

The IEP & Section 504 Under COVID-19



**Utah
Parent
Center**

Special needs,
extraordinary potential



Utah Parent Center

Special needs, extraordinary potential

Introducing....

Esperanza Reyes

Phone: 801.272.1051 or 1.800.468.1160

Email: esperanza@utahparentcenter.org

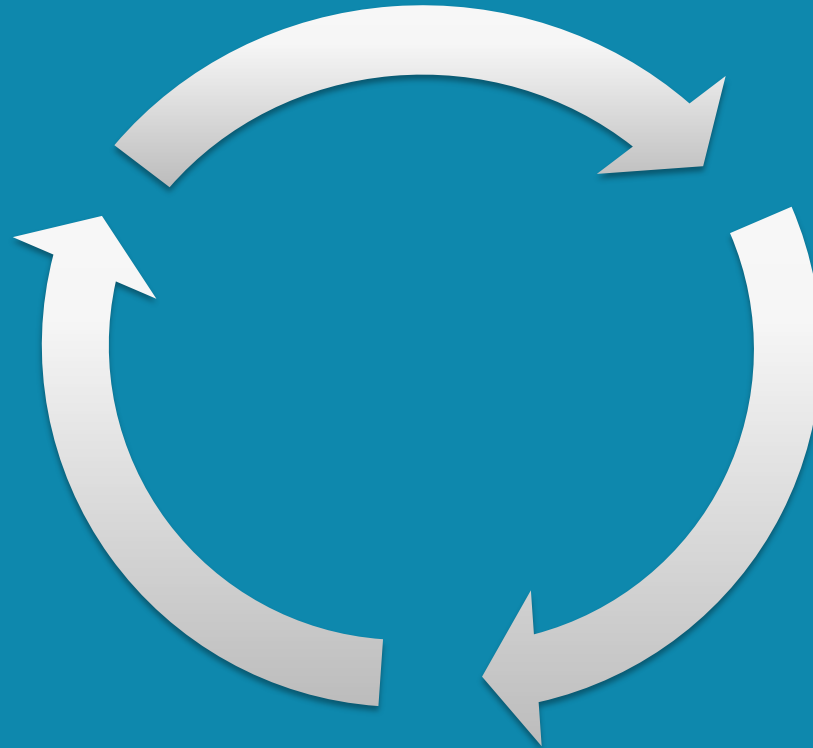
Website: www.utahparentcenter.org

Utah Parent Center □ **230 West 200 South** □ **Suite 1101**
Salt Lake City □ **Utah** □ **84101**

Relevant Topics under COVID

- ❖ Brief Overview of IDEA & Section 504
- ❖ Choices in Education
- ❖ Requirement to Wear Masks
- ❖ General Recommendations

TEAM



PARTNERS

The Individuals with Disabilities Education Act (IDEA)

- A federal education law for child with disabilities that provides an individualized education program (IEP) for a child's special education experience at school.



Special Education

Special education is specially designed instruction to meet the unique needs of a child with a disability, including:

- ❑ instruction in the classroom, home, hospital or institution, and
- ❑ instruction in physical education.



Free Appropriate Public Education (FAPE)

Special education & related services

- At no additional cost to parents
- Provided as directed by the Individualized Education Program (IEP)

Key Points in Procedural Safeguards

- ❑ Access to records
- ❑ Parent and student consent
- ❑ Confidentiality of information
- ❑ Disciplinary procedures
- ❑ Dispute Resolution under special education



What is an IEP?

The IEP is your child's written **Individualized Educational Program** that is developed, reviewed and revised in a team meeting.

If a student has an IEP they generally do not need a Section 504 Plan.



Special Education Process



6/2/2020

IEP Development

During IEP development, the team shall consider:

- ☐ The child's strengths
- ☐ The concerns of parents for the child's education
- ☐ Results of initial or most recent evaluation
- ☐ Academic, developmental and functional needs

IEP Meetings

You must have at least 1 IEP meeting per year; however, the team can meet more often, if needed.



