



|| Dual Enrollment Q&A

DUAL ENROLLMENT Q & A

In 1995, the Idaho Legislature enacted Idaho Code 33-203 entitled “Dual Enrollment.” The original 1995 language provided that “[t]he parent or guardian of a child of school age who is enrolled in a nonpublic school shall be allowed to enroll the student in a public school for dual enrollment purposes.” The statute further provided that “[t]he board of trustees of the school district shall adopt procedures governing enrollment pursuant to this section.” The “public school” in Idaho Code 33-203 referred to the traditional school district, as it clearly mandated the board of trustees of each school district to adopt procedures for dual enrollment. Furthermore, public charter schools did not exist in 1995; the legislation allowing for the creation of charter schools was first enacted by the Idaho legislature in 1998.

In 1999, Idaho Code 33-203 was amended to allow for dual enrollment of those students attending public charter schools. The statutory language was amended with the underlined language to provide that a child of school age “who is enrolled in a nonpublic school or a public charter school shall be allowed to enroll the student in a public school for dual enrollment purposes.” The language was further amended to clarify that if a specific program reaches its capacity, “priority for enrollment shall be given to a student who is enrolled full time in the public non-charter school.” HB No. 186 (1999).

In 2017, the Idaho Legislature again amended Idaho Code 33-203 to allow a student enrolled in a nonpublic school or public charter school the opportunity to dually enroll in a public charter school that is located within the attendance area the student resides in.

As more parents choose to enroll their children in Idaho public charter schools, a larger number of students enrolled at charter schools are seeking to dually enroll in a school that is part of a traditional school district or in another public charter school. What is not clear in Idaho Code 33-203 is how public charter schools and school districts are to address the special needs of those students who qualify for an Individualized Education Program (IEP) under the Individuals with Disabilities Education Act (IDEA). This Q & A provides an overview of the dual enrollment statute and the Idaho Special Education Manual provisions to assist public charter schools and traditional school districts in addressing the needs of students with disabilities.

Definitions

For the purposes of this Q & A, the following definitions apply:

Charter school:	A publicly funded, nonprofit, nonsectarian public school that is created by a formal agreement consisting of a charter. A charter school is governed by the conditions of the approved charter and federal and state laws. ¹
Dual enrollment:	Dual enrollment, as defined by Idaho law, occurs when a child of school age, who is enrolled in a private school, public charter school or is homeschooled requests to also enroll in a traditional school district (public non-charter school) or another public charter school in order to participate in public school programs and activities. Dual enrollment can also include joint enrollment in a traditional public school and an alternative public school program. Dual enrollment also includes the option of enrollment in a post-secondary institution. ²
Enrollment:	Those students attending a particular school by following the enrollment process established by its board.
Extracurricular activities:	Nonacademic public school activities which are outside of or in addition to the regular academic courses or curriculum provided by a traditional school district or public charter school. Such activities are not considered a necessary element of a public education, and participation in such activities is considered to be a privilege. ³
Free Appropriate Public Education (FAPE):	The provision of special education and related services that are: 1) provided at public expense without charge to the parent and provided under public supervision and direction; 2) meet the standards of the Idaho State Department of Education (SDE); 3) include an appropriate preschool, elementary school, or secondary school education in Idaho; and 4) are provided in conformity with an IEP. ⁴
Homeschool:	Educational instruction in a home setting under the direction of the student's parent. ⁵
Homeschool student:	A student in preschool through grade twelve not attending a public or private school and receiving educational

¹ *Idaho Special Education Manual 2016, Glossary.*

² [Idaho Code 33-203.](#)

³ [Idaho Code 33-512\(12\).](#)

