in 34 CFR 99, implementing regulations for the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g (FERPA).

c. *Participating agency* means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

##### 2. Access Rights.

a. Washington County School District permits the parent(s) or adult student to inspect and review any education records relating to their student that are collected, maintained, or used by the School District. Washington County School District complies with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing, or resolution session, and in no case more than 45 calendar days after the request has been made.

b. The right to inspect and review education records includes the right to:

i. A response from the School District to reasonable requests for explanations and interpretations of the records;

ii. Request that the School District provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent(s) or adult student from exercising the right to inspect and review the records; and

iii. Have a representative of the parent(s) or adult student inspect and review the records.

c. Washington County School District may presume that the parent(s) has authority to

inspect and review records relating to his or her student unless the school has been advised that the parent(s) does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

3. Record of access. 34 CFR §300.614; USBE SER IV.X.5.

a. Washington County School District keeps a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA (except access by parent(s), adult student, and authorized employees of the School District) in each student's special education file, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

4. Records on more than one student. 34 CFR §300.615; USBE SER IV.X.6.

If any education record includes information on more than one student, the parent(s) of those students or the adult student has the right to inspect and review only the information relating to their student or themselves or to be informed of that specific information.

5. List of types and locations of information. 34 CFR §300.616; USBE SER IV.X.7.

On request, Washington County School District provides the parent(s) or adult student with a list of the types and locations of education records collected, maintained, or used by the School District. This list is maintained in the Special Education office at Washington County School District.

6. Fees. 34 CFR §300.617; USBE SER IV.X.8.

Washington County School District may charge a fee for copies of records that are made for the parent(s) or adult student under Part B of the IDEA if the fee does not effectively prevent the parent(s) or adult student from exercising their right to inspect and review those records; however, it may not charge a fee to search for or to retrieve information under Part B of the IDEA.

7. Amendment of records at parent(s)' or adult student's request. 34 CFR §300.618; USBE SER IV.X.9.

a. Parent(s) or the adult student who believe that information in the education records collected, maintained, or used under Part B of the IDEA or USBE SER is inaccurate or misleading or violates the privacy or other rights of the student may request the School District that maintains the information to amend the information.

b. The School District must decide whether to amend the information within a reasonable period of time of receipt of the request. If the School District decides to refuse to amend the information, it must inform the parent(s) or adult student of the refusal and advise the parent(s) or adult student of the right to a hearing on the matter.

c. Opportunity for a hearing. 34 CFR §300.619; USBE SER IV.X.10. The School District, on request, provides an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. This hearing is not an IDEA due process complaint

hearing.

d. Result of hearing. 34 CFR §300.620; USBE SER IV.X.11. If, as a result of the hearing, the School District decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must amend the information accordingly and so inform the parent(s) or adult student in writing.

i. If, as a result of the hearing, the School District decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent(s) or adult student of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the School District.

ii. Any explanation placed in the records of the student under this section must be maintained by the School District as part of the records of the student as long as the record or contested portion is maintained; and if the records of the student or the contested portion is disclosed by the School District to any party, the explanation must also be disclosed to the party.

e. Hearing procedures. 34 CFR §300.621; USBE SER IV.X.12. A hearing that challenges education records is conducted according to procedures under 34 CFR §99.22 as described below.

i. The hearing shall be held within a reasonable period of time after the School District receives the request, and the parent(s) of the student or adult student is given notice of the date place, and time reasonably in advance of the hearing.

ii. The hearing may be conducted by any party, including an official of the School District, who does not have a direct interest in the outcome of the hearing.

iii. The parent(s) of the student or adult student is afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or be represented by an individual of their choice at their own expense, including an attorney.

iv. The School District shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.

v. The decision of the School District shall be based solely upon the evidence presented at the hearing, and shall include a summary of the evidence and the reasons for the decision.

8. Consent for disclosure of records. 34 CFR §300.622; USBE SER IV.X.13. Except as to disclosures addressed in referral to and action by law enforcement and judicial authorities, for which parental or adult student consent is not required by 34 CFR §99, parental or adult student consent is obtained before personally identifiable information is;

a. Disclosed to anyone other than officials of participating agencies collecting or using the information under Part B of the IDEA or USBE SER, or

- b. Used for any purpose other than meeting a requirement of Part B of the IDEA or USBE SER.
- c. Washington County School District does not release information from education records to participating agencies without parental or adult student consent unless authorized to do so by 34 CFR 99.31 and §99.34 (FERPA):
- d. Regulation 34 CFR 99.31 allows the School District to disclose personally identifiable information from the education records of a student without the written consent of the parent(s) of the student or the adult student, if the disclosure is:
  - e. To other school officials, including teachers within the School District who have been determined by the School District to have legitimate educational interests, and
  - f. To officials of another school or school site in which the student seeks or intends to enroll, subject to the requirements set forth in 34 CFR 99.34 below.
  - g. Regulation 34 CFR 99.34 requires that the School District transferring the education records of a student pursuant to 34 CFR §99.31 above shall make a reasonable attempt to notify the parent(s) of the student or the adult student, except that the School District does not have to provide any further notice of the transfer of records when:
    - i. The transfer is initiated by the parent(s) or adult student at the sending school, or
    - ii. The School District includes in its annual notice of Procedural Safeguards, that it is the policy of the School District to forward education records on request of a school in which a student seeks or intends to enroll.
    - iii. The School District transferring the records keeps a copy of the records for three years after the transfer.
  - h. A School District receiving personally identifiable information from another educational agency or institution may make further disclosure of the information on behalf of the School District without the prior written consent of the parent(s) or adult student if the conditions of 34 CFR 99.31 and §99.34 noted above are met, and if the educational agency informs the party to whom disclosure is made of these requirements.
  - i. If the parent(s) or adult student refuses consent for the release of personally identifiable information to a third party, then that party may proceed with statutory procedures in an effort to obtain the desired information.
  - j. Note: As authorized in 34 CFR 99.31 (FERPA), Utah Local Educational Agencies include in the annual Procedural Safeguards Notice that it is their policy to forward educational records of a student with disabilities without parental or adult student consent or notice to officials of another school or school district in which a student seeks or intends to enroll.
  - k. If the parent(s) or adult student revokes consent in writing for the student's receipt of special education or special education and related services, the School District is not

required to amend the student's education record to remove any references to the student's receipt of special education or special education and related services because of the revocation of consent.

