

Legislative Recommendations 6/1/08

Section 1 Definitions.

- (1) "Utah Schools for the Deaf and the Blind" – Hereafter referred to as USDB
- (2) "Visual Impairment including Blindness" – Hereafter referred to as Blind
 - a. Visual impairment means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes partial sight, blindness and cortical visual impairment that adversely affects a student's educational performance.
 - (i) Blind means an individual, or class of individuals, whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees (53A-24-301 State Office of Rehabilitation Act).
 - (ii) "Cortical Visual Impairment"
Cortical Vision Impairment (CVI) is a neurological visual disorder which affects the visual cortex or visual tracts in the brain. The eyes and optic nerves appear normal and pupil responses are normal. CVI is caused by damage to the visual pathways to the brain. Visual processing and interpretation as well as discrimination/acuity are affected. CVI is often present in conjunction with other eye conditions that cause specific visual impairment.
- (3) "Hearing Impairment/Deafness" – Hereafter referred to as Deaf.
 - a. Hearing Impairment, also known as Hard of Hearing, means an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of deafness.
 - b. Deaf or deafness means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification.
 - c. A functional hearing loss: central nervous system impairment, cortical hearing impairment, auditory processing disorder, or auditory neuropathy/dys-synchrony. Although parts of the auditory system may be functioning, the student does not attend to, respond, localize, or accurately process information, causing the student to appear as a student with a hearing impairment or deafness.
- (4) "Deafblind"
 - a. For the purposes of defining deafblind for students ages birth through 21, deafblind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot

be accommodated in programs solely for students with deafness or students with blindness.

(i) A vision loss is defined as one or both of the following:

- a. Visual impairment that, with or without correction, adversely affects a student's ability to access visual information and to develop visual skills for educational performance. This may include partial/low vision or blindness.
- b. Functional blindness, where the physical structures of the eye may be functioning, but the student does not attend to, examine, utilize, or accurately process visual information. This may include cortical visual impairment or central visual impairment.

(ii) A hearing loss is defined as one or both of the following:

- a. Hearing impairment that, with or without amplification, adversely affects a student's ability to access auditory information and the development of language and communication for educational performance. This may include hard of hearing or deafness.
- b. A functional hearing loss: central nervous system impairment, cortical hearing impairment, auditory processing disorder, or auditory neuropathy/dys-synchrony. Although parts of the auditory system may be functioning, the student does not attend to, respond, localize, or accurately process information, causing the student to appear as a student with a hearing impairment or deafness.

b. For the purposes of defining deafblindness for infants and toddlers ages birth to 3, a child is eligible for Deafblind Services who has been diagnosed with both hearing and vision impairments. The diagnosis of deafblindness may include:

(i) Ophthalmological and audiological documentation;

(ii) Functional vision and/or hearing assessments and evaluations; and/or

(iii) Informed clinical opinion, conducted by someone with expertise in deafness, blindness, or deafblindness. The informed clinical opinion shall be included in the determination of eligibility when documentation is incomplete or not conclusive. Information will be based on pertinent records related to the child's current health status and medical history, an evaluation and observations of the child's level of sensory functioning, and the needs of the family.

(5) "Local Education Agency" (LEA) means the Utah school districts and all public charter schools that are established under State law that are not schools of a school district. USDB may become the designated LEA.

- (6) “Designated LEA” means when the LEA of record and the USDB determine that a student be placed in a USDB placement, USDB becomes the Designated LEA and assumes the responsibilities of the LEA.
- (7) “Utah State Board of Education” (Hereafter referred to as the Board)is the constitutionally authorized entity that oversees the Utah Schools for the Deaf and the Blind.
- (8) “The Utah Department of Health” is the agency responsible for providing services to eligible children and their families ages birth to 3 as defined in Part C of Federal Special Education Statute (34 CFR Part 303).
- (9) “Least Restrictive Environment” (LRE) means to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled. Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aides and services cannot be achieved satisfactorily.
- (10) “Individualized Education Program” (IEP) means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah State Special Education Rules, and Part B of the Federal Regulations.
- (11) “Individualized Family Service Plan” (IFSP) is the plan developed according to federal requirements for infants and toddlers ages birth to 3 and their families who are eligible for services under Part C of IDEA.
- (12) “Parent Infant Program” (PIP) serves infants and toddlers, birth to 3 years of age, who are blind, or deaf. In addition to PIP services, Deafblind Services provides services to infants and toddlers, birth to 3 years of age, who have combined vision and hearing losses.
- (13) “Individuals with Disabilities Education Improvement Act” (IDEIA – Hereafter referred to as IDEA) (20 USC 1401 et. seq.) as amended, and its implementing regulations 34 CFR 300 and 303. Part B of the IDEA applies to students ages 3 through 21; Part C (early intervention) applies to children ages birth to 3.
- (14) “Section 504 of the Rehabilitation Act of 1973” (Hereafter referred to as Section 504) ensures that individuals with disabilities are provided appropriate accommodations to ensure access to major life activities. To qualify for a 504 Accommodation Plan, a person must:
 - a. Have a physical or mental impairment which substantially limits one or more major life activities. Major life activities include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
 - b. Require accommodations in order to access major life activities.