⁴ *34 CFR 300.17; Idaho Special Education Manual 2016, Glossary.*

⁵ *IDAPA 08.02.03.118; Idaho Code 33-202.*

Definitions

	instruction in a home school setting under the direction of the student’s parent. ⁶
Idaho Special Education Manual:	A manual developed by the SDE and approved by the Idaho State Board of Education which all school districts and public charter schools in Idaho have adopted as policy. ⁷
Local Education Agency (LEA):	A school or school district authorized by state law to provide educational services to public elementary or secondary students. ⁸
Local Educational Agency (LEA) charter school:	A public charter school in Idaho that has been chartered by a traditional school district, but is operating as a separate LEA, or has been authorized by the Idaho Charter School Commission or an Idaho college or university. ⁹ A charter school can be an on-line school, a brick and mortar school, or a combination of both.
Non-charter school:	A public school within a traditional school district. For the purposes of this Q & A, a non-charter school is also referred to as a traditional school district or traditional school.
Non-LEA charter school:	A public charter school that has been authorized by a traditional school district. A charter school can be an on-line school, a brick and mortar school, or a combination of both. The authorizing school district continues to have a responsibility of oversight to ensure that the requirements of the IDEA are met. ¹⁰
Nonpublic school:	A school other than a public school where educational instruction is provided, and can include, but is not limited to, a private school (either for profit or nonprofit) or a home school. ¹¹
Nonpublic student:	A student who receives educational instruction outside a public school classroom and such instruction can include, but is not limited to, a private school or homeschool. ¹²
Parent:	A biological or adoptive parent, a foster parent, a guardian authorized to act as a child’s parent, an individual acting in

⁶ *Id.*

⁷ [Idaho Special Education Manual](#).

⁸ 34 CFR 300.28.

⁹ A charter school in Idaho that is a Local Educational Agency has the same rights and responsibilities as a traditional school district.

¹⁰ Idaho Special Education Manual, Chapter 8, Section 2A.

¹¹ Idaho Special Education Manual Glossary.

¹² Idaho Code 33-203(9).

Definitions

	the place of the biological or adoptive parent with whom the child lives or is legally responsible for the child’s welfare, or an appointed surrogate parent. ¹³
Postsecondary institution:	An accredited program located in Idaho that is beyond high school, including but not limited to, college, university, technical, vocational, trade, or other educational facility that provides an academic degree and which is registered as required by state law. ¹⁴
Primary schools:	For the purposes of this manual, primary schools are charter schools, private schools or homeschool and are considered to be the primary educational providers for dual enrollment purposes. ¹⁵
Private school:	A nonpublic school that is not funded by and is not under federal or state control or supervision. A homeschool is not a private school.
Program:	A particular course at the middle school/junior high school or high school level, or part of the school day at the elementary school level. A course consists of instruction imparted in a series of lessons or class meetings to meet an educational objective. A course does not include special education. ¹⁶
Public school student:	A student who is enrolled at a traditional school district or a charter school.
Nonprofit private school:	A private school which is considered nonprofit and tax-exempt for tax purposes.
Residency:	The residency of a student is the residency of the student’s parent or guardian. ¹⁷
Section 504:	Section 504 of the 1973 Rehabilitation Act which prohibits discrimination on the basis of disability. ¹⁸
Special education:	Specially designed instruction or speech/language therapy at no cost to the parent to meet the unique needs of a public school student with a disability including instruction in the classroom, the home, hospitals, institutions and other

¹³ 34 C.F.R. 300.30.

¹⁴ [Idaho Code 33-2401](#).

¹⁵ Idaho Code 33-203.

¹⁶ Idaho Code 33-2401(5); Idaho Special Education Manual, Chapter 2, Section 2B, Chapter 8, Section 4, and Chapter 9, Section 4.

¹⁷ [Idaho Code 33-1401](#).

¹⁸ The statutory authority for Section 504 of the Rehabilitation Act is 29 U.S.C. Sec. 701 et. seq., and its implementing regulations are at 34 C.F.R. part 104.

Definitions

	settings, as set forth in the Individuals with Disabilities Education Act (IDEA). ¹⁹
Student:	An individual who meets the definition of school age and is attending preschool through grade twelve. ²⁰
Traditional school district:	An Idaho school district which provides education to its resident students in the traditional school format and is not a charter school. For the purposes of this Q & A, a traditional school district includes all individual schools within the school district where dual enrollment may occur. The terms “traditional school district,” “school district” and traditional public school are used interchangeably in this Q & A.

GENERAL QUESTIONS



Question 1: What does it mean for a student to be dually enrolled?



Answer: Dual enrollment means that a student attending a public charter school, private school or homeschool is also enrolled for part of the school day at a school within a traditional school district or a public charter school.



