SYRACUSE ARTS ACADEMY SPECIAL EDUCATION POLICIES AND PROCEDURES MANUAL

Combination SLD Eligibility Method

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I. GENERAL PROVISIONS

I.A. PURPOSES (34 CFR § 300.1.; RULES I.A.)

The primary purposes of this local education agency (LEA) policies and procedures manual, consistent with Utah Code Annotated (UCA) 53E-7-2 and the Individuals with Disabilities Education Improvement Act (IDEA), Public Law 108-446, as amended; are:

1. To ensure that all students with disabilities ages 3 through 21 in Utah, including students with disabilities who have been suspended or expelled from school and students who have not graduated from high school with a regular high school diploma, have available to them a free appropriate public education (FAPE) that emphasizes special education and related services, as specified on an Individualized Education Program (IEP) designed to meet their unique needs and prepare them for further education, employment, and independent living;
2. To ensure that the rights of students with disabilities and their parent(s) are protected;
3. To ensure that State standards are implemented for the provision of a FAPE to students with disabilities, as defined in Utah State Board of Education Special Education Rules (Rules); and
4. To assess and ensure the effectiveness of efforts to educate students with disabilities.

I.B. DEFINITIONS (34 CFR § 300.4–300.45; RULES I.E.1–53.)

1. Syracuse Arts Academy has adopted applicable definitions as found in Rules I.E.1-53. including:
2. *Charter school* (20 USC § 7221i; UCA 53G-5-404) means a public school that functions as an LEA unless it is a school of an LEA, that:
    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 this paragraph;
    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, provides a program of elementary or secondary education, or both;
    d. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

e. Does not charge tuition;

f. 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, and Part B of the IDEA;

g. Is a school to which parent(s) choose to send their students, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

h. 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;

i. Meets all applicable Federal, State, and local health and safety requirements;

j. Operates in accordance with State law; and

k. 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.

I.C. FULL EDUCATIONAL OPPORTUNITY GOAL (34 CFR § 300.109; RULES IX.A.2.D.(2)(C))

Syracuse Arts Academy provides a free appropriate public education (FAPE) to all eligible students with disabilities in conformity with the requirements of the Rules and the IDEA. Syracuse Arts Academy hereby affirms the goal of providing a full educational opportunity to all students with disabilities determined eligible for special education and related services, of the ages served by Syracuse Arts Academy, in accordance with all of the timeline requirements of the IDEA.

Syracuse Arts Academy follows all necessary requirements in the development and delivery of an individualized education program (IEP) for eligible students. Placement in the least restrictive environment (LRE) will be implemented to the maximum extent appropriate for students with special needs. Syracuse Arts Academy provides a continuum of placements to address the needs of students with disabilities to ensure those students receive special education and related services appropriate to their needs.

I.D. METHODS OF ENSURING SERVICES (34 CFR § 300.154; RULES IX.A.2.D.(2)(M))

Syracuse Arts Academy ensures each eligible student with disabilities enrolled in the school receives the services included in the IEP through a systematic process of IEP internal file reviews and monitoring of service delivery by Syracuse Arts Academy personnel.

II. IDENTIFICATION, LOCATION, AND EVALUATION

II.A. CHILD FIND SYSTEM (34 CFR §§ 300.109, 300.111; RULES II.A.)

1. Syracuse Arts Academy, in accordance with the requirements of Part B of the IDEA and with the Rules, has developed policies and procedures to ensure that all students with disabilities residing within the jurisdiction of the LEA, including students with disabilities birth through 21 years of age, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. These policies and procedures include a practical method for determining which students are currently receiving needed special education and related services and provide a process to reevaluate those who are found eligible within the three-year timeframe.
2. The requirements of this section apply to:
    a. Highly mobile students with disabilities (such as students who are migrant and homeless) (34 CFR § 300.111(c)(2); Rules II.A.2.a.).
    b. Students who have been suspended or expelled from school (34 CFR § 300.101(a); Rules II.A.2.b.).
    c. Students who have not graduated from high school with a regular high school diploma (34 CFR § 300.102(a)(3)(iii); Rules II.A.2.c.).
    d. Students who are suspected of being a student with a disability under the IDEA and the Rules and who are in need of special education and related services, even though they are advancing from grade to grade (34 CFR § 300.111(c)(1)). The determination that a student is a "student with a disability" under the Rules must be made on an individual basis, by a team made up of the parent or adult student and school personnel determined by the student's LEA (Rules II.A.2.d.).
    e. Students in State custody/care (Rules II.A.2.f.).
    f. Students in nursing homes (Rules II.A.2.g.).
3. Syracuse Arts Academy is responsible for child find for students enrolled in its own school and has no responsibility for child find for private school students. Syracuse Arts Academy may not refer enrolled students to the local school district for child find (Rules II.A.3.).
4. Major components of the child find system include:
    a. LEA implementation, coordination, and tracking of child find activities and students identified. (34 CFR § 300.131; Rules II.A.4.a.).

b. USBE staff provision of ongoing technical assistance to LEAs, private schools, and other State agencies in implementing the child find system (Rules II.A.4.b.).

c. Implementation of the statewide data collection system for reporting student information, including Federal student count (34 CFR §§ 300.132, 300.640–641). The collection and use of data to meet the requirements of this section are subject to the confidentiality of information provisions under the Rules and R277-487.

II.B. REFERRAL (34 CFR § 300.301; RULES II.B.)

1. Consistent with the consent requirements in Rules II.C., either a parent or the adult student or an LEA may initiate a request for an initial evaluation to determine if a student is a student with a disability under Part B of the IDEA and the Rules. Upon receipt of a request for an evaluation, Syracuse Arts Academy must respond within a reasonable timeframe. The response may not be delayed due to Syracuse Arts Academy's Response to Intervention process.
2. Syracuse Arts Academy shall provide an initial special education assessment for students who enter the custody of the Division of Child and Family Services (DCFS) upon request by that division, and the LEA obtains appropriate parental consent for the evaluation for students whose school records indicate they may have disabilities requiring special education services.

II.C. PARENTAL CONSENT (34 CFR § 300.300; RULES II.C.)

1. Parental consent for initial evaluation.
   a. When proposing to conduct an initial evaluation to determine if a student qualifies as a student with a disability under the Rules, Syracuse Arts Academy must, after providing prior written notice to the parent or adult student, obtain informed consent, consistent with Rules I.E.9., from the parent of the student or the adult student before conducting the evaluation.
      (1) Parental or adult student consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
      (2) Syracuse Arts Academy must make reasonable efforts to obtain informed consent from the parent or adult student for an initial evaluation to determine whether the student is a student with a disability.
      (3) When conducting psychological evaluations, Syracuse Arts Academy must implement the parental or adult student consent requirements of UCA 53E-9-203 (Student Privacy and Data Protection).
   b. For initial evaluations only, if the student is a ward of the State and is not residing with the student's parent(s), Syracuse Arts Academy is not required to obtain

informed consent from the parent for an initial evaluation to determine whether the student is a student with a disability if:

(1) Despite reasonable efforts to do so, Syracuse Arts Academy cannot discover the whereabouts of the parent(s) of the student;

(2) The rights of the parent(s) of the student have been terminated in accordance with State law; or

(3) The rights of the parent(s) 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 by the judge to represent the student.

c. 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, Syracuse Arts Academy may, but is not required to, pursue the initial evaluation of the student by utilizing the procedural safeguards or the due process procedures in Section IV of the Rules.

(1) Syracuse Arts Academy does not violate its obligation under the child find provisions of the Rules if it declines to pursue the evaluation by utilizing the procedural safeguards or the due process procedures.

2. Parental consent for services.

a. Syracuse Arts Academy is responsible for making a FAPE available to a student with a disability and must obtain informed consent from the parent(s) of the student or adult student before the initial provision of special education and related services to the student.

b. Syracuse Arts Academy must make reasonable efforts to obtain informed consent from the parent(s) or adult student for the initial provision of special education and related services to the eligible student with disabilities.

c. If the parent(s) of a student or adult student fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, Syracuse Arts Academy:

(1) May not use the procedures in Section IV of the Rules, including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to the student;

(2) Will not be considered to be in violation of the requirement to make available a FAPE to the student for the failure to provide the student with the special education and related services for which Syracuse Arts Academy requests consent; and

(3) Is not required to convene an IEP Team meeting or develop an IEP for the student for the special education and related services for which Syracuse Arts Academy requests such consent.

d. If, at any time subsequent to the initial provision of special education and related services, the parent(s) of a student or adult student revokes consent in writing for the continued provision of special education and related services, Syracuse Arts Academy:

(1) May not continue to provide special education and related services to the student but must provide prior written notice in accordance with Rules IV.D. before ceasing the provision of special education and related services;

(2) May not use the procedures in Rules IV., including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to the student;

(3) Will not be considered to be in violation of the requirement to make available a FAPE to the student for the failure to provide the student with the special education and related services for which Syracuse Arts Academy requests consent; and

(4) Is not required to convene an IEP Team meeting or develop an IEP for the student for the special education and related services for which Syracuse Arts Academy requests such consent (34 CFR § 300.300; Rules II.C.2.d.(4)).

3. Parental consent for reevaluations.

a. Syracuse Arts Academy must obtain informed parental or adult student consent prior to conducting any reevaluation of a student with a disability.

b. If the parent or adult student refuses to consent to the reevaluation, Syracuse Arts Academy may, but is not required to, pursue the reevaluation by using the dispute resolution procedures provided in the procedural safeguards, and including mediation or due process procedures.

c. Syracuse Arts Academy does not violate its obligation under child find if it declines to pursue the reevaluation.

d. The informed parental or adult student consent need not be obtained if Syracuse Arts Academy can demonstrate that:

(1) It made reasonable efforts to obtain such consent; and

(2) The student's parent or the adult student has failed to respond.

4. Other consent requirements.

a. Parental or adult student consent is not required before:

(1) Reviewing existing data as part of an evaluation or a reevaluation; or

(2) Administering a test or other evaluation that is administered to all students unless consent is required for all students before administration of that test or evaluation.

b. Syracuse Arts Academy may not use a parent's or adult student's refusal to consent to one service or activity under Rules II.C.1., II.C.2., or II.C.3., to deny the parent or student any other service, benefit, or activity of Syracuse Arts Academy, except as required by this part.

c. To meet the reasonable efforts requirement in Rules II.C.1.a.2., II.C.1.b.1., II.C.2.b., and II.C.3.d.1., Syracuse Arts Academy must document its attempts to obtain parental or adult student consent using the procedures in Rules III.G.3.

d. Unless parent(s) or the adult student revoke consent for special education and related services or refuse consent for initial placement, disagreements regarding the provision of IEP services should be resolved by the IEP Team and result in a completed IEP which includes all components necessary for the provision of a FAPE.

II.D. INITIAL EVALUATION (34 CFR § 300.301; RULES II.D.)

1. Syracuse Arts Academy must conduct a full and individual initial evaluation to determine whether a student is a "student with a disability" under Part B of the IDEA and the Rules, and to determine the educational needs of the student.

2. The initial evaluation:

a. Must be conducted within 45 school days of receiving parental or adult student consent for the evaluation, unless:

(1) The initial evaluation is requested by the Division of Child and Family Services (DCFS) and Syracuse Arts Academy obtains appropriate consent for the evaluation, in which case Syracuse Arts Academy shall provide an initial special education evaluation to an individual who enters DCFS custody if DCFS suspects the individual may be an eligible student within 30 days after the day on which DCFS makes the request (53E-7-207).

(a) Syracuse Arts Academy may refuse to conduct an evaluation described in II.D.2.a.(1) if Syracuse Arts Academy reviews the relevant data regarding the individual and, within 10 days after the day on which Syracuse Arts Academy received the request described in II.D.2.a.(1), gives the DCFS prior written notice of refusal to evaluate.

b. Must consist of procedures to determine:

(1) If the student is a student with a disability; and

(2) The educational needs of the student.

3. The timeframe shall not apply to Syracuse Arts Academy if:

   a. The parent of a student repeatedly fails or refuses to produce the student for the evaluation; or

   b. The adult student repeatedly fails or refuses to participate in evaluation activities; or

   c. A student enrolls in Syracuse Arts Academy after the relevant timeframe has begun, and prior to a determination by the student's previous LEA as to whether the student is a student with a disability.

   d. The exception in Rule II.D.3.c. applies only if Syracuse Arts Academy is making sufficient progress to ensure a prompt completion of the evaluation, and the parent or adult student and Syracuse Arts Academy agree to a specific time when the evaluation will be completed.

II.E. SCREENING FOR INSTRUCTIONAL PURPOSES (34 CFR § 300.302; RULES II.E.)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. Results of screenings should be considered by Syracuse Arts Academy for child find purposes.

II.F. EVALUATION PROCEDURES (34 CFR § 300.304; RULES II.F.)

Syracuse Arts Academy has established and implemented the following procedures that meet the evaluation requirements of Part B of the IDEA and the Rules as follows:

1. In conducting the evaluation, Syracuse Arts Academy must:

   a. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by a parent or adult student, that may assist in determining:

      (1) Whether the student is a student with a disability; and

      (2) The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum;

   b. Not use any single procedure as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student; and

   c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

Syracuse Arts Academy must consider the publication date and continued validity of assessments in use when new editions are published.

