



Mountain Heights
ACADEMY

Special Education Policies & Procedures

Our mission is to use innovative technology, service learning, student-centered instruction and personal responsibility to empower students to succeed.

This Policies and Procedures Manual ensures the implementation of special education services and or special education with related services at Mountain Heights Academy. It is to be used in coordination with the Utah State Board of Education Rules (October 2016), the Utah State Board of Education Special Education Guidelines (August 2016) for Specific Learning Disabilities, Caseload, and Graduation along with their Least Restrictive Behavioral Interventions Technical Assistance Manual (September 2015).

Mountain Heights Academy
9067 S. 1300 W. #303
West Jordan, UT 84088

GENERAL POLICY STATEMENT

It is the policy of Mountain Heights Academy to adhere to and comply with federal and state laws and rules as they pertain to students with disabilities and the provision of a free, appropriate public education to all students within the school, regardless of the nature or severity of the disability.

Due process rights of students with disabilities and their parents under IDEA 2004, Section 504 of the Rehabilitation Act and ADA are required. Students may be identified as disabled under these laws even though they may not require specialized educational services. Confidentiality of student information and access to student files will meet the standards of the Family Educational Rights and Privacy Act (FERPA) and the Utah Ethics Act.

Mountain Heights Academy is required to develop Special Education policies and procedures in the following areas:

- Specific Learning Disabilities (SLD) Eligibility
- Least Restrictive Behavioral Interventions (LRBI)
- Caseloads
- Graduation

Mountain Heights Academy recognizes the Guidelines set forth by the Utah State Board of Education on each of these areas and accepts them as best practice; following them as set forth. Mountain Heights Academy's Special Education Policies and Procedures Manual (Month, Year) is on file in the school's manual book and at the Utah State Board of Education.

The purpose of this manual policy is to ensure students with disabilities or suspected disabilities will be identified, evaluated, and provided appropriate educational services and/or accommodations within the definitions of IDEA 2004, Americans with Disabilities Act (ADA) or Section 504.

References:

- Individuals with Disabilities Education Improvement Act (IDEA 2004)
- Utah State Board of Education Special Education Rules (October 2016)
- Utah State Board Rule
- Utah Code
- Section 504 of the Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Family Educational Rights and Privacy Act (FERPA)

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I. GENERAL PROVISIONS.

A. Policies and Procedures.

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

B. Definitions.

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

grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described above;

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

C. Budget Information and Categories.

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

D. Assurances.

Students are admitted to Mountain Heights Academy based solely on the lottery and other requirements under the Utah Code and the USBE Administrative Rules for Charter Schools, and without restrictions due to race, color, gender, national origin, disability status, or religion. Assurances with regard to compliance with IDEA Part A and Part B, as well as the National Instructional Materials Accessibility Standard, and compliance with other Federal laws including “New Restrictions on Lobbying,” “Debarment, Suspension, and Other Responsibility Matters,” and the Drug-Free Workplace Act of 1988 are submitted to the USBE annually with the application for IDEA Part B funding.

E. General Program Description.

Founded in 2009, Mountain Heights Academy (formerly Open High School of Utah) is an online public charter school known for unparalleled teacher interaction and personalized instruction. Mountain Heights Academy is an award-winning, full-service virtual school that is currently home to 650 full-time and 200 part-time 7th-12th graders. Part-time students attending their district schools are eligible to

take up to four credits online from various providers. At Mountain Heights Academy, a laptop computer is provided to each student, along with cutting-edge applications, programs and social media tools. Students learn how to use real-world, 21st century technology and create cross-curricular e-portfolios to showcase stellar work throughout their high school experience. The Utah Core Curriculum is the foundation for curriculum in all grade levels. The administrative office is located at 9067 S. 1300 W. Suite 204, West Jordan Utah, 84088.

Mountain Heights Academy philosophy emphasizes student empowerment and personal responsibility to succeed, based on the belief that students should have an education tailored to their specific needs, regardless of ability or disability. Mountain Heights Academy embraces preparing our students for the modern, technology-driven world and that students, parents and teachers are all part of the educational team.

Mountain Heights Academy is a Service Learning School. Students and staff are recipients of individual President's Volunteer Service Awards. To date, Mountain Heights Academy has provided over 80,000 hours of service. Students and staff participate in monthly service opportunities such as; Deer Creek State Park Clean Up, Veterans History Project, National Reading Day at Elementary Schools across the state, Toys for Tots, Ronald McDonald House Donations and the Road Home Shelter Project, to name a few.

Mountain Heights Academy implements a high-touch, high-tech teaching model by employing full-time certified teachers to work individually with students when they ask for help, and to reach out to students who are struggling to offer assistance, which translates to more students engaged and passing their courses. These diverse, accredited teachers create a custom learning environment that is tailored to allow each student to succeed.

Mountain Heights Academy's student population varies from year to year. Students come because they value the flexibility of fitting school in around their own schedule and the unparalleled interaction they enjoy with their teachers. Mountain Heights Academy is able to serve the needs of all students because of the customized learning pathway each student experiences. Approximately 20% of the total student population at Mountain Heights Academy fall into the category of Special Education.

Mountain Heights Academy nurtures social, emotional and community engagement and development through service learning, leadership opportunities and social activities. Students have many opportunities for face-to-face social activities such as; field trips, dances, Charter Day at the Capital, Prom, Awards Gala and other interactions. At Mountain Heights Academy, students are able to participate in leadership opportunities in many forms including, National Honor and Junior Honor Society Chapters, Class Senators, Student Body Officers and Peer Mentors. Additionally, there are a variety of clubs such as; Art club, Chess club, Health and Fitness club, World Language club, History club and Digital Photography club.

All parents of Mountain Heights Students belong to the Mountain Heights Academy Parent Organization, and many of them volunteer their time to assist with fundraising and monthly school activities throughout the school year.

The Board of Directors at Mountain Heights Academy believes strongly that an annual self-improvement plan is essential to improving the education program. Each year the Board assesses Mountain Heights Academy's performance as it relates to academic performance, vision and mission statement, as well as state testing results, with self-assessment driving the goals and objectives for each annual improvement plan.

F. Free Appropriate Public Education (FAPE). 34 CFR §300.101; USBE SER I.E.17.

1. Mountain Heights Academy follows the requirements of Charter Schools and Their Students (USBE SER III.O)
 - a. Students with disabilities ages five through 21 who attend public charter schools and their parents retain all rights under Part B of the IDEA and the USBE SER.
 - b. Mountain Heights Academy is an LEA (Local Educational Agency) that receives funding under Part B of IDEA, and is responsible for ensuring that all the requirements of Part B and these Rules are met.
 - c. Mountain Heights Academy, a public charter school, provides a Free Appropriate Public Education (FAPE) to all eligible students with disabilities in conformity with the requirements of the Utah State Board of Education Special Education Rules (USBE SER) and the United States Department of Education Final Regulations for the Individuals with Disabilities Education Act of 2004 (IDEA) August 2006 and its revisions of December 2008.
2. Free appropriate public education (FAPE) means special education or special education and related services that:
 - a. Are provided at public expense, under public supervision and direction and without charge;
 - b. Meet the standards of the USBE and Part B of the IDEA;
 - c. Include elementary school and secondary school education in charter schools in Utah; and
 - d. Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements of Part B of the IDEA and these Rules.

G. Full Educational Opportunity Goal (FEOG). 34 CFR §300.109; USBE SER IX.A.2.d.(2)(c).

Mountain Heights Academy hereby affirms the goal of providing a full educational opportunity to all students with disabilities determined eligible for special education or special education with related services under the IDEA and the USBE

SER, of the ages served by the Charter School between five and 22, and in accordance with all the timeline requirements of the IDEA with respect to the identification, location, evaluation, and provision of a free appropriate public education.

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

A. Child Find. 34 CFR §§300.101, 111; USBE SER II.A.

Mountain Heights Academy has policies and procedures to ensure that all students with disabilities enrolled in the school, including students who are highly mobile, students who have been suspended or expelled from school, students who have not graduated from high school with a regular high school diploma, and those who are suspected of being a student with a disability and who are in need of special education or special education and related services even though they are advancing from grade to grade, students in State custody / care, students in nursing homes and regardless of the severity of the disability. This includes a practical method for determining which students are currently receiving needed special education or special education and related services.

B. Child Find Procedures. 34 CFR §§300.131; USBE SER II.A.4.

Mountain Heights Academy conducts the following procedures to ensure that students suspected of having a disability are identified and located:

1. Finding students who have been receiving needed special education or special education and related services.
 - a. The enrollment application includes questions about whether a student has received special education or special education and related services in the previous school or educational program.
 - b. Parents are asked during registration if the students received any services beyond the regular program in the previous school. If parents respond in the affirmative, a phone contact is made with the previous school to locate the special education records, and a transfer request in writing is made.
 - c. Mountain Heights Academy follows all the procedures detailed on the In-State and Out-of-State Transfer Student Checklists on the USBE website. USBE SER III.C
2. In identifying and locating students who are suspected of having a disability but have not been previously identified or determined eligible for special education or special education and related services, Mountain Heights Academy implements the following procedures:
 - a. Annual training of all staff on the Child Find obligation, and how to be alert for observed behaviors that suggest a suspected disability.
 - b. Notice in a student or parent handbook of the referral procedures and of the availability of services for eligible students with disabilities.

- c. If a parent or staff member is concerned about a student outside the grade levels of Mountain Heights Academy, the parent or staff member is referred to the district of the student's parent's residence.
- 3. Mountain Heights Academy has no responsibility for Child Find for homeschooled or private school students.
- 4. Mountain Heights Academy does not refer its own students to the local school district for Child Find.

C. Referral. 34 CFR §300.301; USBE SER II.B.

1. Procedure.

When parent(s), adult student, or school staff member suspects a student may have a disability, the following referral procedure is implemented:

- a. Teachers implement pre-referral interventions and provide documentation of the results to an Intervention Management Team (IMT), which includes a general education teacher (see additional description of IMT in the SLD evaluation process in Section II of this Manual).

Note: Pre-referral interventions or Response to Intervention system are not be used to substantially delay an evaluation for eligibility when a staff member or parent(s) or adult student requests an evaluation.

- b. The referring person completes and signs a referral form. If school personnel are making the referral, attach documentation of contacts with the parents about the concerns regarding the student's educational performance.
- c. The referral form is given to the Special Education Director, who reviews the student's existing data with the school Principal/Director (including pre-referral intervention results and Intervention Management Team recommendations) and determines if the referral should go forward for a full evaluation. If it is decided that the evaluation should take place, the Special Education Director assigns a special education team member to oversee/conduct the evaluation. If the referral is not going to result in a full evaluation, the Special Education Director sends the parent a Written Prior Notice of Refusal to take the action of conducting an evaluation.
- d. Mountain Heights Academy responds to each request for evaluation within a reasonable timeframe.

Note: Each school district and charter school shall provide an initial special education assessment for children who enter the custody of the Division of Child and Family Services (DCFS), upon request by that division, for students whose school records indicate that they may have disabilities requiring special education services. This assessment shall

be conducted within 30 calendar days of the request by DCFS. 53A-15-304.5

D. Evaluation.

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

Prior to initiating a full and complete individual evaluation, Written Prior Notice (WPN) and consent from the parent(s) of the student or the adult student is required.

