

The Civil Rights of Students with Disabilities in Utah



The Utah Advisory Committee to the
U.S. Commission on Civil Rights

April 2026

Advisory Committees to the U.S. Commission on Civil Rights

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Utah Advisory Committee to the U.S. Commission on Civil Rights

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Introduction

In August 2023, the Utah Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to study the civil rights implications of disparate outcomes in K-12 education. They narrowed their scope to focus on students with disabilities. While other important topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion.

As part of this inquiry the Committee heard testimony via videoconferences held from May 2024 to February 2025.¹ The following report results from a review of testimony provided at these meetings, combined with written testimony submitted during the related timeframe. It begins with a brief background of the issues the Committee considered and then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. This report and the recommendations included within it were adopted by the majority by the Committee on Monday, March 30, 2026.²

¹ See Appendix B.

² Committee member statements can be found in Appendix A.

Executive Summary

The Utah Advisory Committee to the U.S. Commission on Civil Rights examined whether K–12 students with disabilities in Utah public schools are receiving an equitable education consistent with federal civil rights protections, including IDEA, Section 504, and the ADA. The Committee reviewed data and testimony from educators, advocates, parents, and policymakers and found that, despite a robust legal framework and recent state initiatives to promote inclusion, gaps in implementation, underfunding, data quality, and staffing continue to produce persistent disparities in access, inclusion, and outcomes for students with disabilities.

Key Findings

The Committee found that students with disabilities in Utah continue to experience substantial disparities in academic outcomes, disciplinary actions, and instructional access compared with their nondisabled peers. Graduation and proficiency rates remain markedly lower, with only 57 percent of students in special education earning a diploma in 2023 and roughly 23 percent dropping out, while suspension, restraint, seclusion, and other exclusionary practices occur at disproportionate levels and reduce instructional time. Incomplete and insufficiently disaggregated data on discipline, placement, and time in general education settings hinder deeper analysis, consistent public oversight, and targeted interventions.

Although Utah has taken steps to strengthen inclusion—most notably through the Utah State Board of Education’s adoption of a statewide definition and Portrait of Meaningful Inclusion (POMI) and the establishment of the Utah Special Education Advisory Panel—implementation challenges persist. Parents play a vital role in securing services and enforcing their children’s educational rights and receive support from entities such as the Utah Parent Center and the Disability Law Center, yet access to formal complaint procedures and legal representation remains uneven, particularly for families without specialized support or advocacy.

New legislation, HB 347 (2024),³ introduced broad requirements for classroom safety intended to ensure safe and minimally disrupted learning environments by addressing predictable threats of serious bodily injury, patterns of behavior that substantially interfere with instruction, and repeated sexual harassment or assault. While the law preserves IDEA’s least restrictive environment language, testimony raised significant concern that its vague and expansive provisions could justify exclusionary practices and removal from general education in ways that conflict with IDEA and Section 504 protections;⁴ related mandates are largely unfunded, and additional clarification through rulemaking and potential litigation is anticipated.

³ W. Va. H.B. 4776, 2024 Reg. Sess. (W. Va. 2024); W. Va. S.B. 199, 2025 Reg. Sess. (W. Va. 2025).

⁴ Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (2018); Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (2018).

Persistent shortages of special education teachers and paraeducators, compounded by chronic underfunding of IDEA and reliance on state and local resources that have not kept pace with need, continue to undermine equal educational access. LEAs report that available funding covers well under the resources required to serve students with disabilities adequately, while low wages, part-time status, high turnover, and the reassignment of paraeducators to fill general vacancies restrict individualized support, intensify burnout, and increase reliance on exclusionary discipline rather than evidence-based, individualized intervention.

The Committee concluded that these conditions create an ongoing tension between classroom safety and the civil rights of students with disabilities. Current policies and funding levels force educators to balance competing priorities of safety, inclusion, and resource constraints—a dynamic that risks more restrictive placements, increased exclusion from general education, and unintended erosion of students’ federally protected right to a free appropriate public education in the least restrictive environment.

Recommendations

To ensure compliance with civil rights law and promote educational equity for students with disabilities in Utah public schools, the Committee recommends that:

- Congress and the U.S. Department of Education increase IDEA appropriations toward the level authorized by Congress, assess the civil rights impact of special education workforce shortages and discipline disparities, and monitor Utah’s implementation of HB 347 for potential disparate impact and compliance with IDEA, Section 504, and other federal disability protections.
- The Utah Legislature and Governor codify the state’s definition of “meaningful inclusion” and the Portrait of Meaningful Inclusion (POMI), clarify in statute that HB 347 cannot be used to circumvent or dilute IDEA and Section 504 protections, provide dedicated funding for inclusion implementation, data collection, and parent support, and address persistent special education funding gaps that impede delivery of a free appropriate public education.
- The Utah State Board of Education and local education agencies establish a transparent, disaggregated statewide reporting system on outcomes, discipline, placement, and time in general education by disability category; strengthen data-driven oversight; mandate and expand training for educators and administrators on disability rights and non-exclusionary, evidence-based practices; enhance recruitment and retention of special education personnel; and create an ombudsman role and clearer complaint pathways so parents and students can effectively understand and safeguard their educational rights.

Through these actions, the Committee urges federal and state authorities to reconcile the dual priorities of classroom safety and inclusion with the constitutional and statutory guarantee that

students with disabilities receive a free and appropriate public education in the least restrictive environment.

Michelle Suzuki

Member of the Utah Advisory Committee to the U.S. Commission on Civil Rights

Background

Students with disabilities in Utah public schools are served through a combination of federal mandates, state laws, and local education agency (LEA) policies.

Federal Legal Framework

Three primary federal laws govern the education of students with disabilities:

Individuals with Disabilities Education Act (IDEA): Originally enacted in 1975, IDEA requires public schools to provide “free appropriate public education” to students with eligible disabilities. Education must be provided in the “least restrictive environment”, meaning students should be placed with their non-disabled peers to the maximum extent appropriate. Each student covered under IDEA must have an Individualized Education Program (IEP). The U.S. Department of Education's Office of Special Education Programs (OSEP) oversees compliance.⁵

Section 504 of the Rehabilitation Act of 1973: Section 504 prohibits discrimination based on disability in any program receiving federal financial assistance, including public schools. It covers students who may not qualify for IDEA but still require accommodation. These students receive a 504 Plan outlining necessary support.⁶

Americans with Disabilities Act (ADA): Title II of the ADA applies to public entities, including schools, and prohibits disability-based discrimination in all services, programs, and activities. Unlike IDEA, it is not limited to educational programming.⁷

State and Local Governance

In Utah, the Utah State Board of Education (USBE) implements federal and state special education policies. Local Education Agencies (LEAs), including school districts and charter schools, are responsible for direct service delivery. The Utah Code outlines LEA obligations for providing a full continuum of special education services.⁸ Administrative rules provide additional implementation details.⁹

Special education services in Utah are funded through a combination of federal IDEA grants and state appropriations.¹⁰ While IDEA authorizes federal funding up to 40% of the average per-pupil

⁵ Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (2018).