Question 2: What are the different enrollment options?



Answer: A variety of different options may occur, including:

- A private school student may dually enroll in a school in a traditional school district.
- A private school student may dually enroll in a public charter school.
- A charter school student may dually enroll in a school in a traditional school district.
- A charter school student may dually enroll in another public charter school.
- A homeschool student may dually enroll in a school in a traditional school district.
- A homeschool student may dually enroll in a public charter school.
- A student attending a school in a traditional school district may attend an alternative public school program.
- A charter school student may dually enroll in a postsecondary institution.
- A private school student may dually enroll in a postsecondary institution.

¹⁹ 20 U.S.C. 1400-1482. The statutory authority for Part B of the IDEA is 20 U.S.C. 1401, 1411-1419, and its implementing regulations are at 34 C.F.R. Part 300. Idaho Special Education Manual, Glossary.

²⁰ [Idaho Code 33-201](#).



Question 2: What are the different enrollment options?

- A home school student may dually enroll in a postsecondary institution.
 - A student attending a school in a traditional school district may dually enroll in a postsecondary institution.²¹
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Question 3: Can a student who is enrolled in a traditional public school also attend an alternative public school program?



Answer: Yes. Idaho Code 33-203 specifically provides that “[d]ual enrollment shall include the option of joint enrollment in a regular public school and an alternative public school program.”



Question 4: Does dual enrollment include the option of enrolling in a post-secondary institution?



Answer: Yes. Idaho Code 33-203 specifically provides that “[d]ual enrollment shall include the option of enrollment in a post-secondary institution. Any credits earned from an accredited post-secondary institution shall be credited toward state board of education high school graduation requirements.”



Question 5: Must a student be a resident of the school district where the student is seeking to dually enroll?



Answer: Yes. The residence of a student is determined by the residence of the student’s parent. In order for a student to request dual enrollment with a traditional school district, the student must be a resident of that school district. Those students interested in attending a school within another school district may do so through an enrollment options program.²²

²¹ Idaho Code 33-203.

²² [Idaho Code 33-1402](#) sets forth an enrollment options program that allows a student to attend school within another district whenever the parent or guardian determines it is in the best interest of the student. The statute sets forth an application process and timelines for the enrollment options program.

DUAL ENROLLMENT AND CHARTER SCHOOL STUDENTS



Question 6: Can a student be enrolled in a public charter school and request to enroll in a particular program at a traditional school district?



Answer: Yes. Idaho Code 33-203 specifically provides that a student enrolled at a public charter school may enter into any program in the traditional public school available to other students subject to meeting the same responsibilities and standards of behavior and conduct that apply to any student's participation in the activity.



Question 7: Can a student be dually enrolled in two public charter schools at the same time?



Answer: Yes. Idaho Code 33-203 was amended by the 2017 Legislature to allow non-public school or public charter school students to enroll in any public school, including another public charter school for dual enrollment purposes.



Question 8: May a student who is enrolled in a public charter school dually enroll in a traditional school district or another public charter school if a program is full, as defined by district or school procedures?



Answer: No. School districts and charter schools are required to adopt procedures governing dual enrollment. If enrollment in a specific program reaches the maximum capacity for that program, Idaho Code 33-203 specifically provides that "priority for enrollment shall be given to a student who is enrolled full time in the public school."



Question 9: May a public charter school student with a disability dually enroll in a traditional school district or another public charter school?



Answer: Yes, so long as the program has not reached maximum capacity. All public schools are prohibited from discriminating against any student with a disability. However, if the program the student wishes to access is full, the school district or charter school is required to give priority to those students enrolled full time in its school.²³

²³ Idaho Code 33-203(1).



Question 10: Are public charter schools obligated to provide dual enrollment opportunities to students enrolled at a traditional school district?



Answer: No. Idaho Code 33-203 only provides dual enrollment opportunities to “a child of school age who is enrolled in a nonpublic school or a public charter school.”



Question 11: If a student is enrolled in a traditional school district and the parent wishes to enroll the student at a charter school for part of the school day, which school becomes the primary school for enrollment purposes under the dual enrollment provisions?



