

I. GENERAL PROVISIONS.

A. POLICIES AND PROCEDURES.

Utah Virtual Academy Charter School, in providing for the education of students with disabilities enrolled in its school, has in effect policies, procedures, and programs that are consistent with the Utah State Board of Education Special Education Rules (USBE SER) and are as described in this Policies and Procedures Manual.

B. DEFINITIONS.

1. Charter School. ESEA/ESSA Section 4310; UCA 53A-1a-507. The term “charter school” means a public school that functions as a Local Education Agency (LEA) in accordance with a specific State statute authorizing the granting of charters to schools and:
 - a. Is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of the ESEA/ESSA;
 - b. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
 - c. Operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;
 - d. Provides a program of elementary or secondary education, or both;
 - e. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
 - f. Does not charge tuition;
 - g. Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (U.S.C. 12101 et seq.), Section 444 of the General Education Provisions Act (U.S.C. 1232g) (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”), and Part B of the Individuals with Disabilities Education Act (IDEA);
 - h. Is a school to which parent(s) choose to send their students, and that admits students on the basis of a lottery consistent with Section 4310(2)(G), if more students apply for admission than can be

accommodated or in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described above;

- i. Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
 - j. Meets all applicable Federal, State, and local health and safety requirements;
 - k. Operates in accordance with State law; and
 - l. Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.
2. Utah Virtual Academy has adopted all of the other applicable definitions as found in USBE SER I.E.1–49.

C. BUDGET INFORMATION AND CATEGORIES.

Utah Virtual Academy 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 admitted to Utah Virtual Academy based solely on open enrollment with an active waitlist, and other requirements under the Utah Code and the USBE Administrative Rules for Charter Schools, and 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. GENERAL PROGRAM DESCRIPTION.

Utah Virtual Academy is a statewide, K-12 virtual school based out of an office at 310 E. 4500 S. Ste 620, Murray, Utah 84107. The office is approximately 6500 square feet with five formal offices, one large and one small conference room, a cumulative file room, a special education file room, and a break room. The curriculum for Utah Virtual Academy is provided through K12, Inc. a Herndon, Virginia based company that provides K-12 online curriculum to public and private schools across the country and the world.

Utah Virtual Academy has 2050 enrolled students, approximately 500 students in grades K-5, 550 students in grades 6-8, and 1000 students in grades 9-12. Utah Virtual Academy also has approximately 200 high school students enrolled part time in our SOEP program, via the Utah Statewide Online Education program which allows high school students in other public schools to access an online public school program. The Utah Common Core Curriculum is the foundation for the curriculum in all grade levels, with basal and supplementary materials used for daily instruction in classrooms.

Utah Virtual Academy is a whole school Title I program, and has 52.5% of students in the school receiving free and reduced lunch. 12% of students in grades K-5 receive special education services, 14% of students in grades 6-8 receive special education services, and 16.5% of students in grades 9-12 receive special education services. Less than 1% of the students in the school are English Language Learners.

Utah Virtual Academy was founded by a group of parents all sharing a desire to be more intimately involved in their children's education. Each of the founding members served on a school community council, sharing commonalities in how they would like to have had a greater voice in the decisions that are made regarding the education of their children. Founding members had personal experience with differentiated instruction in education as well as service learning, as an integral part of the curriculum.

Other members of the community supported the idea of a charter school that offered an education with service learning as the school emphasis. These community supporters were the impetus for forming the founding board and pursuing a charter that would allow parents the opportunity to be involved in education from design to implementation. Many of these community members now serve on various school committees and continue to be the foundation upon which the school is built.

If service learning was at the heart of the school's formation, differentiated instruction was the frame upon which the school was built. The Utah Virtual Academy Board believes that:

- No two children are alike.
- No two children learn in an identical way.
- An enriched environment for one student is not necessarily enriched for another.
- In the classroom children should be taught to think for themselves.

The Board of Directors at Utah Virtual Academy believes strongly that an annual self-improvement plan is essential to improving the education program. Each year the Board assesses Utah Virtual Academy's performance as it relates to academic performance, its vision, and UCAS, with the self-assessment driving the goals and objectives for each annual improvement plan.

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

1. Utah Virtual Academy follows the requirements of *Charter Schools and Their Students*. USBE SER III.O.
 - a. Students with disabilities ages five through 21 who attend public charter schools and their parent(s)s retain all rights under Part B of the IDEA and the USBE SER.
 - b. Utah Virtual Academy is an LEA that receives funding under Part B, and is responsible for ensuring that all of the requirements of Part B of the IDEA and these Rules are met.
 - c. Utah Virtual Academy, a public charter school, provides a Free Appropriate Public Education (FAPE) to all eligible students with disabilities in conformity with the requirements of the Utah State Board of Education Special Education Rules (USBE SER) and the United States Department of Education Final Regulations for the Individuals with Disabilities Education Act of 2004 (IDEA) August 2006 and its revisions of December 2008.
2. 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 elementary school and secondary school education in charter schools 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.