⁶ Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (2018).

⁷ Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq. (2018).

⁸ Utah Code Ann. §53E-7-207

⁹ Utah Admin Code R277-750; R277-609

¹⁰ National Council on Disability. “Broken Promises: The Underfunding of IDEA.” February 7, 2018. <https://www.ncd.gov/assets/uploads/docs/ncd-brokenpromises-508.pdf>.

expenditure, actual federal contributions tend to be significantly lower.¹¹ LEAs are often required to cover the remaining costs, which can influence the level of services available.¹²

Utah’s HB347

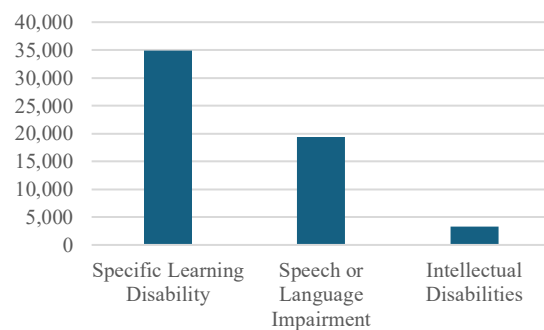
In 2024, the Utah Legislature passed HB 347, which requires LEAs to ensure educational environments are free from predictable threats of serious bodily injury, patterns of behavior that substantially disrupt instruction, and repeated instances of sexual harassment or assault. These provisions took effect in July 2025.

To align with the bill, the USBE updated Rule R277-609, effective April 2025, which outlines how discipline policies must be structured to comply with both state mandates and federal requirements such as IDEA and Section 504. The rule includes guidance on positive behavior interventions, emergency safety interventions, due process protection, and procedures for students who may pose safety risks.¹³

Students with Disabilities in Utah

Approximately 87,000 students in Utah public schools were identified as having disabilities as of fall 2023, representing about 12.9 % of the total enrollment.¹⁴ That represented a significant rise from 12.3 % in 2022, an increase of nearly 3,800 students.¹⁵ According to federal IDEA data for Utah in the 2021–22 school year, the most common disability categories were specific learning disabilities, speech or language impairments, and intellectual disabilities (See Fig. 1).¹⁶ IDEA defines a student as eligible if they fall into one of thirteen recognized categories, which include autism, emotional disturbance, other health impairments (e.g., ADHD), and multiple disabilities.¹⁷

Fig 1: Students with Disabilities in Utah by Diagnostic Category



Utah enacted a landmark special education law in 1969, requiring public schools to serve all children over age five regardless of the severity of their disability, marking a significant

¹¹ Ibid.

¹² Ibid.

¹³ Utah Admin Code R277-609

¹⁴ “Utah public school enrollment declines for the first time.” *Utah Policy*. November 23, 2023.

<https://utahpolicy.com/news-release/68974-utah-public-school-enrollment-declines-for-the-first-time>

¹⁵ Ibid.

¹⁶ Center for Research on Disability, Section 13: Education – Compendium (2024).

<https://www.researchondisability.org/annual-disability-statistics-collection/archive-annual-disability-statistics-collection/2024-compendium-table-contents/section-13-education-compendium-2024>.

¹⁷ Individuals with Disabilities Education Act, 20 U.S.C. § 1401(3)(A) (2018).

expansion of access.¹⁸ Prior to this, many children with disabilities were excluded entirely; coverage only became federally mandated with IDEA in 1975.¹⁹ In 2005, Utah passed a special education voucher bill allowing families to use state-funded scholarships to enroll children with disabilities in private schools, a move widely debated over public accountability and IDEA protections.²⁰ More recently, 2022's SB 0134 reaffirmed the requirement that LEAs provide special education in the least restrictive environment, even if the classroom includes only students with disabilities.²¹

State and federal regulations strictly limit the use of restraint and suspension in K–12 education, with additional protections for students with disabilities. In Utah, physical restraint and seclusion may be used only when a student poses an immediate danger to themselves or others, and for no longer than necessary, while being explicitly prohibited as punishment or discipline.²² Utah's broader disciplinary code requires LEA policies to align with federal rules, mandating positive behavior interventions and due-process protections for all students.²³ Federally, IDEA limits disciplinary removals of students with disabilities to 10 school days per incident or cumulative, after which schools must provide services and convene a manifestation determination review unless the removal is for weapons, drugs, or serious bodily injury.²⁴

Utah Education Spending & Teacher Shortages

Utah's overall public education funding has risen sharply in recent years, with the state's K–12 budget nearly doubling from \$3.8 billion in 2014 to approximately \$7.7 billion in FY 2024, despite remaining among the lowest per-student in the nation.²⁵ Legislators approved a 5% increase to the Weighted Pupil Unit (WPU) in 2024, adding \$211.7 million, and followed with a 4% hike in 2025 to address inflation and enrollment growth.²⁶ Multiple bills passed in 2023–2024 significantly boosted funding for educators: H.B. 215 and S.B. 183 provided nearly \$197 million in salary increases, pushing the average teacher salary to about \$67,600 in FY 2024.²⁷ Utah's FY 2026 budget includes approximately \$600 million in federal funds, or

¹⁸ Utah State University. 1969: Utah Law Requires Education for All Children. <https://idrpp.usu.edu/about/history-articles/utah-disability-history-special-education>.

¹⁹ Ibid.

²⁰ Utah Code Ann. § 53F-4-302 (2024); Michelle R. Davis. "Utah Passes Special Education Voucher Bill." *Education Week*. March 17, 2004. <https://www.edweek.org/teaching-learning/utah-passes-special-education-voucher-bill/2004/03>.

²¹ S.B. 134, 2022 Gen. Sess. (Utah 2022); Utah Code Ann. § 53E-7-209 (Supp. 2022).

²² Utah Admin Code R277-608-5

²³ Utah Admin Code R277-609

²⁴ 34 C.F.R. §§ 300.530 (a)-(g)

²⁵ Carmen Nesbitt. "Utah Has No Plans to Change Lowest-in Nation Education Spending, Officials Say." *The Salt Lake Tribune*. January 8, 2024. <https://www.sltrib.com/news/education/2024/01/08/utah-not-race-outspend-other/>.

²⁶ Martha Harris. "What's in Utah's Record \$29B Budget for Education?" *KUER*. March 5, 2024. <https://www.kuer.org/education/2024-03-05/whats-in-utahs-record-29b-budget-for-education>.