2. Syracuse Arts Academy must ensure that assessments and other evaluation materials used to assess a student:
    a. Are selected and administered so as not to be discriminatory on a racial or cultural basis;
    b. Are provided and administered in the 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 so provide or administer;
    c. Are selected to assess the specific areas of concern identified by the assessment/evaluation team, including the parent(s) or adult student;
    d. Are used for the purposes for which the assessments or measures are valid and reliable;
    e. Are selected and administered by trained and knowledgeable personnel based upon the specific assessment's requirements; and
    f. Are administered and interpreted in accordance with any instructions and administrator requirements provided by the producer of the assessments and the Standards for Educational and Psychological Testing (AERA, APA, NCME, 2014).
3. Syracuse Arts Academy must ensure and document that all evaluators meet the assessment publishers' administrator/interpreter/user requirements, (e.g., appropriate degree, higher education coursework in tests and measures, and supervised clinical experiences/practica).
4. Syracuse Arts Academy shall provide documentation to USBE staff upon request.
5. Syracuse Arts Academy must ensure that:
    a. Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
    b. Assessments are selected and administered so as best to ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

c. The administration of psychological testing and the evaluation or assessment of personal characteristics, such as intelligence (e.g., cognitive, IQ), personality, abilities, interests, aptitudes, and neuropsychological functioning are only administered and interpreted by personnel who have been trained and fully meet the administrator/interpreter/user qualifications of the test publisher (e.g., appropriate degree, higher education coursework in tests and measures, and supervised clinical experiences/practica).

d. The student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

e. Assessments of students with disabilities who transfer from another LEA to Syracuse Arts Academy in the same school year are coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

f. In evaluating each student with a disability, the evaluation is sufficiently comprehensive to identify all the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified.

g. Assessment tools and strategies provide relevant information that directly assists persons in determining the educational needs of the student are provided.

6. The Utah Schools for the Deaf and the Blind (USDB) is available to LEAs for assessments of students with visual impairment and hearing loss, as well as professional learning on appropriate administration of assessments, and procedures to ensure appropriate interpretation of assessments (R277-800-7). The Utah Department of Health shall provide diagnostic and evaluation services, which are required by State or Federal law but are not typically otherwise provided by school districts and charter schools, to students with disabilities.

II.G. REEVALUATION PROCEDURES (34 CFR § 300.303; RULES II.G.)

1. Syracuse Arts Academy must ensure that a reevaluation of each student with a disability is conducted:

   a. If Syracuse Arts Academy determines the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation; or

   b. If the student's parents or adult student or teacher requests a reevaluation.

2. A reevaluation:

a. May occur not more than once a year, unless the parent(s) or adult student and Syracuse Arts Academy agree otherwise; and

b. Must occur at least once every three years, unless the parent(s) or adult student and Syracuse Arts Academy agree that a reevaluation is unnecessary as there are data available to continue eligibility and determine the educational needs of the student. When the parent(s) or adult student and LEA agree that a reevaluation is unnecessary, the team must document data reviewed and used in an evaluation report and complete an eligibility determination.

II.H. ADDITIONAL REQUIREMENTS FOR INITIAL EVALUATIONS AND REEVALUATION PROCEDURES (34 CFR § 300.305; RULES 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:

   a. Review existing evaluation data on the student, including:

   b. Evaluations and information provided by the parent(s) of the student or the adult student;

   c. Current classroom-based, local, or State assessments, and classroom-based observations; and

   d. Observations by teachers and related services providers; and

   e. On the basis of that review, and input from the student's parent(s) or the adult student, identify what additional data, if any, are needed to determine:

      (1) Whether the student is a student with a disability and the educational needs of the student; or, in the case of a reevaluation of a student, whether the student continues to have such a disability, and the educational needs of the student;

      (2) The present levels of academic achievement and related developmental needs of the student;

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

      (4) Whether any additions or modifications to the 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.

2. The IEP Team and other qualified professionals, as appropriate, may conduct its review of existing data without a meeting.

3. Syracuse Arts Academy must administer such assessments and other evaluation measures as may be needed to produce the data needed to determine continuing eligibility.
4. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the student continues to be a student with a disability and to determine the student's educational needs, Syracuse Arts Academy must notify the student's parent(s) or adult student of:
    a. That determination and the reason(s) for the determination; and
    b. The right of the parent(s) or adult student to request an assessment to determine whether the student continues to be a student with a disability, and to determine the student's educational needs.
5. Syracuse Arts Academy is not required to conduct the assessment for reevaluation described in Rules II.H.4.b. unless requested to do so by the student's parent(s) or the adult student.
6. Evaluations before change in eligibility.
    a. Syracuse Arts Academy must evaluate a student with a disability before determining that the student is no longer a student with a disability.
    b. The 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 exceeding the age eligibility for a FAPE under State law (i.e., age 22).

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 a FAPE under State law, Syracuse Arts Academy must provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.

II.I. DETERMINATION OF ELIGIBILITY (34 CFR § 300.306; RULES II.I.)

1. Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parents of the student or the adult student determine eligibility under Part B of the IDEA and the Rules, including:
    a. Whether that student is a student with a disability, and
    b. The educational needs of the student.
2. Syracuse Arts Academy shall provide the parent(s) or adult student with a copy of the evaluation report and the documentation of determination of eligibility.
3. A student must not be determined to be a student with a disability:

a. If the determinant factor for that determination 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 mathematics; or

(3) Limited English proficiency; and

(4) If the student does not otherwise meet the eligibility criteria.

4. Procedures for determining eligibility and educational need.

a. 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, Syracuse Arts Academy must:

(1) Draw upon information from a variety of sources, such as aptitude and achievement tests, parent or adult student input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

(2) Ensure information obtained from all these sources is documented and carefully considered.

b. If a determination is made that a student has a disability and needs special education and related services, an IEP must be developed for the student within 30 calendar days.

II.J. CATEGORICAL DEFINITIONS, CRITERIA, AND ASSESSMENTS (34 CFR § 300.8; RULES II.J.)

Syracuse Arts Academy has adopted the criteria and evaluation procedures, by category, for determining eligibility for a student with disabilities under Part B of the IDEA and the Rules II.J.1-13. Including:

1. Specific Learning Disabilities (Rules II.J.10.).

a. Definition (34 CFR § 300.8(C)(10); Rules II.J.10.a.).

Specific Learning Disabilities means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, that affects a student's educational performance.

Specific learning disabilities does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disability; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

b. Procedures for Identifying Students with Specific Learning Disabilities (34 CFR § 300.307; Rules II.J.10.b.)

(1) Syracuse Arts Academy has adopted the following method for determining a student's eligibility under the specific learning disability category:

(a) A Combination method of:

(i) A process based on the student's response to scientific, research-based intervention called the Response to Intervention (RtI) method which shows the student does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in Rule II.J.10.b.(3)(a); and

(ii) A discrepancy analysis which identifies that the student's scores demonstrate that a severe discrepancy exists between the student's intellectual ability and academic achievement in one or more of the areas identified in Rules II.J.10.b.(3)(a) which indicates the student exhibits a disability using a combination of both the RtI and a discrepancy analysis (the team must refer to the *USBE Specific Learning Disability Eligibility Guidelines* when using this method).

(2) Additional team members (34 CFR § 300.308; Rules 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, which must include:

(a) The student's regular teacher; or

(b) If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his/her age; or

(c) For a student of less than school age; an individual qualified by the USBE to teach a student of his/her age; and

(d) At least one person qualified to conduct individual diagnostic examinations of students and interpret the results of those assessments (as per the publisher's assessment administration criteria), such as a school psychologist, speech-language pathologist, reading teacher or reading specialist, or special education teacher.

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

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

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

(i) Oral expression;

(ii) Listening comprehension;

(iii) Written expression;

(iv) Basic reading skills;

(v) Reading fluency skills;

(vi) Reading comprehension;

(vii) Mathematics calculation;

(viii) Mathematics problem solving.

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

(i) A visual, hearing, or motor disability;

(ii) Intellectual disability;

(iii) Emotional disturbance;

(iv) Cultural factors;

(v) Environmental or economic disadvantage; or

(vi) Limited English proficiency.

(4) The specific learning disability must adversely affect the student's educational performance.

(5) The student with the specific learning disability must need special education and related services (34 CFR § 300.8(a); Rules II.J.10.b.5.)

(6) The team must determine that the specific learning disability is the student's primary disability.

c. Evaluation (34 CFR § 300.309(b)–(c); Rules II.J.10.c.)

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

(2) To ensure 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:

   (a) 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

   (b) 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 the adult student.

(3) Syracuse Arts Academy must promptly request parental consent or consent of the adult student to evaluate the student to determine if the student needs 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:

   (a) If, prior to a referral, a student has not made adequate progress after an appropriate period of time as determined by Syracuse Arts Academy when provided appropriate instruction, and

   (b) Whenever a student is referred for an evaluation.

(4) Observation (34 CFR § 300.310(a)–(c); Rules II.J.10.b.4.)

   Syracuse Arts Academy must ensure 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 concern.

   (a) The team must decide to:

      (i) 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

      (ii) 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.

   (b) If the student is a home-schooled student, Syracuse Arts Academy may determine how to conduct the observation and who will conduct it.

(c) In the case of a student of less than school age or who is out of school, a group member must observe the student in an environment appropriate for a student of that age.

(5) Specific documentation for the eligibility determination (34 CFR § 300.311; Rules II.J.10.b.5.)

The team's documentation of the determination of eligibility with a specific learning disability must contain a statement of:

(a) Whether the student has a specific learning disability;

(b) The basis for making the determination;

(c) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;

(d) The educationally relevant medical findings, if any; and

(e) Whether the student meets the criteria below.

(f) Combination (RtI and discrepancy analysis). Does not make sufficient progress to meet State-approved age- or grade-level standards when using a process based on the student's response to scientific evidence-based interventions and obtains scores that demonstrate that a severe discrepancy exists between the student's academic achievement and intellectual ability in one or more of the areas of specific learning disability.

(i) Syracuse Arts 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 must include:

(ii) High quality research-based instruction delivered by qualified staff in the general education setting; and

(iii) Assessment of student performance that specifically includes universal screening and progress-monitoring; and

(iv) Multiple tiers of evidence-based interventions to address individual student difficulties; and

(v) Documentation of systematic and regular parent, 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 would be collected and the general

education services that would be provided (the team must refer 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(s') or the adult student's right to request an evaluation; and

(vi) System supports (e.g., leadership, problem-solving, data management systems, coaching and collaboration, professional learning, and measures of fidelity) in place to ensure effective implementation; or

(vii) The instructional strategies used and the student-centered data collected.

(viii) The team must document that the student's performance on a standardized, norm-referenced, individually administered achievement measure in the area of the suspected disability, and

(ix) That the student scored above the intellectual disability range on a standardized, norm-referenced, individually administered measure of intellectual ability, and

(A) The comparison of the standard scores on the tests of achievement and intellectual ability using an LEA board-approved and USBE-reviewed discrepancy analysis. The team must document consideration of the discrepancy analysis and the team's determination of whether or not it represents a severe discrepancy.

(6) 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;

(7) The requirements of Rules II.D.–H. must be met.

(8) Each team member must certify 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 must submit a separate statement presenting the member's conclusions.

III. IEP DEVELOPMENT AND SERVICE DELIVERY

III.A. INDIVIDUALIZED EDUCATION PROGRAM (RULES III.A.)

Syracuse Arts Academy implements the following policies and procedures to address the IEP requirements of Rules III.A-T, including the least restrictive environment (LRE) requirements, consistent with Part B of the IDEA and the Rules, as well as R277-750, R277-800, and the USBE/USDB Interagency Agreement.

III.B. WHEN IEPS MUST BE IN EFFECT (34 CFR § 300.323; RULES III.B.)

1. At the beginning of each school year, Syracuse Arts Academy must have an IEP in effect for each student with a disability within its jurisdiction.
2. Syracuse Arts Academy must ensure that:
    a. A meeting to develop an IEP for a student is conducted within 30 calendar days of a determination that the student needs special education and related services; and
    b. As soon as possible following development of the IEP, special education and related services are made available to the student in accordance with the student's IEP.
3. Syracuse Arts Academy must ensure the student's IEP is:
    a. Accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation; and
    b. Each teacher and provider is informed of:
        (1) His/her specific responsibilities related to implementing the student's IEP; and
        (2) The specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.
4. Documentation of IEP implementation shall be provided to USBE upon request.

III.C. TRANSFER STUDENTS (34 CFR § 300.323; RULES III.C.)

1. Transfers within Utah.
    a. In the case of a student with a disability with a current IEP who transfers from one LEA to another within the State within the same school year and enrolls in a new school, Syracuse Arts Academy, in consultation with the parent(s) or adult student, must provide a FAPE to the student, including services comparable to those described in the previously held IEP, until such time as Syracuse Arts Academy:
        (1) Adopts the previously held IEP, or

(2) Develops, adopts, and implements a new IEP that is consistent with Federal regulations and the Rules.

b. The requirements of 34 CFR § 300.323 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.

2. Transfers from out of State.

a. In the case of a student with a disability with a current IEP who transfers LEAs within the same school year, who enrolls in a new school, and who has an IEP that was in effect in another State, Syracuse Arts Academy, in consultation with the parent(s) or adult student, must provide the student with a FAPE, including services comparable to those described in the previously held IEP, until Syracuse Arts Academy:

(1) Conducts an evaluation, if determined to be necessary by Syracuse Arts Academy; and

(2) Develops a new IEP, if appropriate, that is consistent with Federal and State law.

b. The evaluation for eligibility that may be conducted by Syracuse Arts Academy is considered an initial evaluation, not a reevaluation (71 FR 4668-82).