- a. The consent informs the parent that the evaluation is being proposed because the student is suspected of having a disability that affects his/her educational performance and that he/she may be eligible for special education or special education and related services.
- b. The consent indicates the areas in which the evaluation team will conduct tests or administer other assessment tools to the student. Consent for evaluation must not be construed as consent for provisions of special education services.
- c. Reasonable efforts to obtain parental consent are made and documented by Mountain Heights Academy. Mountain Heights Academy follows the requirements of USBE II.C.4 with respect to parents who cannot be located.
- d. For initial evaluations only, if the student is a ward of the State and is not residing with the student's parent(s), Mountain Heights Academy is not required to obtain informed consent from the parent if, despite reasonable efforts to do so, Mountain Heights Academy cannot discover the whereabouts of the parent(s); the rights of the parent(s) of the student have been terminated in accordance with State law; the rights of the parents to make education decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed to represent the student.
- e. If the parent(s) of a student or 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, Mountain Heights 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 the USBE SER IV. I-P. Mountain Heights Academy does not violate its obligation under Child Find provisions of USBE SER IV if it declines to pursue the evaluation by utilizing the Procedural Safeguards or the due process procedures.

2. When conducting psychological evaluations, Mountain Heights Academy implements the parental or adult student consent requirements of UCA 53A-13-302 (Utah FERPA).

3. Parental consent is not required before administering a test or other evaluation that is given to all students, or before conducting a review of existing data.

4. **Written Prior Notice.** 34 CFR §300.503; USBE SER IV.D.
 The parent(s) of the student or adult student is given Written Prior Notice that the evaluation will take place. (See Section IV.C of this Policy and Procedures Manual for required components of Written Prior Notice.) Written Prior Notice is embedded in the Mountain Heights Academy Consent for Evaluation form.
5. Parental or adult student consent for evaluation is not construed as consent to provide special education or special education and related services.
6. Mountain Heights Academy does not use parent(s) or adult student's refusal to consent to one service or activity to deny the parent(s) or student any other service, benefit, or activity of Mountain Heights Academy.
7. **Initial Evaluation.** 34 CFR §300.301; USBE SER II.D.
 - a. When the signed parental consent or refusal of consent for evaluation is received at the school, the special education case manager writes the date it was received on the form. If parental or adult student consent is obtained this date documents the beginning of the timeline for the evaluation.
 - b. Mountain Heights Academy completes all evaluations within 45 school days of receiving the consent, unless the initial evaluation was requested by DCFS, in which case it is conducted within 30 calendar days. UCA 53A-15.304.5 The 45 school day timeline does not apply if the parent(s) fails to produce the student for the evaluation or the adult student repeatedly fails or refuses to participate in evaluation activities.
 - c. If the student enrolls in Mountain Heights Academy after the timeframe has started in a previous LEA, Mountain Heights Academy must make sufficient progress to ensure prompt compliance in accordance with a written agreement with the parent as to when the evaluation will be completed.
8. **Evaluation Process.** 34 CFR §300.304; USBE SER II.F.
 - a. **Review of Existing Data.**
 When conducting an initial evaluation (when appropriate), the evaluation team considers existing data on the student's educational performance. This may include student records of grades, courses completed, statewide test results, Mountain Heights Academy LEA wide specific test results, classroom assessments, teacher interviews, observations, notes in the student's cumulative file, and any other information available.
 - b. **Administration of Additional Assessments.**
 In addition, the special education staff administers assessments in other areas as part of a full and individual initial evaluation, as indicated on the Consent for Evaluation, in order to determine eligibility and the student's educational needs, including information related to enabling

the student to be involved in and make progress in the general education curriculum. Finally, the information supports the development of the contents of the IEP.

- c. The test administration follows all the requirements of the USBER SER II.F-H, including:
 - (1) Use of more than one procedure, assessment, and other evaluation materials tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;
 - (2) Use of technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors and consider the publication date and continued validity of assessments in use when new editions are published;
 - (3) Selection of tools that are not discriminatory on a racial or cultural basis
 - (4) Administration in student's native language or mode of communication, and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;
 - (5) Administration of assessments to address specific areas of concern identified by the evaluation team including the parent(s) or adult student;
 - (6) Use of assessments for the purposes intended and in accordance with the publisher's administration standards
 - (7) Selection, administration, and interpretation by trained and knowledgeable personnel in accordance with any instructions and administrator requirements provided by the producer of the assessments and the Standards for Educational and Psychological Testing (AERA, ACA, NCME, 2014);
 - (8) Administration of psychological testing and evaluation of personal characteristics, such as IQ, personality, abilities, interests, aptitudes, and neuropsychological functioning only by personnel who have been trained and fully meet the administrator/use/interpreter qualifications of the test publisher;
 - (9) Mountain Heights Academy assurance and documentation that all evaluators meet the assessment publisher's administrator/interpreter/user requirements for all assessments (e.g. appropriate degree, higher education coursework in tests and measures and supervised practica);

- (10) Use of tools that assess what they purport to measure and not just the student's disability
 - (11) Assessment in all areas related to the student's suspected disability; and
 - (12) Comprehensive assessment, not just in areas commonly associated with the specific disability
- d. Specific Categorical Evaluation Requirements.

Evaluations for students suspected in each of the 13 areas of disability include the requirements for evaluation procedures and assessment of student performance in specific areas identified in USBE SER II.J.1-13.

- 9. Mountain Heights Academy contacts the Utah Schools for the Deaf and Blind for assistance with administering and appropriately interpreting assessments for students with visual and/or hearing impairments. USBE SER II.F.2

E. Reevaluation Procedures. 34 CFR §300.303; USBE SER II.G.

- 1. Mountain Heights Academy conducts a reevaluation of each student with a disability when the educational or related service's needs, including improved academic achievement and functional performance, of a student warrant a reevaluation; or if the student's parent or teacher requests a reevaluation.
- 2. A reevaluation may not occur more than once a year, unless the parent(s) or adult student and Mountain Heights Academy agree otherwise.
- 3. A reevaluation must occur at least once every three years, unless the parent(s) or adult student and Mountain Heights Academy agree that a reevaluation is unnecessary and there are data available to continue eligibility and determine the educational needs of the student
- 4. When the parent(s) or adult student and Mountain Heights Academy agree that a reevaluation is unnecessary, the team must document data reviewed and used in an evaluation report and complete an eligibility determination document.
- 5. Parental or adult student consent for reevaluations;
 - a. Mountain Heights Academy obtains informed parental or adult student consent prior to conducting any reevaluation of a student with a disability, if the reevaluation includes the administration of additional assessments to the student.
 - b. If the parent(s) or adult student refuses to consent to the reevaluation, Mountain Heights 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. The reevaluation may be conducted without parental or adult student consent if Mountain Heights Academy can demonstrate that it made reasonable attempts to obtain such consent and the student's parent(s) or

adult student has failed to respond. A written record of the attempts is maintained in the student's special education file.

F. Additional Requirements for Initial Evaluation and Reevaluation Procedures. 34 CFR §300.305; USBE SER II.H.

1. As part of any initial evaluation (if appropriate) and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, must review existing evaluation data on the student. This review may be conducted without a formal meeting. The special education case manager may review and discuss the existing data with team members and the parent individually. Existing data may include evaluations and information provided by the parents of the student; current classroom-based, local or State assessments, and classroom-based observations; observations by teachers and related services providers; grades; attendance, and other information regarding the student's current educational performance.
2. The IEP team and appropriate other qualified professionals, based on their data review and input from the student's parent(s) or the adult student, identifies what additional data, if any, are needed to determine whether the student is or continues to be a student with a disability and the educational needs of the student, and
 - a. The present levels of academic achievement and related developmental needs of the student;
 - b. Whether the student needs special education 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
 - c. Whether any additions or modifications to the special education or special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.
3. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine continuing eligibility and student needs, the parents are given Written Prior Notice of that decision and of their right to request additional assessment.
 - a. Mountain Heights Academy then prepares a new Evaluation Summary Report, including new and previous data as appropriate, and sends a Notice of Meeting for Eligibility Determination.
 - b. At the Eligibility Team meeting, a new Eligibility Determination form is completed and signed by the participating team members to indicate participation in meeting, and the parent(s) or adult student are given Written Prior Notice of that determination along with a copy of the Evaluation Summary Report and the Eligibility Determination documents. Written Prior Notice is embedded in the Eligibility Determination document for each disability category.

4. If the parent(s) or adult student requests additional assessment as part of the reevaluation, Mountain Heights Academy obtains written parental or adult student consent for evaluation and then completes the assessment in the areas of educational functioning requested.
 - a. When the additional assessment is completed, Mountain Heights Academy then prepares a new Evaluation Summary Report, including new and previous data as appropriate, and sends a Notice of Meeting for Eligibility Determination.
 - b. At that meeting, a new Eligibility Determination form is completed and signed by the team to indicate participation in the meeting, and the parent(s) or adult student are given Written Prior Notice of that determination along with a copy of the Evaluation Summary Report and the Eligibility Determination documents. Written Prior Notice is embedded in the Eligibility Determination document.
5. Evaluations before change in eligibility. 34 CFR §300.305; USBE SER II.H.6.
 - a. Mountain Heights Academy evaluates students with disabilities before determining that students are no longer eligible for special education or special education and related services. However, an evaluation is not required before the termination of a student's eligibility due to graduation from secondary school with regular diploma, or due to the student's reaching age 22, as provided under State law.
 - b. For a student whose eligibility terminates due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for FAPE under State law, Mountain Heights Academy provides the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.

G. Evaluation Timelines. 34 CFR §§300.301, 303; USBE SER II.D., II.G.

1. An initial evaluation must be completed within 45 school days of the date the school receives parental or adult student consent for the evaluation.
2. Upon completion of the evaluation or reevaluation, the IEP team and other appropriate professionals determine eligibility within a reasonable time.
3. A reevaluation:
 - a. May not be conducted more than once a year, unless the parent(s) or adult student and Mountain Heights Academy agree otherwise; and
 - b. Must occur at least once every three (3) years, unless the parent and Mountain Heights Academy agree that a reevaluation is unnecessary.

H. Eligibility Determination. 34 CFR §300.306; USBE SER II.I.

1. Notice of Meeting.

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

2. Evaluation Summary Report.

The special education case manager collects all of the results of the evaluation, and writes a summary report of the evaluation information. This Evaluation Summary Report is included in Mountain Heights Academy's Eligibility Determination document for each disability category.

3. Eligibility Team Membership.

The eligibility team shall include a group of qualified professionals and the parent(s) or adult student. In Mountain Heights Academy, this may include the special education teacher/ IEP case manager, general education teacher, speech-language pathologist, school psychologist, occupational therapist, physical therapist, a representative of the LEA, and others who have conducted parts of the evaluation, as appropriate.

4. Eligibility Categories, Definitions, and Criteria.

Mountain Heights Academy has adopted the definitions, evaluation requirements, and eligibility criteria in USBE SER.II.J.1-13

5. Specific Learning Disability (SLD)

Mountain Heights Academy has selected the Combination method of determining whether a student has a Specific Learning Disability. 34 CFR §300.307; USBE SER II.J.10.b–h.