²⁷ "The Scoop on Salaries: Recent Legislative Investments in Teacher Pay." Utah State Legislature. July 12, 2024. <https://budget.utah.gov/the-scoop-on-salaries/>.

about 7% of total education spending, with a portion allocated to special education through IDEA grants.²⁸

Utah continues to face a growing teacher staffing challenge, ranking 38th among U.S. states for teacher vacancies, with approximately 1 vacancy per 10,000 students in 2025.²⁹ Special education positions are especially difficult to fill; for example, Salt Lake City School District reported 40 unfilled special education assistant roles, and Granite and Canyons districts similarly cite widespread paraeducator shortages.³⁰ Turnover remains high, particularly among new teachers, with roughly 45-50 % leaving the profession within their first five years.³¹

In response, the Utah State Board of Education launched the Utah Registered Apprenticeship Program for Teachers (U-RAPT) in late 2024, offering competency-based pathways into teaching, including special education, without requiring a bachelor's degree.³² Additional legislative efforts in 2024 introduced targeted retention and recruitment measures, such as salary supplements, mentorship programs, training pilots for managing classroom behavior, and support for student-teacher pipelines.³³ School districts have also boosted paraprofessional wages, such as offering part-time staff full-time hours, health benefits, and hourly pay increases, to attract and retain essential support staff.³⁴

²⁸ “Utah’s FY2026 budget includes \$600 million in federal funds for public education.” Kem C. Gardner Policy Institute at the University of Utah. April 28, 2025. <https://gardner.utah.edu/news/utahs-fy2026-budget-includes-600-million-in-federal-funds-for-public-education/>.

²⁹ Beehive State News. “Utah Ranks 38th Among 38 U.S. States for Teacher Shortages.” April 10, 2025. <https://beehivestatenews.com/stories/670824457-utah-ranks-38th-among-38-u-s-states-for-teacher-shortages>.

³⁰ Connor Sanders. “Salt Lake Valley Schools Still Need Hundreds of Paraeducators — Which is Driving Up the Traditionally Low Pay.” *Salt Lake Tribune*. September 30, 2022. <https://www.sltrib.com/news/education/2022/09/30/salt-lake-valley-schools-still/>.

³¹ Amanda Dickinson. “Is There Still a Teacher Shortage in Utah?” KSL News Radio. August 8, 2023. <https://kslnnewsradio.com/education-schools/is-there-still-a-teacher-shortage-in-utah/2025983/>.

³² “USBE Launches Program to Address Shortage of Teachers.” Utah Policy, December 10, 2024. <https://utahpolicy.com/news-release/72861-usbe-launches-program-to-address-shortage-of-teachers>.

³³ “Lawmakers Propose Policies to Improve Teacher Retention and Recruitment.” Utah Senate. January 31, 2024. <https://senate.utah.gov/lawmakers-propose-policies-to-improve-teacher-retention-and-recruitment/>.

³⁴ Connor Sanders. “Salt Lake Valley Schools Still Need Hundreds of Paraeducators — Which is Driving Up the Traditionally Low Pay.” *Salt Lake Tribune*. September 30, 2022. <https://www.sltrib.com/news/education/2022/09/30/salt-lake-valley-schools-still/>.

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; e.g., researchers and experts who have rigorously studied and reported on the topic, community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic, and government officials tasked with related policy decisions and the administration of those policies.

Advisory Committee members utilize their expertise in selecting panelists who are the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue. This method requires Committee members to draw from their own experiences, knowledge, opinions, and views to understand the issue and possible policy solutions.

Committees are composed of volunteer professionals and advocates who are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, races, ages, and gender identities, as well as a variety of backgrounds, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in the oversight of nuances in the testimony.

For the purposes of this study, ***Findings*** are based on witness testimony and data suggested, revealed, or indicated to the Committee. Findings refer to a synthesis of observations confirmed by a majority vote of members, rather than conclusions drawn by any one member.

Recommendations are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific areas in need of further, more rigorous study.

Recommendations are directed to the Commission; they request that the Commission itself take specific action, or that the Commission forward recommendations to other federal or state agencies, policymakers, or stakeholders.

Findings

The section below communicates the observations and conclusions of the Committee based on the testimony received during its investigation. While the Committee has not independently verified each assertion and Committee members are not experts on the topic at hand, a diverse and balanced selection of panelists was chosen to testify due to their professional experience, academic credentials, subject matter expertise, and/or firsthand experience with the topics.

In keeping with their duty to inform the Commission of: (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,³⁵ the Utah Advisory Committee submits the following findings to the Commission.

Finding I: Students with disabilities in Utah face persistent disparities in academic achievement, discipline, and classroom time. Data limitations may make it difficult to fully assess the extent and causes of these gaps.

There are consistent gaps in academic achievement between students with disabilities and students who do not receive special education services. Utah graduation rates for students with disabilities are consistently lower than students without disabilities. In 2023, only 57% of students in special education graduated with a diploma, nearly 15 percentage points lower than students without disabilities.³⁶ Around 23% of students with disabilities dropped out before graduation.³⁷ Students are also performing in end-of-year exams with a much lower proficiency, and these indicators appear to be getting worse in the last few years.³⁸

Learning opportunities are also more limited due to higher rates of discipline, bullying, and restricted access to general education classrooms.³⁹ Last year in Utah schools, the protected class most impacted by bullying was students with disabilities.⁴⁰ Students with disabilities also have a higher rate of days lost in the classroom due to suspension when compared to students without disabilities.⁴¹ Additionally, the practice of using force and restraint to address behavioral issues is disproportionately utilized for student with disabilities.⁴² In the 2020-2021 school year 300

³⁵ 45 C.F.R. § 703.2 (2018).

³⁶ Nate Crippes testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, September 26, 2024. Transcript, p. 16 (hereafter Transcript III).

³⁷ Crippes Testimony, *Transcript III*, p. 16.

³⁸ Lindsey Cunningham testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, September 26, 2024. Transcript, pp. 9-10 (hereafter Transcript III); Aaron Brough, testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, May 9, 2024. Transcript, pp. 6 (hereafter Transcript II).

³⁹ Crippes Testimony, *Transcript III*, p. 14.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*, p. 16.

⁴² *Ibid.*, p. 14.

students with disabilities were restrained.⁴³ In that same year, Utah was above the national average for time students with disabilities spent in a regular education classroom.⁴⁴

Some of the trends and disparities impacting students with disabilities could be better understood with improvements to data collection, including disaggregating data by disability category. Data collection in the state is sometimes insufficient or lacks transparency, especially when it comes to understanding discipline, suspensions, and overall class time.⁴⁵

Finding II: Students with disabilities have clearly outlined federally protected rights, including access to a public education in the least restrictive environment. Utah has made efforts in recent years to improve students’ access to the classroom.