Placement



Least Restrictive Environment (LRE)

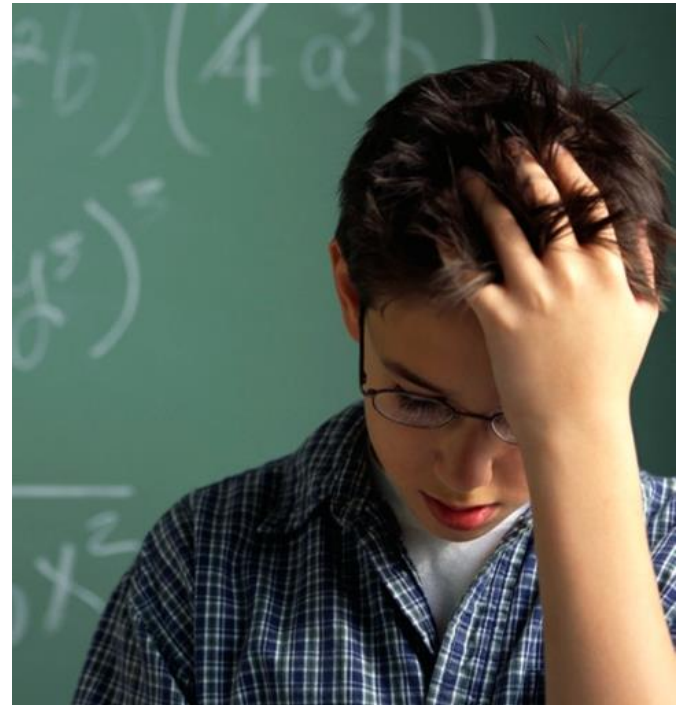
To the maximum extent appropriate, children with disabilities are educated with children who are not disabled.



SECTION 504

Section 504 of the Rehabilitation Act of 1973

- It is a civil rights law, it prohibits discrimination in programs that receive federal funding including schools
- For school, it provides for a plan on how a child will have access to learning at school.



Section 504



***Equal access and
opportunity
are the focus!***

FREE APPROPRIATE PUBLIC EDUCATION (FAPE) & PLACEMENT

- At no cost to the parents
- With appropriate supports
- In the least restrictive environment - typically in the general education classroom



Section 504 Definition of a Disability

- An individual with a physical or mental impairment that substantially limits one or more major life activities

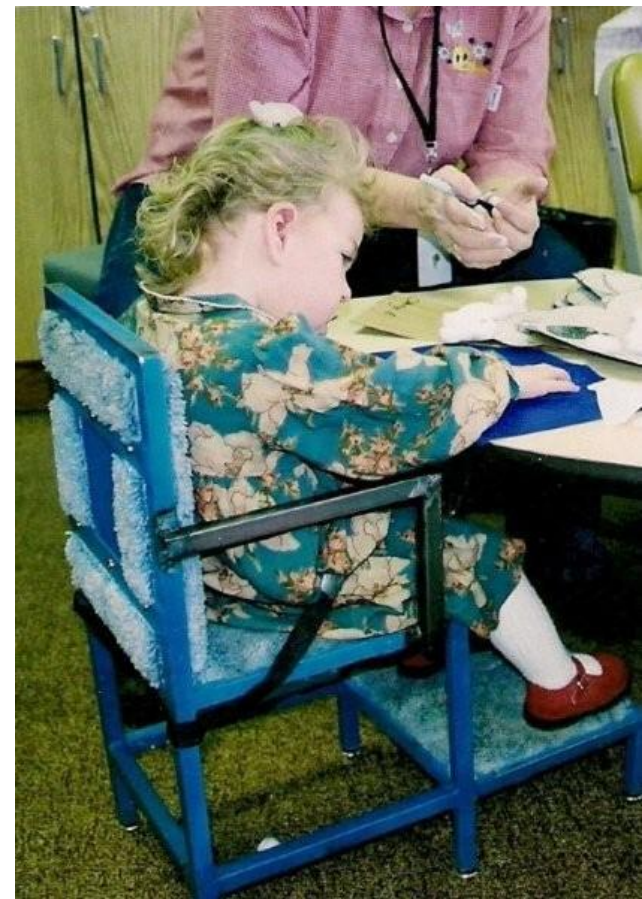


Major Life Activities

- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing
- Eating
- Sleeping
- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working

Ask the Following Questions

- ❑ Is there a physical or mental disability?
- ❑ If so, does it limit a major life activity?
- ❑ What major life activity does it impact?
- ❑ Does the impairment substantially limit his/her ability to learn or any other major life activity at school?



What is in the Sec. 504 Plan?

There is no standard 504 plan.

Generally includes the following:

- Specific accommodations, supports, or services for the child
- Names of who will provide each services
- Name of person responsible for ensuring the plan is implemented

What is an Accommodation?