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

Utah Virtual Academy 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, serving ages between five 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.

Utah Virtual Academy has policies and procedures to ensure that all students with disabilities enrolled in the school, including students who are highly mobile, students who have been suspended or expelled from school, students who have not graduated from high school with a regular high school diploma, and those 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, students in State custody/care, students in nursing homes, and regardless of the severity of the disability, are identified, located, and evaluated. This includes a practical method for determining which students are currently receiving needed special education or special education and related services.

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

Utah Virtual Academy 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 application process includes live questions asked by an enrollment specialist about whether a student has received special education or special education and related services in the previous school or educational program.
 - b. Parents are asked during registration if the students received any services beyond the regular program in the previous school, and if parents respond in the affirmative, the Special Education Data Manager

and Administrative Assistant are notified, and will request records from the student's previous school.

- c. Utah Virtual Academy follows all the procedures detailed on the In-State and Out-of-State Transfer Student Checklists on the USBE website. USBE SER III.C.
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, Utah Virtual Academy 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 Utah Virtual Academy 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 student in a grade below or above the grade levels served by the Charter School, or younger or older than the students served by the Charter School, the parent or staff member is referred to the school district of the student's parent(s) or adult student's residence.
 3. Utah Virtual Academy has no responsibility for Child Find for homeschooled or private school students.
 4. Utah Virtual Academy does not refer its own students to the local school district for Child Find.

C. REFERRAL. 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, the following referral procedure is implemented:

- a. Teachers document results of classroom instruction and intervention using a specific checklist and submit to the Child Find Coordinator who then convenes a Child Management Team (CMT), which includes a general education teacher.

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.

- b. 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 attached.
- c. The referral form is given to the Special Education Coordinator for that grade level, who reviews existing data (including results of any interventions attempted and the Child Management Team recommendations) on the student and determines if the referral should go forward for a full evaluation.
 - (1) If it is decided that the evaluation should take place, the Charter School or Special Education Director assigns the student back to the Child Find Coordinator to oversee/conduct the evaluation, including obtaining the parental or adult student consent.
 - (2) If the referral is not going to result in a full evaluation, the Special Education Coordinator sends the parent a Written Prior Notice of Refusal to take the action of conducting an evaluation.
- d. Utah Virtual Academy responds to each request for evaluation within a reasonable timeframe.

Note: Each school district and charter school 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.

- a. 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.
- b. The consent indicates the areas in which the evaluation team will conduct tests or utilize other assessment tools or methods with the student.

- c. Reasonable efforts to obtain parental or adult student consent are made and documented by the Charter School.
 - d. For initial evaluations only, if the student is a ward of the State and is not residing with the student's parent(s), the Charter School is not required to obtain informed consent from the parent if, despite reasonable efforts to do so, the Charter School 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.
 - e. 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 Charter School 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 Charter School 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.
2. When conducting psychological evaluations, Utah Virtual Academy implements the parental or adult student consent requirements of UCA 53A-13-302 (Utah FERPA).
 3. 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.
 4. 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 Utah Virtual Academy Consent for Evaluation form.
 5. Parental or adult student consent for evaluation is not construed as consent to provide special education or special education and related services.
 6. Utah Virtual Academy 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 Charter School.
 7. 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 school secretary or 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 Charter School completes all initial evaluations within 45 school days of receiving the consent, 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 Charter School after the timeframe has started in a previous LEA, the Charter School 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.
8. Evaluation Process. 34 CFR §300.304; USBE SER II.F.

- a. Review of Existing Data.

When conducting an initial evaluation (when appropriate), the Child Find Coordinator (case manager for all initial evaluation students) gathers existing data about the student's educational performance for the evaluation team to consider. This 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.

Utah Virtual Academy 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.

- c. The administration of the assessments follows all of the requirements of USBE SER II.F including:

- (1) 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;
- (2) 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;
- (3) Selection of tools which are not discriminatory on a racial or cultural basis;
- (4) 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;
- (5) Administration of assessments to address specific areas of concern identified by the evaluation team including the parent(s) or adult student;
- (6) Use of assessments for the purposes intended and in accordance with the publisher's administration standards;
- (7) 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);
- (8) 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;
- (9) Charter school 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 practical);
- (10) Use of tools that assess what they purport to measure and not just the student's disability;

(11) Assessment in all areas related to the student's suspected disability; and

(12) Comprehensive assessment, not just in areas commonly associated with a specific disability.

d. 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.

9. Utah Virtual Academy 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. Utah Virtual Academy 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 Utah Virtual Academy agree otherwise.
3. A reevaluation must occur at least once every three years, unless the parent(s) or adult student and Utah Virtual Academy 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 Utah Virtual Academy 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. Utah Virtual Academy 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, Utah Virtual Academy 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; 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.