There are three federal laws that together define the rights of students with disabilities. The Americans with Disabilities Act (ADA) extends anti-discrimination protections to all public and private schools, ensuring equal access and reasonable accommodations.⁴⁶ Section 504 of the Rehabilitation Act prohibits disability-based discrimination in any school or program receiving federal funds and provides accommodations through a 504 Plan for students whose disabilities affect major life activities.⁴⁷ These accommodations can include things like preferential seating, notetakers, assignment changes, more time on tests, and/or behavior supports.⁴⁸ Lastly, the Individuals with Disabilities Education Act (IDEA) ensures students with qualifying disabilities receive a free appropriate public education. An “appropriate education” is determined through an Individualized Education Program (IEP) and through the process of creating the plan the school administrators, teachers, and parents determine the least restrictive environment for the student.⁴⁹

While IDEA ensures a student with disabilities’ right to meaningful inclusion, what that inclusion looks like is not clearly defined.⁵⁰ Efforts have been made by the Utah State Board of Education to improve the inclusion of students with disabilities in schools. They established the Utah

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Esperanza Reyes testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, October 29, 2024. Transcript, p. 6 (hereafter Transcript IV); Cunningham Testimony, *Transcript III*, pp. 9-10; Andrew Riggle testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, September 26, 2024. Transcript, p. 25 (hereafter Transcript III).

⁴⁶ Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq. (2018); Riggle Testimony, *Transcript III*, p. 13.

⁴⁷ Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (2018); Riggle Testimony, *Transcript III*, p. 14.

⁴⁸ Ibid.

⁴⁹ Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (2018); Cunningham Testimony, *Transcript III*, pp. 7-8; Reyes Testimony, *Transcript IV*, p. 5; Riggle Testimony, *Transcript III*, p. 14; Shelley Halverson testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, February 18, 2025. Transcript, pp. 10 (hereafter Transcript V).

⁵⁰ Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (2018); Cunningham Testimony, *Transcript III*, p. 3.

Special Education Advisory panel, a panel consisting of parents and educators, and tasked them with crafting a definition of meaningful inclusion and developing best practices for schools to implement the definition. They defined meaningful inclusion as:

“Inclusion and acceptance of students with disabilities is ensuring each student is valued as a visible member of the school community with equal opportunities to contribute by creating conditions for active, meaningful participation with:

- a) Interaction and engagement with age-appropriate peers;*
- b) Systems that promote high expectations and learner agency for each student;*
- c) Grade/age-appropriate core content standards, curricular materials, and resources; and*
- d) Availability of customized supports including Individualized Education Program (IEP) team determined services across all educational settings, including extra-curricular activities, to the maximum extent appropriate in the least restrictive environment.”⁵¹*

The advisory panel also developed the Portrait of Meaningful Inclusion (POMI) to further define each of the elements of the definition and developed a measurement tool for schools and parents to determine how well they are meeting this definition.⁵²

Finding III: Parents play a central role in securing educational rights for students with disabilities in Utah, though access to formal enforcement remains sporadic for families pursuing official complaints.

Parent advocacy remains key to having a student’s rights fully realized. Parents are a significant element of the IEP process and frequently must be advocates for their children to get the services they need.⁵³ The Utah State Board of Education recognizes how crucial parent involvement is and invests in and funds programs that educate and support parents, such as the Utah Parent Center.⁵⁴ The Utah Parent Center hosts trainings across the state, facilitates relationships between parents and their schools, helps parents through the IEP process, and offers guidance on filing formal complaints.⁵⁵ One of the key elements the Utah Parent Center provides is peer-to-peer mentoring where they employ parents of students with disabilities who have navigated the

⁵¹ Utah State Board of Education Special Education Rules I.E.28.

⁵² Cunningham Testimony, *Transcript III*, p. 4.

⁵³ Reyes Testimony, *Transcript IV*, p. 4; Cunningham Testimony, *Transcript III*, p. 6.

⁵⁴ Utah State Board of Education Website. “School Improvement with Parent and Family Engagement.” Found at: <https://schools.utah.gov/eseastateinitiatives/schoolsupportimprovement/schoolimprovementfamilyengagement/index.php?utm>.

⁵⁵ Joey Hanna testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, October 29, 2024. Transcript, p. 9 (hereafter Transcript IV); Reyes Testimony, *Transcript IV*, p. 4.

process before, to mentor parents who are new to the process.⁵⁶ This model is federally recommended, and they are one of the most successful parent centers in the country.⁵⁷

Many issues can be resolved with the schools and LEAs, especially with the help of veteran parent advocates.⁵⁸ But when parents feel the IEP process is not working or their students' rights are being violated in another way, there are several options to file complaints including, the Utah State Board of Education, the U.S. Department of Education's Office of Civil Rights, the U.S. Department of Education's Office of Special Education and Rehabilitation Services, or the U.S. Department of Justice.⁵⁹ The state complaint process has been understood to be the easiest and fastest way to a resolution in the state and can generally be navigated without an attorney.⁶⁰

There are a limited number of attorneys in the state who are available to work on complaints that require more litigation.⁶¹ For example the Disability Law Center of Utah represents parents and students who feel like their rights have been violated, and they also provide other guidance and connections to resources where they can.⁶² They received 182 requests for assistance involving K-12 education in the 2023-2024 school year.⁶³ The most common issues include concerns over IEP development and implementation and on behalf of students with developmental disabilities.⁶⁴

Finding IV: A new state Educational Rights Amendment introduces additional requirements for classroom safety but may infringe on federal protections for students with disabilities.

With the passage of HB 347, schools must ensure classroom environments are safe and minimally disrupted for all students and staff. Specifically, it mandates that education settings must not pose a predictable threat of serious bodily injury, must be free from repeated verbal or physical sexual harassment or assault, and must not be disrupted by patterns of behavior that substantially interfere with instruction.⁶⁵ While the bill explicitly preserves the language of IDEA regarding the least restrictive environment, it adds new safety and disruption conditions that

⁵⁶ Reyes Testimony, *Transcript IV*, p. 7.

⁵⁷ Hanna Testimony, *Transcript IV*, p. 10.

⁵⁸ Reyes Testimony, *Transcript IV*, p. 12.

⁵⁹ Riggle Testimony, *Transcript III*, p. 13.

⁶⁰ Crippes Testimony, *Transcript III*, pp. 17-18.