Answer: Idaho charter schools are under no legal obligation to accept students attending traditional school districts. However, if a charter school accepts a traditional school district student, the charter school becomes the primary school for enrollment purposes under the dual enrollment provisions. As such, the charter school becomes responsible for the provision of a Free Appropriate Public Education (FAPE) if the student has an existing IEP or is determined to be in need of special education and related services. The traditional school district is obligated to determine whether the student qualifies to receive accommodations for a 504 plan in the general education courses for which the student has enrolled, which is discussed in the next question.



Question 12: May a public charter school student with a disability dually enroll in a traditional school district and receive special education services through an IEP?



Answer: No. The Idaho Special Education Manual specifically provides that “[s]pecial education services (specially designed instruction and services calculated to meet the unique needs of a student with a disability) shall be the obligation of the public charter school. The district shall allow public charter school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

1. Enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. Receive accommodations in the general education courses for which they are enrolled on a 504 plan, if needed.

Public charter school students may not dually enroll solely for special education.
(Emphasis added).²⁴

²⁴ Idaho Special Education Manual, Chapter 8, Section 4.



Question 13: May a public charter school student with a disability dually enroll in another public charter school and receive special education services through an IEP?



Answer: No. Idaho Code 33-203 specifically provides that the dually enrolled student's primary public charter school education provider is the school where the student is registered for the majority of the coursework. The primary education provider is responsible for providing special education services through an IEP. The charter school where the student is dually enrolled, but does not provide the majority of the coursework may not discriminate and is required to:

1. Enroll the student in general education courses under the same criteria and conditions as students without disabilities; and
2. Provide accommodations in the general education courses for which the student is enrolled through a 504 plan, if needed.



Question 14: May a public charter school student with a disability dually enroll in a traditional school district or another public charter school and receive special education services through a service plan?



Answer: No. A charter school student does not meet the definition of a student attending a nonprofit private school, and thus does not qualify for a service plan under federal law.²⁵



Question 15: May a public charter school student with a disability dually enroll in a traditional school district or another public charter school and receive accommodations through a Section 504 Plan?



Answer: Yes. Students with disabilities attending a public charter school who are otherwise qualified to participate in school programs under the dual enrollment law have the right to receive the accommodations identified on the student's Section 504 plan in the general education courses for which they are enrolled.²⁶



Question 16: May a student with a disability attending a public charter preschool dually enroll in a preschool program offered by a traditional school district or another public charter school?



Answer: Yes, if the traditional school district or a public charter school offers a general education preschool program. Neither traditional school districts nor public charter schools are legally required in Idaho to provide preschool programs to children without disabilities. However, if a traditional school district or charter school offers a general education public preschool program, a preschool student

²⁵ In order for a student attending a private school to qualify for a service plan, the private school must be a nonprofit institution. See 34 C.F.R. 300.13; 34 C.F.R. 300.36 and 34 C.F.R. 300.132.

²⁶ Idaho Special Education Manual, Chapter 8, Section 4.



Question 16: May a student with a disability attending a public charter preschool dually enroll in a preschool program offered by a traditional school district or another public charter school?

with a disability cannot be discriminated against, and must be allowed to dually enroll to the same extent nondisabled peers are allowed to dually enroll. A preschool student with a disability may not dually enroll solely for the purpose of receiving special education, but could receive accommodations on a Section 504 plan in the general education classes for which the student is enrolled.



Question 17: May students with disabilities attending a charter school dually enroll in a traditional school district or another public charter school in order to participate in extracurricular activities?



Answer: Yes. Students with disabilities may dually enroll in a traditional school district or another charter school in order to participate in extracurricular activities so long as the student can demonstrate any necessary academic proficiency or eligibility. Traditional school districts and charter schools are required to provide students wishing to dually enroll for extracurricular activities with an opportunity to take state tests or other standardized tests given to all regularly enrolled public school students. Further, students wishing to dually enroll for extracurricular activities must reside within the attendance boundaries of the school for which the students participate.²⁷



Question 18: If a student attends a public charter school and dually enrolls in a traditional school district or another public charter school, can both public schools claim the student for state funding purposes?