3. To facilitate the transition for a student described above:

a. Syracuse Arts Academy must take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the previous LEA in which the student was enrolled; and

b. The previous LEA in which the student was enrolled must take reasonable steps to promptly respond to the request from Syracuse Arts Academy.

c. Syracuse Arts Academy must keep a copy of the records for three years after the transfer.

4. Experiencing difficulty in obtaining the IEP from the previous LEA does not relieve Syracuse Arts Academy of its obligation to have a current IEP in place for an eligible student.

III.D. LEA RESPONSIBILITY FOR IEP MEETINGS (34 CFR § 300.323(C)(1)); RULES III.D.)

1. Syracuse Arts Academy is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability ages 3 through 21, consistent with the Rules.

2. A meeting to develop an IEP for an eligible student must be conducted within 30 calendar days of a determination that a student needs special education and related services.

III.E. IEP TEAM MEMBERSHIP (34 CFR § 300.321; RULES III.E.)

Syracuse Arts Academy must ensure the IEP Team for each student with a disability includes:

1. The parent(s) of the student or the adult student;
2. Not less than one regular education teacher of the student (if the student is, or may be, participating in the regular education environment);
3. Not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;
4. A representative of Syracuse Arts Academy who:
    a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
    b. Is knowledgeable about the general education curriculum; and
    c. Is knowledgeable about the availability of resources of Syracuse Arts Academy.
    d. Syracuse Arts Academy may designate a Syracuse Arts Academy member of the IEP Team to also serve as Syracuse Arts Academy representative, if the above criteria are satisfied.
5. A representative of USDB and the LEA of residence when the student's placement is at USDB, when the IEP Team is considering placement at USDB, or when the student receives 180 minutes or more of special education and/or related services from USDB.
6. An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in this section;
7. At the discretion of the parent(s) or adult student or Syracuse Arts Academy, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and
8. Whenever appropriate, the student with a disability.
9. The determination of knowledge or special expertise of any individual described in Rule III.E.6. above must be made by the party (parent(s) or adult student or Syracuse Arts Academy) who invited the individual to be a member of the IEP Team.
10. If a purpose of the IEP Team meeting is consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals,

Syracuse Arts Academy must invite the student with a disability to attend the student's IEP meeting. If the student does not attend the IEP meeting, Syracuse Arts Academy must take other steps to ensure the student's preferences and interests are considered.

11. To the extent appropriate, with the written consent of the parent(s) or adult student, Syracuse Arts Academy must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
12. Signatures on an IEP denote participation of IEP Team members in the development of the IEP.

III.F. IEP TEAM ATTENDANCE (34 CFR § 300.321; RULES III.F.)

1. A required member of the IEP Team is not required to attend a particular IEP Team meeting, in whole or in part, if the parent(s) of a student with a disability or adult student and Syracuse Arts Academy 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 an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:
3. The parent(s) or adult student, in writing, and Syracuse Arts Academy consent to the excusal; and
4. The member submits, in writing, to the parent(s) or adult student and the IEP Team, input into the development of the IEP prior to the meeting.

III.G. PARENT PARTICIPATION (34 CFR § 300.322; RULES III.G.)

1. Syracuse Arts Academy must take steps to ensure that one or both of the parents of a student with a disability or the adult student are present at each IEP meeting or are afforded the opportunity to participate, including:
    a. Notifying parent(s) or adult student of the meeting early enough to ensure 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, Syracuse Arts Academy must use other methods to ensure participation of the parent(s) or the adult student, including individual or conference telephone calls. The parent(s) of a student with a disability or the adult student and Syracuse Arts Academy 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 a parent or the adult student in attendance if Syracuse Arts Academy is unable to convince the parent(s) or the adult student they should attend. In this case, Syracuse Arts Academy 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(s') or adult student's home or place of employment and the results of those visits.
4. Syracuse Arts Academy must take whatever action is necessary to ensure 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 UCA 35A-13-604, an individual is required to be certified as an interpreter if that individual provides interpreter services for deaf and hard of hearing individuals.
    b. An individual providing interpreting services other than those for deaf and hard of hearing individuals shall be trained.
5. The parent(s) of a student with a disability or adult student are participants along with school personnel in developing, reviewing, and revising the IEP for their student. This is an active role in which the parent(s) or adult student:
    a. Provide critical information regarding the strengths of the student and express their concerns for enhancing the education of the student;
    b. Participate in the discussion of the student's need for special education and related services, and supplementary aids and services; and
    c. Join 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 LEA-wide assessments, and what services Syracuse Arts Academy will provide to the student and in what setting.
6. Syracuse Arts Academy must give the parent(s) or adult student a copy of the student's IEP at no cost to the parent(s) or adult student.

III.H. NOTICE OF MEETING (34 CFR § 300.322; RULES III.H.)

1. The notice of meeting required to be provided to the parent(s) or adult student must:
    a. Indicate the purpose, time, and location of the meeting and who will be in attendance; and

b. Inform the parent(s) or adult student of the provision for participation of other individuals who have knowledge or special expertise about the student on the IEP Team.

2. For a student with a disability, ages 14 and older, or younger if determined appropriate by the IEP Team, the IEP notice of meeting also must:

   a. Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student; and

   b. Indicate that Syracuse Arts Academy will invite the student; and

   c. Identify any other agency that will be invited, with parental or adult student consent, to send a representative.

3. When conducting IEP Team meetings and placement meetings and carrying out administrative matters, the parent(s) of a student with a disability or adult student and Syracuse Arts Academy may agree to use alternative means of meeting participation such as video conferences and conference calls (34 CFR § 300.328).

III.I. DEVELOPMENT, REVIEW, AND REVISION OF THE IEP (34 CFR § 300.324; RULES III.I.)

1. Development, review, and revision of the IEP.

   a. In developing each student's IEP, the IEP Team must consider:

      (1) The strengths of the student;

      (2) The concerns of the parent(s) or adult student for enhancing the education of the student;

      (3) The results of the initial or most recent evaluation of the student, and

      (4) The academic, developmental, and functional needs of the student.

   b. The IEP Team, in conducting a meeting to develop, review and, if appropriate, revise a student's IEP, must consider the following special factors:

      (1) In the case of a student with limited English proficiency (LEP), consider the language needs of the student as those needs relate to the student's IEP;

      (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;

(a) Prior to determining whether a blind student should use braille as the primary reading mode, the student's IEP Team must be provided (through pertinent literature or discussions with competent braille users and educators, or both) with detailed information about the use and efficiency of braille as a reading medium, in order to make an informed choice as to the student's primary reading.

(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;

(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 behavior interventions and supports, and other strategies, to address that behavior.

(a) When making decisions on behavior interventions, the IEP Team must refer to the USBE Least Restrictive Behavior Interventions (LRBI) Technical Assistance (TA) Manual for information on research-based intervention procedures.

(i) 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).

(b) The purpose of the LRBI TA Manual related to the use of positive behavior supports and behavior interventions in schools is to:

(i) Protect the safety and well-being of all students;

(ii) Provide protection for students, teachers, other school personnel, and LEAs; and

(iii) Ensure parent(s) or adult students are involved in the consideration and selection of behavior interventions to be used.

(c) When an emergency situation occurs that requires the immediate use of an emergency safety intervention to protect the student or others from harm,

the staff shall comply with requirements in R277-609 with regards to time limitations and parental or adult student notification.

(d) As appropriate, the student should receive a FBA and behavior intervention services and modifications that are designed to address the behavior (34 CFR § 300.530(d)(1)(ii)).

c. If, in considering the special factors described above, the IEP Team determines a student needs a particular device or services for educational purposes (including an intervention, accommodation, or other program modification) in order for the student to receive a FAPE, the IEP Team must include a statement to that effect in the student's IEP.

d. A regular education teacher of a student with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the student, including the determination of:

(1) Appropriate positive behavior interventions and supports and other strategies for the student; and

(2) Supplementary aids and services, program modifications, and support for school personnel consistent with the IEP.

2. Changes to the IEP.

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

b. Upon request, the parent(s) or adult student must be provided with a revised copy of the IEP with the amendments incorporated.

c. If changes are made to the student's IEP through the amendment process, Syracuse Arts Academy must ensure the student's IEP Team is informed of those changes.

3. To the extent possible, Syracuse Arts Academy must encourage the consolidation of reevaluation meetings and other IEP Team meetings for the student (34 CFR § 300.324(a)(5)).

4. Review and revision of the IEP.

Syracuse Arts Academy must ensure the IEP Team:

a. Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

b. Revises the IEP, as appropriate, to address:

(1) Any lack of expected progress toward the annual goals in the IEP and in the general education curriculum, if appropriate;

(2) The results of any reevaluation;

(3) Information about the student provided to, or by, the parent(s) or adult student;

(4) The student's anticipated needs; or

(5) Other matters.

c. In conducting a review of the student's IEP, the IEP Team must consider the special factors in Rules III.I.1.b.

d. A regular education teacher of the student, as a member of the IEP Team, must participate in the review and revision of the IEP of the student, if the student is or may be participating in the general education classroom.

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

f. Nothing in this part 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 agency.

III.J. DEFINITION OF THE INDIVIDUALIZED EDUCATION PROGRAM (34 CFR § 300.320; RULES III.J.)

1. The term individualized education program (IEP) means a written statement for each student with a disability that is developed, reviewed, and revised in a meeting.

2. The IEP must include:

a. A statement of the student's present levels of academic achievement and functional performance (PLAAFP), including:

(1) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same grade-level curriculum as for non-disabled students); or

(2) For students who are blind, the results obtained from a braille-related or braille skills assessment;

b. A statement of measurable annual goals, including academic and functional goals designed to:

   (1) Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the grade-level general education curriculum; and

   (2) Meet each of the student's other educational needs that result from the student's disability;

c. For eligible students with significant cognitive disabilities who will participate in grade-level alternate achievement standards (i.e., Essential Elements):

   (1) Notification to the parent(s) or adult student that the student's academic achievement will be measured through an assessment of the grade-level Utah alternate achievement standards 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; and

   (2) A description of benchmarks or short-term objectives for each annual goal;

d. A description of:

   (1) How the student's progress toward meeting the annual IEP goals will be measured; and

   (2) When periodic reports to the parent(s) or adult student on the progress the student is making toward meeting the annual IEP goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

e. A statement of the special education and related services and supplementary aids and services (including assistive technology), based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:

   (1) To advance appropriately toward attaining the annual goals;

   (2) To be involved in and make progress in the grade-level general education curriculum, and to participate in extracurricular and other nonacademic activities; and

   (3) To be educated and participate with other similar-aged students with disabilities and non-disabled students in the activities described in this section;

f. An explanation of the extent, if any, to which the student will not participate with similar-aged non-disabled students in the regular education environment and in the activities described in this section;

g. A statement of:

(1) Any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on all grade-level State- and LEA-wide assessments; and

(2) If the IEP Team determines the student must take an alternate assessment instead of a particular regular State- or LEA-wide assessment of student achievement, a statement of why:

(a) The student cannot participate in the regular assessment; and

(b) The particular alternate assessment selected is appropriate for the student; and

h. All students, including students with disabilities, participate in statewide assessments. Syracuse Arts Academy reports the results of statewide assessments on the website. If more than one percent of students with significant cognitive disabilities participate in an alternate assessment, Syracuse Arts Academy will submit justification to the USBE on the need to exceed the cap.

i. The projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services and modifications.

j. A statement of school to post-school transition services.

For a student with a disability, ages 14 and older, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include:

(1) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training or education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the student in reaching those goals.

k. Transfer of rights at age of majority.

Beginning not later than one year before the student reaches the age of majority (age 18 in Utah), the IEP must include a statement that the student has been informed of the student's rights under Part B of the IDEA that will transfer to the student on reaching the age of majority. The transfer of rights also occurs upon notification to Syracuse Arts Academy that a student has married or become emancipated before age 18.

l. Nothing in this section shall be construed to require that additional information be included in a student's IEP beyond what is explicitly required in Section 614 of Part B of the IDEA, or require the IEP Team to include information under one component of a student's IEP that is already contained under another component of the student's IEP.

m. IEP Teams should discuss and address, if appropriate, student participation in not only the grade-level Utah Core Standards, but other general education activities and courses (e.g., health and maturation, suicide prevention), as well as the Statewide Online Education Program (SOEP) 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, the Rules, R277-418, R277-713, and R277-726.

III.K. PHYSICAL EDUCATION (34 CFR § 300.108; RULES III.L.)

1. Physical education services, specially designed if necessary, are made available to every student with a disability receiving a FAPE,
2. Each student with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled students unless:
   a. The student is enrolled full time in a separate facility; or
   b. The student needs specially designed physical education, as prescribed in the student's IEP.
3. Syracuse Arts Academy is responsible for specially designed physical education (e.g., adapted PE) if it is prescribed in a student's IEP, by providing the services directly or by making arrangements for those services to be provided through other public or private programs.
4. Syracuse Arts Academy is responsible for the education of a student with a disability who is enrolled in a separate facility and must ensure the student receives appropriate physical education services.

III.L. ASSISTIVE TECHNOLOGY (34 CFR § 300.105; R277-495; RULES III.M.)

1. Syracuse Arts Academy must ensure assistive technology devices or assistive technology services, or both, are made available to a student with a disability if required as a part of the student's:
   a. Special education,
   b. Related services, or

c. Supplementary 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 is required if the student's IEP Team determines the student needs access to those devices in order to receive a FAPE.

III.M. EXTENDED SCHOOL YEAR (ESY) SERVICES (34 CFR § 300.106; R277-751; RULES III.N.)