- ❑ Accommodations are tools and procedures that provide equal access to instruction and assessment for students with disabilities



Accommodations

- ❑ Must be individualized
- ❑ Place the student with a disability at an equal starting level with the nondisabled student
- ❑ Are not intended to reduce learning expectations
- ❑ Allow and appreciate differences in student's learning styles

Services under 504

- ❑ Students can receive related services, such as speech or Occupational therapy.
- ❑ Schools must provide related services to students who are eligible for services under Section 504.

Level the Playing Field





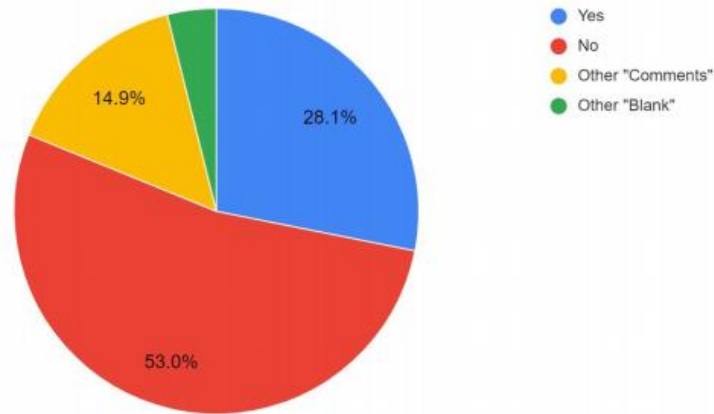
The IEP & Section 504 Under COVID

Choices and Worries

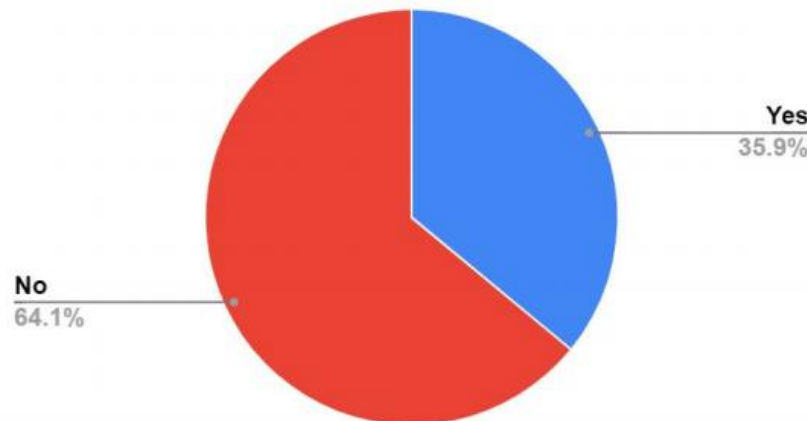
- ❑ Soft School Closure Experience
- ❑ Risks Involved
- ❑ Ability to Wear Mask
- ❑ Ability to Social Distance
- ❑ Individual Plan for Each School District/Charter School

Survey Conducted in August 2020- Utah Parents

Do you believe your child received appropriate services when their school transitioned from in-person to online learning?



Adjusted: Spring Services



Survey Conducted in August 2020- Utah Parents

Child is able to:	Frequency	% of Population
Wear a mask	534	57.23%
Socially distance	402	43.09%
Use hand sanitizer	833	89.28%
Other: Fill in the blank	165	17.68%

Survey Conducted in August 2020- Utah Parents

Generally, parents are uncomfortable or slightly uncomfortable with most of the proposed styles of service delivery. On the ranking scale presented to parents 1= Not Comfortable at All, 2= Slightly Uncomfortable, 3= Neutral, 4= Comfortable, and 5= Very Comfortable.



