

## **IEP Team Membership for Students with Disabilities in Post-High Programs**

This document is provided by the Utah State Office of Education Special Education Services, to clarify requirements under IDEA and Utah State Board of Education (USB E) Special Education Rules and provide technical assistance on ways the involvement of the general educator on the IEP team could be addressed, at the discretion of the IEP team and Local Education Agency (LEA).

### **IDEA and USB E Special Education Rules**

IDEA and the USB E Special Education Rules (III.E) define the make-up of the IEP team for students in special education programs, from pre-school through high school:

III.E. IEP TEAM MEMBERSHIP. (§300.321) The LEA must ensure that the IEP team for each student with a disability includes:

1. The parents of the student;
2. Not less than one [general] education teacher of the student (if the student is, or may be, participating in the [general] education environment);
3. Not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;
4. A representative of the LEA who:
  - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of the LEA.
  - d. An LEA may designate an LEA member of the IEP team to also serve as the LEA representative, if the above criteria are satisfied.
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in this section;
6. At the discretion of the parent or the LEA, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and
7. Whenever appropriate, the student with a disability.
8. The determination of knowledge or special expertise of any individual described in #6 above must be made by the party (parents or LEA) who invited the individual to be a member of the IEP team.
9. If a purpose of the IEP team meeting is consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals, the LEA must invite the student with a disability to attend the student's IEP meeting. If the student does not attend the IEP meeting, the LEA must take other steps to ensure that the student's preferences and interests are considered.
10. To the extent appropriate, with the consent of the parents or a student who has reached age 18 or older, the LEA must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Section III.E.2 of the USBE Special Education Rules clarifies the involvement of the general education teacher; **“the teacher’s presence is required if the student is, or may be, participating in the general education classroom.”** The role of the [general] education teacher is to help determine “appropriate positive behavioral interventions and supports, and other strategies for the child” (§300.324(a)(3)(i)). The [general] educator must also, to the extent appropriate, determine “supplementary aids and services, program modifications, and support for school personnel” needed to help the student:

- progress toward attaining the annual goals;
- be involved in and make progress in the general education curriculum;
- participate in extracurricular activities and other nonacademic activities; and
- be educated and participate with other students with disabilities and those who are not disabled [§300.324(a)(3)(ii) and §300.320(a)(4)].

The USBE Special Education Rules allow for a required member of the IEP team to be excused from attending the IEP meeting if the parent/adult student and LEA agree, in writing, that that team member’s attendance is not necessary because that team member’s area of the curriculum or related services is not being discussed in the meeting. Additionally, a required team member may be excused from attending the IEP meeting if the parent/adult student and LEA consent, in writing, to excusing the required team member. In this case, the excused required team member must submit in writing, to the parent/adult student and the IEP team, input into the development of the IEP prior to the beginning of the IEP meeting (§300.321; USBE Special Education Rules III.F).

When considering who might fulfill the “[general] education teacher” role for a student in a post-high program, the team may wish to consider, prior to the meeting, the individual who will be able to discuss what supports, including accommodations and modifications, might be necessary for the student to access and make progress in the transition curriculum (e.g., basic academics, community access, work site, college classes). This individual might also be able to provide the team with insight about the student’s behaviors, and recommend possible behavioral interventions that will facilitate access to those transition activities. (IDEA §300.324(a)(3)(i))

The LEA will determine who fulfills the role of the general education teacher for individual students’ IEP teams and may choose to use appropriate LEA personnel. Required team members may be determined not necessary or excused, following the excusal process outlined in the USBE Special Education rule referenced above, as long as the written excusal occurs prior to the start of the IEP meeting. If a required team member has not been excused from attending and does not attend the meeting, the LEA must reconvene the IEP meeting at a time when all required team members are able to attend.

Nothing in the IDEA requires a specific service, placement, or course of study, but leaves those decisions to the IEP team for the student. Thus, there is no requirement about which services are to be provided in a post-high program; that annual determination is the responsibility of the IEP team. The least restrictive environment (LRE) provisions apply when developing the student’s program; these LRE provisions apply equally to the employment

portion of the student's program and placement. (Letter to Spitzer-Resnick, Swedeen, and Pugh, 112 LRP 32664 (OSEP 06/22/12))

When the LEA has determined who will constitute the IEP team, the LEA must send a Notice of Meeting to the parent/adult student, inviting them to the IEP meeting and informing them of: the purpose, time, and location of the meeting and who will be in attendance; the provision of participation of other individuals who have knowledge or special expertise about the student; and identify any other agency that will be invited, with the consent of the parent or adult student, to send a representative. The student must be invited to the IEP meeting if a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student. (IDEA §300.322, USBE Special Education Rules III.H)

### **Technical Assistance on IEP Team Membership**

**It is important to remember that the IEP team determines the student's program;** the team will not know how or if the student will participate in a general education setting until the team meeting and IEP development. Deciding prior to the meeting, for example, that a student's post-high program is entirely job-based with no academic instruction may be considered pre-determining placement, which is not allowable under the IDEA or USBE Special Education Rules. The determination must be made annually by the student's IEP team; therefore IEP team members should have knowledge and expertise in all parts of the student's program and address how the student's needs can be met in a variety of environments.

The school team may wish to determine who to invite to the IEP meeting prior to scheduling the meeting by contacting other IEP team members, including the adult student and/or guardian, and addressing the student's involvement in general education and community activities. This contact could be documented in the IEP file and conducted with enough time to allow the school to obtain consent to invite non-LEA employees, if applicable. If the team, including the adult student and/or guardian, determined a general educator was not needed at the meeting, the IEP team member excusal procedure should be followed (§300.321). The Notice of Meeting would be sent to the parent/adult student after any needed written consent was obtained and would indicate who had been invited to the IEP meeting; the Notice of Meeting should also indicate if any required team member had been excused.

Many students in post-high programs are not participating in general education, (i.e., high school) programs, especially if the post-high program is community-based. Following are possible scenarios, with suggestions for fulfilling the "general education teacher" role on the IEP team, if determined needed by the team. Again, the LEA makes the final determination of the appropriate staff to fulfill the general education teacher role on the IEP team.

- Joe attends a community-based post-high program; he spends the majority of his school day at a job site, with a job coach and natural supports.
  - Possible general education team member(s)\*: job coach or employer or employees who provide natural supports.

- Melissa audits classes on the local college campus and works part-time on the campus.
  - Possible general education team member(s)\*: college instructors or job supervisors.
- Ted attends a school-based program. He has multiple health challenges and is not currently a candidate for a community-based program.
  - Possible general education team member(s): general education teacher(s) of appropriate content area classes.
- Jake is dually enrolled in high school and adult education to complete graduation requirements.
  - Possible team member(s)\*: adult education and general education teacher(s) who teach the courses in which he is enrolled.

**\*If the individual acting as the “[general] education teacher” is not an employee of the LEA, either through direct employment or a contractual agreement, the LEA must obtain written consent from the adult student or parent prior to inviting the individual and notify the parent/adult student of who will be attending the meeting (Notice of Meeting).**