9. Safeguards. 34 CFR §300.324; USBE SER IV.X.14.

a. Washington County School District protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

b. The Superintendent of Washington County School District assumes responsibility for ensuring the confidentiality of any personally identifiable information.

c. Staff members at Washington County School District who collect or use personally identifiable information receive training or instruction regarding the State's policies and procedures in USBE SER IV.X and 34 CFR §99 on an annual basis.

d. Washington County School District maintains, for public inspection, an Access Authorization List, that is a current listing of the names and positions of those employees within the school who may have access to personally identifiable information on students with disabilities. This list, which is updated annually, is posted on the locked cabinet in which students' special education files are maintained.

10. Destruction of information. 34 CFR §300.324; USBE SER IV.X.15.

The Washington County School District informs parent(s) or adult students when personally identifiable information collected, maintained, or used under Part B of the IDEA and USBE Special Education Rules is no longer needed to provide educational services to the student. Information no longer needed must be destroyed at the request of the parent(s) or adult student. However, a permanent record of a student's name, address, and phone number, the student's grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. Each student's records may be considered "no longer needed to provide educational services" and may be destroyed three years after the student graduates or three years after the student turns 22.

11. Students' rights.

The rights of privacy afforded to parent(s) are transferred to the student who reaches the age of 18, providing the student has not been declared incompetent by a court order, including the rights with regard to education records.

**J. DISCIPLINE PROCEDURES. DISCIPLINE PROCEDURES FOR STUDENTS WITH DISABILITIES. USBE SER V.A. 34 CFR §300.530; USBE SER V.**

Consistent with the requirements of Part B of the IDEA and USBE Special Education Rules, as well as applicable USBE Rules, Washington County School District establishes, maintains, and implements the following policies and procedures for disciplining students with disabilities.

1. AUTHORITY OF SCHOOL PERSONNEL. 34 CFR §300.530(a-c); USBE SER V.B.

a. School personnel may consider any unique circumstances on a case-by-case basis

when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a student with a disability who violates a code of student conduct.

b. School personnel may remove a student with a disability who violates a code of student conduct from the student's current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.

c. After a student with a disability has been removed from the student's current placement for ten school days in the same school year, during any subsequent days of removal the School District provides services to the extent required.

d. For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities, except after the tenth day of removal that constitutes a change in placement, the School District provides services to the student.

## 2. SERVICES. 34 CFR §300.530(d); USBE SER V.C.

A student with a disability who is removed from the student's current placement must:

a. Continue to receive educational services, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and

b. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

c. The services may be provided in an interim alternative educational setting (IAES).

d. Washington County School District is only required to provide services during periods of removal to a student with a disability who has been removed from the student's current placement for ten school days or less in that school year, if it provides services to a student without disabilities who is similarly removed.

e. After a student with a disability has been removed from the student's current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

f. If the removal is a change of placement, the student's IEP Team determines appropriate services to be provided during the removal.

### 3. CHANGE OF PLACEMENT DUE TO DISCIPLINARY REMOVALS. 34 CFR §300.536; USBE SER V.D.

For purposes of removals of a student with a disability from the student's current educational placement, a change of placement occurs if:

- a. The removal is for more than ten consecutive school days; or
- b. The student has been subjected to a series of removals that constitute a pattern:
  - i. Because the series of removals total more than ten school days in a school year;
  - ii. Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
  - iii. Because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.
  - iv. The School District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

### 4. MANIFESTATION DETERMINATION. 34 CFR §300.530(e-f); USBE SER V.E.

a. Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, a representative of the School District, the parent or adult student, and relevant members of the student's IEP Team (as determined by the parent(s) or adult student and the School District) reviews all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parent(s) or adult student to determine:

- i. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- ii. If the conduct in question was the direct result of the School District's failure to implement the IEP.



- b. The conduct must be determined to be a manifestation of the student's disability if the representative of the School District, the parent(s) or adult student, and relevant members of the student's IEP Team determine that the misconduct was caused by or had a direct and substantial relationship to the student's disability, or was the direct result of the School District's failure to implement the IEP.
- c. If the School District, the parent(s) or adult student, and relevant members of the student's IEP Team determine that the misconduct was the direct result of the School District's failure to implement the IEP, the School District must take immediate steps to remedy those deficiencies.
- d. If the representative of the School District, the parent(s) or adult student, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the student's disability, the IEP Team must either:
- e. Conduct a functional behavioral assessment (FBA), unless the School District had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the student; or
- f. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- g. Unless the misconduct falls under the definition of special circumstances in Rule V.E.5, return the student to the placement from which the student was removed, unless the parent(s) or adult student and the School District agree to a change of placement as part of the modification of the behavioral intervention plan.
- h. Special circumstances. 34 CFR §300.530(g); USBE SER V.E.5. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:
- i. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the School District;
  - ii. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the School District, or
  - iii. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the School District.

Definitions. For purposes of this section, the following definitions apply:

- *Controlled substance* means a drug or other substance that cannot be distributed without a prescription, identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812(c)).

- *Illegal drug* means a controlled substance but does not include a drug controlled, possessed, or used under the supervision of a licensed healthcare professional or one legally possessed or used under the Controlled Substances Act or under any other provision of Federal law (21 USC 812).
- *Serious bodily injury* means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (18 USC 1365). Serious bodily injury does not include a cut, abrasion, bruise, burn, disfigurement, physical pain, illness, or impairment of the function of a bodily member, organ or mental faculty that is temporary (20 USC 1365).
- *Weapon* means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2.5 inches (18 USC 930).