1. Extended school year services mean special education and related services that:
   a. Are provided to an eligible student with a disability:
      (1) Beyond the normal school year of Syracuse Arts Academy;
      (2) In accordance with the student's IEP; and
      (3) At no cost to the parent(s) of the student or adult student; and
   b. Meet the standards of the USBE in R277-751.
2. Syracuse Arts Academy shall ensure:
   a. ESY services are available as necessary to provide a FAPE, consistent with the Rules and considered for each individual student with a disability during an IEP, based upon a review of multiple data sources and factors.
   b. ESY student programs are provided in the least restrictive environment.
   c. ESY teachers and paraeducators meet USBE and IDEA requirements.
3. ESY services must be provided only if a student's IEP Team determines, on an individual basis, the services are necessary for the provision of a FAPE to the student. The annual IEP shall reflect the IEP Team's decision regarding the need for ESY services.
   a. Parent(s) or the adult student shall be provided with prior written notice of proposal or refusal to provide ESY services.
   b. If the student is determined eligible for ESY services, the IEP Team shall determine the appropriate ESY program, based on the student's individual needs.
   c. ESY eligibility decisions and prior written notice of ESY programs shall be provided to parent(s) or adult student in sufficient time to permit accessing dispute resolution options of the procedural safeguards, in the event of a dispute.
4. In implementing the requirements of this section, Syracuse Arts Academy may not:
   a. Limit ESY services to particular categories of disability, age, or grade level;
   b. Unilaterally limit the type, amount, or duration of those services; or

c. Limit data consideration by IEP Teams to only an analysis of regression and recoupment.

III.N. LEAST RESTRICTIVE ENVIRONMENT (LRE) (34 CFR § 300.114; RULES III.O.)

1. Syracuse Arts Academy must ensure:
   a. To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities (e.g., nursing homes), are educated with similar-aged students who are nondisabled; and
   b. Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. In the case of a student who is deaf or hard of hearing, 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.
   c. LRE provisions apply to transition programs and placement.

III.O. CONTINUUM OF ALTERNATIVE PLACEMENTS (34 CFR § 300.115; RULES III.P.)

1. Syracuse Arts Academy must ensure a continuum of alternative placements is available to meet the needs of students with disabilities for special education and related services.
2. The continuum required:
   a. Includes the following alternative placements for instruction:
      (1) Regular classes,
      (2) Special classes,
      (3) Special schools,
      (4) Home instruction, and
      (5) Instruction in hospitals and institutions; and
   b. Makes provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

III.P. PLACEMENTS (34 CFR § 300.116; RULES III.Q.)

1. In determining the educational placement of a student with a disability, including a transition-aged student with a disability, Syracuse Arts Academy must ensure:

a. The placement decision:

(1) Is 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; and

(2) Is made in conformity with the LRE provisions above.

b. The student's placement:

(1) Is determined at least annually;

(2) Is based on the student's IEP; and

(3) Is as close as possible to the student's home;

c. Unless the IEP of a student with a disability requires some other arrangement, the student is educated in the school that the student would attend if non-disabled;

d. In selecting the LRE, consideration is given to any potential harmful effect on the student or on the quality of services the student needs; and

e. A student with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

III.Q. PARENTAL INVOLVEMENT IN PLACEMENT DECISIONS (34 CFR §§ 300.327, 300.50; RULES III.R.)

1. Syracuse Arts Academy must ensure the parent(s) of each student with a disability or adult student are members of any group that makes decisions on the educational placement of the parent's student or the adult student (Rules IV.B).
2. In implementing this requirement, Syracuse Arts Academy shall use procedures for parent or adult student involvement in placement decisions consistent with those used for parent participation in IEP meetings.
3. If neither parent or the adult student can participate in a meeting in which a decision is to be made relating to the educational placement of the student, Syracuse Arts Academy shall use other methods to ensure their participation, including individual or conference telephone calls or video conferencing.
4. A group may make a placement decision without the involvement of the parent(s) or adult student if Syracuse Arts Academy is unable to obtain either parent's or adult student's participation in the decision. In this case, Syracuse Arts Academy must have a record of its attempts to ensure their involvement.

III.R. NONACADEMIC SETTINGS AND EXTRACURRICULAR ACTIVITIES (34 CFR § 300.117; UCA 53G-6-709; RULES III.S.)

1. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities in Rules III.V, Syracuse Arts Academy must ensure each student with a disability participates with non-disabled students in the extracurricular services and activities to the maximum extent appropriate to the needs of that student.
2. Syracuse Arts Academy must ensure each student with a disability has the supplementary aids and services determined by the student's IEP Team to be appropriate and necessary for the student to participate in nonacademic settings.
3. A student with a disability (under the age of 22 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 participating 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. Syracuse Arts Academy, in cooperation with the Utah Department of Health, shall establish criteria used to determine the health and safety factor (UCA 53G-6-709).

III.S. NONACADEMIC SERVICES (34 CFR § 300.107; RULES III.T.)

1. Syracuse Arts Academy must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities.
2. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by Syracuse Arts Academy, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by Syracuse Arts Academy and assistance in making outside employment available.

IV. PROCEDURAL SAFEGUARDS: DUE PROCESS PROCEDURES FOR PARENT(S) AND STUDENTS (IDEA SUBPART E)

IV.A. PARENTAL OPPORTUNITY TO EXAMINE RECORDS AND PARTICIPATE IN MEETINGS (34 CFR § 300.501; RULES IV.A.)

1. Opportunity to examine records.
    a. The parent(s) of a student with a disability or adult student must be afforded, in accordance with the Rules, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the student and the provision of a FAPE to the student.
2. Parent participation in meetings.
    a. The parent(s) of a student with a disability or adult student must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the student and the provision of a FAPE to the student.
    b. Syracuse Arts Academy must provide notice, consistent with the Rules, to ensure parents of students with disabilities or adult students have the opportunity to participate in meetings.
    c. A meeting does not include informal or unscheduled conversations involving Syracuse Arts Academy personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that Syracuse Arts Academy personnel engage in to develop a proposal or a response to a parent or adult student proposal that will be discussed at a later meeting.
3. Parent involvement in placement decisions.
    a. Syracuse Arts Academy must ensure that a parent of each student with a disability or adult student is a member of any group that makes decisions on the educational placement of the parent's student (34 CFR § 300.327), including notifying the parent(s) or adult student of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed-on time and place (34 CFR § 300.322(a)).
    b. The notice of meeting must indicate the purpose(s), time, and location of the meeting, who will be in attendance, and inform the parents or adult student of their right to bring other individuals who have knowledge or special expertise about the student (34 CFR § 300.322(b)).

c. If neither parent or the adult student can participate in a meeting in which a decision is to be made relating to the educational placement of the student, Syracuse Arts Academy must use other methods to ensure their participation, including individual or conference telephone calls or video conferencing.

d. A placement decision may be made by a group without the involvement of a parent or adult student if Syracuse Arts Academy is unable to obtain the parent's(s') or adult student's participation in the decision. In this case, the LEA must have a record of its attempt to ensure their involvement.

IV.B. INDEPENDENT EDUCATIONAL EVALUATION (34 CFR § 300.502; RULES IV.B.)

1. Definitions.

   a. Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the student in question.

   b. Public expense means that the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent or adult student.

2. Syracuse Arts Academy has established and implemented the following policies and procedures related to independent educational evaluation that meet the requirements of Part B of the IDEA and the Rules.

3. The following requirements must be addressed:

   a. The parent(s) of a student with a disability or adult student have the right to obtain an IEE of the student at public expense if they disagree with an evaluation obtained by Syracuse Arts Academy.

   b. Syracuse Arts Academy must provide to the parent(s) or adult student, upon request for an IEE, information about where an IEE may be obtained and Syracuse Arts Academy criteria applicable for IEEs.

   c. If the parent(s) or adult student requests an IEE at public expense, Syracuse Arts Academy must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate, or ensure an IEE is provided at public expense, unless Syracuse Arts Academy demonstrates in a hearing that the evaluation obtained by the parent(s) or adult student did not meet Syracuse Arts Academy criteria. If Syracuse Arts Academy files a due process complaint notice to request a hearing and the final decision is that Syracuse Arts Academy's evaluation is appropriate, the parent(s) or adult student still has the right to an IEE, but not at public expense. If the parent(s) or adult student requests an IEE, Syracuse Arts Academy may ask for the parent's(s') or adult student's reason why

they object to the public evaluation. However, the explanation by the parent(s) or adult student may not be required and Syracuse Arts Academy may not unreasonably delay either providing the IEE at public expense or requesting a due process hearing to defend the public evaluation.

d. The parent(s) or adult student is entitled to only one IEE at public expense each time Syracuse Arts Academy conducts an evaluation with which the parent(s) or adult student disagrees.

e. If the parent(s) or adult student obtains an IEE at public expense or shares with Syracuse Arts Academy an evaluation obtained at private expense, the results of the evaluation must be considered by Syracuse Arts Academy, if it meets Syracuse Arts Academy criteria, in any decision made with respect to the provision of a FAPE to the student, and may be presented by any party as evidence at a hearing on a due process complaint regarding that student.

f. If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

g. If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that Syracuse Arts Academy uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's(s') or adult student's right to an IEE.

h. Except for the criteria described above, Syracuse Arts Academy may not impose additional conditions or timelines related to obtaining an IEE at public expense.

4. An IEE conducted at Syracuse Arts Academy's expense becomes the property of Syracuse Arts Academy, in its entirety.

IV.C. PRIOR WRITTEN NOTICE (34 CFR § 300.503; RULES IV.C.)

1. Prior written notice must be given to the parents of a student with a disability or adult student a reasonable time before Syracuse Arts Academy:

   a. Proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE to the student; or

   b. Refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE to the student.

2. The notice required must include:

   a. A description of the action proposed or refused by Syracuse Arts Academy;

   b. An explanation of why Syracuse Arts Academy proposes or refuses to take the action;

c. A description of each evaluation procedure, assessment, record, or report Syracuse Arts Academy used as a basis for the proposed or refused action;

d. A statement that the parent(s) of a student with a disability or adult student have protection under the procedural safeguards of Part B of the IDEA and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

e. Sources for the parent(s) or adult student to contact to obtain assistance in understanding the provisions of Part B of the IDEA;

f. A description of other options the IEP Team considered and the reasons why those options were rejected; and

g. A description of other factors relevant to Syracuse Arts Academy's proposal or refusal.

3. 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, Syracuse Arts Academy must take steps to ensure:

      (2) 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;

      (3) The parent(s) or adult student understands the content of the notice; and

      (4) There is written evidence that the requirements have been met.

IV.D. PROCEDURAL SAFEGUARDS NOTICE (34 CFR § 300.504; RULES IV.D.)

1. A copy of the procedural safeguards available to the parent(s) of a student with a disability or adult student must be given to the parent(s) or adult student only one time a year, except that a copy also must be given to the parent(s) or adult student:

   a. Upon initial referral or parental or adult student request for evaluation;

   b. Upon receipt of the first State complaint or a due process complaint in that school year; and

   c. Upon request by the parent(s) or adult student.

2. An LEA may place a current copy of the procedural safeguards notice on its website if a website exists.
3. The procedural safeguards notice must include a full explanation of all the procedural safeguards relating to:
    a. Independent educational evaluations;
    b. Prior written notice;
    c. Parental or adult student consent;
    d. Access to educational records;
    e. The opportunity to present and resolve complaints through the State IEP facilitation, mediation, due process complaint or State complaint procedures, including the time period in which to file a complaint;
    f. The opportunity for Syracuse Arts Academy to resolve the complaint, and the difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
    g. The availability of IEP facilitation and mediation;
    h. The student's placement during pendency of hearings on due process complaints;
    i. Procedures for students who are subject to placement in an interim alternative educational setting (IAES);
    j. Requirements for unilateral placement by parent(s) of students or by adult students in private schools at public expense;
    k. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
    l. State-level appeals;
    m. Civil actions, including the time period in which to file those actions; and
    n. Attorneys' fees.
4. The notice required must be in language understandable to the parent(s) or adult student.
5. The parent(s) of a student with a disability or adult student may elect to receive notices by an electronic mail communication, if Syracuse Arts Academy makes that option available (34 CFR § 300.505).
6. Dispute resolution options remain available.

IV.E. STATE COMPLAINT PROCEDURES (34 CFR § 300.151–153; UCA 53E-7-208; RULES IV.E.)

Syracuse Arts Academy follows all requirements found in Rules IV.E. regarding State Complaint Procedures.

IV.F. MEDIATION (34 CFR § 300.506; RULES IV.F.)

Syracuse Arts Academy follows all requirements found in Rules IV.F. regarding Mediation.

IV.G. FILING A DUE PROCESS COMPLAINT (34 CFR § 300.507; UCA 53E-7-208; RULES IV.G)

Syracuse Arts Academy follows all requirements found in Rules IV.G. regarding filing a due process complaint.

IV.H. DUE PROCESS COMPLAINT (34 CFR § 300.508; RULES IV.H.)

Syracuse Arts Academy follows all requirements found in Rules IV.H. regarding due process complaints.

IV.I. MODEL FORMS (34 CFR § 300.509; RULES IV.I.)

The USBE staff has developed model forms to assist parent(s) or adult students in filing a State complaint, a due process hearing complaint, and requesting mediation. These forms are available on the USBE Special Education Services webpage. Parties are not required to use the State's model forms. Parents or adult students, public agencies, and other parties may use the appropriate State model form or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements for filing a due process complaint or the requirements for filing a State complaint.

IV.J. RESOLUTION PROCESS (34 CFR § 300.510; RULES IV.J.)

Syracuse Arts Academy follows all requirements found in Rules IV.J. regarding the resolution process.

