



*Dr. John D. Barge, State School Superintendent*  
*"Making Education Work for All Georgians"*

## **Special Education Rules Implementation Manual**

### **INTRODUCTION**

The Georgia Department of Education is pleased to present this document as a guide for the implementation of the Georgia Rules for Special Education. The purpose of this manual is to provide practical ideas and best practice information on the implementation of the Georgia Special Education State Rules.

The intended audience of this manual includes all the parties involved in the delivery and receipt of special education. This includes administrators, principals, regular education teachers, special education teachers, related services providers, parents, and students with disabilities.

By developing this implementation manual, the GaDOE is assuring that all parties to the special education process have access to the same information. The development and delivery of special education is more efficient and effective when all individuals work from the same base of knowledge.

This manual is meant to serve as a practical guide for implementing the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and its regulations. It is not intended to state new law or supplant any federal or state laws, regulations, or requirements. Nothing in this manual should be seen as having the force of law. This manual should not be cited as law or as imposing any additional requirements or obligations outside the requirements of existing law. Districts, schools, and parents are not required to adhere to this manual, but only to the requirements of the IDEA as codified in 20 U.S.C. § 1400 *et seq.*, its regulations promulgated in 34 C.F.R. Parts 300 and 301, and the rules of the State of Georgia promulgated by the State Board of Education.

This manual does not cover every aspect of each of the Rules for Special Education; however, it does cover many of the topics about which questions are frequently asked.

This manual is divided into two parts that may be downloaded separately. Part I relates to the processes, procedures, and best practices for implementing the Georgia Rules for Special Education; Part II, which is in development, will focus on the different eligibility

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categories. Each part has its own Table of Contents. The chapters and topics listed in the Table of Contents are hyperlinked to the specific pages in the manual. To move directly from the Table of Contents to a specific chapter or topic, press the control key (Ctrl), place the cursor over the desired chapter or topic listing, and click.

Users who have questions about a topic not contained in this document are encouraged to contact the GaDOE, Division for Special Education. The direct dial number for special education is 404-656-6319. The director for the Division for Special Education may also be contacted via email at [dgay@doe.k12.ga.us](mailto:dgay@doe.k12.ga.us).

This manual also includes hyperlinks to different sample forms that are available on the GaDOE website. Unless otherwise noted, these forms are sample forms and are intended solely as a model for districts. Many districts develop their own forms or modify these forms for their own use.

The GaDOE acknowledges and thanks the committee of over 90 people who assisted with the development of this manual. Stakeholders from all over Georgia spent many hours assisting in the development and review of the content of this document. Their service was invaluable.

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## CHAPTER ONE: PARENTS

### ***Family, School, and Community Partnerships***

Family, school, and community partnerships are defined as parents, children, families, school personnel, and community members communicating and sharing responsibilities to ensure the success of all students. Meaningful partnerships recognize the family as the most important and enduring resource in a student's life. It is especially important for families of students with disabilities to be involved in the educational process that includes planning and reviewing the Individualized Education Program (IEP).

This manual will assist parents, students, teachers, and other educational decision makers in understanding the special education process. Special education is not a place, but a supportive service for students to progress in the *general* education curriculum.

### ***What is Family Engagement?***

While *parent involvement* is often talked about, in recent years the term *family engagement* has been used more often. Engagement in a student's education goes further than the parent volunteering at the school building. Although volunteering is very important, many parents cannot be involved in traditional volunteering because of work schedules and other daytime commitments. The good news is that a parent's physical presence is not the only indicator of student success. Research shows the most important family contributor to student success is the attitude of the parent. When parents are supportive of the student's education, students experience positive benefits. A parent's words and actions are important. Expressing high expectations for a child, reading to or with a child regularly, ensuring homework is completed, letting a child see the parent read, and applying math skills to everyday activities, are examples of parent engagement that can greatly benefit a child's achievement.