5. PROCEDURAL SAFEGUARDS NOTICE. 34 CFR 300.530(h); USBE SER V.F.

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the LEA must notify the parent(s) or adult student of that decision, and provide the parent(s) or adult student the Procedural Safeguards notice.

6. DETERMINATION OF SETTING. 34 CFR §300.531; USBE SER V.G.

The student's IEP Team determines the interim alternative educational setting (IAES) for services if the behavior that gives rise to the removal is not a manifestation of the student's disability, the removal constitutes a change of placement, or the behavior falls under the special circumstances in Rule V.E.5.

7. APPEALS BY PARENT(S) OR ADULT STUDENT OR LEA. 34 CFR §300.532; USBE SER V.H.

- a. The parent(s) of a student with a disability or adult student who disagrees with any decision regarding placement or the manifestation determination, or an LEA that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by filing a due process hearing complaint.
- b. Authority of hearing officer. A due process hearing officer hears, and makes a determination regarding an appeal. In making the determination, the hearing officer may:
  - i. Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of the discipline procedures under Part B of the IDEA or these Rules or that the student's behavior was a manifestation of the student's disability; or

- ii. Order a change of placement of the student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.
- c. The appeal procedures may be repeated if the School District believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.
- d. Expedited due process hearing. Whenever a hearing is requested, the parent(s) or adult student or the School District involved in the dispute must have an opportunity for an impartial due process hearing.
  - i. The School District is responsible for arranging the expedited due process hearing with the State Director of Special Education, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within ten school days after the hearing.
  - ii. Unless the parent(s) or adult student and the School District agree in writing to waive the resolution meeting, or agree to use mediation:
  - iii. A resolution meeting must occur within seven calendar days of receiving notice of the due process complaint; and
  - iv. The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of the receipt of the due process complaint.
  - v. The decisions on expedited due process hearings are appealable.

#### 8. PLACEMENT DURING APPEALS. 34 CFR §300.533; USBE SER V.I.

When an appeal through a due process complaint has been made by either the parent(s) or adult student or the LEA, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified, whichever occurs first, unless the parent(s) or adult student and the SEA or LEA agree otherwise.

#### 9. PROTECTIONS FOR STUDENTS NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION OR SPECIAL EDUCATION AND RELATED SERVICES. 34 CFR §300.534; USBE SER V.J.

- a. A student who has not been determined to be eligible for special education or special education and related services under Part B of the IDEA, and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the School District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.
- b. A School District must be deemed to have knowledge that a student is a student with a

disability if, before the behavior that precipitated the disciplinary action occurred:

- c. The parent(s) of the student or adult student expressed concern in writing to supervisory or administrative personnel of the appropriate School District, or a teacher of the student, that the student is in need of special education or special education and related services;
- d. The parent(s) of the student or adult student requested an evaluation of the student; or
- e. The teacher of the student, or other personnel of the School District, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the School District or to other supervisory personnel of the School District.
- f. A School District would not be deemed to have knowledge that a student is a student with a disability if: The parent(s) of the student or adult student, has not allowed an evaluation of the student; or has refused services under this part; or the student has been evaluated in accordance with and determined to not be a student with a disability under Part B of the IDEA.
- g. If a School District does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the disciplinary measures applied to students without disabilities who engage in comparable behaviors.
- h. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.
- i. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
- j. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the School District and information provided by the parent(s) or adult student, the School District must provide special education or special education and related services.

#### 10. REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES. 34 CFR §300.535; USBE SER V.K.

- a. Nothing in Part B of the IDEA prohibits a School District from reporting a crime committed by a student with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.

b. Transmittal of records. A School District reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the LEA reports the crime.

c. A School District reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

## V. STUDENTS WITH DISABILITIES IN OTHER SETTINGS.

### A. PRIVATE SCHOOL PLACEMENTS BY LEAs. 34 CFR §300.325; USBE SER VI.A.

#### 1. Developing IEPs.

a. Before Washington County School District places a student with a disability in, or refers a student to, a private school or facility, Washington County School District must initiate and conduct a meeting to develop an IEP for the student in accordance with Part B of the IDEA and these Rules.

b. Washington County School District ensures that a representative of the private school or facility attends the meeting. If the representative cannot attend, Washington County School District uses other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

#### 2. Reviewing and revising IEPs.

a. After a student with a disability is placed in a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of the School District.

b. If the private school or facility initiates and conducts these meetings, the School District must ensure that the parent(s) or adult student and a School District representative:

i. Are involved in any decisions about the student's IEP; and

ii. Agree to any proposed changes in the IEP before those changes are implemented.

iii. Even if a private school or facility implements a student's IEP, responsibility for compliance with this part remains with the School District and the USBE.

#### c. Residential placement. 34 CFR §300.104; USBE SER VI.A.4.

If placement in a public or private residential program is necessary to provide special education and related services to a student with a disability, the program, including non-medical care and room and board, must be at no cost to the parent(s) of the student or adult student.

**B. STUDENTS WITH DISABILITIES ENROLLED BY THEIR PARENT(S) IN PRIVATE SCHOOLS WHEN FAPE IS AT ISSUE. 34 CFR §300.148; USBE SER VI.C.**