- a. Utah Virtual Academy then prepares a new Evaluation Summary Report, including new and previous data as appropriate, and sends a Notice of Meeting for Eligibility Determination.
 - b. 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.
4. If the parent(s) or adult student requests additional assessment as part of the reevaluation, Utah Virtual Academy obtains written parental or adult student consent for evaluation and then completes the assessment in the areas of educational functioning requested.
- a. When the additional assessment is completed, the Charter School then prepares a new Evaluation Summary Report, including new and previous data as appropriate, and sends a Notice of Meeting for Eligibility Determination.
 - b. 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.
5. Evaluations before change in eligibility. 34 CFR §300.305; USBE SER II.H.6.
- a. Utah Virtual Academy 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, Utah Virtual Academy 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 a summary report of the evaluation information. This Evaluation Summary Report is included in Utah Virtual Academy'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 Utah Virtual Academy, 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.

Utah Virtual Academy has adopted the definitions, evaluation requirements, and eligibility criteria in USBE SER.II.J.1–13.

5. Specific Learning Disability (SLD).

Utah Virtual Academy 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.

- a. 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:

- (1) The student's regular teacher; or
- (2) If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of the student's age; and
- (3) 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.

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

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

- (1) 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:
 - (a) Oral expression;
 - (b) Listening comprehension;
 - (c) Written expression;
 - (d) Basic reading skills;
 - (e) Reading fluency skills;
 - (f) Reading comprehension;

- (g) Mathematics calculation;
- (h) Mathematics problem solving; and
- (2) For the combination method, the student meets the requirements of:

- (a) 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

- (b) 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.

- (3) The group determines that its findings are not primarily the result of:

- (a) A visual, hearing, or motor disability;
- (b) Intellectual disability;
- (c) Emotional disturbance;
- (d) Cultural factors;
- (e) Environmental or economic disadvantage; or
- (f) Limited English proficiency.

- c. The learning disability must adversely affect the student's educational performance.
- d. The student with the learning disability must need special education or special education and related services. 34 CFR §300.8(a).

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

- a. An evaluation must include a variety of assessment tools and strategies and cannot rely on any single procedure as the sole criterion.

- b. 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:
 - (1) Data that demonstrate 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
 - (2) 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.
- c. Utah Virtual Academy 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 timeframe, unless extended by mutual written agreement of the student's parent(s) or adult student and a group of qualified professionals:
 - (1) If, prior to a referral, a student has not made adequate progress after an appropriate period of time as determined by the Charter School when provided appropriate instruction, and
 - (2) Whenever a student is referred for an evaluation.
- d. Observation. 34 CFR §300.310(a–c); USBE SER II.J.10.c.(4).

Utah Virtual Academy 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.

- (1) The team must decide to:
 - (a) 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
 - (b) 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.
 - (c) 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.

- e. 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:

- (1) Whether the student has a specific learning disability;
- (2) The basis for making the determination;
- (3) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;
- (4) The educationally relevant medical findings, if any; and
- (5) Whether the student meets the criteria for both the Response to Intervention and Discrepancy methods below:
 - (a) Response to Intervention (RtI) Method. 34 CFR §300.311(a)(7); USBE SER II.J.10.c.(5)(f).

Utah Virtual Academy 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:

- i. High quality research-based instruction delivered by qualified staff in the general education setting; and
- ii. Assessment of student performance that specifically includes universal screening and progress-monitoring; and
- iii. Multiple tiers of evidence-based interventions to address individual student difficulties; and
- iv. Documentation of systematic and regular parent(s) or adult student, and/or family involvement and communication as well as notification about:
 - (A) 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.);
 - (B) Strategies for increasing the student's rate of learning; and

- (C) The parent(s)' or the adult student's right to request an evaluation; and
 - v. 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
 - vi. The instructional strategies used and the student-centered data collected; AND
- (b) Discrepancy Method. 34 CFR §300.311; USBE SER II.J.10.c.(5)(g).

Utah Virtual Academy 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:

- (c) The student's performance on a standardized, norm-referenced, individually administered achievement measure in the area of the suspected disability, and
- (d) That the student scored above the intellectual disability range on a standardized, norm-referenced, individually administered measure of intellectual ability, and
 - i. 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.
 - ii. The team documents consideration of the discrepancy analysis and the team's determination of whether or not it represents a severe discrepancy.
- f. 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.
- g. The requirements of USBE SER II.D–H are followed.
- h. 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.

7. Determining Eligibility. 34 CFR 300.306; USBE SER II.I.
 - a. Using the criteria for each category of disability as described above, the Eligibility Team determines:
 - (1) Whether the student has a disability that adversely affects his educational performance, and
 - (2) 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 Charter School that apply to all students. 34 CFR §300.39(b)(3); USBE SER I.E.44.