Answer: Yes. Both the charter school and the traditional school district or another public charter school are allowed to include a dually enrolled public charter school student for the purposes of state funding to the extent of the student's participation in the public school programs. FN: Idaho Code 33-203(3).



Question 19: If a student attends a public charter school and dually enrolls in a traditional school district or another public charter school, can both public schools claim the student for special education child count funding?



Answer: No. Two public schools may not both claim the same student for special education child count funding. A student attending a charter school and receiving special education services, and dually enrolled in a traditional school district or another charter school and receiving Section 504 services, would be counted by the charter school providing the special education services for special education child

²⁷ Idaho Code 33-203.



Question 19: If a student attends a public charter school and dually enrolls in a traditional school district or another public charter school, can both public schools claim the student for special education child count funding?

count funding.

DUAL ENROLLMENT AND PRIVATE SCHOOL STUDENTS



Question 20: Can a private school student request to dually enroll in a particular program at a traditional school district?



Answer: Yes. Idaho Code 33-203 specifically provides that a student enrolled at a private school may enter into any program in the traditional public school available to other students subject to meeting the same responsibilities and standards of behavior and conduct that apply to any student's participation in the activity.



Question 21: Can a private school student dually enroll in a charter school?



Answer: Yes. Idaho Code 33-203 was amended by the 2017 Legislature to allow non-public school or public charter school students to enroll in any public school, including another public charter school for dual enrollment purposes.



Question 22: May a private school student with a disability dually enroll in a traditional school district?



Answer: Yes, so long as the program has not reached maximum capacity. A traditional school district is prohibited from discriminating against any student with a disability. However, if the program the student wishes to access is full, the school district is required to give priority to those students enrolled full time in the traditional public school.



Question 23: If a student is enrolled in a traditional school district and the parent elects to enroll the student at a private school for part of the day, which school becomes the primary school for enrollment purposes under the dual enrollment provisions?



Answer: Idaho Code 33-203 only provides dual enrollment opportunities to "a child of school age who is enrolled in a nonpublic school or a public charter school." Therefore, the private school becomes the primary school for enrollment purposes under the dual enrollment provisions. The traditional school district is obligated to



Question 23: If a student is enrolled in a traditional school district and the parent elects to enroll the student at a private school for part of the day, which school becomes the primary school for enrollment purposes under the dual enrollment provisions?

determine whether the student qualifies to receive accommodations for a 504 plan in the general education courses for which they have enrolled, which is discussed in the next question.



Question 24: May a private school student with a disability dually enroll in a traditional school district or public charter school and receive special education services through an IEP?

Answer: No. The Idaho Special Education Manual specifically provides that private school students are considered nonpublic school students, and as such, may not dually enroll in a public school and receive special education services. “The district shall allow private school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:



1. Enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. Receive accommodations in the general education courses for which they are enrolled on a 504 plan, if needed.

Private school students may not dually enroll solely for special education and/or related services. The dual enrollment statute does not establish an entitlement to FAPE [Free Appropriate Public Education] for a student with a disability. This means that there is no individual right to receive some or all special education services that the student would receive if enrolled in public school.”²⁸ (Emphasis added).



Question 25: May a student with a disability enrolled in a nonprofit private school dually enroll in a traditional school district or public charter school and receive special education services at the private school through a service plan?

Answer: Possibly. A parentally-placed student with a disability attending a nonprofit private school does not have an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a traditional public school or a charter school. Services offered to a parentally-placed student attending a nonprofit private school are determined through the school district or charter school and private school consultation process.²⁹ If a student qualifies for a service plan, the service plan would be implemented at the nonprofit

²⁸ Idaho Special Education Manual, Chapter 9, Section 4.

²⁹ Idaho public charter schools are required to follow the same consultative process under federal law. See 34 C.F.R. 300.134.



Question 25: May a student with a disability enrolled in a nonprofit private school dually enroll in a traditional school district or public charter school and receive special education services at the private school through a service plan?

private school, to the extent allowed by federal and state law.³⁰ The service plan would not be implemented while the student was dually enrolled and attending a school within a traditional school district or charter school.



Question 26: May a student with a disability enrolled in a for-profit private school dually enroll in a traditional school district or public charter school and receive special education services through a service plan?