1. A School District is not required to pay for the cost of education, including special education or special education and related services, of a student with a disability at a private school or facility if that School District made a FAPE available to the student and the parent(s) elected to place the student in a private school or facility.
2. Disagreements between the parent(s) and the School District regarding the availability of a program appropriate for the student, and the question of financial reimbursement, are subject to the State complaint and due process procedures in USBE SER IV.G-R.
3. If the parent(s) of a student with a disability, who previously received special education or special education and related services under the authority of a School District, enroll the student in a private elementary school or secondary school without the consent of or referral by the School District, a court or a hearing officer may require the School District to reimburse the parent(s) for the cost of that enrollment if the court or hearing officer finds that the School District had not made a FAPE available to the student in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the USBE and School District.
4. The cost of reimbursement may be reduced or denied if:
  - a. At the most recent IEP Team meeting that the parent(s) attended prior to removal of the student from the public school, the parent(s) did not inform the IEP Team that they were rejecting the placement proposed by the School District to provide a FAPE to their student, including stating their concerns and their intent to enroll their student in a private school at public expense; or
  - b. At least ten business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parent(s) did not give written notice to the School District of the information described in USBE SER C.4.a;
  - c. Prior to the parent(s)' removal of the student from the public school, the School District informed the parent(s), through the written prior notice requirements of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parent(s) did not make the student available for the evaluation; or
  - d. Upon a judicial finding of unreasonableness with respect to actions taken by the parent(s).
5. Notwithstanding the requirements for parent(s) to provide notice to the School District prior to removal of the student, the cost of reimbursement: Must not be reduced or denied for failure to provide the notice if:
  - a. The school prevented the parent(s) from providing the notice;

- b. The parent(s) or adult student had not received written prior notice of the notice requirement in USBE SER VI.C.4.a-b; or
- c. Compliance with the notice requirements in USBE SER VI.C.4.a-c would likely result in physical harm to the student; and May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:
  - i. The parent(s) or adult student is not literate or cannot write in English; or
  - ii. Compliance with USBE SER VI.C.4.a-c would likely result in serious emotional harm to the student.

**C. STUDENTS WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS WHEN FAPE IS NOT AT ISSUE. 34 CFR §300.130; USBE SER VI.B.**

Definitions.

*Parentally placed private school students with disabilities* means students with disabilities enrolled by their parent(s) or an adult student in private, including religious schools or facilities that meet the definition of elementary school or secondary school in Part B of the IDEA.

*Elementary school* means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education as determined under State law. 34 CFR §300.130.

*Secondary school* means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education as determined under State law, except that it does not include any education beyond grade 12. 34 CFR 300.36. Grades nine and above must be accredited, in accordance with USBE Rule.

1. Child Find for parentally placed or adult student private school students with disabilities. 34 CFR §300.131.
  - a. Each school district must locate, identify, and evaluate all students with disabilities who are enrolled by their parent(s) or adult students, in private (either for-profit or nonprofit), including religious, elementary schools and secondary schools located in the area served by the school district. The school district Child Find process must be designed to ensure:
    - i. The equitable participation of parentally placed or adult student non profit private school students; and
    - ii. An accurate count of those students in nonprofit private schools.
  - b. The school district must undertake activities similar to the activities undertaken for the school district's public school students.

c. The cost of carrying out the Child Find requirements in this section, including individual evaluations, may not be considered in determining if a school district has met its obligation under spending a proportionate share of fund under Part B of the IDEA to provide services to parentally placed or adult student private nonprofit school students.

d. The Child Find process must be completed in a time period comparable to that for students attending public schools in the school district.

e. Each school district in which private (for-profit and nonprofit), including religious, elementary schools and secondary schools are located must, in carrying out the Child Find requirements in this section, include parentally placed or adult student private school students who reside in a state other than the state in which the private schools that they attend are located.

2. Basic requirements for provision of services for parentally placed or adult student non profit private school students with disabilities. 34 CFR §300.132.

a. To the extent consistent with the number and location of students with disabilities who are enrolled by their parent(s), or an adult student, in nonprofit private, including religious, elementary schools and secondary schools located in the area served by the school district, provision is made for the participation of those students in the program assisted or carried out under Part B of the IDEA by providing them with special education and related services, including direct services.

b. The school district must develop and implement a services plan for each nonprofit private school student with a disability who has been designated by the school district in which the private school is located to receive special education and related services.

c. Each school district must maintain its records, and provide to the USBE staff annually, the following information related to parentally placed or adult student non profit private school students, including that required under USBE SER I.A.(4)(c):

- i. The number of students evaluated and reevaluated within three years;
- ii. The number of students determined to be students with disabilities; and
- iii. The number of students served.

3. Expenditures. 34 CFR §300.133; USBE SER VI.B.(4). Each school district must spend the following on providing special education and related services (including direct services) to parentally placed or adult student non profit private school students with disabilities:

a. For students ages 3 through 21, an amount that is the same proportion of the school district's total subgrant under Section 611(f) of Part B of the IDEA as the number of private school students with disabilities ages 3 through 21 who are enrolled by their parent(s) or an adult student, in nonprofit private, including religious, elementary schools and secondary schools located in the school district, is to the total number of students with disabilities in its jurisdiction ages 3 through 21.



- b. For student ages three through five, an amount that is the same proportion of the school district's total subgrant under Section 619(g) of Part B of the IDEA as the number of private school students with disabilities ages three through five who are enrolled by their parent(s) or an adult student, in nonprofit private, including religious, elementary schools and secondary schools located in the school district, is to the total number of students with disabilities in its jurisdiction ages three through five.
- c. Students ages three through five are considered to be parentally placed private school students with disabilities enrolled by their parent(s) in nonprofit private, including religious, elementary schools if they are enrolled in a private preschool that is part of a private elementary school.
- d. If a school district has not expended for equitable services all of the required funds by the end of the fiscal year for which Congress appropriated the funds, the school district must obligate remaining funds for special education and related services (including direct services) to parentally or adult student placed nonprofit private school students with disabilities during a carryover period of one additional year.
- e. In calculating the proportionate amount of Federal funds to be provided for parentally placed or adult student non profit private school students with disabilities, the school district, after timely and meaningful consultation with representatives of private schools, must conduct a thorough and complete Child Find process to determine the number of parentally or adult student placed students with disabilities attending nonprofit private schools located in the school district.
- f. Annual count of the number of parentally or adult student placed private school students with Each school district must:
- i. After timely and meaningful consultation with representatives of parentally placed or adult student private school students with disabilities, determine the number of parentally placed or adult student private school students with disabilities attending nonprofit private schools located in the school district; and
  - ii. Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each
- g. The count must be used to determine the amount that the school district must spend on providing special education and related services to parentally placed or adult student non profit private school students with disabilities in the next subsequent fiscal year.
- h. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally placed and adult student private school students with disabilities.