IV.K. IMPARTIAL DUE PROCESS HEARING (34 CFR § 300.511; RULES IV.K.)

Syracuse Arts Academy follows all requirements found in Rules IV.K regarding impartial due process hearings.

IV.L. HEARING RIGHTS (34 CFR § 300.512; RULES IV.L.)

Syracuse Arts Academy follows all requirements found in Rules IV.L. regarding hearing rights.

IV.M. HEARING DECISIONS (34 CFR § 300.513; RULES IV.M.)

Syracuse Arts Academy follows all requirements found in Rules IV.M. regarding hearing decisions.

IV.N. FINALITY OF DECISION (34 CFR § 300.514; RULES IV.N.)

Syracuse Arts Academy acknowledges that a decision made in a hearing conducted is final, unless a party to the hearing appeals the decision to a civil action.

IV.O. STATE ENFORCEMENT MECHANISMS (34 CFR § 300.537; RULES IV.O.)

Syracuse Arts Academy acknowledges the state enforcement mechanisms found in Rules IV.O.

IV.P. TIMELINES AND CONVENIENCE OF HEARINGS (34 CFR § 300.515; UBSE-SER IV.P.)

Syracuse Arts Academy follows all requirements found in Rules IV.P. regarding timelines and convenience of hearings.

IV.Q. CIVIL ACTION (34 CFR § 300.516; RULES IV.Q.)

Syracuse Arts Academy follows all requirements found in Rules IV.Q. regarding civil action.

IV.R. ATTORNEYS' FEES (34 CFR § 300.517; UCA 53E-7-208(4)(B); RULES IV.R.)

Syracuse Arts Academy follows all requirements found in Rules IV.R. regarding attorneys' fees.

IV.S. STUDENT'S STATUS DURING PROCEEDINGS (34 CFR § 300.518; RULES IV.S.)

Syracuse Arts Academy follows all requirements found in Rules IV.S. regarding student's status during proceedings.

IV.T. SURROGATE PARENTS (34 CFR § 300.519; RULES IV.T.)

1. Syracuse Arts Academy ensures the rights of a student are protected when:
    a. No parent can be identified for a student under the age of majority;
    b. Syracuse Arts Academy, after reasonable efforts, cannot locate a parent for a student under the age of majority;
    c. The student is a ward of the state under the laws of that state; or
    d. The student is an unaccompanied homeless youth under the age of majority.
2. The duties of Syracuse Arts Academy include the assignment of an individual to act as a surrogate for the parent(s) for a student under the age of majority. This must include a

method for determining whether a student under the age of majority needs a surrogate parent and for assigning a surrogate parent to the student.

3. In the case of a student who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the student's case, provided that the surrogate meets the requirements.
4. Syracuse Arts Academy may select a surrogate parent in any way permitted under State law.
5. Syracuse Arts Academy must ensure that a person selected as a surrogate parent:
    a. Is not an employee of the USBE, Syracuse Arts Academy, 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 he/she represents; and
    c. Has knowledge and skills that ensure adequate representation of the student.
6. A person otherwise qualified to be a surrogate parent is not an employee of Syracuse Arts Academy solely because the person is paid by Syracuse Arts Academy to serve as a surrogate parent.
7. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates until a surrogate can be appointed who meets all of the requirements.
8. 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.
9. The USBE and Syracuse Arts Academy staff must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 calendar days after Syracuse Arts Academy determines the student needs a surrogate.

IV.U. TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY (34 CFR § 300.520; RULES IV.U.)

1. When a student with a disability reaches the age of majority under State law (i.e., age 18) that applies to all students, except for a student with a disability who has been determined to be incompetent under State law, or the student with a disability marries or becomes emancipated:
    a. Syracuse Arts Academy must provide any notice required by Part B of the IDEA to both the individual and the parent(s); and

b. All other rights accorded to parents under Part B of the IDEA transfer to the student;

c. All rights accorded to parents under Part B of the IDEA transfer to students who are incarcerated in an adult or juvenile State or local correctional institution; and

d. Whenever a state transfers rights, Syracuse Arts Academy must notify the individual and the parent(s) of the transfer of rights within a reasonable time frame.

IV.V. CONFIDENTIALITY (34 CFR § 300.610; R277-487; RULES IV.V.)

Syracuse Arts Academy takes appropriate steps to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the LEAs pursuant to Part B of the IDEA and R277-487.

1. Definitions (34 CFR § 300.611).

   As used in these 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 (PII), or from which information is obtained, under Part B of the IDEA.

2. Notice to parent(s) or adult student (34 CFR § 300.612).

   a. Syracuse Arts Academy must give notice that is adequate to fully inform parent(s) or adult students, including:

      (1) A description of the extent that the notice is given in the native languages of the various population groups in the State;

      (2) A description of the students on whom PII is maintained, the types of information sought, the methods Syracuse Arts Academy intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

      (3) A summary of the policies and procedures Syracuse Arts Academy must follow regarding storage, disclosure to third parties, retention, and destruction of PII; and

      (4) A description of all of the rights of parents and students regarding this information, including the rights under FERPA.

3. Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents or adult students throughout Syracuse Arts Academy of the activity.

4. Access rights (34 CFR § 300.613).

    a. Syracuse Arts Academy must permit parents or adult students to inspect and review any education records relating to their student or themselves that are collected, maintained, or used by the LEA. Syracuse Arts Academy must comply 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 under this section includes:

        (1) The right to a response from Syracuse Arts Academy to reasonable requests for explanations and interpretations of the records;

        (2) The right to request that Syracuse Arts Academy provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent or adult student from exercising the right to inspect and review the records; and

        (3) The right to have a representative of the parent or adult student inspect and review the records.

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

5. Record of access (34 CFR § 300.614).

    Syracuse Arts Academy must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA and the Rules (except access by parents or adult students and authorized employees of the LEA), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

6. Records on more than one student (34 CFR § 300.615).

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

7. List of types and locations of information (34 CFR § 300.616).

   On request, Syracuse Arts Academy must provide parents or adult students with a list of the types and locations of education records collected, maintained, or used by the LEA.

8. Fees (34 CFR § 300.617).

   a. Syracuse Arts Academy may charge a fee for copies of records that are made for parent(s) or adult students under Part B of the IDEA if the fee does not effectively prevent the parent(s) or adult students from exercising their right to inspect and review those records.

   b. The USBE staff and an LEA may not charge a fee to search for or to retrieve information under Part B of the IDEA.

9. Amendment of records at parent's(s') request (34 CFR § 300.618).

   a. A parent or adult student who believes that information in the education records collected, maintained, or used under Part B of the IDEA or Rules is inaccurate or misleading or violates the privacy or other rights of the student may request Syracuse Arts Academy to amend the information.

   b. Syracuse Arts Academy must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

   c. If Syracuse Arts Academy decides to refuse to amend the information in accordance with the request, it must inform the parent or adult student of the refusal and advise the parent(s) or adult student of the right to a hearing on the matter.

10. Opportunity for a hearing (34 CFR § 300.619).

    a. Syracuse Arts Academy must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. This hearing is not an IDEA due process complaint/hearing.

11. Result of hearing (34 CFR § 300.620).

    a. If, as a result of the hearing, Syracuse Arts Academy 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, Syracuse Arts Academy 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 LEA.

c. Any explanation placed in the records of the student under this section must:

(1) Be maintained by the LEA as part of the records of the student as long as the record or contested portion is maintained by the LEA; and

(2) If the records of the student or the contested portion are disclosed by the LEA to any party, the explanation must also be disclosed to the party.

12. Hearing procedures (34 CFR § 300.621).

A hearing that challenges education records must be conducted according to the procedures under 34 CFR § 99.22 as described below. At a minimum, Syracuse Arts Academy's hearing procedures must adhere to the following requirements:

a. The hearing shall be held within a reasonable period of time after the LEA receives the request, and the parent(s) of the student or adult student shall be 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 LEA, who does not have a direct interest in the outcome of the hearing.

c. The parent(s) of the student or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or be represented by individuals of his/her choice at his/her own expense, including an attorney.

d. The LEA shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.

e. The decision of the LEA 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.

13. Consent (34 CFR § 300.622).

a. Except as to disclosures addressed in referral to and action by law enforcement and judicial authorities, for which parental consent is not required by 34 CFR § 99, parental or adult student consent must be obtained before PII is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under Part B of the IDEA or the Rules, or

(2) Used for any purpose other than meeting a requirement of Part B of the IDEA or the Rules.

b. Syracuse Arts Academy may 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 an LEA to disclose personally identifiable information from the education records of a student without the written consent of the parent(s) of the student or adult student, if the disclosure is:

(a) To other school officials, including teachers within the LEA who have been determined by the LEA to have legitimate educational interests.

(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 an LEA transferring the education records of a student pursuant to 34 CFR § 99.34 above shall make a reasonable attempt to notify the parent of the student or adult student of the transfer of records at the last known address of the parent or adult student, except that the LEA 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 LEA.

(b) Syracuse Arts Academy includes in its annual notice of procedural safeguards, that it is the policy of the LEA to forward education records on request to a school in which a student seeks or intends to enroll.

(c) Syracuse Arts Academy transferring the records must keep a copy of the records for three years after the transfer.

c. Syracuse Arts Academy, upon receiving PII from another educational agency or institution, may make further disclosure of the information on behalf of the LEA without the prior written consent of the parent(s) or adult student if the conditions of 34 CFR §§ 99.31 and 99.34 noted above are met, and if the educational agency informs the party to whom disclosure is made of these requirements.

d. If the parent(s) or adult student refuses consent for the release of PII 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), Syracuse Arts Academy includes 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.

14. Safeguards (34 CFR § 300.623).

a. Syracuse Arts Academy must protect the confidentiality of PII at collection, storage, disclosure, and destruction stages.

b. One official at each LEA must assume responsibility for ensuring the confidentiality of any PII.

c. All persons at Syracuse Arts Academy collecting or using PII must receive training or instruction regarding the State's policies and procedures in Rules IV.V. and 34 CFR § 99.

d. Syracuse Arts Academy must maintain, for public inspection, a current listing of the names and positions of those employees within the LEA who may have access to personally identifiable information on students with disabilities.

15. Destruction of information (34 CFR § 300.624).

a. Syracuse Arts Academy must inform parents or adult student when PII collected, maintained, or used under Part B of the IDEA and Rules is no longer needed to provide educational services to the student.

b. The 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, phone number, his/her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

c. 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 under IDEA. Medicaid requires that records be maintained for at least five years after the provision of services.

16. Students' rights (34 CFR § 300.625).

a. 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 or the student has married or become emancipated.

b. Under the regulations for FERPA at 34 CFR § 99.5(a), the rights of parent(s) regarding education records are transferred to the student at age 18, providing the student has not been declared incompetent by a court order or the student has married or become emancipated.

c. Because the rights accorded to parents under Part B of the IDEA are transferred to a student who reaches the age of 18, providing the student has not been declared incompetent by a court order or the student has married or become emancipated, the rights regarding educational records must also be transferred to the student. However, Syracuse Arts Academy must provide any notice required under Section 615 of Part B of the IDEA to the student and the parent(s).

17. Enforcement (34 CFR § 300.626).

    The confidentiality requirements of Part B of the IDEA are reviewed and approved as part of Syracuse Arts Academy eligibility process.

18. U.S. Department of Education use of PII (34 CFR § 300.627).

    If the U.S. Department of Education or its authorized representatives collect any PII regarding students with disabilities that is not subject to the Privacy Act of 1974, 5 USC § 552a, the Secretary of Education (Secretary hereafter) applies the applicable Federal statute, and the regulations implementing those provisions in 34 CFR § 5b.

V. DISCIPLINE PROCEDURES (34 CFR § 300.530)

V.A. DISCIPLINE PROCEDURES FOR STUDENTS WITH DISABILITIES (RULES V.A.)

Consistent with the requirements of Part B of the IDEA and the Rules, Syracuse Arts Academy shall establish, maintain, and implement the following policies and procedures for disciplining students with disabilities.

V.B. AUTHORITY OF SCHOOL PERSONNEL (34 CFR § 300.530(A–C); RULES 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 his/her current placement to an appropriate interim alternative educational setting (IAES), 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 his/her current placement for ten school days in the same school year, during any subsequent days of removal Syracuse Arts Academy must provide 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 LEA must provide services to the student.

V.C. SERVICES (34 CFR § 300.530(D); RULES 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 behavior assessment, and behavior 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 IAES.
3. Syracuse Arts Academy is only required to provide services during periods of removal to a student with a disability who has been removed from his/her current placement for ten school days or less in that school year if it also provides services to a student without disabilities who is similarly removed.
4. After a student with a disability has been removed from his/her 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.

V.D. CHANGE OF PLACEMENT DUE TO DISCIPLINARY REMOVALS (34 CFR § 300.536; RULES 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. Syracuse Arts Academy 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.

V.E. MANIFESTATION DETERMINATION (34 CFR § 300.530(E); RULES 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, Syracuse Arts Academy, the parent(s) or adult student, and relevant members of the student's IEP Team (as determined by the parent(s) or adult student and the LEA) must review 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 LEA's failure to implement the IEP.

2. The conduct must be determined to be a manifestation of the student's disability if Syracuse Arts Academy, 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 LEA's failure to implement the IEP.

3. If Syracuse Arts Academy, 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 LEA's failure to implement the IEP, the LEA must take immediate steps to remedy those deficiencies.