(15) “Eligible student” means students who have a qualifying disability.

- a. Students who are identified as deaf, blind, or deafblind through either the Special Education eligibility determination or 504 eligibility determination processes qualify to receive services from USDB.
- b. In order to be considered for admissions to USDB or to receive services from USDB a student must be referred by their LEA of residence.
- c. Infants and toddlers birth to 3 years of age, suspected of a vision and/or hearing loss are referred to USDB by the local early intervention program.

(16) “NIMAS” is the National Instructional Materials Accessibility Standard. In the reauthorization of IDEA 2004 states and local education agencies are required to adopt the NIMAS standard in order to ensure that students with print disabilities have access to instructional materials in an appropriate format in a timely manner.

(17) “NIMAC” is the National Instructional Materials Access Center which serves as the national repository of NIMAS files and is the conduit through which NIMAS files are made available to authorized users for conversion into accessible formats such as Braille, large print, audio, and digital.

(18) “USIMAC” is the Utah State Instructional Materials Access Center through which the State of Utah will prepare alternate formats of core curriculum materials for distribution to Utah public schools in compliance of the NIMAS standard. The Utah State Office of Education in partnership with the Educational Resource Center at USDB serves as the state repository for NIMAS files and accessible instructional materials.

Section 2 Utah Schools for the Deaf and the Blind.

(1) The Utah Schools for the Deaf and the Blind (USDB) is one state public school agency comprised of The Utah School for the Deaf and The Utah School for the Blind (which also serves the deafblind population) under the general control and supervision of the Utah State Board of Education consistent with the Board’s constitutional authority.

- a. USDB has perpetual succession, a corporate seal, may sue and be sued, contract and be contracted with, and may take and hold by purchase, gift, devise, or bequest real and personal property required for its uses.
- b. USDB may also convert such property, if not suitable for its use, into other property or into money.
- c. USDB is a public corporation, and its property is exempt from all taxes and assessments.

Section 3 Authority of the Utah State Board of Education.

The Utah State Board of Education is the governing Board of the Utah Schools for the Deaf and the

Blind.

- (1) Under rules adopted by the Board [pursuant to Rulemaking Policy (R277-100)], the Board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind (USDB Superintendent):
 - a. The USDB Superintendent shall hold an administrative/supervisory license, demonstrated success in administration of education programs, and an extensive knowledge of Special Education practice and law.
 - b. The Board may grant a letter of authorization permitting a person with outstanding professional qualifications including management experience and skills consistent with the mission of the Utah Schools for the Deaf and the Blind to be appointed as Superintendent for the Utah Schools for the Deaf and the Blind.
 - c. The Board shall establish the salary for the USDB Superintendent in accordance with the standards adopted by the Utah State Department of Human Resource Management (HRM).
- (2) The Board may dismiss the USDB Superintendent at any time by a two-thirds vote.
- (3) The Board shall appoint members of the Advisory Council for the Utah Schools for the Deaf and the Blind and shall receive and consider the recommendations and advice of the Advisory Council. The Board is not obligated to follow the recommendations of the Advisory Council.
- (4) The Board shall have the authority to approve annual budget and expenditures of the USDB.
- (5) The Board shall establish rules that determine eligibility and residency of students to be served by the USDB.

Section 4 Authority of the USDB Superintendent.

- (1) The USDB Superintendent shall serve as the Chief Executive Officer of USDB.
 - a. The USDB Superintendent shall administer the functions of both The Utah School for the Deaf, and The Utah School for the Blind.
 - b. The USDB Superintendent, subject to approval of the Board, shall appoint the Assistant Superintendent to administer The Utah School for the Deaf. The Assistant Superintendent shall be appointed on the basis of demonstrated competency as an expert educator of the deaf and knowledge of school management and class instruction of deaf persons.
 - c. The USDB Superintendent, subject to approval of the Board, shall appoint the Assistant Superintendent to administer The Utah School for the Blind. The Assistant Superintendent shall be appointed on the basis of demonstrated competency as an expert educator of the blind and knowledge of school management and class instruction of blind persons,

including an understanding of the unique needs and education of deafblind persons.