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

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

- (1) The student's regular teacher; or
- (2) If the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of the student's age; and
- (3) At least one person qualified as defined by the examiner qualifications outlined in the administration manual of each of the specific diagnostic examinations to conduct individual diagnostic examinations of students and interpret the results of those assessments (as per the administration assessment criteria), such as

a school psychologist, speech/language pathologist, reading teacher or reading specialist, or special education teacher.

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

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

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

- (a) Oral expression;
- (b) Listening comprehension;
- (c) Written expression;
- (d) Basic reading skills;
- (e) Reading fluency skills;
- (f) Reading comprehension;
- (g) Mathematics calculation;
- (h) Mathematics problem solving; and

- (2) For the combination method, the student meets the requirements of:

- (a) Response to Intervention (RtI) Method.

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

- (b) Discrepancy Method.

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

- (3) The group determines that its findings are not primarily the result of:
 - (a) A visual, hearing, or motor disability;
 - (b) Intellectual disability;
 - (c) Emotional disturbance;
 - (d) Cultural factors;
 - (e) Environmental or economic disadvantage; or
 - (f) Limited English proficiency.
 - c. The learning disability must adversely affect the student's educational performance.
 - d. The student with the learning disability must need special education or special education and related services. 34 CFR §300.8(a).
6. Evaluation. 34 CFR §300.309(b–c); USBE SER II.J.10.c.
- a. An evaluation must include a variety of assessment tools and strategies and cannot rely on any single procedure as the sole criterion.
 - b. To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation:
 - (1) Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parent(s) or adult student.
 - c. Mountain Heights Academy promptly requests parental or adult student consent to evaluate the student to determine whether the student is a student with a disability and needs special education or special education and related services, and must adhere to the 45-school-day evaluation timeframe, unless extended by mutual written agreement of the student's parent(s) or adult student and a group of qualified professionals:

- (2) If, prior to a referral, a student has not made adequate progress after an appropriate period of time as determined by the Charter School when provided appropriate instruction, and
 - (3) Whenever a student is referred for an evaluation.
- d. Observation. 34 CFR §300.310(a–c); USBE SER II.J.10.c.(4).

Mountain Heights Academy ensures that the student is observed in the student’s learning environment (including the regular classroom setting) to document the student’s academic performance and behavior in the areas of difficulty.

- e. Specific documentation for the eligibility determination. 34 CFR §300.311; USBE SER II.J.10.c.(5).

- (1) The team must decide to:
 - (a) Use information from an observation in routine classroom instruction and monitoring of the student’s performance that was done before the student was referred for an evaluation; or
 - (b) Have at least one member of the team conduct an observation of the student’s academic performance in the regular classroom after the student has been referred for an evaluation and parental consent or consent of the adult student is obtained.
 - (c) In the case of a student who is out of school, a group member must observe the student in an environment appropriate for a student of that age.

- f. Specific documentation for the eligibility determination. 34 CFR §300.311; USBE SER II.J.10.c.(5).

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

- (1) Whether the student has a specific learning disability;
- (2) The basis for making the determination;
- (3) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student’s academic functioning;
- (4) The educationally relevant medical findings, if any; and

(5) Whether the student meets the criteria for both the Response to Intervention and Discrepancy methods below:

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

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

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

(A) The State's policies regarding the amount and nature of student performance data that are collected and the general education services that are provided (The team refers to the *USBE Specific Learning Disability Eligibility Guidelines* when using this method.);

(B) Strategies for increasing the student's rate of learning; and

(C) The parent(s)' or the adult student's right to request an evaluation; and

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

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

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

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

- (c) The student's performance on a standardized, norm-referenced, individually administered achievement measure in the area of the suspected disability, and
- (d) That the student scored above the intellectual disability range on a standardized, norm-referenced, individually administered measure of intellectual ability, and
 - i. The comparison of the standard scores on the tests of achievement and intellectual ability using local board-approved and USBE staff-reviewed discrepancy analysis method.
 - ii. The team documents consideration of the discrepancy analysis and the team's determination of whether or not it represents a severe discrepancy.
- g. 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.
- h. The requirements of USBE SER II.D–H are followed.
- i. Each team member certifies in writing whether the report reflects the member's conclusion. 34 CFR §300.311(b). If it does not reflect the member's conclusion, the team member submits a separate statement presenting the member's conclusions.

7. Determining Eligibility. 34 CFR 300.306; (USBE SER II.I)

- a. Using the criteria for each category of disability as described above, the eligibility team shall determine:
 - (1) Whether the student has a disability that adversely affects his educational performance, and
 - (2) Whether the student requires special education or special education and related services.

Special education is defined (USBE SER I.E.38) as specially designed instruction to meet the unique needs of a student with a disability and may include related services if they meet the definition of special education. Special education services are

services provided to the student and do not include consultation between teacher or monitoring a student's grades or work completion. 34 CFR §300.39; USBE SER I.E.43.

Specially designed instruction (USBE SER I.E.39) is adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability, and to ensure access of the student to the general curriculum, so that the student can meet educational standards of Mountain Heights Academy which apply to all students. 34 CFR §300.39(b)(3); USBE SER I.E.44.

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

In interpreting evaluation data for the purpose of determining if a student is a student with a disability and the educational needs of the student, Mountain Heights Academy:

 - (1) Draws upon information from a variety of sources, such as aptitude and achievement tests, parent(s) or adult student input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
 - (2) Ensures that information obtained from all of these sources is documented and carefully considered.
 - d. The determination of eligibility is documented on the appropriate "Team Evaluation Summary Report and Written Prior Notice of Eligibility Determination" form with signatures of team members.
 - e. The parent(s) or adult student are provided with a copy of the Team Evaluation Summary Report and Written Prior Notice of Eligibility Determination document(s).
8. Evaluations before Change in Eligibility. 34 CFR §300.305; (USBE SER II.H.6)
- a. Mountain Heights Academy evaluates a student with a disability before determining that the student is no longer an eligible student with a disability.

- b. An evaluation is not required before the termination of a student's eligibility due to graduation from secondary school with a regular high school diploma, or due to exceeding the age of eligibility for FAPE under Utah law (i.e., age 22).
- c. For a student whose eligibility terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility for FAPE under Utah law, Mountain Heights Academy provides the student with a summary of the student's academic achievement and functional performance, which includes recommendations on how to assist the student in meeting the student's postsecondary goals.

III. IEP DEVELOPMENT and SERVICE DELIVERY.

Mountain Heights Academy implements the following policies and procedures to address the IEP requirements of USBE SER III.A-V

A. IEP Team Meeting. 34 CFR §300.306; USBE SER III.D.

1. Within 30 calendar days of the determination of eligibility, the special education case manager shall arrange a meeting of the IEP team to develop an IEP at a place and time that is mutually convenient to the parent(s) or adult student and Mountain Heights Academy.
2. A Notice of Meeting will be sent to the parent and other members of the team stating the purposes, time, place, who is expected to be in attendance, and letting the parent know that the parent or Mountain Heights Academy may bring others who have knowledge or special expertise about the student to the meeting. The determination of knowledge or expertise of the invited person is made by the party who invited that person.

B. Parental or Adult Student Opportunity to Participate. 34 CFR §300.322; USBE SER III.G.

1. Parent(s) or adult student are expected to be participants along with school team members in developing, reviewing, and revising the IEP. This includes providing critical information about needs and strengths of their student, contributing to discussions about the student's needs for special education, determining how the student will be involved and make progress in the general curriculum, deciding how the student will participate in the state- and district wide assessments, and deciding what services Mountain Heights Academy will provide and in what settings.
2. When conducting IEP Team meetings, placement meetings, and other administrative matters the student's parent(s) or adult student and Mountain Heights Academy may agree to use alternative means of meeting participation such as video conferencing or conference call.
3. Mountain Heights Academy documents in writing its attempts to obtain parent(s) or adult student participation in IEP meetings. If the parent(s) or adult student cannot attend, participation by other means such as teleconference may be used. Parent(s) or adult student must be given whatever help they need to understand the proceedings of the IEP meetings, such as interpreters. If Mountain Heights Academy cannot obtain parental or adult student participation, it will proceed with the development of the IEP as required by Part B of the IDEA and USBE SER.

C. IEP Team Membership. 34 CFR §300.321; USBE SER III.E.

1. Mountain Heights Academy ensures that the team for each student with a disability shall consist of the parent(s), or adult student, at least one special education teacher of the student, at least one general education teacher of the student, a representative of Mountain Heights Academy, a person who can interpret the results and instructional implications of the evaluation results, and the student when appropriate. At the discretion of the parent(s), adult student, or Mountain Heights Academy, other individuals who have knowledge or special expertise regarding the student, including related services personnel may also be included as appropriate.
2. If a purpose of the IEP Team meeting is consideration of postsecondary goals for the student and transition services needed to assist the student in reaching those goals, Mountain Heights Academy invites the student with a disability to attend the student's IEP meeting. If the student does not attend the IEP meeting, Mountain Heights Academy will take other steps to ensure that the student's preferences and interests are considered.
3. To the extent appropriate, with the written consent of the parent(s) or adult student, Mountain Heights Academy must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
4. The representative of Mountain Heights Academy must meet Mountain Heights Academy's administrator standards, be qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities and have knowledge of the general education curriculum and of the availability of resources of Mountain Heights Academy. Mountain Heights Academy may designate a Charter School member of the IEP Team to also serve as Mountain Heights Academy's school representative, if the above criteria are satisfied.
5. The signatures of team members on the IEP indicate participation in the development of the IEP.

D. IEP Team Attendance. 34 CFR §300.321; USBE SER III.F.

1. A required member of the IEP team is not required to attend all or part of a particular IEP team meeting if the parent(s) of a student with a disability or adult student and Mountain Heights 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 all or part of a particular IEP meeting when the meeting does involve a modification to or discussion of the member's area of the curriculum or related services, if the parent(s) or adult student and Mountain Heights Academy consent to the

excusal in writing; and the member submits written input into the development of the IEP to the parent and the IEP team, prior to the meeting.

E. Notice of Meeting. 34 CFR §300.322; USBE SER III.G–H.

1. Mountain Heights Academy takes steps to ensure that one or both of the parents of a student with a disability or the adult student is present at each IEP Team meeting or are afforded the opportunity to participate, including:
 - a. Notifying parent(s) or adult student of the meeting early enough to ensure that they will have an opportunity to attend and
 - b. Scheduling the meeting at a mutually agreed-on time and place.
2. If the parent(s) or adult student cannot attend, Mountain Heights Academy uses other methods to ensure participation of the parent(s) or adult student, including individual or conference telephone calls. The parent(s) of a student with a disability or adult student and Mountain Heights 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 parent(s) or the adult student in attendance if Mountain Heights Academy is unable to convince the parent(s) or adult student that they should attend. In this case, Mountain Heights 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) or adult student's home or place of employment and the results of those visits.
4. Mountain Heights Academy takes whatever action is necessary to ensure that the parent(s) or adult student understands the proceedings of the IEP team meeting, including arranging for an interpreter for parent(s) or adult student with deafness or whose native language is other than English.
 - a. Under 53A-26a-301, an individual is required to be certified as an interpreter if that interpreter provides interpreter services, unless they meet the exemptions included in 53-A-26a-305.
5. The parent(s) of a student with a disability or the adult student is a participant along with school personnel in developing, reviewing and revising the IEP for the student. This is an active role in which the parent(s) or adult student:
 - a. Provide critical information regarding the strengths of the student and expresses their concerns for enhancing the education of the student;

- b. Participates in the discussion of the student’s need for special education or special education and related services, and supplementary aids and services and;
- c. Joins with other participants in deciding how the student will be involved and progress in the general curriculum, how the student will participate in State and school-wide assessments, and what services Mountain Heights Academy will provide to the student and in what setting.