### ***Benefits of Family, School, and Community Partnerships***

The benefits of partnerships are numerous and much research exists in the area of parent engagement. Parent engagement in a child's education results in

- improved school attendance;
- fewer antisocial behaviors;
- a decrease in alcohol use and violent behavior;

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- greater self-confidence, a more positive attitude about school, and better performance in school;
- higher grade point averages and better scores on standardized testing;
- participation in more challenging school programs and more regular completion of homework;
- better transitions, higher quality work, and the development of more realistic future plans for high school students; and
- higher graduation rates and increased participation in postsecondary educational programs.

### ***What Are Some Ways to Promote Engagement?***

#### **PTA's National Standards for Family-School Partnerships**

##### **Standard 1: Welcoming all families into the school community**

Families are active participants in the life of the school, and they feel welcomed, valued, and connected to each other, to school staff, and to what students are learning and doing in class.

##### **Standard 2: Communicating effectively**

Families and school staff engage in regular, two-way, meaningful communication about student learning.

##### **Standard 3: Supporting student success**

Families and school staff continuously collaborate to support students' learning and healthy development, both at home and at school, and they have regular opportunities to strengthen their knowledge and skills to collaborate effectively.

##### **Standard 4: Speaking up for every child**

Families are empowered to be advocates for their own and other children in order to ensure that students are treated fairly and have access to learning opportunities that will support their success.

##### **Standard 5: Sharing power**

Families and school staff are equal partners in decisions that affect children and families and together they inform, influence, and create policies, practices, and programs.

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### **Standard 6: Collaborating with community**

Families and school staff collaborate with community members to connect students, families, and staff to expanded learning opportunities, community services, and civic participation.

Source: PTA's National Standards for Family-School Partnerships

### ***Parent and Student Rights (Georgia Rule 160-4-7-.09)***

Parents and children have many rights under the special education law, Individuals with Disabilities Education Act (IDEA). It is important that parents and children understand their rights to a free appropriate public education (FAPE). The term "appropriate" is based on the educational needs of the individual child that are outlined in the Individualized Education Program (IEP). The IEP is deemed a working document created by a team of educators and the family that establishes goals for a child to achieve in order to succeed.

It is the responsibility of the school to provide parents with notice of their rights in an understandable language. Parents also have a responsibility to participate in the education of their children. Parents do so by participating in meetings and giving consent to allow the school to provide the supports and services that both the parents and school agree are necessary for a child to be successful. It is important that the Six National PTA Standards for Family-School Partnerships Engagement be embedded in this process, particularly when learning at home.

### ***Definition of Parent***

School personnel must determine the appropriate person(s) to make educational decisions on behalf of the student. In most instances, this person is the child's parent. The parent receives notice, gives consent, files formal complaints, requests mediation, files due process, gives or refuses to give permission for release of records, and fulfills all other requirements. A foster parent does not always have authority to make educational decisions for a foster child in his or her care, unless he or she received training and was appointed as the educational surrogate for the foster child. The state has specific definitions for "parent," "person acting as a parent," "surrogate parent," and "guardian."

- "Parent" means a parent, an adoptive parent, a person acting as a parent, a legal guardian, a surrogate parent, or a foster parent (if the foster parent was trained and appointed the surrogate parent of a child with a disability).
- "Person acting in the place of a parent" means a person such as a grandparent, a stepparent or other relative with whom the child lives, or a person other than a parent who is legally responsible for the welfare of a child.

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- "Surrogate Parent" means an individual appointed by the district to make educational decisions regarding the free appropriate public education (FAPE) of a child with a disability.
- "Guardian" means a person authorized to act as the child's parent and/or to make educational decisions, but it does not mean the State if the child is a ward of the State.

### *Surrogate Parents*

All children with disabilities are entitled to FAPE under state regulations and federal special education laws. Included in these laws is a mandate that the parents of children with disabilities have the opportunity to participate actively in the educational decision-making process. Unfortunately, some children with disabilities do not have parents who can fulfill this very important role, thus leaving their educational planning solely to representatives from their school district or from other agencies. Federal law; the IDEA; and Georgia Rules, regulations, and minimum standards require that an individual must be appointed by the district as a surrogate parent to make decisions regarding the free appropriate public education of a child with a disability.