4. If Syracuse Arts Academy, 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 behavior assessment (FBA), unless Syracuse Arts Academy had conducted a FBA before the behavior that resulted in the change of placement occurred, and implement a behavior intervention plan (BIP) for the student; or

   b. If a BIP has already been developed, review the BIP, and modify it, as necessary, to address the behavior; and

   c. Unless the misconduct falls under the definition of special circumstances in Rules V.E.5, return the student to the placement from which the student was removed, unless the parent or adult student and the LEA agree to a change of placement as part of the modification of the behavior intervention plan.

5. Special circumstances.

   School personnel may remove a student to an IAES 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 an LEA;

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 an LEA, 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 an LEA.

6. Definitions.

   For purposes of this section, the following definitions apply:

   a. *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)).

   b. *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).

   c. *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).

   d. *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).

V.F. PROCEDURAL SAFEGUARDS NOTICE (34 CFR § 300.530; RULES 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, Syracuse Arts Academy must notify the parent(s) or adult student of that decision, and provide the parent(s) or adult student the procedural safeguards notice.

V.G. DETERMINATION OF SETTING (34 CFR § 300.531; RULES V.G.)

The student's IEP Team determines the 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 USBE V.E.5.

V.H. APPEALS BY PARENT OR LEA (34 CFR § 300.532; RULES 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 the 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 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 Syracuse Arts Academy 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 Syracuse Arts Academy must have an opportunity for an impartial due process hearing.
    b. Syracuse Arts Academy 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 Syracuse Arts Academy 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 final, unless meeting the requirements of 34 CFR § 300.514(b) or 34 CFR § 300.516.

V.I. PLACEMENT DURING APPEALS (34 CFR § 300.533; RULES V.I.)

When an appeal through a due process complaint has been made by either the parent or adult student or Syracuse Arts Academy, the student must remain in the IAES 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.

V.J. PROTECTIONS FOR STUDENTS NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES (34 CFR § 300.534; RULES V.J.)

1. A student who has not been determined to be eligible for 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 Syracuse Arts Academy had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.
2. Syracuse Arts Academy 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 Syracuse Arts Academy, or a teacher of the student, that the student is in need of 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 Syracuse Arts Academy, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the LEA or to other supervisory personnel of the LEA.
3. Syracuse Arts Academy 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 the 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 Syracuse Arts Academy 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 Syracuse Arts Academy and information provided by the parent(s) or adult student, the LEA must provide special education and related services.

V.K. REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES (34 CFR § 300.535; RULES V.K.)

1. Nothing in Part B of the IDEA prohibits Syracuse Arts Academy 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. If Syracuse Arts Academy reports a crime committed by a student with a disability, it 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. If Syracuse Arts Academy reports a crime under this section, it 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 (FERPA).

VI. STUDENTS WITH DISABILITIES IN OTHER SETTINGS

VI.A. PRIVATE SCHOOL PLACEMENTS BY LEAS (34 CFR § 300.325; RULES VI.A.)

1. Developing IEPs.
    a. Before Syracuse Arts Academy places a student with a disability in, or refers a student to, a private school or facility, Syracuse Arts Academy must initiate and conduct a meeting to develop an IEP for the student in accordance with Part B of the IDEA and the Rules.
    b. Syracuse Arts Academy must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the LEA must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls or video conferencing.
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 Syracuse Arts Academy.
    b. If the private school or facility initiates and conducts these meetings, Syracuse Arts Academy must ensure that the parent(s) or adult student and an LEA 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 Syracuse Arts Academy and the USBE.
4. Residential placement (34 CFR § 300.104).

    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.

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

1. Syracuse Arts Academy is not required to pay for the cost of education, including special education and related services, of a student with a disability at a private school or facility if that LEA made a FAPE available to the student and the parent(s) or adult student elected to place the student in a private school or facility.

2. Disagreements between the parent(s) or adult student and an LEA 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 the Rules IV.G.–R.
3. If the parent(s) of a student with a disability or adult student, who previously received special education and related services under the authority of Syracuse Arts Academy, enroll the student in a private preschool, elementary school, or secondary school without the consent of or referral by the LEA, a court or a hearing officer may require the LEA to reimburse the parent(s) or adult student for the cost of that enrollment if the court or hearing officer finds that the LEA 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 LEAs.
4. The cost of reimbursement may be reduced or denied if:
    a. At the most recent IEP Team meeting that the parent(s) or adult student attended prior to removal of the student from the public school, the parent(s) or adult student did not inform the IEP Team that they were rejecting the placement proposed by the LEA to provide a FAPE to the 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) or adult student did not give written notice to the LEA of the information described in the Rules VI.C.4.a;
    c. Prior to the parent's(s') or adult student's removal of the student from the public school, the LEA informed the parent(s) or adult student, through the prior written 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) or adult student 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) or adult student.
5. Notwithstanding the requirements for the parent(s) or adult student to provide notice to Syracuse Arts Academy 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) or adult student from providing the notice;

(2) The parent(s) or adult student had not received prior written notice of the notice requirement in Rules VI.C.4.a–c; or

(3) Compliance with the notice requirements in Rules 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 are not literate or cannot write in English; or

(2) Compliance with Rule VI.C.4.a.–c. would likely result in serious emotional harm to the student.

VI.C. STUDENTS WITH DISABILITIES ENROLLED IN HOME SCHOOL. (RULES VI.D.)

1. Dual enrollment (R277-438 and UCA 53G-6-702).
   a. A student with a disability who is simultaneously enrolled in both home school or private school and a public school is considered a dual enrollment student.
   b. A student with a disability seeking dual enrollment is entitled to special education and related services, under an IEP, for the time, or for the number of courses, the student is enrolled in the public school, based on the decision of the student's IEP Team. The IEP Team must consider the amount of time and courses needed for the provision of FAPE.
2. Home schools do not meet the definition of private schools (R277-438).

VI.D. STUDENTS WITH DISABILITIES ENROLLED IN VIRTUAL SETTINGS (RULES VI.F.)

1. Students with disabilities enrolled in public education virtual settings remain entitled to special education and related services until determined no longer meeting eligibility criteria, graduate with a regular high school diploma, or reach maximum age.
2. The responsibility for FAPE for students with disabilities enrolled in public education virtual settings remains with the LEA of enrollment, unless Board Rule specifies otherwise.

VI.E. STUDENTS WITH DISABILITIES WHO ARE ALSO IN STATE CUSTODY/CARE (UCA 62A-4A-701; R277-709; RULES VI.K.)

1. The obligation to make FAPE available in the LRE, including special education and related services under Part B of the IDEA and these Rules, applies to all students with disabilities in state custody/care.
2. All requirements of these Rules apply to students with disabilities in State custody/care, including child find, LRE, and continuum of alternative placements.

3. Special education programs provided through youth in custody programs shall be monitored, through regular site monitoring visits and monthly desk monitoring on an annual basis, as directed by USBE (R277-709).
4. The USBE will develop and implement a Memorandum of Understanding (MOU) with other State agencies responsible for placing students in State custody/care across LEAs or in private facilities. The MOU will address, at a minimum, payment for education and special education services, timelines for placement, and notification of LEAs of changes in placement, and assign responsibility for FAPE.
5. LEAs must develop and implement a Memorandum of Understanding (MOU), policies, and procedures to address the process and timelines for interstate and intrastate transfers of students with disabilities in State custody/care, including the transfer of special education files, including the IEP, and the implementation of the IEP and provision of FAPE in the LRE, even in temporary placements.
    a. The LEA transferring the records must keep a copy of the records for three years after the transfer.

VI.F. STUDENTS WITH DISABILITIES WHO RESIDE IN NURSING HOMES (RULES VI.L)

1. Students with disabilities residing in nursing homes and their parent(s) or adult students have the same rights under IDEA as all other IDEA-eligible students with disabilities.

VII. TRANSITIONS (34 CFR § 300.1; RULES VII.)

VII.A. TRANSITION SERVICES—SCHOOL TO POST-SCHOOL (RULES VII.B.)

1. Purpose (34 CFR § 300.1; Rules VII.B.1.)

   To ensure that all students with disabilities have available to them a free appropriate public education that emphasizes 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; Rules 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 postsecondary 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) The development of employment and other 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 as specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.

3. Parent or adult student participation (34 CFR § 300.322; Rules VII.B.3.)

   For a student with a disability age 14 and older, or younger if determined appropriate by the IEP Team, the notice of meeting must indicate:

   a. That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student;

b. That Syracuse Arts Academy will invite the student; and

c. Identify any other agency that will be invited, with the consent of the parent(s) or adult student, to send a representative.

4. IEP Team (34 CFR § 300.321; Rules VII.B.4.)

   For an IEP Team meeting that includes as a purpose the development of a transition plan:

   a. Syracuse Arts Academy must invite the student with a disability to attend the student's IEP meeting if a purpose of the meeting will be the consideration of the post-secondary goals for the student and the transition services needed to assist the student in reaching those goals.

   b. If the student does not attend the IEP meeting, Syracuse Arts Academy must take other steps to ensure that the student's preferences and interests are considered.

   c. To the extent appropriate, with the consent of the parent(s) or adult student, Syracuse Arts Academy must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

5. Definition of IEP (34 CFR § 300.320(b); Rules VII.B.5.)

   a. Transition services. For a student with a disability, ages 14 and older, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include:

      (1) Realistic and reasonable measurable postsecondary goals based upon annual age-appropriate transition assessments related to training or education, employment, and, where appropriate, independent living skills;

      (2) Transition services, including multi-year courses of study, that will reasonably enable the student to reach the post-secondary goals identified on the IEP;

      (3) Evidence that the student was invited to the IEP Team meeting where transition services are to be discussed. If the student does not attend the IEP meeting, the IEP Team must take other steps to ensure the student's preferences and interests are considered;

      (4) If appropriate, evidence that a representative of any participating agency that might be providing or paying for any transition services was invited to the IEP Team meeting with written consent of the parent or adult student prior to the meeting; 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).

6. Transfer of rights at age of majority (34 CFR §§ 300.320(c), 300.520; Rules VII.B.6.)

   a. Not later than the student's 17th birthday, the IEP must include a dated statement, signed by the student, parent, and an LEA Representative, that the student and the student's parent(s) have been informed of 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.

   b. All rights accorded to parents under Part B of the IDEA transfer to the student on his/her 18th birthday unless the IEP Team determines that:

      (1) The parent has obtained legal guardianship, power of attorney, or conservatorship; or

      (2) The student has married or become emancipated (in which case the rights transfer at that time).

   c. All rights accorded to parents under Part B of the IDEA transfer to students who are incarcerated in an adult or juvenile State or local correctional institution.

7. Termination of eligibility as a change of placement (34 CFR § 300.305; Rules VII.B.7.)

   a. An evaluation is not required before the termination of a student's eligibility under this part 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, an LEA must provide the student with a summary of the student's academic achievement and functional performance which shall include a statement of the student's post-secondary goals, recommendations on how to assist the student in meeting the student's postsecondary goals, and a statement of when and how accommodations were used for instruction and assessment.

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

8. Failure to meet transition objectives (34 CFR § 300.324; Rules VII.B.8.)

a. If a participating agency, other than Syracuse Arts Academy, fails to provide the transition services described in the IEP, the LEA 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 (34 CFR § 300.324).

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.

9. Students with disabilities in adult prisons (34 CFR § 300.324; Rules 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 students ages 18 through 21 to the extent that State law does not require that special education and related services under Part B of the IDEA be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility (34 CFR § 300.102):

      (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.

   c. 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.

VII.B. GRADUATION (UCA 53E-7-202; R277-705; RULES VIII.C.)

1. The obligation of Syracuse Arts Academy to make FAPE available to all students with disabilities does not apply to students with disabilities who have graduated from high school with a regular high school diploma (34 CFR § 300.102(a)(3)(i)).
    a. The exception above does not apply to students that have graduated from high school but have not been awarded a regular high school diploma (34 CFR § 300.102(a)(3)(ii)).
    b. Syracuse Arts Academy may not withhold a regular high school diploma from a student who has met State or LEA graduation requirements.
    c. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring prior written notice that must contain all the requirements in Rule IV.D, including being given a reasonable time before Syracuse Arts Academy proposed to terminate the student's eligibility under the IDEA by issuing the student a diploma (34 CFR § 300.503).
    d. The term "regular high school diploma" does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a GED (34 CFR § 300.102(a)(3)(iv)).
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. Syracuse Arts Academy may modify graduation requirements consistent with the student's IEP (R277-700-6(25)). Syracuse Arts Academy may award a student a certificate of completion consistent with state and federal law and the student's IEP.
3. The IEP Team must refer to the USBE Special Education Graduation Guidelines for additional information regarding modifying graduation requirements and IEP substitutions.

VII.C. TERMINATION OF SERVICES UPON REACHING AGE 22 (R277-419-2(25)(B); RULES VII.D.)

1. If a student with a disability turns 22 any time after July 1, LEAs must continue to provide FAPE until the end of that school year.

VIII. RESPONSIBILITIES OF THE UTAH STATE BOARD OF EDUCATION

In addition to the requirements listed below, Syracuse Arts Academy provides data as required for State and Federal reports and other State functions as listed in Rules VIII.