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

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

G. Transfer Students. 34 CFR §300.323; USBE SER III.C.

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

H. IEP Development and Content. 34 CFR §§300.320, 324, 300; USBE SER III.I–J.

1. The IEP Team will develop an IEP that is reasonably calculated to confer a free appropriate public education for the student.
2. In developing the IEP, the IEP team must consider the student's strengths; parent(s) or adult student concerns for enhancing the student's education; evaluation results; academic, developmental and functional needs of the student; and special factors.
3. The IEP must include:
 - a. A statement of the student's present level of academic achievement and functional performance, (PLAAFP), including baseline data on his achievement and how the student's disability affects his access and progress in the general curriculum (i.e., the same grade level curriculum as for non-disabled students). For students who are blind, the statement should also include results from a braille-related or braille skills assessment, UCA 53A-25a-104.
 - b. Measurable annual goals, including academic and functional goals, based on the present level statement that enable the student to be involved and make progress in the general education curriculum and addressing each of the student's educational needs resulting from the student's disability.
 1. For eligible students with significant cognitive disabilities who will participate in grade-level alternative achievement standards (i.e., Essential Elements), the parent(s) or adult student is notified that the student's academic achievement will be measured through an assessment of the grade-level Utah alternative achievement standards, such as the Dynamic Learning Maps (DLM) or the Utah's Alternate Assessment (UAA), and how participation in such alternative achievement assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma. Short term objectives are included for students who will participate in a statewide alternate assessment, such as the Dynamic Learning Maps (DLM) or the Utah's Alternate Assessment (UAA), and for other students if determined needed by the IEP Team.
 - c. How the student's progress toward meeting the annual IEP goals will be measured and when progress will be reported to the parent(s) or adult student on a periodic basis.
 - d. The special education or special education and related services, and the supplementary aids and services (including assistive technology) to be provided to the student on behalf of the student, based on peer reviewed research to the extent practical, and the program modifications and supports for school personnel that will be provided to enable the student to make progress on the IEP goals and in the general curriculum, to participate in extracurricular and other nonacademic activities, and to be

educated and participate with other students with disabilities and without disabilities.

e. Program options. 34 CFR §300.110.

Mountain Heights Academy takes steps to ensure that its students with disabilities have available to them the variety of educational program and services available to nondisabled students, including art, music, industrial arts, consumer and homemaking education, and vocational education.

f. An explanation of the extent, if any, to which the student will not participate with other similar-aged nondisabled students in the general education environment and in activities listed above.

g. The dates that services, accommodations, and program modifications will begin and end (no more than one year from the date of the IEP); and the frequency, location, and amount of each service listed. Services listed must be specific, such as “reading comprehension,” not “resource.”

h. Consideration of special factors as follows:

- (1) In the case of a student with limited English proficiency, consider the language needs of the student as those needs relate to the student’s IEP;
- (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;
- (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 communications 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 behavioral interventions and supports, and other strategies, to address that behavior.

- (a) When making decisions on behavioral interventions, the IEP team must refer to the USBE Least Restrictive Behavioral Interventions (LRBI) Technical Assistance (TA) Manual for information on research-based intervention procedures.
- (b) Emergency safety interventions may only be included in an IEP as a planned intervention when the IEP Team agrees that less restrictive means which meet circumstances in R277-608 have been attempted, a functional behavior assessment (FBA) has been conducted, and a positive behavior intervention plan based on data analysis has been developed and implemented. R277-609.
- (c) The purpose of the LRBI TA Manual related to the use of positive behavioral supports and behavioral interventions is to protect the safety and well-being of all students, provide protection for students, teachers, other school personnel, and LEA's and ensure that parent(s) or adult students are involved in the consideration and selection of behavior interventions to be used.
- (d) When an emergency situation occurs that requires the immediate use of an emergency safety intervention to protect the students or others from harm, the staff shall comply with requirements in R277-609 with regard to time limitations and parental or adult student notification.
 - i. An emergency is defined in Administrative Rule R277-609.
 - ii. Mountain Heights Academy follows the emergency notification procedures as written.
- (e) Mountain Heights Academy ensures that all staff members who interact with students receive the training necessary to effectively implement a continuum of behavioral interventions and supports.
- (f) As appropriate, the student should receive a functional behavioral assessment and behavior intervention services and modifications that are designed to address the behavior
 - i. If a parent disagrees with a proposed emergency safety intervention, they may access any of the dispute resolution procedures in this manual and the State Rules.

Mountain Heights Academy ensures that all staff members who interact with students receive the training necessary to effectively implement a continuum of behavioral interventions and supports.
 - j. Mountain Heights Academy has established an Emergency Safety Intervention Committee to monitor policies for disciplinary actions and behavioral intervention procedures, protections, and safeguards. The

committee is composed of at least two school administrators, a parent or guardian of a student enrolled in Mountain Heights Academy, and at least two licensed educational professional staff members.

- k. As appropriate, the student should receive a functional behavioral assessment and behavior intervention services and modifications that are designed to address the behavior.
- l. If the IEP team in considering the special factors described above decides that a student needs a particular device or services for educational purposes, which could be an intervention, accommodation, or other program modification in order to receive a FAPE, the team must include these in the IEP.
- m. How the student will participate in school-wide and statewide assessments, such as the Student Assessment of Growth and Excellence (SAGE).
 - (1) While every student with a disability must participate, an individual student may be determined to participate with some accommodations based on his disability, or with modifications.
 - (2) Students who have the most significant cognitive disabilities, and meet other criteria in the USBE Assessment Participation and Accommodation Policy, may be assessed with alternate assessments such as the DLM or UAA as required by the USBE. The IEP Team must indicate this on the IEP Assessment Addendum, along with the reason that the student cannot otherwise participate in the statewide assessment program.
- n. In addition to the required elements of the statewide assessment program, Mountain Heights Academy administers the following school-wide assessments: STAR Reading and Math assessments in grades 7-12, curriculum-based assessments in grades 7-12. All students, including students with identified disabilities, are included in these assessments. Students with disabilities may participate in the assessments with appropriate accommodations and modifications as determined by the IEP Team and documented in the student's IEP. Alternate assessments for individual students, as determined by the student's IEP Team and documented in the student's IEP, are provided for students who cannot participate in the school-wide assessment in any other way.
- o. How the student will participate in physical education services, specially designed or adapted if necessary. The student must be afforded the opportunity to participate in the general physical education program available to nondisabled students, unless the student needs specially designed instruction as prescribed in the student's IEP.
- p. IEP Teams should discuss and address, if appropriate, student participation not only in the grade-level Core Standards, but other

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

- q. Each IEP team must determine whether the student will need Extended School Year (ESY) services in order to receive a free appropriate public education.
- (1) This determination at Mountain Heights Academy will be based on regression and recoupment data collected over at least two breaks in the school year consisting of 4 or more-week days when there is no school.
 - (2) If the student's recovery from measured regression on pinpointed skills directly related to the IEP goals takes so long that he would not receive FAPE without services during the summer or other school break, the IEP Team must find him eligible for ESY services.
 - (3) Other factors must also be considered in determining if the student needs ESY in order to receive FAPE. These include but are not limited to,
 - (a) the degree of the student's impairment,
 - (b) the ability of the parent(s) or adult student to provide the educational structure at home,
 - (c) the student's rate of progress,
 - (d) the student's physical or behavioral problems,
 - (e) the areas of the student's curriculum that need continuous attention (such as emerging skills),
 - (f) the student's vocational and transition needs,
 - (g) the availability of alternative resources,
 - (h) whether a requested service is extraordinary to the student's condition,
 - (i) information from parents and other caregivers, and
 - (j) other available data.
 - (4) If the student is eligible for ESY services, the IEP Team shall develop a written document that indicates which IEP goals the student will work on during the ESY, what services will be

provided, how long and how often the ESY services will be provided, and the setting(s) in which the services will be provided.

- (5) The IEP Team refers to the USBE ESY Technical Assistance Document on the USBE website.
- r. Assistive Technology. 34 CFR §300.105; R277-495; USBE SER III.M.
 - (1) Mountain Heights Academy makes assistive technology devices or assistive technology services, or both, available to a student with a disability if required as part of the student's special education, related services, or supplemental aids and services.
 - (2) School-purchased assistive technology devices may be used in the student's home, if the IEP Team determines, on a case-by-case basis, that assistive technology in the home is required for the student to receive a FAPE.

I. IEP Team Access to IEP Information. 34 CFR §300.323; USBE SER III.B.

1. Mountain Heights Academy makes the student's IEP accessible to each general education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. Each teacher and provider is informed of his or her specific responsibilities related to the implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.
2. Mountain Heights Academy prepares a summary of the present level of academic achievement and functional performance, goals, services, and program modifications and supports for each teacher of the student. This summary is provided to the teacher at the time of initial implementation of the IEP as well as annual updates as appropriate. Teachers keep this information in a secure place to ensure that confidentiality is maintained.

J. Placement in the Least Restrictive Environment (LRE). 34 CFR §300.114; USBE SER III.P.

1. Placement decisions are made by a group of persons, including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. This group may be the IEP Team, including the parent(s) or adult student. The group determines the placement on the continuum of placement options where the student will receive special education or special education and related services.
2. Mountain Heights Academy ensures that the parent(s) of each student or adult student are members of any group that makes decisions on the education placement of their student. If neither parent nor the adult student can participate in a meeting in which a decision is to be made relating to the educational placement of the student, Mountain Heights Academy will use other methods to ensure their participation, including individual or conference

telephone calls or video conferences. The team may make a placement decision without involvement of the parent(s) or adult student if Mountain Heights Academy is unable to obtain either parent(s) or adult student's participation, after repeated and documented attempts to ensure their involvement. 34 CFR §§300.327, 501; USBE SER III.S.