A surrogate parent is needed when

- no parent (as defined by the IDEA) can be identified;
- the public agency, after reasonable efforts, cannot locate a parent;
- the child is a ward of the State; or
- the child is an unaccompanied, homeless youth as defined by the McKinney-Veto Homeless Assistance Act.

For a child who is a ward of the State, a judge overseeing the child's case may appoint a surrogate parent. The surrogate parent has no financial responsibility or other responsibility for the day to day care of the student. The surrogate parent must

- protect the child's rights in the educational and decision-making processes, including the identification, evaluation, and placement of the student;
- follow confidentiality requirements of Georgia Rules and federal law;
- use discretion in the sharing of information;

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- participate in developing the student's IEP;
- exercise other rights given to parents under the IDEA and Georgia Rules;
- not be an employee of the \* State, the district, or any other agency that is involved in the education or care of the child;
- have no interest that conflicts with the child he or she represents; and
- have the knowledge and skills that ensure adequate representation of the child.

\* A person assigned as a surrogate parent who receives compensation for these services would not necessarily be considered an employee of the State under the IDEA.

Districts must have a method for determining whether a child needs a surrogate parent and a method for assigning surrogate parents.

### ***Frequently Asked Questions***

#### **Is it necessary to retrain our surrogates?**

IDEA and state rules have changed so some retraining of surrogate parents will be necessary to ensure their understanding of all their educational responsibilities.

#### **Do all foster parents need surrogates?**

The IDEA and Georgia Special Education Rules definition of parent allows flexibility when determining who needs a surrogate parent and who can be one. Many foster parents can act as the parent and do not require a surrogate. Usually, short term or temporary foster parents will need a surrogate.

### ***Parent Participation (160-4-7-.04, 160-4-7-.05, 160-4-7-.06)***

Parents are to be included as members of any decision-making team for their child. Parent participation includes decisions about eligibility, initial evaluation, reevaluation, development of the IEP, the provision of a FAPE, and educational placement. This requirement does not include informal or unscheduled meetings involving district personnel or meetings on issues such as teaching methods, lesson plans, or coordination of service provision, as long as those issues are not addressed in the child's IEP. Nor does it include meetings involving the preparation of a proposal or response to a parent proposal that will be discussed at a later meeting. If neither parent can be present in a meeting concerning educational decisions for a child, the district must use other methods to ensure parent participation. These methods could include individual/conference telephone calls or video conferencing. If the district cannot reach the parent, after several documented attempts to include the parent in the meeting, the meeting can be held without the parent. The district

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must make and document reasonable efforts to ensure the parent's involvement. Such efforts are defined as: detailed records of phone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to a parent's home or place of employment and the results of those visits. A best practice would be to document at least two attempts by two methods to reach the parent.

The involvement of parents in all decisions about their child will help result in individualized services that meet the unique needs of children as well as in the development of a closer, more collaborative relationship with districts. The contributions that parents make to the process are important because they help ensure the educational progress of the student.

### ***Parent Rights Document (160-4-7-.09)***

*The Parent Rights in Special Education* (Parent Rights) notice provides the foundation for ensuring that a child with a disability has access to FAPE. The Parent Rights notice provides parents with the opportunity to understand their rights, the rights of their child, and the procedures for resolving differences. This document should also help facilitate communication between parents and district personnel. The Parent Rights notice outlines all of the rights and safeguards available to parents of children with disabilities and children who are decision makers. A copy of the Parent Rights must be given to the parents at least once in a school year. Additionally, a copy of the Parent Rights notification must also be given upon

- initial referral or parental request for evaluation;
- receipt of the first state complaint;
- receipt of the first due process hearing request;
- notification by the school district to the parent of a disciplinary removal of a student from school that would constitute a change of placement; and
- parental request.