- b. A student is not determined to be a student with a disability if the determinant factor is:
 - (1) Lack of appropriate instruction in reading, including the essential components of reading instruction (phonemic awareness, alphabetic principle, vocabulary, comprehension, and fluency);
 - (2) Lack of appropriate instruction in math; or
 - (3) Limited English proficiency; and
 - (4) If the student does not otherwise meet the eligibility criteria.
 - c. 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, Utah Virtual Academy:

- (1) 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

- (2) Ensures that information obtained from all of these sources is documented and carefully considered.
 - d. 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.
 - e. 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).
8. Evaluations before Change in Eligibility. 34 CFR §300.305; USBE SER II.H.6.
- a. Utah Virtual Academy evaluates a student with a disability before determining that the student is no longer an eligible student with a disability.
 - b. 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).
 - c. 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, Utah Virtual Academy 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.

Utah Virtual Academy 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 5 calendar days of the determination of eligibility, Utah Virtual Academy 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 Charter School.
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 Charter School 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 schoolwide assessments, and deciding what services Utah Virtual Academy 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 Charter School may agree to use alternative means of meeting participation such as video conferencing or conference call.
3. Utah Virtual Academy 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 Charter School 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. Utah Virtual Academy 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, a representative of Utah Virtual Academy, 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 Charter School, 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 postsecondary goals for the student and the transition services needed to assist the student in reaching those goals, Utah Virtual Academy invites the student with a disability to attend the student's IEP meeting. If the student does not

attend the IEP meeting, the Charter School 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, Utah Virtual Academy must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
4. The Charter School representative must meet the Charter School administrator standards, 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 Charter School. Utah Virtual Academy may designate a Charter School member of the IEP Team to also serve as the Charter 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 Charter School 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 Charter School 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. Utah Virtual Academy 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.

2. If the parent(s) or adult student cannot attend, Utah Virtual Academy 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 Charter School may agree to use alternative means of meeting participation, such as video conferences and conference calls. 34 CFR §300.328.
3. A meeting may be conducted without parent(s) or the adult student in attendance if the Charter School is unable to convince the parent(s) or adult student that they should attend. In this case, the Charter School must keep a record of its attempts to arrange a mutually agreed-on time and place, such as:
 - a. Detailed records of telephone calls made or attempted and the results of those calls;
 - b. Copies of correspondence sent to the parent(s) or adult student and any responses received; and
 - c. Detailed records of visits made to the parent(s)' or adult student's home or place of employment and the results of those visits.
4. The Charter School 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.
 - a. Under 53A-26a-301, an individual is required to be certified as an interpreter if that interpreter provides interpreter services, unless they meet the exemptions included in 53A-26a-305.
5. 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:
 - a. Provides critical information regarding the strengths of the student and expresses their concerns for enhancing the education of the student;
 - b. Participates in the discussion of the student's need for special education or special education and related services, and supplementary aids and services; and
 - c. 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 schoolwide assessments, and what services the Charter School will provide to the student and in what setting.

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

1. Utah Virtual Academy ensures that an IEP is in effect for each identified student with a disability prior to the beginning of the school year.
2. At Utah Virtual Academy the IEP Team reviews the IEP at least annually to determine whether the annual goals for the student are being achieved.
 - a. 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.
3. An IEP is developed within 30 calendar days of initial determination that a student is an eligible student with a disability.
4. 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. Utah Virtual Academy 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, 300; USBE SER III.I–J.

1. The IEP Team develops an IEP that is reasonably calculated to confer 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 concerns 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 non-disabled 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.
 - (1) 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.
 - c. 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.
 - d. 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.
 - e. Program options. 34 CFR §300.110.

Utah Virtual Academy 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.

- f. An explanation of the extent, if any, to which the student will not participate with other similar-aged nondisabled students in the regular education environment and in the activities listed above.
- g. 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.”
- h. Consideration of special factors as follows:
 - (1) 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
 - (2) 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
 - (3) 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
 - (4) 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
 - (5) 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.
 - (a) 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.

- (b) 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 implemented. R277-609.
- (c) 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.
- (d) 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.
 - i. Emergency is defined in Administrative Rule R277-609.
 - ii. Utah Virtual Academy follows the emergency notification procedures as written.
- (e) Utah Virtual Academy ensures that all staff members who interact with students receive the training necessary to effectively implement a continuum of behavioral interventions and supports.
- (f) As appropriate, the student should receive a functional behavioral assessment and behavior intervention services and modifications that are designed to address the behavior.
 - i. 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.
 - j. How the student will participate in statewide and schoolwide assessments, such as the Student Assessment of Growth and Excellence (SAGE).

- (1) 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.
 - (2) 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 USBE. 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.
- k. In addition to the required elements of the statewide assessment program, Utah Virtual Academy administers the following schoolwide assessments: Kindergarten Entry Exit Profile (KEEP), DIBELS in grades K–3, iReady in grades 3-8, UTVA School Readiness Assessment in grades 9-12. UTVA also gives the ACT to all full time students in their 11th grade year. All students, including students with identified disabilities, are included in these 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. Alternate assessments for individual students, as determined by the student's IEP Team and documented in the student's IEP, are provided for students who cannot otherwise participate in the schoolwide or classroom assessments.
 - 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.