- a. No initial placement and provision of services are put into place without written parental or adult student consent.
3. Placement is determined at least annually, based on the student's present levels of performance, goals, services, and program modifications as detailed in the IEP.
4. Identified students with disabilities, including students enrolled in Mountain Heights Academy but placed in public or private institutions or other care facilities (e.g. nursing homes) by the IEP Team, or by the parent(s)/adult student with FAPE is an issue, shall receive the special education or special education and related services in the Least Restrictive Environment (LRE) to the maximum extent appropriate to meet the student's needs.
5. This means that the student will not be removed from the general education classroom, with general education peers, unless the IEP Team determines that due to the nature and severity of the disability, the student's educational needs cannot be addressed satisfactorily in the general education environment, even with the use of supplementary aids and services. In the case of a student who is deaf or hearing impaired, consideration of a special class or school may be the least restrictive environment in that it provides opportunities for direct communication and instruction in the student's language and communication mode with professional personnel and peers.
6. LRE provisions apply to transition programs and placement.
7. Mountain Heights Academy provides the IDEA required continuum of placement options, including placement in:
 - a. A general education classroom, (A student is placed in the grade-level general education classroom and the specialized instruction – and related services, if any – is provided there).
 - b. A general education classroom with or without itinerant services (A student is placed in the grade-level general education classroom and the specialized instruction – and related services if any – is provided in a different setting);
 - c. A special class; (A student is placed in a classroom with other students with disabilities and the specialized instruction – and related services, if any – is provided there);
 - d. A special school; (A student is placed in a separate day school made up solely of students with disabilities and the specialized instruction -and related services, if any – is provided there for more than 50% of the day);

- e. Home Instruction (A student is placed in the student’s home and specialized instruction – and related services, if any – is provided there. The IEP Team determines the amount of service time required for the student to make progress in the general curriculum and on IEP goals); and
 - f. Instruction in hospitals and institutions (A student is placed in a hospital or institutional setting [often residential] made up solely of students with disabilities and the specialized instruction – and related services, if any – is provided there. The IEP Team determines the amount of service time required for the student to make progress in the general curriculum and on IEP goals).
8. Mountain Heights Academy provides supplementary services, such as resource/basic or itinerant /tiered instruction, in conjunction with placement in the general education classroom, when needed.
 9. In selecting the LRE, consideration is given to any potential harmful effects on the student or on the quality of services that the student needs, and the student is not removed from education in age-appropriate general classrooms solely due to needed modifications in grade-level curriculum.

K. Nonacademic Settings, Activities, and Services. 34 CFR §300.117; USBE SER III.U–V.

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

L. Parental or Adult Student Consent for Initial Placement and Provision of Services. 34 CFR §300.300; USBE SER III.T.

1. In order for the IEP to be implemented and the special education services the team has decided on to begin, written parental consent must be obtained. If the parent(s) or adult student refuses consent for the provision of those services, Mountain Heights Academy may not implement the IEP and may not access due process procedures.
2. Mountain Heights Academy does not use a parent(s) or adult student's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of Mountain Heights Academy, or to fail to provide a student with a FAPE.
3. If, at any time subsequent to the initial provision of special education or special education and related services, the parent(s) of a student with disabilities or the adult student revokes consent in writing for the continued provision of special education or special education and related services, Mountain Heights Academy:
 - a. Does not continue to provide special education and related services to the students, but must provide Written Prior Notice to the parent before ceasing the provision of special education and related services;
 - b. Does not use the due process procedures in order to obtain agreements or a ruling that the services may be provided to the student;
 - c. Is not be considered in violation of the requirement to make FAPE available to the student, and
 - d. Is not required to convene an IEP team meeting or develop an IEP for the student.
4. Consent means that the parent(s) or adult student understand that the granting of consent is voluntary on the part of the parent and may be revoked at any time. (§300.9) If a parent(s) or adult student revokes consent, the revocation is not retroactive, that is, it does not negate an action that occurred after consent was given and before the consent was revoked.

M. Documentation of Participation. 34 CFR §300.501; USBE SER IV.B.

1. All members of the IEP team will sign the IEP document indicating that they participated in the development of the IEP. A parent's signature on the IEP does not mean that the parent is in full agreement with the content of the IEP and does not abrogate the parental right to access the Procedural Safeguards of the IDEA.
2. If Mountain Heights Academy, despite at least two documented attempts, is unsuccessful in having parental or adult student attendance at the meeting, the rest of the IEP team shall proceed with the meeting.
3. Parent(s) or the adult student may participate via telephone conference or videoconference.

4. Parent(s) or the adult student will be provided with a copy of the completed IEP at no cost, and Written Prior Notice of Mountain Heights Academy's intent to implement the program and services in the IEP. This Notice is embedded in the IEP form. If Mountain Heights Academy refuses to include services or program modifications the parent has requested in its offer of FAPE, as detailed on the IEP, any goals, services, program modifications, or other IEP content that the parent(s) or adult student has requested, a Written Prior Notice of that refusal is provided to the parent(s) or adult student.

N. Changes to the IEP. 34 CFR §300.324(a)(4,6); USBE SER III.1.2.

1. In making changes to the IEP after the annual IEP Team meeting for a school year, the parent(s) of a student with a disability or adult student and Mountain Heights Academy may agree not to convene an IEP meeting for the purposes of making those changes and instead develop a written document to amend or modify the student's current IEP.
2. Changes to the IEP may be made at the request of any member of the IEP Team in a meeting or by amendment to the existing IEP.
3. Changes may be needed if there is new information about the student's performance.
4. Amendments to the IEP without a team meeting may be made only with the agreement of Mountain Heights Academy and the parent(s) or adult student.
 1. Amendments such as a change in the amount of a special education or special education and related service that is no more than 30 minutes per week, a change of location that is no more than 60 minutes per week, or a goal change that is the next logical step forward or backwards and is based on the student's progress may be made without a team meeting.
 2. If the change involves a move on the continuum of Least Restrictive Environment placement options, or the amount of services to be changed is more than indicated above, or a service is to be added, an IEP Team meeting is held with a Notice of Meeting to all team members.
5. Upon request, the parent(s) or adult student will be provided with a copy of the amended IEP. The parent(s) or adult student is provided with Written Prior Notice that these additional actions or changes in actions are going to be implemented.
6. If changes are made to the student's IEP through the amendment process, Mountain Heights Academy ensures that the student's IEP Team, including teachers and related service providers of the student, is informed of those changes.

O. Transition from Part C to Part B. (USBE SER VII.A)

Mountain Heights Academy does not serve students younger than 7th grade so Transition from Part C to Part B of IDEA is not applicable.

P. Transition from School to Post-School Settings.

1. Purpose. 34 CFR §300.1; USBE SER II.B.1.

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

2. Definition. 34 CFR §300.43; USBE SER II.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-orientated process that is focused on improving the academic and functional achievement of the student with a disability, to facilitate the student's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

- (2) Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests and includes:

- (a) Instruction,

- (b) Related services,

- (c) Community experiences,

- (d) Post-school adult living objectives, and

- (e) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

- b. Transition services for students with disabilities may be special education, if provided specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.

3. Parent(s) or Adult Student Participation. 34 CFR §300.322; USBE SER VII.B.3.

- a. For a student with a disability beginning not later than the IEP developed when the student is 14 years old, or younger if determined appropriate by the IEP Team, the Notice of Meeting indicates that:

- (1) A purpose of the meeting is the consideration of the postsecondary goals and transition services for the student,

- (2) Mountain Heights Academy will invite the student, and

- (3) Identifies any other agency that will be invited, with the consent of the parent(s) or adult student, to send a representative.
 - b. If the student does not attend the IEP meeting, Mountain Heights Academy takes other steps to ensure that the student's preferences and interests are considered.
- 4. Definition of IEP. 34 CFR §300.320.b; USBE SER VII.B.5.
 - a. Transition services. Beginning not later than the first IEP to be in effect when the student turns 14 years of age, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP includes:
 - (1) Present levels of academic achievement and functional performance based on age-appropriate transition assessment(s);
 - (2) Realistic and reasonable measurable postsecondary goals, including academic and functional goals, based on age-appropriate transition assessments related to training or education, employment, and, where appropriate, independent living skills.
 - (3) The transition services, including courses of study, needed to assist the student in reaching the student's post-secondary goals;
 - (4) Evidence that the student was invited to the IEP Team meeting where transition services are to be discussed; and
 - (5) Any modifications to graduation requirements, as permitted under R277-700.
 - b. Students with disabilities must have access to school counselors for the purpose of planning and must be actively invited and included (when appropriate) in school activities which address course planning (including online courses), graduation, and post-secondary education and employment (i.e., college week, scholarship opportunities, ACT, and concurrent enrollment).
- 5. Transfer of rights at age of majority. 34 CFR §§300.320(c), 520; USBE SERVII.B.6.
 - a. Beginning not later than the students 17th birthday the IEP must include a dated statement, signed by the student, parent(s) and a Charter School Representative, that the student and the student's parent(s) have been informed of the parent(s) rights under Part B of the IDEA that will transfer to the student on reaching the age of majority (i.e., age 18), except for a student with a disability who has been determined to be incompetent by a court. These rights include:
 - (1) An Adult student has the right to approve the students own educational placement and Individualized Education Program (IEP) without assistance from parent(s), family or special advocates.

- (2) an adult student has the right to allow parents, family or special advocates to provide assistance if the student so desires.
 - b. Mountain Heights Academy provides any notice required by Part B of the IDEA and these Rules to both the student and the parent.
 - c. All rights accorded to the parents under Part B of the IDEA transfer to the student.
 - d. All rights of the parents under Part B of the IDEA transfer to students who are incarcerated, in an adult or juvenile, State or local correctional facility.
6. Termination of eligibility as a change of placement. 34 CFR §300.305; USBE SER VII.B.7.
- a. An evaluation is not required before termination of a student's eligibility due to graduation from secondary school with a regular high school diploma, or due to exceeding the age of eligibility for FAPE under Utah law.
 - b. For a student whose eligibility terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility for FAPE under Utah law, Mountain Heights Academy provides the student with a summary for the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.
 - c. Receipt of a general educational development credential (GED) does not end eligibility for FAPE.
7. Failure to meet transition objectives. 34 CFR §300.324; USBE SER VII.B.8.
- a. If a participating agency, other than Mountain Heights Academy fails to provide the transition services described in the IEP, Mountain Heights Academy must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
 - b. Nothing relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition services that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that LEA.
 - c. If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or an interagency agreement, to provide or pay for any services that are also considered special education or related services such as, but not limited to, services related to assistive technology devices, assistive technology services, related services, supplementary aids and services, and transition services, that are necessary for ensuring

a FAPE to students with disabilities within the State, the public agency must fulfill that obligation or responsibility either directly or through contract or other arrangement or as provided in an interagency agreement.

- d. If a public agency other than an educational agency fails to provide or pay for the special education or special education and related services, the LEA must provide or pay for these services to the student in a timely manner. The LEA is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA in accordance with the terms of the interagency agreement. 34 CFR §300.154.
8. Students with disabilities in adult prisons. 34 CFR §300.324; USBE SER VII.B.9.
- a. The requirements related to transition planning and transitions services do not apply with respect to those students whose eligibility under Part B of the IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.
 - b. The obligation to make FAPE available to all students with disabilities does not apply with respect to student ages 18 through 21 to the extent that State law does not require that special education or special education and related services under Part B of the IDEA be provided to students with disabilities who, in their last education placement prior to their incarceration in an adult correctional facility:
 - (1) Were not actually identified as being a student with a disability and
 - (2) Did not have an IEP under Part B of the IDEA. 34 CFR §300.102.
 - 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.