The Parent Rights notice should be written in language understandable to the general public and provided in the native language of the parent or other mode of communication (e.g., braille or sign language) used by the parent. If necessary, the district will translate the notice orally or by other means so that the parent understands the content of the notice. The Parent Rights notice may be provided by electronic mail (e-mail) and may be posted for access on the

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GaDOE and/or local school district web site(s). If parents would like a more detailed explanation of these rights, they can contact the principal at their child's school, a teacher or administrator, the local special education director, and/or the Georgia Department of Education, Division for Special Education at 404-656-3963 or <http://public.doe.k12.ga.us>. Parents may also check to see whether the district has a Parent Mentor on staff. Parent Mentors are parents of a child with a disability who work for the district as a connection between schools and families. More information may be obtained through Parent to Parent of Georgia at 800-229-2038.

### ***Parent Rights Summary***

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The following is a summary of the content of the Parent Rights document.

For more details see the Georgia Department of Education website and direct link to Family Engagement Information and Resources: <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/default.aspx>.

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### ***Access/Opportunity to Examine Records***

Districts must maintain the confidentiality of information in children's educational records. The district can assume that both parents of a child have authority to inspect and review the child's records unless the district is notified in writing that a parent's rights to see the records have been terminated by a court order.

Parents of a child with a disability must be allowed an opportunity to inspect and review all education records with respect to

<b>Identification</b>	Process to determine eligibility
<b>Evaluation</b>	Nature and scope of assessment procedures
<b>Placement</b>	Educational placement of the child
<b>FAPE</b>	Provision of a free appropriate public education

More information about FERPA can be found at  
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

### ***Confidentiality (160-4-7-.08)***

Confidentiality is one of the rights afforded to parents in the Parent Rights document (procedural safeguards). Confidentiality of educational records is a basic right shared by all children in public schools and their parents. These fundamental rights are described in the Family Educational Rights and Privacy Act (FERPA) of 1974, which applies to all students, not just those with disabilities.

All district personnel (including contracted employees) are governed by confidentiality requirements and should receive training and information regarding the law. Written and dated parental consent must be obtained before personally identifiable information can be disclosed to unauthorized individuals, organizations, or agencies (unless otherwise authorized to do so under FERPA).

Personally identifiable information includes the following:

- the name of the student, the student's parent, or other family member;
- the student's address;
- any personal identifier such as the student's social security number or student number; and
- any personal characteristics or other information that would make it possible to identify the student.

FERPA allows parents to inspect and review all educational records of their child maintained by an educational agency that receives federal funds. This includes all public schools and most private schools. The school must comply with a request to inspect records within a reasonable amount of time, and in no case more than 45 days after the request has been made.

### ***Prior Written Notice by the District***

Districts inform the parents of actions being proposed or refused regarding their child by giving written notice before the district proposes or refuses to initiate or change the following:

- identification (process to determine eligibility),
- evaluation (nature and scope of assessment procedures),
- educational placement (educational placement of children including graduation), or
- FAPE (the provision of a free appropriate public education to children).



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Prior Written Notice is often contained within the IEP document if the discussion occurred during an IEP meeting. At other times, the parent will request and the district will respond in writing. The prior written notice will contain

- a description of the action refused or proposed by the district;
- an explanation of why the district refuses or proposes to take the action;
- a description of the evaluation procedure, assessment, records, or report used as a basis for the proposed or refused action;
- a statement that the parents have the protections of the procedural safeguards;
- the sources for the parents to contact to understand the procedural safeguards;
- a description of other options the IEP team considered and the reasons why those options were rejected; and
- a description of other factors that are relevant to the district's proposal or refusal.

### *Independent Educational Evaluation*

A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. (Public expense means that the district either pays for the full cost of the evaluation or ensures that the evaluation is provided at no cost to the parent.) The qualifications of the independent evaluator must be the same as those required of the district evaluators. The district may set a reasonable limit on the cost of the independent evaluation. If a parent disagrees with the results of a completed evaluation done by the district, the parent may request an outside independent educational evaluation (IEE) paid for by the district. The district must agree to pay for the independent evaluation or begin due process procedures to show that the district's evaluation is adequate. If there is a due process hearing and the district's evaluation is judged to be sufficient, then it will not have to pay for an IEE. (See 34 C.F.R. §300.502 of the Federal Rules and Regulations for a complete explanation of IEEs.)