- (1) This determination of the need for ESY services in Utah Virtual Academy is based on regression and recoupment data collected over at least two breaks in the school year consisting of 4 or more week days when there is no school.
- (2) 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.
- (3) Other factors are considered in determining if the student needs ESY in order to receive a FAPE. These include but are not limited to:
 - (a) The degree of the student's impairment,
 - (b) The ability of the parent(s) or adult student to provide the educational structure at home,
 - (c) The student's rate of progress,
 - (d) The student's physical or behavioral problems,
 - (e) The areas of the student's curriculum that need continuous attention (such as emerging skills),
 - (f) The student's vocational and transition needs,
 - (g) The availability of alternative resources,
 - (h) Whether a requested service is extraordinary to the student's condition,
 - (i) Information from parent(s) or adult student and other caregivers, and
 - (j) Other available data.
- (4) 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.
- (5) 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.
 - (1) Utah Virtual Academy 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.
 - (2) 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. Utah Virtual Academy 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. Utah Virtual Academy 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. Utah Virtual Academy ensures that the parent(s) of each student or adult student is a member 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, Utah Virtual Academy 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 Charter 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.

- a. No initial placement and provision of services are put in place without written parental or adult student consent.
3. 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.
4. Identified students with disabilities, including students enrolled in the Charter School but placed in public or private institutions or other care facilities (e.g. nursing homes) by the IEP Team, or by parent(s)/adult student when FAPE is at issue, 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.
5. This means that the student will not be removed from the regular education classroom, with regular education peers, unless the IEP Team determines that due to the nature and 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.
6. LRE provisions apply to transition programs and placement.
7. Utah Virtual Academy provides 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* (separate from the home based live class instruction provided to all UTVA students) 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
 - f. *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.).
- 8. Utah Virtual Academy provides supplementary services, such as resource or itinerant instruction, in conjunction with placement in the regular education classroom, when needed.
 - 9. 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. Utah Virtual Academy 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 Charter School and assistance in making outside employment available, and other activities and services of the Charter School.
- 2. Utah Virtual Academy 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

3. a way that students with disabilities are given an equal opportunity to participate. 34 CFR §300.107; USBE SER III.V.
4. 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 Charter School, 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 Charter School may not implement the IEP and may not access due process procedures.
2. Utah Virtual Academy 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 Charter School, 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 Charter School:
 - 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 provide 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.
4. 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)'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 Charter School, 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 Charter School's intent to implement the program and services in the IEP. This Notice is embedded in the IEP form. If the Charter School 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 Utah Virtual Academy must agree to convene an IEP meeting for the purposes of making those changes.
2. Changes may be made in a meeting, 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. The parent(s) or adult student will be provided with a copy of the new IEP with the changes incorporated. The parent(s) or adult student is provided with Written Prior Notice that these additional actions or changes in actions will be implemented.

5. If changes are made to the student's IEP, the Charter School ensures that the student's IEP Team, including teachers and related service providers of the student, are informed of those changes.

O. IEP AND SERVICES FOR POSTSECONDARY STUDENTS.

See Section VII—TRANSITIONS.

PROCEDURAL SAFEGUARDS.

Utah Virtual Academy, 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.

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

Utah Virtual Academy 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, and making at least three documented attempts to obtain parental or adult student participation in meetings (if the first two are not answered, then the third must be a certified letter).

Q. 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 Charter School responsible for the education of the student in question.
2. Utah Virtual Academy 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 Charter School.
 - b. Upon request for an independent educational evaluation, Utah Virtual Academy provides a copy of Utah Virtual Academy's written criteria for IEEs, including information about what the Charter School will pay for, a list of potential evaluators, and, if available, the range of fees each

evaluator charges. Utah Virtual Academy 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 Utah Virtual Academy’s criteria include a monetary cap on IEEs, the criteria also allow parent(s) or adult student the opportunity to request a waiver in the student’s circumstance.
- e. In addition, Utah Virtual Academy 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 Charter School’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 Charter School.
- f. Utah Virtual Academy 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 Charter School 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 Charter School demonstrates in a hearing that the evaluation obtained by the parent(s) or adult student did not meet the Charter School criteria as described above. If a Due Process Hearing Officer finds the Charter School 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 Charter School 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 Utah Virtual Academy, the results of the evaluation, if it meets Charter School criteria, are considered by the Charter School in any decision made with respect to provision of a FAPE to the student.
- j. Except for the criteria described above, Utah Virtual Academy does not impose additional conditions or timelines related to obtaining an IEE at public expense.

3. An independent educational evaluation conducted at the Charter School's expense becomes the property of the Charter School, in its entirety.

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

Utah Virtual Academy 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.

1. The notice includes:
 - a. A description of the action proposed or refused;
 - b. An explanation of reasons for the proposal or refusal;
 - c. A description of evaluations or other information the proposal or refusal is based on;
 - d. A statement that the parent(s)s and eligible student have protection under the Procedural Safeguards and how to obtain a copy of the Safeguards;
 - e. Sources of assistance to understand Part B of the IDEA;
 - f. Description of other options the IEP Team considered and why the other options were rejected; and
 - g. A description of other relevant factors to the proposal or refusal.
2. The notice must be:
 - a. Written in language understandable to the general public; and
 - b. 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.
 - (1) If the native language or other mode of communication of the parent(s) or adult student is not a written language, the Charter School 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.