⁶¹ *Ibid.*

⁶² Riggle Testimony, *Transcript III*, p. 13.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ Jay Blain testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, February 18, 2025. Transcript, p. 7 (hereafter Transcript V); Crippes Testimony, *Transcript III*, p. 14.

could be used to justify removing students with disabilities from general education settings if their behavior is seen as dangerous or disruptive.⁶⁶

Many panelists expressed concerns that this new law would infringe upon the rights of students with disabilities.⁶⁷ They were concerned this change could create a precedent for students being removed from general education classroom settings.⁶⁸

Panelists also mentioned that much of the language in the law was vague and would lead to broad interpretation when put into practice.⁶⁹ The state of Utah attempted to address some of the vagueness of the bill through the development of new administrative rules to incorporate HB 347's new standards and ensure that schools have consistent, fair, and legally compliant discipline policies.⁷⁰ But the mandates in these rules remain unfunded and there is continued skepticism of how they will be implemented.⁷¹ Litigation of the law and further clarity through the courts is expected.⁷²

Finding V: Funding gaps and staff shortages are hindering implementation of civil rights protections for students with disabilities.

Schools and resources are chronically underfunded for the implementation of IDEA and other supports and resources for students with disabilities. Utah educators report that less than 40% of the needed funding is delivered.⁷³ In the implementation of IDEA, choices are frequently made based on which resources are available or not available rather than on the needs of the student.⁷⁴ While Utah legislators increased the overall education budget for the 2025-2026 school year, they did not designate any additional funds for special education.⁷⁵

The funding shortfalls also contribute to shortages of qualified personnel, especially special education teachers and paraeducators. The limited number of paraeducators means that frequently one person is supervising three students that should have one-on-one support.⁷⁶

⁶⁶ Halverson Testimony, *Transcript V*, p. 9; Crippes Testimony, *Transcript III*, p. 21.

⁶⁷ Crippes Testimony, *Transcript III*, p. 16; Hanna Testimony, *Transcript IV*, p. 6.

⁶⁸ Shamby Polychronis testimony, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, February 18, 2025. Transcript, p. 5 (hereafter *Transcript V*); Hanna Testimony, *Transcript IV*, p.6; Beth Martial testimony, Public Comment, *Briefing before the Utah Advisory Committee to the U.S. Commission on Civil Rights*, remote panel vi ZoomGov, October 29, 2024. Transcript, pp. 21-22 (hereafter *Transcript IV*).

⁶⁹ Halverson Testimony, *Transcript V*, p. 9; Crippes Testimony, *Transcript III*, p. 16.

⁷⁰ Blain Testimony, *Transcript V*, p. 17.

⁷¹ Crippes Testimony, *Transcript III*, p. 21.

⁷² Riggle Testimony, *Transcript III*, p. 21; Crippes Testimony, *Transcript III*, p. 21; Hanna Testimony, *Transcript IV*, p. 17.

⁷³ Polychronis Testimony, *Transcript V*, p. 5.

⁷⁴ *Ibid.*

⁷⁵ *Budget of the State of Utah and Related Appropriations: Fiscal Years 2025 and 2026*, Utah State Legislature (May 2025), available at <https://le.utah.gov/interim/2025/pdf/00002275.pdf>.

⁷⁶ Polychronis Testimony, *Transcript V*, p. 6.

Paraeducators may be paid less than fast food workers in the state and are frequently kept to part time status to save costs on benefits.⁷⁷ It is also a common practice to call on paraeducators to address overall teacher shortages. When an appropriate substitute teacher cannot be found, it is not uncommon to divert paraeducators to the general education classroom to fill in.⁷⁸

Also, the implementation of evidence-based practices may be hampered by budget cuts and a lack of professional training opportunities. There have been promising new programs and technologies that have not been fully implemented in Utah because of budget limitations.⁷⁹

Finding VI: Current policies and funding levels create tension between ensuring classroom safety and upholding the rights of students with disabilities.

Schools and teachers are committed to providing a safe and supportive learning environment for all students.⁸⁰ Panelists agreed that students with disabilities are entitled to an inclusive and adequate education and that educators care deeply about every child in their classroom.⁸¹ Many see the goals outlined in HB 347, such as a classroom free from serious disruption and predictable threats of harm, as universally desirable.⁸²

At the same time, rising rates of disruptive behaviors, especially among younger students, have placed educators under significant stress.⁸³ Some argue that current approaches have shifted too far in favor of student rights at the expense of classroom safety, and that teachers lack the tools and support to manage escalating behaviors without removing students.⁸⁴

Others caution against placing the burden of good behavior entirely on students, many of whom are experiencing trauma, disability, or unmet needs.⁸⁵ Removing students fails to address root causes and may violate their right to be in the least restrictive learning environment.⁸⁶ This can result in more exclusionary placements that are harder to reverse.⁸⁷

⁷⁷ Halverson Testimony, *Transcript V*, p. 10; Blain Testimony, *Transcript V*, p. 8.

⁷⁸ Blain Testimony, *Transcript V*, p. 7.

⁷⁹ Crippes Testimony, *Transcript III*, pp. 19-20; Polychronis Testimony, *Transcript V*, p. 5.

⁸⁰ Hanna Testimony, *Transcript IV*, p. 17; Blain Testimony, *Transcript V*, p. 19.

⁸¹ Blain Testimony, *Transcript V*, p. 7; Hanna Testimony, *Transcript IV*, p. 17; Halverson Testimony, *Transcript V*, p. 15; Reyes Testimony, *Transcript IV*, p. 6.

⁸² Blain Testimony, *Transcript V*, p. 7; Halverson Testimony, *Transcript V*, p. 9.

⁸³ Halverson Testimony, *Transcript V*, p. 9; Blain Testimony, *Transcript V*, p. 7.

⁸⁴ Crippes Testimony, *Transcript III*, p. 14; Blain Testimony, *Transcript V*, p. 8.

⁸⁵ Halverson Testimony, *Transcript V*, p. 11.

⁸⁶ Reyes Testimony, *Transcript IV*, p. 16; Polychronis Testimony, *Transcript V*, p. 16.

⁸⁷ Halverson Testimony, *Transcript V*, p. 11.

Teachers, meanwhile, are being asked to meet increasingly complex needs with limited training, staffing, and systemic support.⁸⁸ This tension leaves educators forced to make decisions that may compromise students' rights.⁸⁹

While there is broad agreement on the importance of safety, inclusion, and quality instruction, current policy and funding levels often put those goals in conflict. Without adequate resources and support, many fear the system risks excluding students and violating their civil rights rather than investing in lasting and inclusive solutions.

⁸⁸ Blain Testimony, *Transcript V*, p. 8; Polychronis Testimony, *Transcript V*, p. 14.

⁸⁹ Blain Testimony, *Transcript V*, p. 7.

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.⁹⁰ In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

The U.S. Commission on Civil Rights should issue the following recommendations to the U.S. Congress Legislature and the Department of Education:

1. Increase appropriations for IDEA implementation so states have adequate resources and support to better ensure safety, inclusion, and quality instruction for students with disabilities.
2. Assess whether staffing shortages among special education teachers and paraprofessionals are contributing to civil rights concerns, including reduced access to services, increased reliance on exclusionary discipline, or failure to implement IEPs.
3. Evaluate whether disparities in discipline, restraint, seclusion, and lost instructional time for students with disabilities raise potential civil rights compliance concerns, particularly regarding disproportionate use of suspension, restraint, and exclusionary practices.
4. Monitor the implementation of Utah's HB 347 and related administrative rules to assess whether these policies comply with federal law or have a disparate impact on students with disabilities or result in increased exclusion from educational settings.