VIII.A. GENERAL SUPERVISORY AUTHORITY

1. LEA Special Education Program Funding (Rules VIII.A.3.)
    a. Syracuse Arts Academy shall provide, either singly or in cooperation with other school districts or public institutions, a free appropriate public education program for all students with disabilities who are enrolled in Syracuse Arts Academy. The program shall include necessary special facilities, instruction, and education-related services. The costs of Syracuse Arts Academy's program, or share of a joint program, shall be paid from LEA funds.
    b. Syracuse Arts Academy shall receive funds under UCA Title 53F, Chapter 2, State Funding--Minimum School Program, and other applicable laws to provide special education services in accordance with the Rules.
    c. Syracuse Arts Academy may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than 3 or older than 22. The cost of such a program may be paid from fees, contributions, and other funds received by LEA for support of the program but may not be paid from public education funds.
    d. The requirements of Part B of the IDEA and the Rules are binding on each LEA and other public agency that has direct or delegated authority to provide special education and related services in the State of Utah.

VIII.B. STATE ELIGIBILITY (34 CFR § 300.110; USBE VIII.B.3.)

1. Program Options.
    a. Syracuse Arts Academy takes steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to nondisabled students in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

VIII.C. USBE PROGRAM MONITORING (USBE VIII.D.2-3.)

1. Syracuse Arts Academy is involved in the Utah's Program Improvement Planning System (UPIPS) monitoring system, as required under Part B of the IDEA, R277-709, and R277-114-3. Syracuse Arts Academy shall complete the required activities according to the timeline provided by the USBE staff.
2. Results of the monitoring process are publicly available, upon request.

VIII.D. PERSONNEL QUALIFICATIONS (34 CFR § 300.156; RULES VIII.K.3-5.)

1. Qualifications for special education teachers (R277-504).

   The USBE and IDEA established qualifications for each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school.

2. Related services personnel and paraeducators (R277-506 and R277-524).

   The qualifications include qualifications for related services personnel and paraeducators that:

   a. Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

   b. Ensure that related services personnel who deliver services in their discipline or profession:

      (1) Meet the requirements; and

      (2) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

   c. Allow paraeducators and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part, to be used to assist in the provision of special education and related services under Part B of the IDEA to students with disabilities.

   d. Interpreters for the Deaf.

      Under UCA 35A-13-604, an individual is required to be certified as an interpreter if that individual provides interpreter services for deaf and hard of hearing students.

3. Notwithstanding any other individual right of action that a parent, adult student, or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA, LEA, or other public agency employee to be highly qualified, or to prevent a parent or adult student from filing a State complaint about staff qualifications with the State Director of Special Education.

VIII.E. REPORTING ON SUSPENSION AND EXPULSION RATES (34 CFR § 300.170; RULES VIII.M.)

1. Through daily uploads, Syracuse Arts Academy shall report to the USBE staff, through the UTREx reporting system, on the rates of long-term suspensions and expulsions of

students with disabilities and nondisabled students, including data disaggregated by race and ethnicity. The USBE staff shall examine these data to determine if significant discrepancies are occurring:

a. Between nondisabled students and students with disabilities within Syracuse Arts Academy.

2. If discrepancies are occurring, the USBE staff shall review and, if appropriate, require revisions in both USBE and LEA policies, procedures, and practices to ensure compliance with Part B of the IDEA.

3. Policies, procedures, and practices to be reviewed and, if appropriate, revised, include:

   a. The development and implementation of IEPs;

   b. The use of positive behavior interventions and supports; and

   c. Procedural safeguards.

VIII.F. PROHIBITION ON MANDATORY MEDICATION (34 CFR § 300.174; RULES VIII.X.)

1. The USBE prohibits State and Syracuse Arts Academy personnel from requiring parents or adult students to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act for a student as a condition of attending school, receiving an evaluation, or receiving services under Part B of the IDEA (21 USC § 812(c)).

2. Nothing in Rules VIII.X.1. shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parent(s) or adult student regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services related to child find.

IX. LEA ELIGIBILITY AND RESPONSIBILITIES

IX.A. LEA ELIGIBILITY FOR IDEA PART B FUNDS (34 CFR §§ 300.211–212, 220)

Federal special education funding is made available through a grant to the state from the Office of Special Education Programs (OSEP). These funds are restricted and may only be used to provide services and program for students who qualify under Part B of the IDEA. Funds are available for students who are 3–5 (section 619 Preschool) and for students age 3–21 (section 611 School-Age). Some funds are retained at the state level for administration and for state level activities. The remaining funds are distributed to Utah Local Education Agencies (LEAs) by formula.

1. Annually, the USBE staff shall notify Syracuse Arts Academy of the availability of Federal funds under Part B of the IDEA. In order to receive IDEA Part B flow-through funds, Syracuse Arts Academy must have in effect a USBE-approved special education program (Rules X.B.2.), including policies and procedures that are consistent with the Rules.
2. Syracuse Arts Academy must have a USBE-approved special education program (UCA 53F-2-307; (Rules IX.A.2). Syracuse Arts Academy's program is approved by the state board when Syracuse Arts Academy's special education policies and procedures are approved by the USBE special education staff and then by Syracuse Arts Academy's local board in a public meeting. Syracuse Arts Academy must submit documentation of the local board's approval to the USBE special education staff. The USBE approval of Syracuse Arts Academy's policies and procedures includes the approval of any supporting documentation necessary to ensure their implementation. All required minimum components of Rules A.2.a-e are addressed in this policies and procedures manual.
3. As part of establishing eligibility for Part B funds, Syracuse Arts Academy must have revised policies and procedures in alignment with the IDEA 2004 final regulations and current Rules within one year of the final USBE approval of Rules.
4. Policies and procedures submitted by Syracuse Arts Academy in accordance with this section, and approved by the USBE staff, remain in effect until any of the following occur (34 CFR § 300.220):
    a. The LEA submits modifications to the USBE staff that the SEA or LEA determines are necessary;
        (1) The provisions of the Rules apply to any modifications in an LEA's policies and procedures in the same manner and to the same extent as the LEA's original policies and procedures.
    b. The USBE staff gives the LEA notice of a new interpretation of the IDEA by Federal or State courts, or a change in Federal statute; or

c. There is an official finding of noncompliance with Federal or State law or regulations that requires a change in the LEA's policy and procedures.

5. Syracuse Arts Academy must have on file with the USBE staff information to demonstrate that it will make available to parents of students with disabilities or adult students and to the general public all documents relating to the eligibility of the LEA under Part B of the IDEA (34 CFR § 300.212).
6. Syracuse Arts Academy creates annual improvement goals based on the State Performance Plan (SPP) and Annual Performance Report (APR) Indicators to improve outcomes for students with disabilities (Rules IX.A.2.d(2)(r)).
7. Syracuse Arts 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 (Rules IX.A.2.e).

IX.B. USE OF PART B FEDERAL FUNDS BY THE LEA (34 CFR §§ 300.200–206, 208)

1. Syracuse Arts Academy submits a plan that provides assurances to the USBE that Syracuse Arts Academy meets each of the conditions in Rules IX.B (34 CFR § 300.200).
2. Syracuse Arts Academy has in effect policies, procedures, and programs that are consistent with the State policies and procedures established in the Rules (34 CFR § 300.201).
3. Use of amounts (34 CFR § 300.202).

   Syracuse Arts Academy has on file with the USBE staff information to demonstrate that amounts provided to the LEA under Part B of the IDEA:

   a. Will be expended in accordance with the applicable provision of the Rules.
   b. Will be used only to pay the excess costs of providing special education and related services to students with disabilities consistent with the Rules; and
   c. Will be used to supplement State, local, and other Federal funds and not to supplant those funds.
4. The excess cost requirement prevents Syracuse Arts Academy from using funds provided under Part B of the IDEA to pay for all of the costs directly attributable to the education of a student with a disability.
5. Syracuse Arts Academy meets the excess cost requirement if it has spent at least a minimum average amount for the education of its students with disabilities before funds under Part B of the IDEA are used.
6. Maintenance of effort (34 CFR § 300.203).

a. Eligibility standard.

(1) For purposes of establishing Syracuse Arts Academy's eligibility for an award for a fiscal year, the USBE must determine that Syracuse Arts Academy budgets for the education of students with disabilities for at least the same amount, from at least one of the following sources, as Syracuse Arts Academy spent for that purpose from the same source for the most recent fiscal year f or which information is available:

(a) Local funds only;

(b) The combination of State and local funds;

(c) Local funds only on a per capita basis; or

(d) The combination of State and local funds on a per capita basis.

(2) When determining the amount of funds that Syracuse Arts Academy must budget to meet the requirement in paragraph Rules IX.B.6.a.(1), Syracuse Arts Academy may take into consideration, to the extent the information is available, the exceptions and adjustment provided in 34 CFR §§ 300.204 and 300.205 that Syracuse Arts Academy:

(a) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which Syracuse Arts Academy is budgeting; and

(b) Reasonably expects to take in the fiscal year for which Syracuse Arts Academy is budgeting.

(3) Expenditures made from funds provided by the Federal government for which the SEA is required to account to the Federal government or for which Syracuse Arts Academy is required to account to the Federal government directly or through the USBE may not be considered in determining whether Syracuse Arts Academy meets the standard in Rules IX.B.6.a.(1).

b. Compliance standard.

(1) Except as provided in 34 CFR §§ 300.204 and 300.205, funds provided to Syracuse Arts Academy under Part B of the IDEA will not be used to reduce the level of expenditures for the education of students with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

(2) Syracuse Arts Academy meets this standard if it does not reduce the level of expenditures for the education of students with disabilities made by Syracuse Arts Academy from at least one of the following sources below the level of those

expenditures from the same source for the preceding fiscal year, except as provided in 34 CFR §§ 300.204 and 300.205:

(a) Local funds only;

(b) The combination of State and local funds;

(c) Local funds only on a per capita basis; or

(d) The combination of State and local funds on a per capita basis.

(3) Expenditures made from funds provided by the Federal government for which the SEA is required to account to the Federal government or for which Syracuse Arts Academy is required to account to the Federal government directly or through the USBE may not be considered in determining whether Syracuse Arts Academy meets the standard of Rules IX.B.6.b.(1) and IX.B.6.b.(2).

c. Subsequent years.

(1) If, in the fiscal year beginning on July 1, 2013 or July 1, 2014, Syracuse Arts Academy fails to meet the requirements of 34 CFR § 300.203 in effect at that time, the level of expenditures required of Syracuse Arts Academy for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not Syracuse Arts Academy's reduced level of expenditures.

(2) If, in any fiscal year beginning on or after July 1, 2015, Syracuse Arts Academy fails to meet the requirement of Rules IX.B.6.b.(2)(a) or IX.B.6.b.(2)(c) and Syracuse Arts Academy is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of the Rules IX.B.6.a or IX.B.6.b, the level of expenditures required of Syracuse Arts Academy for the fiscal year subsequent to the year of the failure is the amount that would have been required under Rules IX.B.6.b.(2)(a) or IX.B.6.b.(2)(c) in the absence of that failure, not Syracuse Arts Academy's reduced level of expenditures.

(3) If, in any fiscal year beginning on or after July 1, 2015, Syracuse Arts Academy fails to meet the requirement of Rules IX.B.6.b.(2)(b) or IX.B.6.b.(2)(d) and Syracuse Arts Academy is relying on the combination of State and local funds, or the combination of State and local funds on a per capita basis, to meet the requirements of Rules IX.B.6.a or IX.B.6.b, the level of expenditures required of Syracuse Arts Academy for the fiscal year subsequent to the year of the failure is the amount that would have been required under Rules IX.B.6.b.(2)(b) or IX.B.6.b.(2)(d) in the absence of that failure, not Syracuse Arts Academy's reduced level of expenditures.

d. Consequence of failure to maintain effort.

(1) If Syracuse Arts Academy fails to maintain its level of expenditures for the education of students with disabilities in accordance with Rules IX.B.6.b, the USBE is liable in a recovery action under section 452 of the General Education Provisions Act (20 USC § 1234a) to return to the Department, using non-Federal funds, an amount equal to the amount by which Syracuse Arts Academy failed to maintain its level of expenditures in accordance with Rules IX.B.6.b. in that fiscal year, or the amount of Syracuse Arts Academy's Part B subgrant in that fiscal year, whichever is lower.

(2) If the USBE is required to return funds to the Department because of Syracuse Arts Academy's failure to meet the Maintenance of Effort requirement, the USBE shall reduce the amount provided to Syracuse Arts Academy's Minimum School Program (MSP) Basic Program on a 1/12 basis.

7. Exception to maintenance of effort (34 CFR § 300.204).

   Syracuse Arts Academy may reduce the level of expenditures by Syracuse Arts Academy under Part B of the IDEA below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

   a. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

   b. A decrease in the enrollment of students with disabilities.

   c. The termination of the obligation of Syracuse Arts Academy, consistent with this part, to provide a program of special education to a particular student with a disability that is an exceptionally costly program, as determined by the USBE staff, because the student:

      (1) Has left the jurisdiction of Syracuse Arts Academy;

      (2) Has reached the age at which the obligation of Syracuse Arts Academy to provide a FAPE to the student has terminated; or

      (3) No longer needs the program of special education.

   d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

   e. The assumption of cost by the high-cost (i.e., Intensive Services fund) fund operated by the USBE staff.

8. Adjustment to local fiscal efforts in certain fiscal years (34 CFR § 300.205).

   a. For any fiscal year for which the allocation received by Syracuse Arts Academy under Part B of the IDEA exceeds the amount the LEA received for the previous fiscal year, Syracuse Arts Academy may reduce the level of expenditures otherwise required by

maintenance of efforts requirements by not more than 50 percent of the amount of that excess.

b. Use of amounts to carry out activities under ESEA/ESSA.