Q. Graduation. 34 CFR §300.102; USBE SER VII.C; R277-705.

- 1. Mountain Heights Academy is not obligated to make FAPE available to students with disabilities that have graduated from high school with a regular high school diploma.**

- a. The exception above does not apply to students who have graduated from high school but have not been awarded a regular high school diploma, even if they have received an alternative degree that is not fully aligned with the State’s academic standards, such as certificate of completion or a general educational development credential (GED).
 - b. Graduation from high school with a regular high school diploma is a change of placement, requiring Written Prior Notice, containing all the requirements of WPN, and is given a reasonable time before Mountain Heights Academy proposes to terminate the student’s eligibility under the IDEA by issuing the student a diploma.
2. A student with a disability served by a special program shall satisfy high school completion or graduation criteria, consistent with State and federal law and the student’s IEP. The IEP team may amend graduation requirements as permitted under R277-700 and must document in the IEP the nature and extent of any modifications, substitutions, and /or exemptions made to accommodate the needs of a student with disabilities. Mountain Heights Academy may award a student a certificate of completion consistent with State and Federal law and the student’s IEP.
3. The IEP teams at Mountain Heights Academy refer to the USBE Special Education Graduation Guidelines for additional information regarding modification of graduation requirements and IEP substitutions.

R. Termination of Services Upon Reaching Age 22. UCA 53A-15-301

1. If a student with a disability turns 22 during the school year, Mountain Heights Academy continues to provide FAPE until the:
 - a. Beginning of the school’s winter holiday for those who turn 22 on or after the beginning of the school year and before December 31; and
 - b. End of the school year for those who turn 22 after December 31 and before the end of the school year.

S. Students with Disabilities Enrolled by their Parents in Private Schools When FAPE Is at Issue. 34 CFR §300.148; USBE SER VI.C.

1. If the parents of a student with a disability who had previously received special education or special education and related services from Mountain Heights Academy enroll the student in a private school without the consent of or referral by the school, Mountain Heights Academy is not required to pay for the cost of that placement if the school made a FAPE available to the student and the parent(s) elected to place the student in a private school or facility.
2. Disagreements between the parents and the Mountain Heights Academy 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 complaint procedures in USBE SER IV.G-R.. Mountain Heights Academy follows other requirements in USBE SER VI.C as written.

3. If the parent(s) of a student with a disability, who previously received special education or special education and related services under authority of a Charter School, enroll the student in a private elementary school or secondary school without the consent of or referral by Mountain Heights Academy, a court or a hearing officer may require Mountain Heights Academy to reimburse the parent(s) for the cost of that enrollment if the court or hearing officer finds that Mountain Heights Academy had not made a FAPE available to the student in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the USBE and Charter Schools.
4. The cost of reimbursement may be reduced or denied if:
 - a. At the most recent IEP Team meeting the parent(s) attended prior to the removal of the student from the public school, the parent(s) did not inform the IEP Team that they were rejecting the placement proposed by Mountain Heights Academy to provide a FAPE to their student, including stating their concerns and their intent to enroll their student in a private school at public expense; or
 - b. At least ten business days (including any holidays that occur on a business day) prior to the removal of the student from the public school the parent(s) did not give written notice to Mountain Heights Academy of the information described in USBE SER VI.C.4.a;
 - c. Prior to the parent(s) removal of the student from the public school, Mountain Heights Academy informed the parent(s), through written prior notice requirements of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable); but the parent(s) did not make the student available for the evaluation; or
 - d. Upon a judicial finding of unreasonableness with respect to actions taken by the parent(s).
5. Notwithstanding the requirements for parent(s) to provide notice to Mountain Heights 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) from providing the notice;
 - (2) The parent(s) or adult student had not received written prior notice of the notice requirements in USBE SER VI.C.4.a-b; or
 - (3) Compliance with the notice requirements in USBE SER VI.C.4.a-c would likely result in physical harm to the student; and

- b. May, in the discretion of the court or a hearing office, not be reduced or denied for failure to provide this notice if:
 - (1) The parent(s) or adult student is not literate or cannot write in English; or
 - (2) Compliance with USBE SER VI.C.4.a-c would likely result in serious emotional harm to the student.

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

Mountain Heights Academy, consistent with the requirements of Part B of the IDEA and the USBE Special Education Rules, has established, maintains, and implements Procedural Safeguards for students with disabilities and their parents.

A. Procedural Safeguards Notice.

1. A copy of the Procedural Safeguards is given to the parent(s) or adult student once per year at the annual IEP review, except that a copy also is given to the parent upon initial referral or parental request for evaluation, upon receipt of the first State complaint or due process complaint in that school year, and upon request by the parent(s) or adult student at any time.
2. Mountain Heights Academy uses the USBE Procedural Safeguards Notice that are posted on the USBE website, www.schools.utah.gov. Mountain Heights Academy may place a current copy of the Procedural Safeguards Notice on its website. USBE SER IV.E.2.
3. The special education case manager provides a brief explanation of the main provisions of the Procedural Safeguards to the parents at consent for evaluation, eligibility determination, and annual IEP meetings.
4. This notice contains an explanation of the procedural safeguards related to:
5. A copy of the Procedural Safeguards is given to the parent(s) or adult student once per year at the annual IEP review, except that a copy also is given to the parent upon initial referral or parental request for evaluation, upon receipt of the first State complaint or due process complaint in that school year, and upon request by the parent(s) or adult student at any time.
6. Mountain Heights Academy uses the USBE Procedural Safeguards Notice that are posted on the USBE website, www.schools.utah.gov. Mountain Heights Academy may place a current copy of the Procedural Safeguards Notice on its website. USBE SER IV.E.2.
7. The special education case manager provides a brief explanation of the main provisions of the Procedural Safeguards to the parents at consent for evaluation, eligibility determination, and annual IEP meetings.
8. This notice contains an explanation of the procedural safeguards related to:
 - a. Opportunity for Mountain Heights Academy to resolve the complaint,
 - b. Availability of mediation,

- c. Student's placement during pendency of hearings,
- d. Procedures for students placed in an interim alternative educational setting,
- e. Requirements for unilateral placement of student in private schools at public expense,
- f. Hearings on due process complaints,
- g. Civil actions and
- h. Attorney's fees.

(1) This notice is in language understandable to the parents.

B. Independent Educational Evaluation (IEE). 34 CFR §300.502; USBE SER IV.C.

1. Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by or contracted with Mountain Heights Academy, and who is not responsible for providing services to the student.
2. Mountain Heights Academy has established and implements the following policies and procedures related to independent educational evaluation, which meet the requirements of Part B of the IDEA and the USBE SER.
 - a. The parents of a student with a disability have the right to obtain an Independent Educational Evaluation (IEE) of the student at public expense if they disagree with an evaluation obtained by Mountain Heights Academy.
 - b. Mountain Heights Academy provides to parents, upon request for an IEE, information about where an IEE may be obtained, and Mountain Heights Academy's criteria applicable for IEE. Upon request, Mountain Heights Academy will make available a list of persons and/or agencies where an IEE may be obtained by the parent, and if available, a range of fees each evaluator charges. Mountain Heights Academy updates this list periodically to reflect any changes in fees and evaluators.
 - c. If Mountain Heights Academy's criteria include a monetary cap on IEEs, the criteria also allow parent(s) or adult student the opportunity to request a waiver in the student's circumstance.
 - d. In addition, Mountain Heights Academy considers any other evaluator or agency proposed by the parent to conduct the IEE if the examiner and the evaluation meet Mountain Heights Academy's criteria. A qualified examiner is one who meets the USBE criteria for qualified personnel as a special education teacher, school psychologist, psychologist with expertise in administration and analysis of assessments, or other equivalent qualifications as determined by Mountain Heights Academy. Criteria for

the evaluation are that the evaluation procedures meet all of the same standards as those listed in Section II.D-H of this Policy and Procedures Manual.

- e. Mountain Heights Academy either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.
 - f. Mountain Heights Academy ensures that when a parent(s) or adult student requests an IEE, either Mountain Heights Academy files a due process complaint to request a hearing to show that its evaluation is appropriate, or that the IEE is provided at public expense, unless the evaluation obtained by the parent does not meet Mountain Heights Academy's criteria as described above. If a due process complaint decision finds Mountain Heights Academy's evaluation was appropriate, an IEE obtained by the parent is considered by the team, but is not provided at public expense.
 - g. Parent(s) or adult student is entitled to only one IEE at public expense each time Mountain Heights Academy conducts an evaluation with which the parent(s) or adult student disagrees.
 - h. If the parent(s) or adult student obtains an IEE at public expense or shares an evaluation obtained at private expense with Mountain Heights Academy, the results of the evaluation, if it meets with Mountain Heights Academy criteria, are considered by Mountain Heights Academy in any decision made with respect to provision of a FAPE to the student.
 - i. Except for the criteria described above, Mountain Heights Academy does not impose additional conditions or timelines related to obtaining an IEE at public expense.
 - j. Additional protections for the parent of a student with a disability and for Mountain Heights Academy are followed as written in USBE SER IV.C.3(c-h).
3. An IEE conducted at Mountain Heights Academy's expense becomes the property of Mountain Heights Academy in its entirety.

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

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

1. The notice includes:
 - a. A description of the action proposed or refused,
 - b. An explanation of reasons for the proposal or refusal,
 - c. A description of evaluations or other information the proposal or refusal is based on,

- d. A statement that the parents and eligible student have protection under the Procedural Safeguards and how to obtain a copy of the Safeguards,
 - e. Sources of assistance to understand Part B of the IDEA,
 - f. Description of other options the IEP Team considered and why the other options were rejected, and
 - g. A description of other relevant factors to the proposal or refusal.
2. The Written Prior 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, Mountain Heights Academy takes steps to ensure that:
 - (a) The notice is translated orally or by other means that the parent(s) or adult student in his/her native language or other modes of communication;
 - (b) The parents(s) or adult student understands the content of the notice; and
 - (c) There is written evidence that the requirements have been met.

D. Parental Consent or Adult Student Consent 34 CFR §300.300; USBE SER II.C., III.T., IV.F.

- 1. Informed written parental consent is obtained for evaluation and reevaluation, initial placement/provision of special education, and for release of records to certain parties.
- 2. Reasonable efforts to obtain consent are documented in writing.
- 3. No student receives special education or special education and related services without the signed initial consent for placement in the student's special education file.
- 4. Other relevant parental consent requirements are addressed in Sections II and III of this Policies and Procedures Manual.

E. Dispute Resolution.

Mountain Heights Academy follows the Dispute Resolution requirements of the USBE SER IV.G-U as written and accesses the USBE SER Dispute Resolution Manual for more in-depth information. These include the procedures for State

Complaints, Mediation, Due Process Complaints, Resolution Process, Due Process Hearings, Civil Actions, Attorney's Fees, and Student's Status during Proceedings.

F. Surrogate Parents. 34 CFR §300.519; USBE SER IV.V.

1. Mountain Heights Academy assigns a surrogate parent for a student under the age of majority when:
 - a. The parent cannot be identified or cannot be located,
 - b. The parent's rights to make educational decisions have been taken away by a court,
 - c. The student is a ward of the state, or
 - d. The student is an unaccompanied homeless youth.
2. Mountain Heights Academy determines whether a student under the age of majority needs a surrogate using information from the student's registration form and information from agencies involved with the student.
3. Mountain Heights Academy assigns a surrogate after contacting the Utah Parent Center for assistance in obtaining names of trained surrogates.
4. Mountain Heights Academy ensures that a person selected as a surrogate parent:
 - a. Is not an employee of the USBE, Mountain Heights Academy, or any other agency that is involved in the education and care of the student,
 - b. Has no personal or professional interest that conflicts with the interests of the student the surrogate parent represents, and
 - c. Has knowledge and skills that ensure adequate representation of the student.
5. A Person otherwise qualified to be a surrogate parent is not an employee of Mountain Heights Academy solely because he or she is paid by Mountain Heights Academy to serve as a surrogate parent.
6. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transition shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates until a surrogate can be appointed that meets all of the above requirements.
7. The surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student, and the provision of a FAPE to the student.
8. The USBE and Charter School staff must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 calendar days after Mountain Heights Academy determines that the student needs a surrogate.