The U.S. Commission on Civil Rights should issue the following recommendations to the Utah Legislature and Governor:

1. Codify or formally adopt the state's definition of "meaningful inclusion" and the Portrait of Meaningful Inclusion (POMI) as the baseline standard for Utah LEAs.
2. Formally clarify that HB 347's safety provisions cannot be used to circumvent IDEA and Section 504 protections, and that any change in placement for safety reasons must follow existing evaluation, IEP, manifestation determination, and due process requirements. Address vague or overly broad language that risks expansive or inconsistent interpretation when implemented.

⁹⁰ 45 C.F.R. § 703.2 (2018).

3. Allocate funding to adequately administer the requirements of HB 347. Funding should also include data collection on:
 - a. How the program is working, how it is helping maintain a positive learning environment for all students and the impact on students removed from the classroom to preserve safety and security of other students.
 - b. Number of incidents by school
 - c. Type or manner of removal
 - d. Disaggregate by disability type
4. Increase stable funding for evidence-based peer mentoring, training, and advocacy models so that parent support is available statewide, including rural and non-English-speaking families.
5. Address state-level funding shortfalls that contribute to inappropriate placements, reduced access to services, or reliance on exclusionary discipline.
6. Incentivize recruitment, retention, and training of special education teachers and para-educators through pay, benefits, and workforce investments requiring legislative appropriation.
7. Improve data collection around the following areas:
 - a. Rate of discipline for students with disabilities versus students not identified as having disabilities disaggregated by disability type.
 - b. Types and frequency of discipline disaggregated by both discipline type and disability type.
 - c. Achievement gaps disaggregated by both disability type and subject matter.
 - d. Any innovative solutions that have helped close achievement gaps for students with disabilities.
8. Create an ombudsman position that parents can access for more immediate help outside of the complaint process. Parents should be given information on the ombudsman program at the outset of developing a learning plan and annually during each IEP meeting. The ombudsman could be part of the State Office of Education or housed in another agency.

The U.S. Commission on Civil Rights should issue the following recommendations to the Utah State Board of Education:

1. Build a transparent special education data system that disaggregates academic outcomes, discipline (including suspensions and expulsions), restraint and seclusion, placement, and time spent in general education settings by disability category, race, ethnicity, gender, and LEA, and require annual public reporting.
2. Require LEAs to track and report loss of instructional time for students with disabilities, including suspensions, removals, shortened days, informal exclusions, and other exclusionary practices.

3. Require LEAs to review placement decisions, restraint and seclusion practices, and patterns of removal against IDEA's least restrictive environment standard, with corrective action where students are routinely removed instead of supported.
4. Monitor whether placements for students with disabilities are driven by individualized needs rather than staffing shortages, funding constraints, or disciplinary concerns.
5. Develop and implement a statewide plan to educate parents and families about mechanisms for monitoring and reporting noncompliance with IDEA, Section 504, and ADA obligations.
6. Publish clear, plain-language guidance on complaint processes and dispute-resolution options available to families.
7. Provide mandatory training for administrators and teachers on disability rights, behavior interventions, and evidence-based, non-exclusionary practices.
8. Monitor LEA implementation of HB 347 for disproportionate removal of students with disabilities from general education classrooms.
9. Ensure every student on an IEP, 504 or similar plan are given instructions on steps that can be taken to file a complaint if the learning plan is not being followed or needs to be modified.
10. Audit special education staffing and whether or not current staffing is meeting current needs, including the implementation of HB347.
11. Develop strategies for recruiting special education teachers and aides.
12. Provide ongoing professional learning for teachers, aides and school staff on innovative strategies that help improve learning for students with disabilities and best practices for how to appropriately handle behavior that creates classroom disruption or poses a risk to students or staff.

Appendices

- A. Committee Member Statements
- B. Panel Agendas, Minutes, and Presentation Slides
- C. Hearing Transcripts
- D. Written Testimony

Appendix A

The Utah Advisory Committee to the U.S. Commission on Civil Rights The Civil Rights of Students with Disabilities in Utah

Dissenting Statement Jacob Minas

The inclusion of students with behavioral disabilities in K-12 schools is an important policy objective. Unfortunately, this report fails in furthering this objective because it treats student inclusion as the only objective without considering other important objectives, mainly maintaining classroom safety and order. For this reason, I dissent.

Below are premises of my dissent:

1. I am only addressing issues regarding students with behavioral disabilities. Although the title of the report relates to students with disabilities in general, the report and the record only address behavioral disabilities, not anything related to physical disabilities.
2. I don't claim any expertise in disability law in general or as applied to educational settings. I only understand that the general principle of disability law is "reasonable accommodation."⁹¹ To me that means accommodations must be practical and subject to other considerations.
3. The Advisory Committees are charged with maintaining balance. "When deciding on panelists, advisory committees should have meaningful discussions about the categories of panelists with the intent of receiving balanced testimony."⁹² Also, "[t]he intentional diversity of each committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony."⁹³
4. The failure to meet this balance objective in the report is nobody's fault. All committee members were open to testimony from any source. We just couldn't get availability. In particular, we could not get the legislative sponsors of Utah HB 347 to testify because testimony was during the legislative session.

Throughout testimony, I almost exclusively asked one question: how do we balance the objective on classroom inclusion of disabled students against the objective of safe and orderly classroom teaching for the rest of the students.

⁹¹ See, e.g. Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA, Equal Opportunity Employment, October 17, 2002.

⁹² U.S. Commission on Civil Rights Advisory Committee Handbook, 2024, p.13.

⁹³ Ibid, p.14.

Here are some responses.

Esperanza Reyes, Associate Director, Utah Parent Center:

And I think hearing about people not necessarily knowing enough strategies on how to support on a day-to-day basis is disheartening because that is what it's going to take. It's going to take people understanding how to support and how to analyze and how to ensure that if somebody has sensory needs and that's why they're making a lot of noise or reacting a certain way that those sensory needs are met so that they can engage and enjoy the same environment that other peers are engaging in. Unfortunately, one of the fears is that very quickly individuals will make the determination that, "We're just not going to deal with this, and so we're not going to look into it further and try to prevent and support and exhaust possibilities for enabling the student to participate."⁹⁴

Joey Hanna, Executive Director, Utah Parent Center:

And so specifically with H.B. 347, we're worried that if there's three kids in the class whose parents are saying, "My daughter or my son, my kid can't deal with this." Instead of teaching tolerance and helping students embrace other people, we're afraid that that's what we mean by the pendulum swinging. Those are the sort of the instances. In terms of really disruptive behavior or there's behavior support plans and there's behavior intervention plans. There's whole process outlined in, well, Esperanza can talk about where specifically they come from, but those systems are in place and we think they're sufficient, I would say.⁹⁵

These responses don't even concede the premise of the question, i.e. that classroom safety and order is a legitimate objective which needs to balance against inclusion. Hanna's response in particular implies classroom removal is never warranted, where it always falls on other students to be more tolerant and disruptive behavior, no matter how serious, can be addressed with support and intervention plans.