Parents are not entitled to an independent educational evaluation at public expense before they allow the district to conduct its own evaluation. Once the district evaluation occurs, and the parents disagree with the results of the evaluation, they can request one at public expense. If granted by the district, the district will provide the parents with a list of qualified examiners from which to choose for the independent educational evaluation. Many times the district will work

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with the parents to find a mutually agreeable evaluator. Usually a parent will make all the arrangements and provide the transportation.

If a parent obtains an independent educational evaluation at his or her expense, the results of the evaluation that meet state and district criteria shall be considered by the district in any decision made with respect to the provision of FAPE for the child.

### ***Evaluations***

Parents have the right to request that their child receive a full and complete evaluation to determine whether he/she has a disability and is in need of special education and/or related services. The Parent Rights also state that parents have the right, when an initial evaluation for determination is being conducted, for their child to receive a full and complete evaluation. This includes having the child assessed in all areas of the suspected disability (including but not limited to behavior, academics, communication, social skills, and daily living skills).

This evaluation can consist of several sources of information, including more than one test. These tests must be given in the language that the child normally uses (native language), unless it is not possible to do so.

In addition, parents have the right for their child to be given appropriate tests by qualified examiners. The initial evaluation must be completed within 60 calendar days from the date the parents sign permission for the evaluation. When permission is given for the initial evaluation and less than 30 days of school are left in the school year, the school still has 60 days to complete the evaluation. The 60 day count stops when the teachers finish for the school year and starts again when they return for the new school year. It is important to note that when school is closed for more than 5 days for holidays or other breaks, those days and the weekends before and after do not count in the 60 days allowed for the initial evaluation.

Parents have the right for their child to have a reevaluation at least every three years. The parents or the teacher can make a request for reevaluation in less than three years if needed. Reevaluations shall not occur more frequently than one time per year unless the parents and the school agree one is needed.

Finally, parents have the right to be involved in the decision about their child's eligibility and the programs and services the child needs as part of the first evaluation and the reevaluation.

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### ***Parent Consent***

The district is required to obtain informed written consent for any action requested. Parental consent is voluntary and may be revoked at any time. Consent is required for the following actions:

- to conduct an initial evaluation;
- to conduct a reevaluation;
- for the initial provision of special education and related services on the IEP;
- to make a substantial change in special education and related services; and
- before disclosure of personally identifiable information that is subject to confidentiality.

If a parent questions any proposed actions or changes to the IEP, it is recommended that he or she discuss the concern with the teacher or administrator. Consent for the initial evaluation does not provide consent for initial placement.

A parent may revoke consent for the receipt of special education and related services once the child is initially provided special education and related services. This revocation of consent must be made in writing and is for all special education and related services, not for individual services.

### ***Least Restrictive Environment***

To the greatest extent appropriate, a parent has the right to have his or her child placed in general education classrooms. Also, a parent has the right for his or her child to participate in all school programs and activities with other children without disabilities. To the greatest extent appropriate

- school district personnel must make accommodations (supports) and modifications (changes) so the child can participate in all school programs and activities;
- the parent has the right for his or her child to participate in non-classroom and extracurricular activities (such as lunch, recess, counseling, sports and clubs) to the same extent as a non-disabled child;
- the parent has the right for the IEP team to consider a variety of different special education services to meet the needs of his or her child in the least restrictive environment;

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- the parent has the right to have supplementary aides and services (extra support) provided to allow his or her child to remain in regular classes as much as appropriate before considering whether to remove the child from the general education classroom; and
- the parent has the right to have his or her child placed in the neighborhood school unless the IEP team determines otherwise.

### ***Complaint Process (160-4-7-.12)***

Parents are encouraged to contact their child's teacher and, if necessary, building level administrators when a concern arises. If concerns cannot be satisfactorily addressed at the school level, parents should contact the district's special education director. Please refer to the Dispute Resolution section of this manual for additional information.