Answer: No. A parentally-placed student with a disability attending a private school which is not identified as a nonprofit private school is not entitled to receive a service plan.³¹



Question 27: May a student with a disability enrolled in a private school dually enroll in a traditional school district or public charter school and receive accommodations through a Section 504 Plan?



Answer: Yes. Students with disabilities attending a private school who are otherwise qualified to participate in public school programs under the dual enrollment law have the right to receive accommodations identified on the student's Section 504 plan in the general education courses for which they are enrolled.³²



Question 28: May a student with a disability attending a private preschool dually enroll in a preschool program offered by a traditional school district or a public charter school?



Answer: Yes, if the traditional school district or charter school offers a general education preschool program. Traditional school districts and charter schools are not legally required to provide general education preschool programs. However, if a traditional school district or charter school offers a general education public preschool program, a preschool student with a disability cannot be discriminated against, and must be allowed to dually enroll to the same extent nondisabled peers are allowed to dually enroll. A preschool student with a disability may not dually enroll solely for the purpose of receiving special education, but could receive

³⁰ The Idaho Constitution, Article IX, Section 5, specifically prohibits the expenditure of any public funds in aid of or to sustain any school controlled by any church, sectarian or religious denomination.

³¹ In order for a student attending a private school to qualify for a service plan, the private school must be a nonprofit institution. See 34 C.F.R. 300.13; 34 C.F.R. 300.36; and 34 C.F.R. 300.132.

³² Idaho Special Education Manual, Chapter 9, Section 4.



Question 28: May a student with a disability attending a private preschool dually enroll in a preschool program offered by a traditional school district or a public charter school?

accommodations on a Section 504 plan in the general education classes for which the student is enrolled.



Question 29: May students with disabilities attending a private school dually enroll in a traditional school district or public charter school in order to participate in extracurricular activities?

Answer: Yes. Students with disabilities may dually enroll in a traditional school district or charter school in order to participate in extracurricular activities so long as the students can demonstrate any necessary academic proficiency or eligibility.



Traditional school districts are required to provide students wishing to dually enroll for extracurricular activities with an opportunity to take state tests or other standardized tests given to all regularly enrolled traditional school district students. Further, students wishing to dually enroll for extracurricular activities must reside within the attendance boundaries of the school for which the students participate.³³



Question 30: If a student attends a private school and dually enrolls in a traditional school district or public charter school, is the public school allowed to claim the student for state funding purposes?

Answer: Yes. Traditional school districts and charter schools are allowed to include dual-enrolled nonpublic school students for the purposes of state funding to the extent of the students' participation in the public school programs. FN: Idaho Code 33-203(3).



Question 31: If a student attends a private school and dually enrolls in a traditional school district or public charter school, may the public school claim the student for special education child count funding?

Answer: No. Since a dually enrolled student attending a private school does not qualify for special education services, a public school may not count the student for special education child count funding.



³³ Idaho Code 33-203.

DUAL ENROLLMENT AND HOMESCHOOL STUDENTS



Question 32: Can a homeschool student request to dually enroll in a particular program at a traditional school district or public charter school?



Answer: Yes. Idaho Code 33-203 specifically provides that a homeschool student is a nonpublic student. Any nonpublic student may enroll in a traditional school district or charter school for dual enrollment purposes and enter into any program available to other students subject to meeting the same responsibilities and standards of behavior and conduct that apply to any student's participation in the activity.



Question 33: Can a homeschool student dually enroll in a charter school?



Answer: Yes. Idaho Code 33-203 was amended by the 2017 Legislature to allow nonpublic school or public charter school students to enroll in any public school, including another public charter school for dual enrollment purposes.



Question 34: May a homeschool student with a disability dually enroll in a traditional school district or public charter school?



Answer: Yes, so long as the program has not reached maximum capacity. A traditional school district or charter school is prohibited from discriminating against any student with a disability. However, if the program the student wishes to access is full, the school district or charter school is required to give priority to those students enrolled full time in the public school.



Question 35: If a student is enrolled in a traditional school district and the parent elects to homeschool the student for part of the school day, is the student treated as a homeschooled student for dual enrollment purposes?