S. 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. Utah Virtual Academy uses the USBE Procedural Safeguards Notice that is posted on the [USBE website](http://www.schools.utah.gov) (<http://www.schools.utah.gov>). Utah Virtual Academy 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 Charter School 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.

T. 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.
2. Reasonable efforts to obtain informed consent are documented in writing.
3. 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.
4. Other relevant parental or adult student consent requirements are addressed in Sections II and III of this Policies and Procedures Manual.

U. DISPUTE RESOLUTION.

Utah Virtual Academy 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.

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

1. Utah Virtual Academy assigns a surrogate parent for a student under the age of majority when:
 - a. The parent(s) cannot be identified or cannot be located,
 - b. The parent(s)' rights to make educational decisions has been taken away by a court,
 - c. The student is a ward of the state, or
 - d. The student is an unaccompanied homeless youth.
2. Utah Virtual Academy 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 Charter School assigns a surrogate after contacting the Utah Parent Center for assistance in obtaining names of trained surrogates.
4. Utah Virtual Academy ensures that a person selected as a surrogate parent:

- a. Is not an employee of the USBE, the Charter School, or any other agency that is involved in the education or care of the student,
 - b. Has no personal or professional interest that conflicts with the interest of the student the surrogate parent represents, and
 - c. 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 Utah Virtual Academy solely because he or she is paid by Utah Virtual Academy to serve as a surrogate parent.
 6. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transition 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 Charter School staff must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 calendar days after the Charter School determines that the student needs a surrogate.

W. 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 parents under Part B of the IDEA and USBE SER transfer to the student. Utah Virtual Academy 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.

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

Utah Virtual Academy 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. Utah Virtual Academy 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 Charter School. Utah Virtual Academy 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:
 - (1) A response from the Charter School to reasonable requests for explanations and interpretations of the records;
 - (2) Request that the Charter School 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
 - (3) Have a representative of the parent(s) or adult student inspect and review the records.
- c. Utah Virtual Academy 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.

Utah Virtual Academy 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 Charter School) 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, Utah Virtual Academy provides the parent(s) or adult student with a list of the types and locations of education records collected, maintained, or used by the Charter School. This list is maintained in the main office at Utah Virtual Academy.

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

Utah Virtual Academy 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 Charter School that maintains the information to amend the information.
 - b. The Charter School must decide whether to amend the information within a reasonable period of time of receipt of the request. If the Charter School 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.
8. Opportunity for a hearing. 34 CFR §300.619; USBE SER IV.X.10.
 - a. The Charter School, 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.
 - b. This hearing is not an IDEA due process complaint hearing.
9. Result of hearing. 34 CFR §300.620; USBE SER IV.X.11.

- a. If, as a result of the hearing, the Charter School 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.
- b. If, as a result of the hearing, the Charter School 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 Charter School.
- c. Any explanation placed in the records of the student under this section must be maintained by the Charter School 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 Charter School to any party, the explanation must also be disclosed to the party.

10. 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.

- a. The hearing shall be held within a reasonable period of time after the Charter School 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.
- b. The hearing may be conducted by any party, including an official of the Charter School, who does not have a direct interest in the outcome of the hearing.
- c. 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.
- d. The Charter School shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.
- e. The decision of the Charter School 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.

11. Consent for disclosure of records. 34 CFR §300.622; USBE SER IV.X.13.

- a. 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;
 - (1) Disclosed to anyone other than officials of participating agencies collecting or using the information under Part B of the IDEA or USBE SER, or
 - (2) Used for any purpose other than meeting a requirement of Part B of the IDEA or USBE SER.
- b. Utah Virtual Academy 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):
 - (1) Regulation 34 CFR §99.31 allows the Charter School 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:
 - (a) To other school officials, including teachers within the Charter School who have been determined by the Charter School to have legitimate educational interests, and
 - (b) 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.
 - (2) Regulation 34 CFR §99.34 requires that the Charter School 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 Charter School does not have to provide any further notice of the transfer of records when:
 - (a) The transfer is initiated by the parent(s) or adult student at the sending school, or
 - (b) The Charter School includes in its annual notice of Procedural Safeguards, that it is the policy of the Charter School to forward education records on request of a school in which a student seeks or intends to enroll.
- c. The Charter School transferring the records keeps a copy of the records for three years after the transfer.

- d. A Charter School receiving personally identifiable information from another educational agency or institution may make further disclosure of the information on behalf of the Charter School 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 part to whom disclosure is made of these requirements.
- e. 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.

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.

- f. 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 Charter School 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.

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

- a. Utah Virtual Academy protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- b. The Special Education Coordinators of Utah Virtual Academy assumes responsibility for ensuring the confidentiality of any personally identifiable information.
- c. Staff members at Utah Virtual Academy 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. Utah Virtual Academy 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.