Parents may file a formal complaint with the Georgia Department of Education (GaDOE) when they believe a violation of the IDEA has occurred. A formal complaint investigation is a procedure to determine whether the district is complying with federal or Georgia laws and/or regulations regarding the provision of special education and related services to children with disabilities.

**Complaints should be signed and addressed in writing to**  
*Director*  
*Division for Special Education*  
*1870 Twin Towers East*  
*Atlanta, Georgia 30334-5010*  
**or faxed to**  
*404-651-6457*

This investigation is conducted by the GaDOE.

In addition to filing a complaint with the GaDOE, the party filing the complaint must forward a copy of the complaint to the district serving the child. The party filing the complaint will address the complaint with the district in writing and will request a response from the district within 10 business days. The parent who filed the complaint will have an opportunity to engage voluntarily in mediation with the district to resolve the dispute.

### ***Voluntary Mediation (160-4-7-.12)***

Mediation is a way to discuss and resolve disagreements between the parent and the district with the help of a trained, impartial third person. Mediation should be offered to either party to

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resolve disputes. Although this process is voluntary for each party, both parties must agree to mediation. Discussions during the mediation process are confidential and may not be used as evidence in any due process hearings or civil proceedings. The GaDOE contracts with a number of qualified mediators and will assign a mediator when mediation is requested. If an agreement is reached during mediation, the agreement is legally binding in a State or District Court. The failure to carry out an agreement may also be the subject of a State complaint.

### ***Impartial Due Process Hearing (160-4-7-.12)***

Parents or the district may request a due process hearing regarding any matter related to the identification, evaluation, placement, or the provision of special education and related services to the child.

A resolution can be reached through several ways in a dispute with a district over the rights and services afforded to students with disabilities and their families. The quickest and most efficient method is to contact the special education administration in the district. The special education director can often assist a family in working out the differences with minimal time and conflict.

When a resolution cannot be worked out locally, specific processes are guaranteed to families of students with disabilities under the Individuals with Disabilities Education Act (IDEA). These include: (1) formal complaints, (2) mediation, and/or (3) a due process hearing. Please refer to the dispute resolution chapter in this manual for a full description of the dispute resolution process.

### ***Change of Placement for Disciplinary Removals for Children with Disabilities (160-4-7-.10)***

Georgia Rules and federal laws have provisions that control what happens if the child violates a school rule, uses or sells illegal drugs or weapons, or does something that causes serious bodily injury to him/herself or someone else. These provisions clarify what action the district can take and what rights are afforded the child's parent. The possible actions by the district and the parental/student rights in these matters are explained in the discipline chapter of this manual. A student with an IEP, even when suspended or expelled for more than 10 days, always maintains the right to services that allow the opportunity to make progress in the general curriculum and the right to receive IEP services.

### ***Placement of Children by Parent in Private Schools (160-4-7-.13)***

The district is not required to pay for the cost of education, including special education and related services for the child parentally placed at a private school, if the district made FAPE available for the child.

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Private school placement may occur in three circumstances:

1. First, when the public school determines that it cannot provide free appropriate public education (FAPE), the public school must identify and pay for a private school to provide services. This is at no cost to the parent.
2. Second, a parent may remove the child from public school at any time and enroll the child in private school. Under certain circumstances the parent may request reimbursement from the school district to pay for the private placement.
  - The parents must tell the IEP team they disagree with the proposed IEP and placement and want the school district to reimburse them.
  - The parents may also notify the school district in writing, at least 10 days prior to removing the child from public school, that they disagree with the IEP and placement and want the school district to reimburse them for the private school tuition.

If the public school asks to evaluate the child during the 10 day period and the parents refuse, then reimbursement may be denied.

If the parents want to be reimbursed for all the costs of private school and the district does not agree to it, the parties must go before a due process hearing officer to determine whether the public school provided FAPE.

3. Third, the parent may choose to use a private school instead of public school at the parent's expense, in which case, FAPE is not an issue.
  - When the student is in private school by parent choice, the student and the parent lose their individual rights to special education services.
  - When students are placed in private or home school, the school district may consider some services. The special education director of the local district has more information.