4. Consultation. 34 CFR §300.134; USBE SER VI.C.5. To ensure timely and meaningful consultation, a school district must consult with nonprofit private school representatives and representatives of parent(s) of parentally placed or adult student private school students with disabilities during the design and development of special education and related services for the students regarding the following:

a. The Child Find process, including:

- i. How parentally placed or adult student non profit private school students suspected of having a disability can participate equitably; and
- ii. How the parent(s) or adult student, teachers, and nonprofit private school officials will be informed of the process.
- iii. The determination of the proportionate share of Federal funds available to serve parentally placed or adult student non profit private school students with disabilities, including the determination of how the proportionate share of those funds was calculated.
- iv. The consultation process among the school district, nonprofit private school officials, and representatives of the parent(s), or adult student), of parentally placed or adult student non profit private school students with disabilities, including how the process will operate throughout the school year to ensure that parentally placed or adult student, students with disabilities identified through the Child Find process can meaningfully participate in special education and related services.
- v. How, where, and by whom special education and related services will be provided for parentally placed or adult student non profit private school students with disabilities, including a discussion of:
- vi. The types of services, including direct services and alternate service delivery mechanisms; and
- vii. How special education and related services will be apportioned if funds are insufficient to serve all parentally placed or adult student private school students; and
- viii. How and when those decisions will be made;
- ix. How, if the school district disagrees with the views of the nonprofit private school officials on the provision of services or the types of services (whether provided directly or through a contract), the school district will provide to the nonprofit private school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

b. Written affirmation. 34 CFR §300.135; USBE SER VI.C.6. When timely and meaningful consultation has occurred the school district must obtain a written affirmation signed by the representatives of participating nonprofit private schools.

c. If the representatives do not provide the affirmation within a reasonable period of time,

the school district must forward the documentation of the consultation process to the State Director of Special Education.

d. Compliance. 34 CFR §300.136; USBE SER VI.C.7. A nonprofit private school official has the right to submit a complaint to the State Director of Special Education that the school district (1) did not engage in consultation that was meaningful and timely; or (2) did not give due consideration to the views of the nonprofit private school official.

e. Procedure. If the nonprofit private school official wishes to submit a complaint, the official must provide to the State Director of Special Education the basis of the noncompliance by the school district with the applicable nonprofit private school provisions of this part; and the school district must forward the appropriate documentation to the State Director of Special Education. If the nonprofit private school official is dissatisfied with the decision of the State Director of Special Education, the official may submit a complaint to the Secretary by providing the information on noncompliance described above; and the State Director of Special Education must forward the appropriate documentation to the Secretary.

f. Equitable services determined. 34 CFR §300.137; USBE SER VI.C.8. No parentally placed or adult student non profit private school student with a disability has an individual right to receive some or all of the special education or related services that the student would receive if enrolled in a public school.

g. Decisions about the services that will be provided to parentally placed or adult student non profit private school students with disabilities by school districts must be made in accordance with the consultation and proportionate share requirements.

h. The school district must make the final decisions with respect to the services to be provided to eligible parentally placed or adult student non profit private school students with disabilities.

i. If a student with a disability is enrolled in a nonprofit religious or other private school by the student's parent(s) or adult student and will receive special education or related services from a school district, the school district must:

i. Initiate and conduct meetings to develop, review, and revise a services plan for the student; and

ii. Ensure that a representative of the religious or other nonprofit private school attends each meeting. If the representative cannot attend, the school district shall use other means to ensure participation by the religious or other nonprofit private school, including individual or conference telephone calls.

j. Equitable services provided. 34 CFR §300.138; USBE SER VI.C.9.

i. The services provided to parentally placed or adult student non profit private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally placed or adult student non profit private school students with

disabilities do not have to meet the USBE and IDEA special education teacher requirements.

ii. Parentally placed or adult student non profit private school students with disabilities may receive a different amount of services than students with disabilities in public

k. Services provided in accordance with a services plan.

i. Each parentally placed or adult student non profit private school student with a disability who has been designated to receive services must have a services plan that describes the specific special education and related services that the school district will provide to the student in light of the services that the school district has determined it will make available to parentally placed or adult student non profit private school students with disabilities. The services plan must, to the extent appropriate:

ii. Meet the same content requirements as the IEP, including access and progress in the general curriculum, or for a student ages three through five, including access and progress in age-appropriate activities, with respect to the services provided; and

iii. Be developed, reviewed, and revised consistent with the IEP provisions in USBE SER III.I.

l. Provision of equitable services.

i. Services must be provided by employees of the school district or through contract by the school district with an individual, association, agency, organization, or other entity.

ii. Special education and related services provided to parentally placed or adult student non profit private school students with disabilities, including materials and equipment, must be secular, neutral, and non-ideological.

m. Location of services. 34 CFR §300.139; USBE SER VI.C.10. Services to parentally placed or adult student non profit private school students with disabilities may be provided on the premises of private, including religious school, to the extent consistent with the law.

n. Transportation. If necessary for the student to benefit from or participate in the services provided, a parentally placed or adult student non profit private school student with a disability must be provided transportation:

i. From the student's school or the student's home to a site other than the private school; and

ii. From the service site to the private school, or to the student's home, depending on the time of the services.