   If Syracuse Arts Academy exercises the authority to reduce the level of expenditures due to an increase in Part B funds, Syracuse Arts Academy must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the ESEA/ESSA, regardless of whether Syracuse Arts Academy is using funds under the ESEA/ESSA for those activities.

c. The USBE staff must prohibit Syracuse Arts Academy from reducing the level of expenditures for a fiscal year, if the USBE staff determines that:

   (1) Syracuse Arts Academy is unable to establish and maintain programs of FAPE that meet the requirements of Part B of the IDEA, or

   (2) The USBE staff has taken action against Syracuse Arts Academy under Section 616 of the IDEA and subpart F of the regulations (Monitoring, Technical Assistance, and Enforcement).

d. The amount of funds expended by Syracuse Arts Academy for mandatory or voluntary Coordinated Early Intervening Services (CEIS) shall count toward the maximum amount of expenditures that Syracuse Arts Academy may reduce under the requirements of this section.

9. If the USBE staff determines that Syracuse Arts Academy is not meeting the requirements of the Rules, the USBE staff may prohibit Syracuse Arts Academy from treating funds received under Part B of the IDEA as local funds under this section for any fiscal year, but only if it is authorized to do so by the State constitution or State statute.

10. School-wide programs under Title I of the ESEA/ESSA (34 CFR § 300.206).

    a. Syracuse Arts Academy may use funds received under Part B of the IDEA for any fiscal year to carry out a school-wide program under section 1114 of the ESEA/ESSA, except that the amount used in any school-wide program may not exceed the amount received by the LEA under Part B of the IDEA for that fiscal year:

       (1) Divided by the number of students with disabilities in the jurisdiction of the LEA; and

       (2) Multiplied by the number of students with disabilities participating in the school-wide program.

    b. The funds described in this section must be considered as Federal Part B funds for purposes of the calculations required for excess costs and supplanting.

c. The funds may be used without regard to the requirements of 34 CFR § 300.202(a)(1) of the IDEA.

d. All other requirements of Part B of the IDEA must be met by Syracuse Arts Academy using Part B funds for school-wide programs under section 1114 of the ESEA/ESSA, including ensuring that students with disabilities in school-wide program schools:

(1) Receive services in accordance with a properly developed IEP; and

(2) Are afforded all the rights and services guaranteed to students with disabilities under Part B of the IDEA.

IX.C. CHARTER SCHOOLS AND THEIR STUDENTS (34 CFR § 300.209; RULES IX.C.)

1. Students with disabilities ages 5 through 21 who attend public charter schools and their parent(s) or adult students retain all rights under Part B of the IDEA and Rules.
2. Syracuse Arts Academy receives funding under Part B or State special education funding and is responsible for ensuring that all of the requirements of Part B of the IDEA and Rules are met. Syracuse Arts Academy may not refer potential or enrolled students with disabilities back to their school district of residence due to a disability, child find, or need for special education and related services, including placements.
3. Nothing in Rules prohibit school districts and charter schools from developing a Memorandum of Understanding (MOU) to address student specific needs and/or placements.

IX.D. COORDINATED EARLY INTERVENING SERVICES (CEIS) (34 CFR § 300.226; RULES IX.D.)

1. Syracuse Arts Academy may not use more than 15 percent of the amount Syracuse Arts Academy receives under Part B of the IDEA for any fiscal year, less any amount reduced by the LEA pursuant to maintenance of effort, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated early intervening services (CEIS), which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.
2. In implementing CEIS, Syracuse Arts Academy may carry out activities that include:

a. Professional learning (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavior interventions, including scientifically based literacy

instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

b. Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

3. CEIS may not be used to limit or create a right to FAPE under Part B of the IDEA or to delay appropriate evaluation of a student suspected of having a disability.
4. Syracuse Arts Academy must annually report to the USBE staff on:
   a. The number of students served under this section who received early intervening services; and
   b. The number of students served under this section who received early intervening services and subsequently receive special education and related services under Part B of the IDEA during the preceding two-year period.
5. Funds made available to carry out this section may be used to carry out coordinated early intervening services aligned with activities funded by, and carried out under, the ESEA/ESSA if those funds are used to supplement, and not supplant, funds made available under the ESEA/ESSA for the activities and services assisted under this section. LEAs should refer to the USBE CEIS Technical Assistance for additional information.

IX.E. PERSONNEL DEVELOPMENT (34 CFR § 300.207; RULES IX.E.)

1. Syracuse Arts Academy must ensure 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 and section 2122 of the ESEA/ESSA, as well as 34 CFR § 300.156; R277-504, R277-506, R277-520, and R277-524.
2. Paraeducators, when used to carry out Part B of the IDEA, must be appropriately trained and supervised, and utilized in accordance with USBE Paraeducator Standards.
3. Syracuse Arts Academy shall provide documentation of paraeducator training and supervision to USBE staff upon request.

IX.F. LEA PROVISION OF FAPE (34 CFR § 300.101; RULES IX.G.)

1. Syracuse Arts Academy will oversee the caseload of each special educator (including psychologists, social workers, speech-language pathologists, occupational therapists, physical therapists, adapted PE specialists, and any other related servers) to ensure that a free appropriate public education is available to all eligible students with disabilities

IX.G. ROUTINE CHECKING OF HEARING AIDS AND EXTERNAL COMPONENTS OF SURGICALLY IMPLANTED MEDICAL DEVICES (34 CFR § 300.113; RULES IX.H.)

1. Hearing aids. Syracuse Arts Academy must ensure that hearing aids worn in school by students with hearing loss, including deafness, are functioning properly.
2. External components of surgically implanted medical devices.
    a. Subject to Rules IX.H.2.b, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.
    b. For a student with a surgically implanted medical device who is receiving special education and related services, Syracuse Arts Academy is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

IX.H. EDUCATOR LICENSE REQUIREMENTS (R277-504; R277-506; R277-520; RULES IX.I.)

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. Physical and occupational therapists must hold appropriate Utah licensure. The LEA Director, School Principal, and Special Education Director, in conjunction with the Human Resource Department of the contracted management company, shall be responsible for the evaluation of the appropriateness of licenses and endorsements when assigning staff members. Syracuse Arts Academy refers to the USBE Teaching, Leadership, and Paraeducator Standards.

1. *Special Education (K–12) License* area of concentration 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 (R277-504-2(13)(a)):
    a. Mild/Moderate Disabilities,
    b. Severe Disabilities,
    c. Deaf and Hard of Hearing,
    d. Blind and Visually Impaired, and
    e. Deafblind.

2. 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).
3. 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 and the ESEA/ESSA.
4. School social workers and school psychologists providing services to students with disabilities must be licensed by the USBE (R277-506).
5. 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 (R277-506).

IX.I. PURCHASE OF INSTRUCTIONAL MATERIALS IN ACCESSIBLE FORMATS (34 CFR § 300.210; RULES IX.J.)

1. Syracuse Arts Academy chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials, and must acquire those instructional materials in the same manner, and subject to the same conditions as the USBE under Rules VIII.W.
2. Nothing in this section relieves Syracuse Arts Academy of its responsibility to ensure that students with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.
3. For all purposes of this section, the USBE defines timely manner as follows: the SEA and LEAs must take reasonable steps to provide instructional materials in accessible formats to students with disabilities who need those instructional materials at the same time as other students receive instructional materials.

X. SPECIAL EDUCATION FUNDING (RULES X.)

As the State Education Agency (SEA), the USBE has a responsibility under both Federal and State law to monitor implementation of the IDEA by LEAs through a system of general supervision that improves educational results and functional outcomes and ensures that public agencies meet program requirements. The special education program that is funded both from federal and state funds and it is critical to understand the similarities and differences of these funding sources.

“Federal special education funds” means funds paid to the State under IDEA Part B for the purposes of special education.

“State special education funds” means state funds appropriated to public education for the purposes of special education.

Federal special education funds are calculated, allocated, and classified differently than state special education funds. Rules X outline the regulations, restrictions, and allowable costs and activities applicable to each funding source; some requirements are the same for both funding sources and some provisions apply only to one or the other.

X.A. STATE SPECIAL EDUCATION FUNDS GENERALLY (RULES X.A.)

1. State special education funds may be spent only for direct costs, as outlined in Rules. Direct costs are those elements of cost which can be easily, obviously, and conveniently identified with specific special education activities or programs, as distinguished from those costs incurred for several different activities or programs and whose elements are not readily identifiable with specific special education activities.
2. State special education funds are appropriated to the Minimum School Program (MSP) and provide restricted (categorical) monies that must be spent for the education of students with disabilities.

X.B. ALLOCATION OF STATE SPECIAL EDUCATION FUNDS FOR PROGRAMS FOR STUDENTS WITH DISABILITIES (UCA 53F-2-307; R277-479; RULES X.B.3.)

1. Syracuse Arts Academy must be current with the Utah Program Improvement Planning System (UPIPS) monitoring requirements, including correction of noncompliance within one year of notification, annual Corrective Action Plan (CAP) and Program Improvement Plan (PIP) reports, and desk audit submissions to be eligible for State special education funds.

X.C. SPECIAL EDUCATION ADD-ON ALLOWABLE USE (FUND 1205) (UCA 53F-2-307(1); RULES X.C.)

1. Syracuse Arts Academy will use Special Education add-on funds in accordance with Rules X.B. and to cover the direct costs of providing special education to students with disabilities.

X.D. SPECIAL EDUCATION SELF-CONTAINED ALLOWABLE USE (FUND 1210) (UCA 53F-2-307(3); RULES X.E.)

1. "Self-contained" means a public-school student with an IEP or a youth in custody/care (YIC) who receives 180 minutes or more of special education or YIC services during a typical school day per R277-419-2(35).
2. Syracuse Arts Academy will use Special Education Self-Contained funds only for direct costs attributable to the cost of the special education of students with disabilities whose placement is a special class or self-contained environment.

X.E. STATE SPECIAL EDUCATION IMPACT AID ALLOWABLE USE (FUND 1225) (UCA 53F-2-307(1); RULES X.I.)

1. Syracuse Arts Academy will use state special education funds for direct costs attributable to the cost of administering the special education program as follows:
    a. Costs for students in state custody (prisons, detention facilities, and the state hospital)
    b. Additional costs attributable for services to students with low-incidence disabilities

X.F. STATE SPECIAL EDUCATION EXTENDED SCHOOL YEAR (ESY) ALLOWABLE USE (FUND 1220) (UCA 53F-2-308(2); RULES X.K.)

1. Syracuse Arts Academy will use state special education funds for direct costs attributable to the cost of extended year services (ESY) provided to students with disabilities, determined by the student's IEP team to require ESY in order to receive a FAPE and in accordance with R277-751.

X.G. STATE EXTENDED SCHOOL YEAR STIPEND FOR SPECIAL EDUCATORS (EYSE) ALLOWABLE USE (FUND 1278) (UCA 53F-2-310; RULES X.M.)

1. Syracuse Arts Academy will use state special education funds for salaries and allowable benefits of Special Education Teachers, or Speech Language Pathologists who provide eligible services under R277-525-2.
2. A special educator receiving a stipend shall: (a) work an additional day beyond the number of days contracted with the special educator's school district or school for each

daily stipend; (b) schedule the additional days of work before or after the school year; and (c) use the additional days of work to perform duties related to the IEP process, including: administering student assessments, conducting IEP meetings, writing IEP's, conferring with parent(s) or adult students, and preparing and maintaining records.

X.H. STATE SPECIAL EDUCATION INTENSIVE SERVICES ALLOWABLE USE (FUND 1230) (UCA 53F-2-309(1); RULES X.O.)

1. Syracuse Arts Academy will use state special education funds for direct costs attributable to the cost of implementing IEPs for students with disabilities.
2. Cost of services to a student with a disability must be in excess of three times the annual average per pupil expenditure (APPE) as calculated by USBE Financial Operations.
3. Costs must meet the eligibility requirements outlined in R277-752.

X.I. STATE SPECIAL EDUCATION FUNDS ALLOWABLE USE. (RULES X.P.)

1. As stated in X.B., state special education funds may be spent only for direct costs, as outlined in the Rules. Direct costs are those elements of cost which can be easily, obviously, and conveniently identified with specific special education activities or programs, as distinguished from those costs incurred for several different activities or programs and whose elements are not readily identifiable with specific special education activities. (Rules X.A.1.).
2. Syracuse Arts Academy will use state special education funds for the costs of providing for specially designed instruction, related services, and supplementary aids and services provided in a regular class or other education-related setting to a student with a disability in accordance with the IEP of the student.
3. Syracuse Arts Academy will use state special education funds for the costs of including peer models in IEP services that require a peer model.
4. Syracuse Arts Academy will use state special education funds for the costs of providing co-teaching, in which both a licensed general educator and licensed special education teacher plan and provide specially designed instruction.
5. Syracuse Arts Academy follows the allowable use of state special education funds as listed in Rules X.P.6.

X.J. ALLOWABLE COSTS FOR FEDERAL (IDEA) SPECIAL EDUCATION FUNDS (RULES X.R.1.; 4-7.)

1. Funds paid to the State under IDEA Part B for the purposes of special education ("Federal special education funds") are calculated, allocated, and classified differently than State special education funds.

2. Syracuse Arts Academy will use Federal special education funds for the costs of providing for specially designed instruction, related services, and supplementary aids and services provided in a regular class or other education-related setting to a student with a disability in accordance with the IEP of the student.
3. Syracuse Arts Academy will use Federal special education funds for the costs of including peer models in IEP services that require a peer model.
4. Syracuse Arts Academy will use Federal special education funds for the costs of providing co-teaching, in which both a licensed general educator and licensed special education teacher plan and provide specially designed instruction.
5. Syracuse Arts Academy follows the allowable use of Federal special education funds, as listed in Rules X.R.8.