Education Options for Students and Impact

Scenario		IDEA Implications
Dual Enrollment UCA 53G-6-702; R277-438; USBE SER VI.D.8.	Student is simultaneously enrolled in a (1) local education agency (LEA) (i.e., public school district or public charter school) and (2) private school or home school.	Student is entitled to all provisions of IDEA for the time, or for the number of courses, the student is enrolled in the LEA, based on the decision of the student's IEP team.
Home Instruction 34 CFR § 300.115; USBE SER III.Q.	Student is enrolled in an LEA and receives special education and related services at the student's home or other designated setting such as a hospital because the individualized education program (IEP) team determined home instruction is the most appropriate placement based on the student's individual health and/or academic needs.	Student is entitled to all provisions of IDEA. LEA shall ensure a free appropriate public education (FAPE) is provided in the least restrictive environment (LRE) and procedural safeguards are implemented.
Homeschool R277-419-2; USBE SER VI.D.	Student is not enrolled in an LEA because the parent opted not to enroll in a public/ private school and instead will deliver all instruction at home in accordance with State.	Student is not entitled to a FAPE. Limited IDEA procedural safeguards may apply regarding child find and evaluation activities.
Remote Learning 34 CFR § 104.8	Student is enrolled in an LEA and receives education services (including special education and related services) outside of the traditional brick and mortar school building through a process determined by the LEA.	Student is entitled to all provisions of IDEA. LEA shall ensure a FAPE is provided in the LRE and procedural safeguards are implemented.
Statewide Online Education Program (SOEP) UCA 53F-4-501; R277-726	Student is enrolled in a primary LEA. To fulfill graduation requirements at their primary school of enrollment, the SOEP allows secondary students (in grades 6–12) to take up to 6.0 credits online per academic year. Credits taken online through this program replace credits the student would take at their primary school of enrollment.	Student is entitled to all provisions of the IDEA. The primary LEA of enrollment is responsible to provide a FAPE. Participation in the SOEP will require a revision to a student's individualized education program (IEP). LEAs are encouraged to develop policies to ensure proper review and implementation of IEPs and to provide notice to providers of necessary accommodations.

What about Masks?

- Requirement
- Notable Exemptions
 - Medical conditions
 - Mental Health
 - Disability

What about Masks?

- Is it legal to require a medical directive verifying a need for an exemption or does doing so violate IDEA or Section 504?
- What if a student already has an IEP or 504 Plan and the medical exemption relates to the disability identified in the existing plan, does the student still need a medical directive?

Source: MASK FAQs- authored by USBE 8/10/2020

What about Masks?

- When a student, by his own choice or at the direction of a parent, refuses to comply with the mask requirement, the school is legally able to exclude the student from school.
- What if the student who is excluded for not wearing a mask is entitled to special education services under an IEP or FAPE under Section 504?

Source: MASK FAQs- authored by USBE 8/10/2020

General Recommendations

- Review all current plans for needed updates
- Offer reasonable accommodations in different settings
 - Classroom
 - Lunch room
 - Hallways
 - Service delivery

General Recommendations

- ❑ Prioritize as a parent
- ❑ Express concerns
- ❑ Encourage out of the box
- ❑ Individualize the Plan
- ❑ Engage other health experts
- ❑ Communicate, Communicate, Communicate

When Students Need More Hand-on Supports

- Online services may work in some instances and some children have shown more progress while others have struggled and regressed. Don't be afraid to try it with your student, if it doesn't work, you can meet and adjust to a different option.
- A service provider may be able to provide services in your home

When Students Need More Hand-on Supports

- Small group or one on one services may be available in the school. Schools have been disinfecting and providing areas of the school for such services.
- A combination of online and in person can be used

When Students Need More Hand-on Supports

- ▣ Parents, when they desire, can team with schools and get training from the school as a related service on the IEP to help their child at home.
- ▣ Look into assistive technology that can keep your student on track and learning along with providing other supports.

When Students Need More Hand-on Supports

- If your student does not make progress you can discuss compensatory services when COVID-19 wanes and it is safer to return to school.
- Adjusted goals to reflect what can be worked on at home. It can be as equally important as a goal that works in a school setting but fits in with at home learning.

When Students Need More Hand-on Supports

- Remember that your student can still demonstrate learning in a variety of ways, including drawing pictures, creating a video and/or verbal and written responses.
- Reward and praise can be given in a virtual setting, so as a team don't overlook the possibilities.

When Students Need More Hand-on Supports

- ▣ Set aside some time for social interaction so that need can still be met.
- ▣ Make a schedule and stick with it. Include breaks and small rewards, time outside and movement time. Use of a timer can be helpful, and some students can learn how to use it themselves.

Current Guidance from the U.S. Department of Education



- ❖ Continue efforts to include and instruct students with disabilities
- ❖ If schools are providing instruction for all students, they must continue to support students with disabilities as well
- ❖ Instruction and accommodations will be implemented in different ways for students in each school district or charter school
- ❖ Special education and related services can be provided through distance instruction (virtually, online, or by phone)
- ❖ Think about creative solutions and out-of-the box ideas to support students
- ❖ A Free and Appropriate Public Education is Still Expected for Students

Contact us...



Utah
Parent
Center

Special needs,
extraordinary potential

...so we can help you
apply what you've
learned to *your*
situation.

801.272.1051
1.800.468.1160