- iii. School districts are not required to provide transportation from the student's home to the private school.
- iv. The cost of transportation may be included in calculating whether the school district has met the requirements for proportionate share spending.
- o. Due process complaints and State complaints. 34 CFR §300.140; USBE SER VI.C.11.
  - i. Due process not applicable, except for Child Find. Except as provided in USBE SER VI.B.11.b, the procedures for State complaints and due process hearing requests do not apply to complaints that a school district has failed to meet the requirements of Part B of the IDEA and the USBE SER, including the provision of services indicated on the student's services plan.
  - ii. Child Find complaints to be filed with the school district in which the private school is located.
  - iii. The procedures for State complaints and due process hearing requests apply to complaints that a school district has failed to meet the Child Find requirements in Part B of the IDEA and USBE SER,
  - iv. Any due process complaint regarding the Child Find requirements as described in USBE SER VI.B.11.b.(1) must be filed with the school district in which the private school is located, and a copy must be forwarded to the State Director of Special Education.
- p. State complaints.
  - i. Any complaint that a school district has failed to meet the requirements for provision of services, expenditures, consultation, written affirmation, determination of equitable services, location of services, due process and State complaints, funds not to benefit a private school, use of personnel, separate classes prohibited, and use of property equipment, and supplies must be filed in accordance with the State complaint procedures described in USBE SER IV.G.
  - ii. A complaint filed by a nonprofit private school official under the meaningful and timely consultation, or due consideration to views of private school official requirements, must be filed with the State Director of Special Education in accordance with the procedures in USBE SER VI. B.7.b.
  - iii. Requirement that funds not benefit a private 34 CFR §300.141; USBE SER VI.C.13.
  - iv. A school district may not use funds provided under Section 611 or 619 of Part B of the IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school.
  - v. The school district must use funds provided under Part B of the IDEA to meet the special education and related services needs of parentally placed or adult student

non profit private school students with disabilities, but not for meeting the needs of a private school or the general needs of the students enrolled in the private school.

q. Use of personnel. 34 CFR §300.142; USBE SER VI.C.14.

i. A school district may use funds available under Sections 611 and 619 of Part B of the IDEA to make public school personnel available in other than public facilities:

- To the extent necessary to provide services contained in service plans for parentally or adult student placed nonprofit private school students with disabilities; and
- If those services are not normally provided by the private school.

ii. A school district may use funds available under Sections 611 and 619 of Part B of the IDEA to pay for the services of an employee of a private school to provide services contained in service plans for parentally placed or adult student non profit private school students with disabilities if:

- . The employee performs the services outside of the employee's regular hours of duty; and
- . The employee performs the services under public supervision and control.

r. Separate classes prohibited. 34 CFR §300.143; USBE SER VI.C.15. A school district may not use funds available under Section 611 or 619 of Part B of the IDEA for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

s. Property, equipment, and supplies. 34 CFR §300.144; USBE SER VI.C.16.

i. A school district must control and administer the funds used to provide special education and related service, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA.

ii. The school district may place equipment and supplies in a private school for the period of time need for the Part B program.

iii. The school district must ensure that the equipment and supplies placed in a private school are used only for Part B purposes and can be removed from the private school without remodeling the private school facility.

iv. The school district must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

v. No funds under Part B of the IDEA may be used for repairs, minor remodeling, or

construction of private school facilities.

## VII. TRANSITIONS.

### A. TRANSITION FROM PART C TO PART B OF THE IDEA.

1. At the beginning of each school year, Washington County School District has in effect an IEP for each student with a disability ages three through five within its jurisdiction. 34 CFR §300.323; USBE SER III.F.1.
2. The USBE and the Washington County School District have in effect policies and procedures to ensure that:
  - a. Transition planning for students referred from Part C providers must be conducted consistent with the State's current interagency transition agreement with Part C. This planning is implemented at least 90 calendar days, as required by Part C regulations 637(a)(9), before the student is eligible for the preschool program under Part B of the IDEA. The Washington County School District participates in the transition planning meeting arranged by the lead agency for the Part C program. 34 CFR §300.124.
  - b. Students participating in early intervention programs assisted under Part C of the IDEA, and who will participate in preschool programs assisted under Part B of the IDEA, experience a smooth and effective transition to those preschool programs.
  - c. By the eligible student's third birthday, an IEP has been developed and is being implemented for the student;
  - d. If a student's third birthday occurs after the end of the school year, the student's IEP Team shall determine the date in the next school year when services under the IEP will begin, except that the IEP Team may determine that extended school year services are needed outside the school year; and
  - e. In developing the IEP for a student with a disability ages three through five or, at the discretion of the School District, a two-year-old with a disability who will turn age three during the school year, the IEP Team considers the contents of an IFSP that contains the natural environments statement and an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills. 34 CFR §300.323; USBE SER VII.A.3.
  - f. In the case of a student who was previously served under Part C of the IDEA, an invitation to the initial IEP meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services. 34 CFR §300.321; USBE SER VII.A.4.
  - g. Services for students with disabilities ages three through five, served in preschool programs of the School District, are to be provided consistent with the USBE SER, including consideration of the continuum of alternative placement options. 34 CFR §300.124; USBE SER III.K.2.

## **B. TRANSITION FROM SCHOOL TO POST-SCHOOL.**

### 1. Purpose. 34 CFR §300.1; USBE SER VII.B.1.

To ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education or special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.

### 2. Definition. 34 CFR §300.43; USBE SER VII.B.2.

Transition services means a coordinated set of activities for a student with a disability that:

- a. Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the student with a disability, to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- b. Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests, and includes:
  - i. Instruction,
  - ii. Related services,
  - iii. Community experiences, post-school adult living objectives, and
  - iv. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
- c. Transition services for students with disabilities may be special education, if provided a specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.
- d. Parent(s) or adult student participation. 34 CFR §300.322; USBE SER VII.B.3. For a student with a disability beginning not later than the IEP developed when the student is 14 years old, or younger if determined appropriate by the IEP Team, the Notice of Meeting indicates that:
  - i. A purpose of the meeting is the consideration of the post-secondary goals and transition services for the student,
  - ii. The Washington County School District will invite the student, and
  - iii. Identifies any other agency that will be invited, with the consent of the parent(s) or adult student, to send a representative.
- e. If the student does not attend the IEP meeting, Washington County School District



takes other steps to ensure that the student's preferences and interests are considered.

f. Definition of IEP. 34 CFR §300.320.b; USBE SER VII.B.5. Transition services.