G. Transfer of Rights. 34 CFR §300.520; USBE SER IV.W

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

H. Confidentiality of Information. USBE SER IV.X; R277-487.

Mountain Heights Academy takes appropriate steps to ensure the protection of the confidentiality of any personally identifiable data, information, and records it collects or maintains related to Part B of the IDEA.

1. Definitions. As used in these safeguards:

- a. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- b. *Education records* means the type of records covered under the definition of "education records" in 34 CFR 99, implementing regulations for the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g (FERPA).
- c. *Participating agency* means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.

2. Access rights.

- a. Mountain Heights Academy permits the parent(s) or adult student to inspect and review any education records relating to their student that are collected, maintained, or used by Mountain Heights Academy. Mountain Heights Academy complies with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing, or resolution session, and in no case more than 45 calendar days after the request has been made.
- b. The right to inspect and review education records includes the right to:
 - (1) A response from Mountain Heights Academy to reasonable requests for explanations and interpretations of the records;
 - (2) Request that Mountain Heights Academy provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - (3) Have a representative of the parent inspect and review the records.
- c. Mountain Heights Academy may presume that the parent has authority to inspect and review records relating to his or her student unless the school

has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

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

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

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

If any education record includes information on more than one student, Mountain Heights Academy ensures that the parents of a student has the right to inspect and review only the information relating to their student or themselves or to be informed of that specific information.

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

On request, Mountain Heights Academy provides parent(s) or adult student with a list of the types and locations of education records collected, maintained, or used by Mountain Heights Academy. This information is available upon request to the main office at Mountain Heights Academy.

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

Mountain Heights Academy may charge a fee for copies of records that are made for parents under Part B of the IDEA if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; however, it may not charge a fee to search for or to retrieve information under Part B of the IDEA.

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

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

- b. Mountain Heights Academy must decide whether to amend the information within a reasonable period of time of the request. If Mountain Heights Academy decides to refuse to amend the information, it must inform the parent(s) or adult student of the refusal and advise the parent(s) or adult student of the right to a hearing on the matter.
7. Opportunity for a hearing. 34 CFR §300.619; USBE SER IV.X.10.
- a. Mountain Heights Academy, on request, provides an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.
 - b. This is not an IDEA due process complain hearing
8. Result of hearing. 34 CFR §300.620; USBE SER IV.X.11.
- a. If, as a result of the hearing, Mountain Heights Academy decides that the information is not 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, Mountain Heights Academy decides that the information is not accurate, 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 Mountain Heights Academy.
 - c. An explanation placed in the records of the student under this section must be maintained by Mountain Heights Academy as part of the records of the student as long as the record or contested portion is disclosed by Mountain Heights Academy to any party, the explanation must be also disclosed to the party.
9. Hearing Procedures. 34 CFR §300.621; USBE SER IV.X.12.

A hearing that challenges education records is conducted according to procedures under 34 CFR §99.22 as described below.

- a. The hearing shall be held within a reasonable period of time after Mountain Heights Academy receives the request, and the parent(s) of the student or adult student is given notice of the date, place, and time reasonably in advance of the hearing.
- b. The hearing may be conducted by any party, including an official of Mountain Heights Academy, who does not have direct interest in the outcome of the hearing.
- c. The parent(s) of the student or adult student is afforded a full and fair opportunity to present evidence relevant to the issue raised and may be

assisted or be represented by an individual of their choice at their own expense, including an attorney.

- d. Mountain Heights Academy shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.
 - e. The decision of Mountain Heights Academy shall be based solely upon evidence presented at the hearing, and shall include a summary of the evidence and the reasons for the decision.
 - f. If the parent revokes consent in writing for the student's receipt of special education and related services, Mountain Heights Academy is not required to amend the student's education record to remove any references to the student's receipt of special education and related services because of the revocation of consent.
10. Consent for Release and disclosure of records. 34 CFR §300.622; USBE SER IV.X.13
- a. Except as to disclosures addressed in referral to and action by law enforcement and judicial authorities, for which parental or adult student consent is not required by 34 CFR §99, parental or adult student consent is obtained before personally identifiable information is:
 - (1) Disclosed to anyone other than officials of participating agencies collecting or using the information under Part B of the IDEA or USBE SER, or,
 - (2) Used for any purpose other than meeting a requirement of Part B of the IDEA or USBE SER.
 - b. Mountain Heights Academy does not release information from education records to participating agencies without parental or adult student consent unless authorized to do so by 34 CFR §99.31 and §99.34 (FERPA):
 - (1) Regulation 34 CFR §99.31 allows Mountain Heights Academy to disclose personally identifiable information from the education records of a student without the written consent of the parent(s) of the student or the adult student if the disclosure is:
 - (a) To other school officials, including teachers within Mountain Heights Academy who have been determined by Mountain Heights Academy to have legitimate educational interests, and
 - (b) To officials of another school or school site in which the student seeks or intends to enroll, subject to the requirements set forth in 34 CFR §99.34 below.
 - (2) Regulation 34 CFR §99.34 requires that Mountain Heights Academy transferring the education records of a student pursuant to 34 CFR §99.31 above shall make a reasonable attempt to notify the parent(s) of the student or the adult student, except that Mountain Heights

Academy does not have to further provide any further notice of the transfer of records when:

- (a) The transfer is initiated by the parent(s) or adult student at the sending school, or
 - (b) Mountain Heights Academy includes in its annual notice of Procedural Safeguards, that it is the policy of Mountain Heights Academy to forward education records on request of a school in which the student seeks or intends to enroll.
- c. Mountain Heights Academy transferring the records keeps a copy of the records for three years after the transfer.
 - d. Mountain Heights Academy receiving personally identifiable information from another educational agency or institution may make further disclosure of the information on behalf of Mountain Heights Academy without the prior written consent of the parent(s) or adult student if the conditions of 34 CFR §99.31, and §99.34 noted above are met, and if the educational agency informs the part to whom disclosure is made of these requirements.
 - e. If the parent(s) or adult student refuses consent for the release of personally identifiable information to a third party, then that party may proceed with statutory procedures in an effort to obtain the desired information.

Note: As an authorized 34 CFR §99.34 (FERPA), Utah Local Education Agencies including in the annual Procedural Safeguards Notice that it is their policy to forward educational records of a student with disabilities without parental or adult student consent or notice to officials of another school or school district in which a student seeks or intends to enroll.

- f. If the parent(s) or adult student revokes consent in writing for the student's receipt of special education or special education and related services, Mountain Heights Academy is not required to amend the student's education record to remove any references to the student's receipt of special education or special education and related services because of the revocation of consent.
11. Safeguards. 34 CFR §300.324; USBE SER IV.X.14.
- a. Mountain Heights Academy protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
 - b. The Principal/Director of Mountain Heights Academy assumes responsibility for ensuring the confidentiality of any personally identifiable information.

- c. Staff members at Mountain Heights Academy who collect or use personally identifiable information receive training or instruction regarding the State’s policies and procedures in USBE SER IV.X and 34 CFR §99 on an annual basis.
- d. Mountain Heights Academy maintains, for public inspection, an Access Authorization List, that is, a current listing of the names and positions of those employees within the school who may have access to personally identifiable information on students with disabilities. This list is posted on the locked cabinet in which students’ special education files are maintained. The list is updated annually.

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

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

13. Students’ rights.

When a student reaches 18, the age of majority in Utah, and has not been determined incompetent under State law, all rights accorded to parents under Part B of the IDEA and USBE SER transfer to the student. Mountain Heights Academy provides written notice of this transfer of rights at least one year prior to the student’s 18th birthday.

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

A. Discipline procedures for students with disabilities. USBE SER V.A.

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

B. Authority of School Personnel. 34 §300.530(a–c); USBE SER V.B.

1. School personnel may consider any unique circumstances on a case by case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a student with a disability who violates a code of student conduct.
2. School personnel may remove a student with a disability who violates a code of student conduct from the student's current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days (to the extent those alternatives are applied to students without disabilities) and for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.
3. After a student with a disability has been removed from the student's current placement for ten school days in the same school year, during subsequent days of removal Mountain Heights Academy provides services to the extent required.
4. For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities, except after the tenth day of removal that constitutes a change in placement, Mountain Heights Academy provides services to the student.

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

1. A student with a disability who is removed from the student's current placement must:
 - a. Continue to receive educational services, so as to enable the student to continue to participate in the general education curriculum although in another setting, and to progress toward meeting the goals set out in the student's IEP; and

- b. Receive, as appropriate, a functional behavioral assessment, and a behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.
- 2. The services may be provided in an interim alternative educational setting (IAES).
- 3. Mountain Heights Academy is only required to provide services during periods of removal to a student with a disability who has been removed from the student's current placement for ten school days or less in that school year, if it provides services to a student without disabilities who is similarly removed.
- 4. After a student with a disability has been removed from the student's current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and so not a change of placement, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.
- 5. If the removal is a change of placement, the student's IEP Team determines appropriate services to be provided during the removal.

D. Change of placement due to disciplinary removals. 34 CFR §300.536; USBE SER V.D.

- 1. For purposes of removals of a student with a disability from the student's current educational placement, a change in 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. Mountain Heights 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.

E. Manifestation Determination. 34 CFR §300.530(e–f); USBE SER V.E.

1. Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, a representative of Mountain Heights Academy, the parent or adult student, and relevant members of the student’s IEP Team (as determined by the parent(s) or adult student and Mountain Heights Academy) reviews all relevant information in the student’s file, including the student’s IEP, any teacher observations, and any relevant information provided by the parent(s) or adult student to determine:
 - a. If the conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability; or
 - b. If the conduct in question was the direct result of Mountain Heights Academy’s failure to implement the IEP.
2. The conduct must be determined to be a manifestation of the student’s disability if the representative of Mountain Heights Academy, the parent(s) or adult student, and the 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 Mountain Heights Academy’s failure to implement the IEP.
3. If Mountain Heights 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 Mountain Heights Academy’s failure to implement the IEP, Mountain Heights Academy must take immediate steps to remedy those deficiencies.
4. If the representative of Mountain Heights 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 behavioral assessment (FBA), unless Mountain Heights Academy had conducted a functional behavioral assessment before the behavior resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the student; or
 - b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
 - c. Unless, the misconduct falls under the definition of special circumstances in Rule V.E.5, return the student to the placement from which the student was removed, unless the parent(s) or adult student and Mountain Heights Academy agree to a change of placement as part of the modification of the behavioral intervention plan.