Utah Parent Center is an advocacy group for parents of children with disabilities, so I don't fault their testimony for being one-sided. The testimony below from people who are supposed to be impartial experts troubled me.

Dr. Shelly Halversen, South Summit School District:

Well, I don't know if you can fix it completely, but what I would say is, if I had... Here's the thing, I will always do the hard right if I have the backing that I need to do it. Does that make sense? And teachers should not go to school and be concerned about being hurt. I absolutely support that statement 100%. No one should. And it is disruptive when people are doing room clears three times a day, Mr. Blain is not wrong, and it does

⁹⁴ Reyes Testimony, *Transcript IV*, pp. 14-15.

⁹⁵ Hanna Testimony, *Transcript IV*, p.15.

influence the learning of everyone else. So, the reality is, that is the reality. But I just feel like this is so vague and it is only about getting them out. Let's sit down at a table and really try to solve the problem. If there was some accountability for participation from other agencies in the support of students that have these types of needs, that would help.⁹⁶

Shamby Polychronis, The University of Utah:

If I can just piggyback on that, I completely agree. It's such a complex problem, but when you're asking for solutions, we do know what works. We don't necessarily do those things, and there's reasons for them. Let me make sure I get to intent versus impact, but just starting, we know that we're seeing kindergartners start with these really aggressive behaviors. The words coming out of these little's mouth. I mean, it's quite remarkable. Those are modeled for them. I think our society has cultivated a lot of that. There's so many outward influences that were not their fault, their parent losing jobs, having some trauma and abusive situations, all of those pieces. So, this goes back to Bloom's taxonomy that we have to make sure that our common goods, our needs are being met, that people have food, and safety, and security. Those things are in jeopardy, so, of course, we're going to see higher behavior problems.⁹⁷

I honestly have trouble following this testimony as anything other than obfuscatory handwaving. The way I read it, Halverson and Polychronis believe that classroom removal is never warranted, and the solution to any disabled student's behavioral issues are more classroom inclusion, more support, more government resources. Never the responsibility of the disabled student or their parents. Always the burden of teachers and other students. This is just the same testimony that came from the advocacy witnesses with a veneer of expertise.

The only appearance of balance came from the testimony of Jay Blain of the Utah Educational Association. He at least acknowledged that classroom safety is a legitimate concern and his organization did support HB 347. But his testimony here also damned that legislation with faint praise:

I think that was the roots of House Bill 347 was one fine legislators attempt to try and strike a balance there, but try not to hurt any student's rights in the process, and have a balance that would protect all students while trying to maintain the rights of all students in the same way. That was our viewpoint on what occurred with that legislation. That's why we supported it but tried to work through some substitute bills to strike a balance.

Now, I think the state board has tried to create a rule there. I went back and watched the piece. You can watch it on YouTube. All of their board meetings are archived there. You can go back and watch that if you'd like to and see what they did with the rule and see if

⁹⁶ Halverson Testimony, *Transcript V*, p. 15.

⁹⁷ Polychronis Testimony, *id.*

that has any good, bad or indifferent parts to it. It still has to be published in the Administrative Rules journal, and then you can see what implications that may have. I've tried to read through it and tried to follow through it, it's a little bit hard for me because, again, I'm not an expert on special ed law or things like that. I've learned a lot by trying to follow these things, but by no means an expert, but it's R277-609 is the rule that they've done.⁹⁸

To summarize: Blain thinks that HB 347 was an attempt to strike balance between inclusion and safety, but there was other substitute legislation he would have preferred, and he can't really understand what the rules created by this legislation are anyway.

I do think that Blain's heart is in the right place and is asking the right questions:

And then we have a behavioral student, who becomes even more difficult to meet their needs. And then we have teachers being physically assaulted by students, and disrupting classrooms, disrupting other students that may be assaulting other students and things of that ilk. So, that's why in House Bill 347 things were said like, "There needs to be an environment that is safe for all students and staff regardless of whether they're a special education student, general education student, teacher aid, paraeducator, whatever type of educator they might be.

What shocks me is Halverson's flippant response to Blain's concerns about assaults in the classroom:

This whole piece about the rights of all is starting to supersede the rights of those who don't have voice, and I don't just mean in this legislation specifically. I just mean, well, everyone has the right to that. I hear that a lot as a special educator, "Well, what about the other 26?" And I hear that in reference to helping someone with reading as often... Not as often, but for sure with behavior, I hear that. And that's often in cases that are not even close to what we're talking about here. So, that why I have to spend more time with so-and-so? So, the rights of everyone and seeing fairness as equal amounts of time instead of meeting the needs of different students means that some students get more, and some students don't need as much. That's the language. And then the word safe, and feeling safe, which I want everyone to feel safe, but I do feel like in some cases it's being used as a lever because it's a feeling. Does that make any sense? And hopefully, I won't be run out on a stick.⁹⁹

For what it's worth, I personally know the feeling of getting punched in the face in class and I can tell you it is more than a feeling especially when there aren't serious consequences for the guy who did it to me and I have to keep dealing him.

⁹⁸ Blain Testimony, *Transcript V*, p. 8.

⁹⁹ Halverson Testimony, *Transcript V*, p. 18.

Unbalanced testimony leads to an unbalanced report. Because of that it's hard for me to say whether the findings or recommendations in the report are valid or not because they are not the result of being tested in the marketplace of ideas.

I will limit my criticism of the report one finding and related recommendation:

Finding I: Students with disabilities in Utah face persistent disparities in academic achievement, discipline, and classroom time.¹⁰⁰

Monitor LEA implementation of HB 347 for disproportionate removal of students with disabilities from general education classrooms.¹⁰¹

This is absurd on its face. Just as it's obvious that students with learning disabilities will generally achieve inferior academic outcomes, it's equally obvious that students with behavioral disabilities will tend to face increased discipline. And that's just life.

While I have no problem monitoring HB 347 for compliance with disability law, disparate impact is the wrong standard generally under disability law, which requires reasonable accommodation not equality of result. The record shows a number of witnesses criticizing HB 347 but not in any specific way or with any legal analysis. Based on their testimony quoted above, I think they would have a problem with any legislation which provides for classroom removal.