Beginning not later than the first IEP developed when the student is 14 years of age, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP includes:

- i. Present levels of academic achievement and functional performance based on age-appropriate transition assessment(s);
- ii. Realistic and reasonable measurable postsecondary goals, including academic and functional goals, based upon age-appropriate transition assessments related to training or education, employment, and, where appropriate, independent living skills;
- iii. The transition services, including courses of study, needed to assist the student in reaching the student's postsecondary goals;
- iv. Evidence that the student was invited to the IEP Team meeting where transition services are to be discussed; and
- v. Any modifications to graduation requirements, as permitted under R277-700.

g. Students with disabilities must have access to school counselors for the purpose of planning and must be actively invited and included (when appropriate) in school activities which address course planning (including online courses), graduation, and post-secondary education and employment (i.e., college week, scholarship opportunities, ACT, and concurrent enrollment).

3. Transfer of rights at age of majority. 34 CFR §§300.320(c), 520; USBE SER VII.B.6.

a. Beginning not later than the student's 17th birthday, the IEP must include a dated statement, signed by the student, parent(s), and a School Representative, that the student and the student's parent(s) have been informed of the parent(s)' rights under Part B of the IDEA that will transfer to the student on reaching the age of majority (i.e., age 18), except for a student with a disability who has been determined to be incompetent by a court.

These rights include:

- i. An adult student has the right to approve the student's own educational placement and participate in development of the Individualized Education Program (IEP) without help from parent(s), family, or special advocates.
- ii. An adult student has the right to allow parent(s), family, or special advocates to help if the student so desires.

b. Washington County School District provides any notice required by Part B of the IDEA and these Rules to both the student and the parent(s).

c. All rights accorded to parent(s) under Part B of the IDEA transfer to the student.

d. All rights accorded to parent(s) under Part B of the IDEA transfer to students who are incarcerated in an adult or juvenile, State or local correctional institution.

4. Termination of eligibility as a change of placement. 34 CFR §300.305; USBE SER VII.B.7.

a. An evaluation is not required before the termination of a student's eligibility due to graduation from secondary school with a regular high school diploma, or due to exceeding the age of eligibility for FAPE under Utah law.

b. For a student whose eligibility terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility for FAPE under Utah law, the School District provides the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.

c. Receipt of a general educational development credential (GED) does not end eligibility for FAPE.

d. Failure to meet transition objectives. 34 CFR §300.324; USBE SER VII.B.8.

e. If a participating agency, other than the School District, fails to provide the transition services described in the IEP, Washington County School District must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

f. Nothing relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that LEA.

g. If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or an interagency agreement, to provide or pay for any services that are also considered special education or related services such as, but not limited to, services relating to assistive technology devices, assistive technology services, related services, supplementary aids and services, and transition services, that are necessary for ensuring a FAPE to students with disabilities within the State, the public agency must fulfill that obligation or responsibility either directly or through contract or other arrangement or as provided in an interagency agreement.

h. If a public agency other than an educational agency fails to provide or pay for the special education or special education and related services, the LEA must provide or pay for these services to the student in a timely manner. The LEA is authorized to claim reimbursement for the services from the non-educational public agency that failed to provide or pay for these services and that agency must reimburse the LEA in accordance with the terms of the interagency agreement. 34 CFR §300.154.

5. Students with disabilities in adult prisons. 34 CFR §300.324; USBE SER VII.B.9.

- a. The requirements relating to transition planning and transition services do not apply with respect to those students whose eligibility under Part B of the IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.
- b. The obligation to make FAPE available to all students with disabilities does not apply with respect to student ages 18 through 21 to the extent that State law does not require that special education or special education and related services under Part B of the IDEA be provided to students with disabilities who, in their last educational placement prior to their incarceration in an adult correctional facility:
  - i. Were not actually identified as being a student with a disability and
  - ii. Did not have an IEP under Part B of the IDEA. 34 CFR §300.102.
  - iii. The exception does not apply to students with disabilities ages 18 through 21 who:
    - iv. Had been identified as a student with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
    - v. Did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability.

**C. GRADUATION. 34 CFR §300.102; USBE SER VII.C.; R277-705.**

1. Washington County School District is not obligated to make FAPE available to all students with disabilities who have graduated from high school with a regular high school diploma.
2. The exception above does not apply to students who have graduated from high school but have not been awarded a regular high school diploma, even if they have received an alternative degree that is not fully aligned with the State's academic standards, such as a certificate of completion or a general educational development credential (GED).
3. Graduation from high school with a regular high school diploma is a change in placement that requires Written Prior Notice, contains all the requirements of USBE SER IV.D., and is given a reasonable time before the School District proposes to terminate the student's eligibility under the IDEA by issuing the student a diploma.
4. A student with a disability served by a special education program shall satisfy high school completion or graduation criteria, consistent with State and Federal law and the student's IEP. The IEP Team may amend graduation requirements as permitted under R277-700 and must document in the IEP the nature and extent of any modifications, substitutions, and/or exemptions made to accommodate the needs of a student with disabilities. Washington County School District may award a student a certificate of completion consistent with State and Federal law and the student's IEP.

5. The IEP Teams in the Washington County School District refer to the USBE Special Education Graduation Guidelines for additional information regarding modification of graduation requirements and IEP substitutions.

**D. TERMINATION OF SERVICES UPON REACHING AGE 22.** UCA 53A-15-301.

1. If a student with a disability turns 22 during the school year, Washington County School District continues to provide FAPE until the:

- a. Beginning of the school's winter holiday for those who turn 22 on or after the beginning of the school year and before December 31; and
- b. End of the school year for those who turn 22 after December 31 and before the end of the school year.

## VIII. RESPONSIBILITIES OF THE UTAH STATE OFFICE OF EDUCATION.

Washington County School District provides data as required for State and Federal reports and other State functions.

