

Part 3

Education of Children with Disabilities

53A-15-301 Education programs for students with disabilities -- Supervision by the State Board of Education -- Enforcement.

- (1)
 - (a) All students with disabilities, who are between the ages of three and 22 and have not graduated from high school with a regular diploma, are entitled to a free, appropriate public education.
 - (b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the school year, the entitlement extends to the:
 - (i) 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
 - (ii) end of the school year for those who turn 22 after December 31 and before the end of the school year.
 - (c) The State Board of Education shall adopt rules consistent with applicable state and federal law to implement this chapter.
- (2) The rules adopted by the state board shall include the following:
 - (a) appropriate and timely identification of students with disabilities;
 - (b) diagnosis, evaluation, and classification by qualified personnel;
 - (c) standards for classes and services;
 - (d) provision for multidistrict programs;
 - (e) provision for delivery of service responsibilities;
 - (f) certification and qualifications for instructional staff; and
 - (g) services for dual enrollment students attending public school on a part-time basis under Section 53A-11-102.5.
- (3)
 - (a) The state board shall have general control and supervision over all educational programs for students within the state who have disabilities.
 - (b) Those programs must comply with rules adopted by the state board under this section.
- (4) The state superintendent of public instruction shall enforce this chapter.

Amended by Chapter 82, 2002 General Session

53A-15-302 State director of special education -- Qualifications -- Duties.

- (1) The State Board of Education shall appoint a state director of special education, who shall be qualified and experienced in the area of special education.
- (2) The state director has the following duties and responsibilities:
 - (a) to assist the state board and state superintendent of public instruction in performing their duties under this chapter;
 - (b) to encourage and assist school districts and other authorized public agencies in the organization of programs for students with disabilities;
 - (c) to provide general supervision over all public programs offered through a public school, public agency, public institution, or private agency for students with disabilities;
 - (d) to cooperate with private schools and other private agencies concerned with educating and training students with disabilities; and
 - (e) to coordinate all state programs for students with disabilities.

Amended by Chapter 53, 1992 General Session

53A-15-303 School district responsibility -- Reimbursement of costs -- Other programs.

- (1)
 - (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.
 - (b) The program shall include necessary special facilities, instruction, and education-related services.
 - (c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.
- (2) School districts that provide special education services under this chapter in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under Title 53A, Chapter 17a, Minimum School Program Act, and other applicable laws.
- (3)
 - (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than three or older than 22 consistent with Subsection 53A-15-301(1).
 - (b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

Amended by Chapter 82, 2002 General Session

53A-15-303.5 Participation of students with a disability in extracurricular activities.

- (1) A student with a disability may not be denied the opportunity of participating in public school programs or extracurricular activities solely because of the student's age, unless the participation threatens the health or safety of the student.
- (2) The school district in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.
- (3) Subsection (1) applies to a student who:
 - (a) has not graduated from high school with a regular diploma; and
 - (b) is under the age of 20, if participation is recommended by the student's individualized education program team.

Amended by Chapter 215, 2000 General Session

53A-15-304 Services provided by Department of Health.

The Department of Health shall provide diagnostic and evaluation services, which are required by state or federal law but are not typically otherwise provided by school districts, to students with disabilities.

Amended by Chapter 53, 1992 General Session

53A-15-304.5 Special education assessments for children in the custody of the Division of Child and Family Services.

Each school district shall provide an initial special education assessment for children who enter the custody of the Division of Child and Family Services, upon request by that division, for children

whose school records indicate that they may have disabilities requiring special education services. The assessment shall be conducted within 30 days of the request by the Division of Child and Family Services.

Enacted by Chapter 318, 1996 General Session

53A-15-305 Resolution of disputes in special education -- Hearing request -- Timelines -- Levels -- Appeal process -- Recovery of costs.

- (1) The Legislature finds that it is in the best interest of students with disabilities to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parents, and the public schools.
- (2) Therefore, the State Board of Education shall adopt rules meeting the requirements of 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards for students with disabilities and their parents or guardians as to the provision of free, appropriate public education to those students.
- (3) The timelines established by the board shall provide adequate time to address and resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate public education for students with disabilities.
- (4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under this section shall make a good faith effort to resolve the dispute informally at the school building level.
- (5)
 - (a) If the dispute is not resolved under Subsection (4), a party may request a due process hearing.
 - (b) The hearing shall be conducted under rules adopted by the board in accordance with 20 U.S.C. Section 1415.
- (6)
 - (a) A party to the hearing may appeal the decision issued under Subsection (5) to a court of competent jurisdiction under 20 U.S.C. Section 1415(i).
 - (b) The party must file the judicial appeal within 30 days after issuance of the due process hearing decision.
- (7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking recovery of attorney fees under 20 U.S.C. Section 1415(i) for a special education administrative action shall file a court action within 30 days after issuance of a decision under Subsection (5).

Amended by Chapter 9, 2001 General Session