The error in thinking here is the same as the federal Commission's analysis of the relationship between behavioral disability and discipline, which is articulated in Commissioner Gail Heriot's dissent:

We are not talking about students who are blind, wheelchair-bound, or deaf. As Max Eden testified at our briefing, those students generally have lower than average discipline rates (though for reasons I cannot fathom, this significant clarification didn't make it into the Commission's findings). Instead, it is students with behavioral disorders who have higher than average discipline rates.

If that surprises anyone, it shouldn't. It is essentially by definition that students with behavioral disorders engage in misbehavior at school more often than other students. The diagnostic criteria established under the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition ("DSM 5") for them often includes findings that the individual has engaged in some sort of misbehavior.¹⁰²

¹⁰⁰ Report, p. 13.

¹⁰¹ Report, p. 22.

¹⁰² Statement of Commissioner Gail Heriot in the U.S. Commission on Civil Rights Report: Beyond Suspensions: Examining School Discipline Policies and Connection to School to Prison Pipeline for Students of Color with Disabilities, pp. 197-98.

The only way disparate analysis makes sense in context is if students with behavior disabilities are to be excused from discipline for misconduct on account of their disability. I do not think that is “reasonable accommodation” but more importantly society also doesn’t.

The impact for tolerating disruptive behavior from behaviorally disabled students without removal or even discipline is obvious on the safety and learning of other students. But it also does a disservice to behaviorally disabled students themselves.

Educational settings are the only ones in society that tolerate this overly tolerant approach to misconduct. One can’t assault a coworker and not expect to get fired because of a disability claim. Mental illness is highly overrepresented in prison populations, and there is no get out of jail free card for disability and society seems fine with this. These points should go without saying but are not obvious to a parent who has managed to keep a child in class in spite of disruptive activity. There is in fact a fair amount of anecdotal evidence that parents do try to use their child’s IEP as a get out of free jail card when dealing with the police.¹⁰³ That doesn’t work and it doesn’t prepare the disabled student to function within the rules expected by society.

As I said at the introduction, I dissent reluctantly. Classroom inclusion is an important goal and the deficiency in the balance of testimony is nobody’s fault. Still I’d rather issue a delayed report or no report at all than a bad one.

¹⁰³ See, e.g., the aptly titled Reddit thread: Dear IEP Parents: they don’t mean SHIT outside of education (https://www.reddit.com/r/Teachers/comments/1qv4jzx/dear_iep_parents_they_dont_mean_shit_outside_of/?utm_source=share&utm_medium=web3x&utm_name=web3xcss&utm_term=1&utm_content=share_button).

Appendix B - Panel Agendas, Minutes, and Presentation Slides

Panel Minutes & Presentation Slides can be accessed at:

<https://usccr.box.com/s/v25042b3irtqbsg72h6ag1n0vtnzn5q>

Panel 1 – Monday, May 6, 2024

Agenda

- I. Chair’s Opening Remarks and Introductions (3:00 – 3:15 pm Mountain Time)
- II. Speakers (3:15 pm-4:50 pm), (10-15 min. of presentation each, followed by Q&A)
 - a) Dr. Laurence Parker, Chair, Department of Educational Policy and Leadership, University of Utah
 - b) Dr. Michelle Amiot, Director of Assessment and Evaluation, Salt Lake City School District
 - c) Andrea Brandley, Senior Education Analyst, Kem Gardner Institute, University of Utah
- III. Public Comment
- IV. Closing Remarks (at conclusion of Q&A)

Panel 2 – Thursday, May 9, 2024

Agenda

- I. Chair’s Opening Remarks and Introductions (3:00 – 3:15 pm Mountain Time)
- II. Speakers (3:15 pm – 4:50 pm), (10-15 min. of presentation each, followed by Q&A)
 - a) Aaron Brough, Director of Data and Statistics at Utah State Office of Education
 - b) Dr. Dan Linford, Superintendent, Davis School District
 - c) Mr. Darrin Nash, Director, Office of Equal Opportunity, Davis School District
 - d) Mr. Benjamin Hill, Assistant Director, Office of Equal Opportunity, Davis School District
 - e) Dr. Bernard Gassaway, Principal, KND Consulting Group
- III. Public Comment
- IV. Closing Remarks (at conclusion of Q&A)

Panel 3 – Thursday September 26, 2024

Agenda

- I. Chair’s Opening Remarks and Introductions (3:00 – 3:15 pm Mountain Time)
- II. Speakers (3:15 pm – 4:50 pm), (10-15 minutes of presentation each, followed by Q&A)
 - a) Nate Crippes, Public Affairs Supervising Attorney, Disability Law Center
 - b) Andrew Riggle, Public Policy Advocate, Disability Law Center
 - c) Lindsey Cunningham, Instructional Support for Inclusive Practices Coordinator, Utah State Board of Education
- III. Public Comment (4:50 pm – 4:55 pm)
- IV. Closing Remarks (4:55 pm)

Panel 4 – Tuesday, October 29, 2024

Agenda

- I. Chair’s Opening Remarks and Introductions (3:00 – 3:15 pm Mountain Time)
- II. Speakers (3:15 pm – 4:50 pm), (10-15 minutes of presentation each, followed by Q&A)
 - a) Joey Hanna, Executive Director, Utah Parent Center
 - b) Esperanza Reyes, Associate Director, Utah Parent Center
- III. Public Comment (4:50 pm – 4:55 pm)
- IV. Closing Remarks (4:55 pm)

Panel 5 – Tuesday, February 18, 2025

Agenda

- V. Chair’s Opening Remarks and Introductions (3:00 – 3:15 pm Mountain Time)
- VI. Speakers (3:15 pm – 4:50 pm), (10-15 minutes of presentation each, followed by Q&A)
 - a) Shamby Polychronis, The University of Utah
 - b) Jay Blain, Utah Education Association
 - c) Dr. Shelley Halverson, South Summit School District
- VII. Public Comment (4:50 pm – 4:55 pm)
- VIII. Closing Remarks (4:55 pm)

Appendix C - Hearing Transcripts

Monday, May 6, 2024 Online Panel Transcript (AKA Transcript I)

Thursday, May 9, 2024 Online Panel Transcript (AKA Transcript II)

Thursday September 26, 2024 Online Panel Transcript (AKA Transcript III)

Tuesday, October 29, 2024 Online Panel Transcript (AKA Transcript IV)

Tuesday, February 18, 2025 Online Panel Transcript (AKA Transcript V)

Documents found at: <https://usccr.box.com/s/4flv2zk164v6toe0odgu95d2o1sdcjod>

Appendix D - Written Testimony

All written testimony can be found at:

<https://usccr.box.com/s/e66lpmy6nioqma1j60dmbg57a48fj2fx>

Testimony submitted by:

Amanda L., Parent

W. Lee