- d. The USDB Superintendent, subject to approval of the Board, shall appoint a USDB Director of Finance, who shall administer USDB finances in accordance with approved state finance procedures.
- e. The USDB Superintendent may select and dismiss employees of the USDB in accordance with Utah State Department of Human Resource Management Rules, and shall establish:
 - (i) employment standards of USDB employees, including hiring, compensation, due process and termination;
 - (ii) ethical standards of USDB school employees;
 - (iii) standards for adhering to negotiated written agreements with employees
- f. The USDB Superintendent is authorized, in accordance with the Utah State Office of Education, to establish:
 - (i) procedures to ensure that the state core curriculum is provided through appropriate instruction, including necessary adaptations for USDB students;
 - (ii) policies for student conduct and procedures for due process, consistent with federal and state statutes;
 - (iii) policies and procedures for reporting suspected child abuse in accordance with state statute and administrative rules.
- g. The USDB Superintendent shall oversee the maintenance of USDB facilities.
- h. The USDB Superintendent shall establish procedures to ensure effective communication and relationships with Local Education Agencies, other state agencies and the community.

Section 5 Advisory Council for the Schools for the Deaf and the Blind.

- (1) The Board shall appoint an Advisory Council for the Utah Schools for the Deaf and the Blind.
 - a. The Advisory Council shall consist of at least five but no more than 11 voting members.
 - b. Council membership shall include two representatives who are blind, two representatives who are deaf, and one representative who is deafblind or has a knowledge of deafblindness.
 - c. The Board, at its discretion, may appoint other Advisory Council members who have an interest in and a knowledge of the needs and education of students who are deaf, blind, or deafblind.

- d. Advisory Council members shall serve four-year terms and may be appointed to serve a second consecutive term.
 - e. The Board may remove a council member for cause.
 - f. The Board shall establish rules regarding the by-laws of the Advisory Council and the appointment, terms of membership, allowable travel reimbursement, and dismissal of Advisory Council members.
 - g. The Advisory Council shall act in behalf of USDB in performing duties, responsibilities, and functions as authorized and delegated to the Advisory Council by the Board.
- (2) The Advisory Council shall meet at least ten times each year. Each member shall be notified of a scheduled meeting at least two days prior to the meeting.
- (3) The Advisory Council shall elect a chair and vice chair from its membership.
- a. Advisory Council officers shall serve one-year terms.
 - b. The Advisory Council may elect other officers from its membership.
- (4) A majority of the Advisory Council constitutes a quorum for the transaction of business.
- (5) The Board shall assign a staff member from the Utah State Office of Education, and the superintendent of the USDB to act as liaisons between the Board and the Advisory Council.
- (6) The Advisory Council shall advise and make recommendations to the USDB Superintendent and the Assistant Superintendent over the School for the Blind and the Assistant Superintendent over the School for the Deaf regarding staff positions, policy, budget, operations, and other duties as assigned by the Board.
- (7) The Advisory Council shall advise the State Superintendent of Public Instruction and the Utah State Board of Education as to the needs of those who are deaf, blind, or deafblind and of appropriate programs and services to address individual needs consistent with state and federal laws, regulations, and/or rules.
- (8) The Advisory Council shall make recommendations and advise the Board with respect to the continued employment of the USDB Superintendent, staff positions, policy, budget, operations, and other duties as assigned by the Board.
- (9) The Board shall receive and consider the recommendations and advice of the Advisory Council, but the Board is not obligated to follow that advice or adopt the recommendations.

Section 6 Eligibility

- (1) The USDB shall provide education, including services and resources for students who are deaf, blind, or deafblind and are eligible as defined by Board administrative rules.
- (2) Eligible students who are residents of the State of Utah ages birth through 21 may receive services and resources from USDB:
 - a. Students who qualify for Special Education will have services and placement determinations made through the IEP process.
 - b. Appropriate services for students who qualify for accommodations under Section 504 will be determined through the Section 504 team process.
 - c. The USDB shall collaborate with the Utah Department of Health to provide services to eligible children and their families ages birth to 3, as per IDEA Part C eligibility.
- (3) The Board shall establish rules regarding acceptance of non-residents.

Section 7 USDB Entrance Policies and Procedures

- (1) Under the direction of the Board, the USDB Superintendent, in conjunction with the Utah School for the Deaf and the Utah School for the Blind, may establish policies and procedures that IEP and Section 504 teams are to consider in making placement recommendations at USDB.

Section 8 Services provided by USDB.

- (1) USBE will define rules regarding the provision of services by USDB that meet the unique educational needs of eligible students.
 - a. USDB shall provide services through the Utah School for the Deaf that meet the unique educational needs of deaf students.
 - b. USDB shall provide services through the Utah School for the Blind that meet the unique educational needs of blind students.
 - c. USDB shall provide services through the Utah School for the Blind that meet the unique educational needs of deafblind students.
 - i. Deafblindness is an extremely low-incidence disability with unique educational needs. The services provided by USDB include Deafblind Consultants, Communication Intervenors, Family Support Specialists, Orientation and Mobility Specialists, and Assistive Technology Services, based on individual needs and IEP team decisions.
 - ii. The IEP team, including a representative from USDB, determines the appropriate services and placement of the child, including placement options at

USDB.