5. Special Circumstances. 34 CFR §300.530(g); USBE SER V.E.5.

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- a. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of Mountain Heights Academy;
- b. Knowingly possess 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 Mountain Heights Academy, 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 Mountain Heights Academy
- d. Definitions:

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

- (1) Controlled substance means a drug or other substance that cannot be distributed without a prescription; identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act (21 USC 812(c)).
- (2) Illegal drug means a controlled substance but does not include a drug controlled, possessed, or used under the supervision of a licenses health care professional or one legally possessed or used under the Controlled Substances Act or under any other provision of Federal law (21 USC 812).
- (3) Serious bodily injury means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (18 USC 1365). Serious bodily injury does not include a cut, abrasion, bruise, burn, disfigurement, physical pain, illness, or impairment of the function of a bodily member, organ or mental faculty that is temporary (20 USC 1365).
- (4) Weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2.5 inches (18 USC 930).

F. Procedural Safeguards Notice. 34 CFR §300.530(h); USBE SER V.F.

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code

of student conduct, the LEA must notify the parent(s) or adult student of that decision, and provide the parent(s) or adult student the Procedural Safeguards notice.

G. Determination of setting. 34 CFR §300.531; USBE SER V.G.

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

H. Appeals by parent(s) or adult student or LEA. 34 CFR §300.532; USBE SER V.H.

1. The parent(s) of a student with a disability or adult student who disagrees with any decision regarding placement or the manifestation determination or an LEA that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by filing a due process hearing complaint.
2. Authority of hearing officer.
 - a. A due process hearing officer hears, and makes a determination regarding an appeal.
 - b. In making the determination, the hearing officer may:
 - (1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of the discipline procedures under Part B of the IDEA or these Rules of that the student's behavior was a manifestation of the student's disability; or
 - (2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.
 - c. The appeal procedures may be repeated if Mountain Heights 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 Mountain Heights Academy involved in the dispute must have an opportunity for an impartial due process hearing.

- b. Mountain Heights 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 Mountain Heights 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 appealable.

I. Placement during appeals. 34 CFR §300.533; USBE SER V.I.

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

J. Protections for students not determined eligible for special education or special education and related services. 34 CFR §300.534; USBE SER V.J

- 1. A student who has not been determined to be eligible for special education or special education and related services under Part B of the IDEA, and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if Mountain Heights Academy had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.
- 2. A Charter School must be deemed to have knowledge that a student is a student with a disability if, before the behavior that precipitated the disciplinary action occurred:
 - a. The parent(s) of the student or adult student expressed concern in writing to supervisory or administrative personnel of the appropriate Charter School, or a teacher of the student, that the student is in need of special education or special education and related services;
 - b. The parent(s) of the student or adult student requested an evaluation of the student; or

- c. The teacher of the student, or other personnel of Mountain Heights Academy, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of Mountain Heights Academy or to other supervisory personnel of Mountain Heights Academy.
3. A Charter School would not be deemed to have knowledge that a student is a student with a disability if:
 - a. The parent(s) of the student or adult student:
 - (1) Has not allowed an evaluation of the student; or
 - (2) Has refused services under this part; or
 - b. The student has been evaluated in accordance with and determined to not be a student with a disability under Part B of the IDEA.
 4. If a Charter School does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the disciplinary measures applied to students without disabilities who engage in comparable behaviors.
 - a. If a request is made for an evaluation of a student during the tie 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 with educational services.
 - (2) If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by Mountain Heights Academy and information provided by the parent(s) or adult student, Mountain Heights Academy must provide special education or special education and related services.

K. Referral to and action by law enforcement and judicial authorities. 34 CFR §300.535; USBE SER V.K

1. Noting in Part B of the IDEA prohibits a Charter School from reporting a crime committed by a student with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.
2. Transmittal of records.
 - a. A Charter School reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the LEA reports the crime.

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

VI. Students with disabilities in other settings.

A. Private School Placements by LEAs 34 CFR §300.325; USBE SER VI.A.

1. Developing IEPs.
 - a. Before Mountain Heights Academy places, a student with a disability in, or refers a student to, a private school or facility, Mountain Heights Academy must initiate and conduct a meeting to develop an IEP for the student in accordance with Part B of the IDEA and these Rules.
 - b. Mountain Heights Academy must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, Mountain Heights Academy must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.
2. Reviewing and revising IEPs.
 - a. After a student with a disability is placed in a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of Mountain Heights Academy.
 - b. If the private school or facility initiates and conducts these meetings, Mountain Heights 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 Mountain Heights Academy and the USBE.
4. Residential placement. 34 CFR §300.104; USBE SER VI.A.4

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

B. Students with Disabilities Enrolled by their Parents in Private Schools When FAPE is not an issue. (§300.130)

This section does not apply to Mountain Heights Academy, since Mountain Heights Academy is a charter school.

C. Students with Disabilities Enrolled by their Parents in Private Schools When FAPE is at issue.-34 CFR §300.148; USBE SER VI.C.

1. Mountain Heights 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 Mountain Heights Academy made a FAPE available to the student and the parents elected to place the student in a private school or facility. However, Mountain Heights Academy must include that student in the population whose needs are addressed consistent with Rule VI.B.

2. Disagreements between the parents and Mountain Heights Academy, regarding the availability of a program appropriate for the student, and the question of financial reimbursement, are subject to the State complaint and due process procedures in USBE SER VI.G.R.
3. If the parents of a student with a disability, who previously received special education and related services under the authority of Mountain Heights Academy, enroll the student in a private preschool, elementary school, or secondary school without the consent of or referral by Mountain Heights Academy, a court or a hearing officer may require Mountain Heights Academy to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that Mountain Heights Academy 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 Mountain Heights Academy.
4. The cost of reimbursement may be reduced or denied if:
 - a. At the most recent IEP team meeting that the parents attended prior to removal of the student from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by Mountain Heights Academy to provide a FAPE to their student, including stating their concerns and their intent to enroll their student in a private school at public expense; or
 - b. At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to Mountain Heights Academy of the information described in USBE SER VI.C.4.a;
 - c. Prior to the parents' removal of the student from the public school, Mountain Heights Academy informed the parents, through the written prior notice requirements of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or
 - d. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.
5. Notwithstanding the requirements for parents to provide notice to Mountain Heights 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 parents from providing the notice;

- (2) The parent(s) or adult student had not received written prior notice of the notice requirement in USBE SER VI.C.4.a-b; or
- (3) Compliance with the notice requirements in USBE SER VI.C.4.a-b 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 parents are not literate or cannot write in English; or
 - (2) Compliance with VI.C.4.a-b would likely result in serious emotional harm to the student.

D. Transition services – school to post school

- 1. Purpose 34 CFR §300.1; USBE SER VII.B.1.
 - a. To ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education or special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.
- 2. Definition. 34 CFR §300.1; USBE SER VII.B.2.
 - a. Transition services means a coordinated set of activities for a student with a disability that:
 - (1) Is designed to be within a results oriented process that is focused on improving the academic and functional achievement of the student with a disability, to facilitate the student’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment, (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual’s student’s needs, taking into account the student’s strengths, preferences and interests and includes:
 - (a) Instruction,
 - (b) Related services,
 - (c) Community experiences,
 - (d) Post-school adult living objectives, and
 - (e) If appropriate, acquisition of daily living skills and provisions of a functional vocational evaluation.
 - b. Transition services for students with disabilities may be special education, if provided specially designed instruction or a related services, if required to assist a student with a disability to benefit from special education.

3. Parent(s) or Adult Student Participation. 34 CFR §300.322; USBE SER VII.B.3.
 - a. For a student with a disability beginning not later than the IEP developed when the student is 14 years old, or younger if determined appropriate by the IEP Team, the Notice of Meeting indicates that:
 - (1) 1.A purpose of the meeting is the consideration of the postsecondary goals and transition services for the student.
 - (2) 2.Mountain Heights Academy will invite the student, and
 - (3) 3.Identifies any other agency that will be invited, with the consent of the parent(s) or adult student, to send a representative.
 - b. If the student does not attend the IEP meeting, Mountain Heights Academy takes other steps to ensure that the student's preferences and interests are considered.

VII. RESPONSIBILITIES OF THE UTAH STATE BOARD OF EDUCATION.

Mountain Heights Academy provides data as required for State and Federal reports and other State functions.

VIII. LEA ELIGIBILITY and RESPONSIBILITIES.

A. Participation in assessments and reporting of assessment results. USBE SER IX.A.2.

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

B. Public participation in policies and procedures development.

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

C. Public posting of USBE monitoring results. USBE SER IX.A.2.d.(2) l.

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

D. Methods of ensuring services. USBE SER IX.A.2.d.(2)l.

Mountain Heights Academy ensures that each eligible student with disabilities enrolled in the school receives the services included in the IEP through a systematic process of review of IEPs and monitoring of service delivery by Mountain Heights Academy's personnel and contracted service providers.

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

All personnel of Mountain Heights Academy are supervised by appropriately qualified staff as determined by Mountain Heights Academy's Board of Directors.

F. Use of Part B funds.

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

G. Personnel Development. 34 CFR §300.156; R277-504, 506, 510, 520, and 524.

1. Mountain Heights Academy ensures that all personnel necessary to carry out Part B of the IDEA are appropriately and adequately prepared, subject to the requirements related to personnel qualifications in the State Board Administrative Rules cited above.

2. Paraeducators, when used to carry out Part B of the IDEA, are appropriately trained and supervised and utilized in accordance with the USBE Paraeducator Standards.

H. Educator License Requirements.. R277-504, 506, and 520.

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

I. Performance goals and indicators in the State Performance Plan. USBE SER X.A.2.

Mountain Heights Academy participates in additional procedures and collects and provides additional information which the USBE may require in order to meet Federal reporting requirements, including suspension and expulsion rates, LRE environments, disproportionality data, personnel information and others.

J. Coordinated Early Intervening Services. 34 CFR §300.226; USBE SER IX.C.

1. Mountain Heights Academy may not use more than 15 percent of the amount it receives under Part B of the IDEA for an fiscal year, less any amount reduced by Mountain Heights Academy pursuant to maintenance of effort (if any), in combination with other amounts to develop and implement coordinated early intervening services (CEIS) for students who are not currently identified as needing special education or special education and related services, but who need additional academic and behavioral support to succeed in a general education environment.
2. These funds are used to carry out activities including professional development that enables school personnel to deliver scientifically based academic and behavioral interventions, as well as educational and behavioral evaluations, services and supports.
3. Mountain Heights Academy provides any and all required data on its Early Intervening Services to the USBE annually.

K. Provision of FAPE and Caseload Guidelines. 34 CFR §300.101; USBE SER IX.F.

1. Mountain Heights Academy oversees the caseload of each special educator (including psychologist, social workers, speech language pathologists, occupational therapists, physical therapists, adapted P.E. specialists and any other related servers) to ensure that a free appropriate public education is available to all eligible students with disabilities.
2. Mountain Heights Academy refers to the USBE Special Education Caseload Guidelines.

L. Routine checking of hearing aids and external components of surgically implanted medical devices. 34 CFR §300.113; USBE SER IX.G.

Mountain Heights Academy must ensure that hearing aids worn during school by students with hearing impairments, including deafness are functioning properly. Mountain Heights Academy must ensure that external components of surgically implanted medical devices are functioning properly.