Answer: Yes. Idaho Code 33-203 only provides dual enrollment opportunities to "a child of school age who is enrolled in a nonpublic school or a public charter school." For dual enrollment purposes, the homeschool placement becomes the primary educational setting in which the student is receiving instruction. If a student had an IEP while attending the traditional school district, the district no longer has an obligation to provide a Free Appropriate Public Education (FAPE) to the student. Please see the next question for further discussion of the school district's obligations.



Question 36: May a homeschool student with a disability dually enroll in a traditional school district or public charter school and receive special education services through an IEP?

Answer: No. The Idaho Special Education Manual provides that homeschool students “are considered to be nonpublic students.”³⁴ Idaho school districts and charter schools are required to allow “homeschool students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:



1. enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. receive accommodations in the general education courses for which they are enrolled on a Section 504 plan, if needed.

Homeschool students may not dually enroll solely for special education and/or related services. The dual enrollment statute does not establish an entitlement to FAPE [Free Appropriate Public Education] for a student with a disability. This means that there is no individual right to receive some or all special education services that the student would receive if enrolled in public school.”³⁵ (Emphasis added).



Question 37: May a homeschool student with a disability dually enroll in a traditional school district or public charter school and receive special education services through a service plan?

Answer: No. A homeschool student is not considered to be a private school student and does not meet the definition of a student attending a non-profit private school. Therefore, a homeschool student does not qualify for a service plan under federal law.³⁶



Question 38: May a homeschool student with a disability dually enroll in a traditional school district or public charter school and receive accommodations through a Section 504 Plan?

Answer: Yes. Homeschool students with disabilities who are otherwise qualified to participate in school programs under the dual enrollment law have the right to receive accommodations identified on the student’s Section 504 plan in the general education courses for which they are enrolled.³⁷



³⁴ Idaho Special Education Manual, Chapter 2, Section 2B.

³⁵ Id.

³⁶ Idaho Special Education Manual, Chapter 2, Section 2B; Chapter 9. In order for a student attending a private school to qualify for a service plan, the private school must be a nonprofit institution. See 34 C.F.R. 300.13; 34 C.F.R. 300.36 and 34 C.F.R. 300.132.

³⁷ Idaho Special Education Manual, Chapter 2, Section 2B.



Question 39: May a student with a disability attending a homeschool preschool dually enroll in a preschool program offered by a traditional school district or public charter school?



Answer: Yes, if the traditional school district or charter school offers a general education preschool program. Traditional school districts and charter schools are not legally required to provide general education preschool programs. However, if a public school offers a general education public preschool program, a preschool student with a disability cannot be discriminated against, and must be allowed to dually enroll to the same extent nondisabled peers are allowed to dually enroll. A preschool student with a disability may not dually enroll solely for the purpose of receiving special education, but could receive accommodations on a Section 504 plan in the general education classes for which the student is enrolled.



Question 40: May homeschool students with disabilities dually enroll in a traditional school district or public charter school in order to participate in extracurricular activities?



Answer: Yes. Students with disabilities may dually enroll in a traditional school district or charter school in order to participate in extracurricular activities so long as the student can demonstrate any necessary academic proficiency or eligibility. Traditional school districts and charter schools are required to provide students wishing to dually enroll for extracurricular activities with an opportunity to take state tests or other standardized tests given to all regularly enrolled public school students. Further, students wishing to dually enroll for extracurricular activities must reside within the attendance boundaries of the school for which the students participate.³⁸



Question 41: If a homeschool student dually enrolls in a traditional school district or public charter school, is the public school allowed to claim the student for state funding purposes?



Answer: Yes. Traditional school districts and charter schools are allowed to include dually enrolled nonpublic school students for the purposes of state funding to the extent of the students' participation in the public school program. FN: Idaho Code 33-203(3).

³⁸ Idaho Code 33-203.



Question 42: If a homeschool student dually enrolls in a traditional school district or public charter school, may the public school claim the student for special education child count funding?



Answer: No. Since a dually enrolled homeschool student does not qualify for special education services, a public school may not count the student for special education child count funding.

For Questions Contact

Special Education

[Idaho State Department of Education](#)

650 W State Street, Boise, ID 83702

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