## IX. LEA ELIGIBILITY and RESPONSIBILITIES.

**A. PARTICIPATION IN STATEWIDE ASSESSMENTS AND REPORTING OF ASSESSMENT RESULTS.** USBE SER IX.A.2.

All students enrolled in the Washington County School District, including students with disabilities, participate in the statewide testing program and the school-wide testing program. Participation requirements in the USBE Assessment Participation and Accommodation Policy are followed. The IEP Team determines how a student with disabilities will participate and accommodations needed, if any. Results of statewide assessments are posted on the USBE website annually.

**B. PUBLIC PARTICIPATION IN POLICIES AND PROCEDURES DEVELOPMENT.**

This Policy and Procedures Manual, as well as any future changes to the contents, are presented to the Washington County School District Board in a public meeting for review and input. The agenda for Washington County School District board meetings is posted at least 24 hours prior to each meeting as required by State law.

**C. PUBLIC POSTING OF USBE MONITORING RESULTS.** USBE SER IX.A.2.d.(2)l.

Results of monitoring from the Utah Program Improvement Planning System (UPIPS) are posted on the USBE website annually.

**D. METHODS OF ENSURING SERVICES.** USBE SER IX.A.2.d.(2)l.

The Washington County School District ensures that each eligible student with disabilities enrolled in the school receives the services included in the IEP through a systematic process of review of

IEPs and monitoring of service delivery by School District personnel and contracted service providers.

**E. SUPERVISION.** USBE SER IX.A.2.d.(2)n.

All personnel of Washington County School District are supervised by appropriately qualified staff as determined by the USBE Administrative Rules.

**F. USE OF PART B FUNDS.**

Washington County School District follows the requirements of USBE SER IX.B in ensuring the appropriate use of funds under Part B of the IDEA. This includes following the requirements for students with disabilities who are covered by public benefits or insurance as written. Washington County School District participates in the single audit process required by State law that includes an audit of Part B funds.

**G. PERSONNEL DEVELOPMENT.** 34 CFR §300.156; R277-504, 506, 510, 520, and 524.

1. Washington County School District ensures that all personnel necessary to carry out Part B of the IDEA are appropriately and adequately prepared, subject to the requirements related to personnel qualifications in the State Board Administrative Rules cited above.
2. Paraeducators, when used to carry out Part B of the IDEA, are appropriately trained and supervised and utilized in accordance with the USBE Paraeducator Standards.

**H. EDUCATOR LICENSE REQUIREMENTS.** R277-504, 506, and 520.

1. Professionals providing services to students with disabilities must hold a Utah Professional Educator License or Endorsement in the area in which they provide services. This includes special education teachers, speech language pathologists, school psychologists, school social workers, and other professionals. Occupational therapists and physical therapists must hold appropriate Utah licensure. The School District administration is responsible for the evaluation of the appropriateness of licenses and endorsements when assigning staff members. The School District refers to the USBE Teaching, Leadership, and Paraeducator Standards.
2. Special Education (K-12) License means the license required for teaching students with disabilities in Kindergarten through grade 12. Special education areas of concentration carry endorsements in at least one of the following areas: Mild/Moderate Disabilities, Severe Disabilities, Deaf and Hard of Hearing, Blind and Visually Impaired, and Deafblind. R277-504-O.
3. Teachers providing services to the single category of Speech Language Impairment must hold the appropriate license, endorsement, or area of concentration in the category of Speech Language Impairment. R277-506.
4. Teachers assigned to teach academic subjects in elementary and secondary special education programs must, in addition to their special education license, meet the standards for personnel under the USBE Board Administrative Rules.
5. School social workers and school psychologists providing service to student with disabilities

must be licensed by the State Board of Education as school social workers or school psychologists. R277-506.

6. Individuals providing psychological evaluation services for students with disabilities must hold a Utah educator license for school psychologists or State licensure and meet the assessment publisher's criteria for administration of specific assessments. R277-506.

7. Teachers serving preschool-aged student with disabilities must hold the Special Education (Birth-Age 5) educator license. R277-504

**I. PERFORMANCE GOALS AND INDICATORS IN THE STATE PERFORMANCE PLAN. USBE SER X.A.2.**

Washington County School District collects and provides additional information which the USBE may require in order to meet Federal reporting requirements, including suspension and expulsion rates, LRE environments, disproportionality data, personnel information, and others.

**J. COORDINATED EARLY INTERVENING SERVICES. 34 CFR §300.226; USBE SER IX.C.**

1. The Washington County School District may use not more than 15 percent of the amount it receives under Part B of the IDEA for any fiscal year, less any amount reduced by the School District pursuant to maintenance of effort (if any), in combination with other amounts to develop and implement coordinated early intervening services (CEIS) for students who are not currently identified as needing special education or special education and related services, but who need additional academic and behavioral support to succeed in a general education environment.

2. These funds are used to carry out activities including professional development that enables school personnel to deliver scientifically based academic and behavioral interventions, as well as educational and behavioral evaluations, services, and supports.

3. The Washington County School District provides any and all required data on its Early Intervening Services to the USBE annually.

**K. PROVISION OF FAPE AND CASELOAD GUIDELINES. 34 CFR §300.101; USBE SER IX.F.**

1. Washington County School District oversees the caseload of each special educator (including psychologists, social workers, speech language pathologists, occupational therapists, physical therapists, adapted E. specialists, and any other related servers) to ensure that a free appropriate public education is available to all eligible students with disabilities.

2. Washington County School District refers to the USBE Special Education Caseload Guidelines.

**L. ROUTINE CHECKING OF HEARING AIDS AND EXTERNAL COMPONENTS OF SURGICALLY IMPLANTED MEDICAL DEVICES. 34 CFR §300.113; USBE SER IX.G.**

Washington County School District ensures that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly. Washington County School District ensures that external components of surgically implanted medical devices are functioning

properly.