- iii. If the student qualifies for Communication Intervener services, USDB will provide the Communication Intervener or reimburse the LEA for the cost of those services.
- iv. The LEA will determine whether to have Communication Interveners employed and supervised by USDB or the LEA. If USDB hires the Communication Intervener, USDB will provide supervision for those employees. If the LEA hires the Communication Intervener, the LEA will provide supervision for those employees.
- v. USDB will provide training for Communication Interveners.

Section 9 Fiscal Responsibilities

- (1) Fiscal Year: The school's fiscal year begins on July 1, and ends on June 30.
- (2) Financial Procedures: USDB will follow all accepted financial procedures as established by State Finance under the direction of the Director of Finance and the Superintendent at USDB.
- (3) Annual salary adjustments for school employees – Benefits
 - a. The Board shall adjust the salary schedule applicable to non-administrative licensed staff at the school each school year.
 - b. The board shall make the adjustment equal to a weighted average adjustment for non-administrative licensed staff adopted by the public school districts of the state as determined by the State Office of Education. This average shall be weighted by the number of teachers in each district.
 - c. Educator salary adjustments provided pursuant to Section 53A-17a-153 may not be included in school district salaries for the purpose of calculating the weighted average adjustment for non-administrative licensed staff adopted by school districts.
 - d. The board shall increase this weighted average by 10% in any year in which the Utah Schools for the Deaf and the Blind teachers are not ranked in the top ten in 20 year earnings when compared to the 40 school districts of the state.
 - e. The adjustment shall be computed using adjustments made by the school districts by December 1 of each year.
 - f. The board shall apply the adjustment to the salary schedule effective July 1 of the following year.
 - g. The board shall make salary adjustments for administrative and non-licensed staff at the

school on the basis of adjustments approved for state government employees in similar positions.

- h. Administrative, licensed, and non-licensed staff at the school shall receive the same benefits as those provided to state government employees.
- i. The Board shall make additional salary adjustments for non-administrative licensed staff to include annual step and lane changes.

Section 11 LEA Responsibilities

- (1) USBE will define rules to outline LEA responsibilities and the relationship with USDB in the provision of services to meet the unique educational needs of students who are deaf, blind, or deafblind.

Section 12 USDB Role in USIMAC

- (1) The Utah State Office of Education will collaborate with the Utah Schools for the Deaf and the Blind in implementing the federal regulations that require states and local school districts to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.
- (2) The Board will define rules to establish the USIMAC. The Educational Resource Center at USDB will collaborate with the USIMAC in the provision of accessible instructional materials to eligible students in Utah.
- (3) The USBE will establish administrative rules that outline the relationship between local school districts and USIMAC in the development and distribution of alternate format instructional materials.
- (4) The Utah State Board of Education will request adequate funding to establish and maintain the USIMAC.
- (5) The Utah State Office of Education will coordinate efforts between USDB and local school districts to ensure the timely requests, development, distribution, and funding of alternate format instructional materials for students with print disabilities.

Section 13 State Deafblind Education Specialist

- (1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.
- (2) Except as otherwise provided in Subsection (4), the Board shall designate an individual within the State Office of Education, who holds a deafblind certification or equivalent training and expertise, to:
 - (a) act as a resource coordinator for the Board on public education programs designed for

individuals who are deafblind;

(b) facilitate the design and implementation of training programs to assist school districts and the Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and

(c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts and at the Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual I.E.P. teams.

(3) If the Board determines that current staff within the state office shall serve as the deafblind specialist and no one within the office has the appropriate certification or equivalent training and expertise refer to in Subsection (2), the Board shall authorize and approve the costs associated with qualifying an individual within the office to receive such certification or equivalent training.

(4) The Board may contract with a third party for the services required under Subsection (2).

Other Recommended Revision: Blind Persons' Literacy Rights and Education Act

The USDB Legislative Workgroup has considered 53A-25a-101 through 106 and has determined that the only recommended change be to section 53A-25a-105. This section should be amended to delete reference to ASCII and be replaced with National Instructional Materials Accessibility Standard (NIMAS) language.

(1)As a condition of the annual contract for instructional materials process and as a condition of textbook acceptance, the State Board of Education through the State Office of Education shall require publishers of textbooks for sale after July 30, 2006 that are recommended by the state board to produce them in the National Instructional Materials Accessibility Standard. The NIMAS XML file set will be sent to the National Instructional Materials Access Center.

(2) This NIMAS also refers to other non-literary subjects such as mathematics and science.