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

Utah Virtual Academy 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.

14. 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.

IV. DISCIPLINE PROCEDURES. 34 CFR §300.530; USBE SER V.

A. DISCIPLINE PROCEDURES FOR STUDENTS WITH DISABILITIES. USBE SER V.A.

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

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

1. 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.
2. 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.

3. 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 Charter School provides services to the extent required.
4. 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 Charter School provides services to the student.

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

1. 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.
2. The services may be provided in an interim alternative educational setting (IAES).
3. Utah Virtual Academy 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.
4. 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.
5. If the removal is a change of placement, the student's IEP Team determines appropriate services to be provided during the removal.

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

1. 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:
 - (1) Because the series of removals total more than ten school days in a school year;
 - (2) Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 - (3) 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.
2. The Charter School 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.

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

1. 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 Charter School, 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 Charter School) 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:
 - a. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
 - b. If the conduct in question was the direct result of the Charter School's failure to implement the IEP.
2. The conduct must be determined to be a manifestation of the student's disability if the representative of the Charter School, 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 Charter School's failure to implement the IEP.

3. If the Charter School, 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 Charter School's failure to implement the IEP, the Charter School must take immediate steps to remedy those deficiencies.
4. If the representative of the Charter School, 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:
 - a. Conduct a functional behavioral assessment (FBA), unless the Charter School 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
 - b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
 - c. 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 Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.
5. 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:

- a. 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 Charter School;
- b. 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 Charter School, or
- c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Charter School.
- d. Definitions.

For purposes of this section, the following definitions apply:

- (1) *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)).
- (2) *Illegal drug* means a controlled substance but does not include a drug controlled, possessed, or used under the supervision of a licensed health-care professional or one legally possessed or used under the Controlled Substances Act or under any other provision of Federal law (21 USC 812).
- (3) *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).
- (4) *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).

F. 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.

G. 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.

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

1. 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.
2. Authority of hearing officer.
 - a. A due process hearing officer hears, and makes a determination regarding an appeal.
 - b. In making the determination, the hearing officer may:
 - (1) 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
 - (2) 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 Charter School believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.
3. Expedited due process hearing.
 - a. Whenever a hearing is requested, the parent(s) or adult student or the Charter School involved in the dispute must have an opportunity for an impartial due process hearing.
 - b. The Charter School 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.
 - c. Unless the parent(s) or adult student and the Charter School agree in writing to waive the resolution meeting, or agree to use mediation:
 - (1) A resolution meeting must occur within seven calendar days of receiving notice of the due process complaint; and

- (2) 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.

d. The decisions on expedited due process hearings are appealable.

I. 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.

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

1. 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 Charter School had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.
2. A Charter School 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:
 - a. The parent(s) of the student or adult student expressed concern in writing to supervisory or administrative personnel of the appropriate Charter School, or a teacher of the student, that the student is in need of special education or special education and related services;
 - b. The parent(s) of the student or adult student requested an evaluation of the student; or
 - c. The teacher of the student, or other personnel of the Charter School, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the Charter School or to other supervisory personnel of the Charter School.
3. A Charter School would not be deemed to have knowledge that a student is a student with a disability if:
 - a. The parent(s) of the student or adult student:
 - (1) Has not allowed an evaluation of the student; or

- (2) Has refused services under this part; or
 - b. The student has been evaluated in accordance with and determined to not be a student with a disability under Part B of the IDEA.
4. If a Charter School 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.
- a. 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.
 - (1) 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.
 - (2) If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the Charter School and information provided by the parent(s) or adult student, the Charter School must provide special education or special education and related services.

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

- 1. Nothing in Part B of the IDEA prohibits a Charter School 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.
- 2. Transmittal of records.
 - a. A Charter School 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.
 - b. A Charter School 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 Utah Virtual Academy places a student with a disability in, or refers a student to, a private school or facility, Utah Virtual Academy 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. Utah Virtual Academy ensures that a representative of the private school or facility attends the meeting. If the representative cannot attend, Utah Virtual Academy 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 Charter School.
 - b. If the private school or facility initiates and conducts these meetings, the Charter School must ensure that the parent(s) or adult student and a Charter School representative:
 - (1) Are involved in any decisions about the student's IEP; and
 - (2) Agree to any proposed changes in the IEP before those changes are implemented.
3. Even if a private school or facility implements a student's IEP, responsibility for compliance with this part remains with the Charter School and the USBE.
4. 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 Charter School 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 Charter School 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 Charter School 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 Charter School, enroll the student in a private elementary school or secondary school without the consent of or referral by the Charter School, a court or a hearing officer may require the Charter School to reimburse the parent(s) for the cost of that enrollment if the court or hearing officer finds that the Charter School 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 Charter Schools.
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 Charter School 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 Charter School of the information described in USBE SER VI.C.4.a;
 - c. Prior to the parent(s)' removal of the student from the public school, the Charter School 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 Charter School prior to removal of the student, the cost of reimbursement:
 - a. Must not be reduced or denied for failure to provide the notice if:
 - (1) The school prevented the parent(s) from providing the notice;
 - (2) 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
 - (3) Compliance with the notice requirements in USBE SER VI.C.4.a–c would likely result in physical harm to the student; and
 - b. May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:
 - (1) The parent(s) or adult student is not literate or cannot write in English; or
 - (2) Compliance with USBE SER VI.C.4.a–c would likely result in serious emotional harm to the student.

VI. TRANSITIONS. 34 CFR §300.1; USBE SER VII.B.

A. TRANSITION SERVICES—SCHOOL TO POST-SCHOOL

1. Purpose. 34 CFR §300.1; USBE SER VII.B.1.
 - a. 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.
 - a. Transition services means a coordinated set of activities for a student with a disability that:
 - (1) 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 post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

- (2) Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests, and includes:
 - (a) Instruction,
 - (b) Related services,
 - (c) Community experiences,
 - (d) Post-school adult living objectives, and
 - (e) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
 - b. Transition services for students with disabilities may be special education, if provided specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.
 3. Parent(s) or Adult Student Participation. 34 CFR §300.322; USBE SER VII.B.3.
 - a. 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:
 - (1) A purpose of the meeting is the consideration of the postsecondary goals and transition services for the student,
 - (2) Utah Virtual Academy will invite the student, and
 - (3) Identifies any other agency that will be invited, with the consent of the parent(s) or adult student, to send a representative.
 - b. If the student does not attend the IEP meeting, Utah Virtual Academy takes other steps to ensure that the student's preferences and interests are considered.
 4. Definition of IEP. 34 CFR §300.320.b; USBE SER VII.B.5.
 - a. 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:
 - (1) Present levels of academic achievement and functional performance based on age-appropriate transition assessment(s);

- (2) 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;
 - (3) The transition services, including courses of study, needed to assist the student in reaching the student's post-secondary goals;
 - (4) Evidence that the student was invited to the IEP Team meeting where transition services are to be discussed; and
 - (5) Any modifications to graduation requirements, as permitted under R277-700.
 - b. 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).
5. 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 Charter 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:
 - (1) 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.
 - (2) An adult student has the right to allow parent(s), family, or special advocates to help if the student so desires.
 - b. Utah Virtual Academy 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.
6. 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 Charter School 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.
7. Failure to meet transition objectives. 34 CFR §300.324; USBE SER VII.B.8.
- a. If a participating agency other than the Charter School fails to provide the transition services described in the IEP, Utah Virtual Academy must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
 - b. 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.
 - c. 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.
 - d. 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 noneducational 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.

8. 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 education placement prior to their incarceration in an adult correctional facility:
 - (1) Were not actually identified as being a student with a disability and
 - (2) Did not have an IEP under Part B of the IDEA. 34 CFR §300.102.
9. The exception does not apply to students with disabilities ages 18 through 21 who:
 - (1) 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
 - (2) Did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability.

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

1. Utah Virtual Academy is not obligated to make FAPE available to all students with disabilities who have graduated from high school with a regular high school diploma.
 - a. 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).

- b. 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 Charter School proposes to terminate the student's eligibility under the IDEA by issuing the student a diploma.
2. 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. Utah Virtual Academy may award a student a certificate of completion consistent with State and Federal law and the student's IEP.
3. The IEP Teams at Utah Virtual Academy refer to the *USBE Special Education Graduation Guidelines* for additional information regarding modification of graduation requirements and IEP substitutions.

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

1. If a student with a disability turns 22 during the school year, Utah Virtual Academy 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.

VII. RESPONSIBILITIES OF THE UTAH STATE OFFICE OF EDUCATION.

Utah Virtual Academy provides data as required for State and Federal reports and other State functions.

VIII. LEA ELIGIBILITY AND RESPONSIBILITIES.

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

All students enrolled in Utah Virtual Academy, 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 Utah Virtual Academy Board in a public meeting for review and input. The agenda for Utah Virtual Academy 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.

Utah Virtual Academy 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 Charter School personnel and contracted service providers.

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

All personnel of Utah Virtual Academy are supervised by appropriately qualified staff as determined by the local Charter School Board.

F. USE OF PART B FUNDS.

Utah Virtual Academy 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. Utah Virtual Academy 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. Utah Virtual Academy 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 Charter School administration is responsible for the evaluation of the appropriateness of licenses and endorsements when assigning staff members. The Charter School 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:
 - a. Mild/Moderate Disabilities,
 - b. Severe Disabilities,
 - c. Deaf and Hard of Hearing,
 - d. Blind and Visually Impaired, and
 - e. 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 services 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 education license for school psychologists or State licensure and meet the assessment publisher's criteria for administration of specific assessments. R277-506.

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

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

Utah Virtual Academy ensures that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly. Utah Virtual Academy ensures that external components of surgically implanted medical devices are functioning properly.