Georgia offers a Special Needs Scholarship Program that allows *eligible* students to transfer to another public school or to use a state-funded scholarship to attend an approved private school. To learn more about eligibility and requirements go to <http://www.gadoe.org/External-Affairs-and-Policy/Policy/Pages/Special-Needs-Scholarship-Program.aspx>.

### *Discipline Procedures and Rights*

Students with disabilities may be suspended out of school for less than 10 days in any school year, and no services are required to be provided. When a child is suspended or expelled out of school for more than 10 days, the school district must continue to provide a free appropriate public education (FAPE) for that child even though the child is not attending school. The location or place where the services are provided will change.

If the student possesses or sells illegal drugs or weapons or causes serious bodily injury, the school may change the placement for up to 45 school days without consent of the parent.

Once a student has been suspended for 10 or more days in a school year, a manifestation determination must be held to decide whether the behavior was caused by the disability and/or whether the IEP was followed.

- If the team determines the behavior was caused by the disability and/or the IEP was not followed, then the student must return to the original setting unless it is a case of illegal drugs, weapons, or serious bodily injury.
  - A Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP) must either be conducted or reviewed and revised when the behavior is a manifestation.
- If the team determines that the behaviors were not caused by the disability and that the IEP was followed, then the student may be disciplined according to school policy.
  - The student must continue to receive FAPE. The IEP team will determine how the services can be provided. An FBA/BIP may be developed or reviewed and revised to prevent further behavior problems.
- If the parent disagrees with the decision of the manifestation determination, he or she may appeal by requesting a due process hearing. An expedited hearing must occur within 20 school days. The child will remain in the setting decided by the discipline process until the hearing occurs.

Under special situations, if the behavior that causes a child to get into trouble and be suspended is not related to the child's previous behavior that resulted in discipline or to that child's disability, the school district may review the incidents and determine that a new suspension that results in more than 10 cumulative days of suspension for this school year is not a change in placement and, therefore, does not require services to continue.

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If the child is moved to another setting due to discipline, that child must continue to participate in the general curriculum and to progress toward meeting the goals and objectives in his/her IEP.

When the school district had knowledge that the child might be a child with a disability prior to the behavior occurring, the child will have the same protections of discipline as a child with an IEP. A school district has knowledge when

- the parent expressed concern in writing to the school; or
- the parent requested an evaluation for special education; or
- the child's teacher or other school district staff expressed concerns about a pattern of behavior.

Any evaluations that have been requested for a student being disciplined must be completed quickly.

A free appropriate public education, even though it is in a different location, shall be provided to all children with disabilities who have been suspended out of school or expelled so that the child can continue to make progress toward meeting the goals and objectives of his or her IEP and make progress in the curriculum.

### ***Transfer of Rights***

At age 18, students become their own educational decision makers, unless a court decides they are not able to make these decisions. On or before a student's 17<sup>th</sup> birthday, the district is to inform the parents and the student that, at age 18, the student attains the age of majority in Georgia and will become his or her own educational decision maker. Districts may also inform parents of other options or about where to get more information about guardianships, powers of attorney, and any other options. For example, it may be that for some students, a guardianship or a more limited form of transfer of rights would be necessary. Beginning at age 18, the district is to send all notices to both the parent and the student, but the student will provide informed written consent for any action requested by the district. When the student turns 18, he or she becomes the educational decision maker; but, while the student is eligible under the IDEA, the parents retain the rights to all notices of meetings, notices of changes in program or placement, and notices of evaluations.



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### **Resources**

**Parent Rights** <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Parent-Rights.aspx>

**Fact Sheets** <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/Parents-and-Educator-Partnerships.aspx>

- Discipline
- IEPs
- Evaluations
- Reevaluations and Independent Evaluations
- Transitions from Early Intervention
- Transition to Life After High School

**Parent Mentors** [www.parentmentors.org](http://www.parentmentors.org)

For more information call the local District Special Education Office or a Parent Mentor if the district has one on staff. The Parent Mentor website lists districts with parent mentors.

**Parent to Parent** [www.p2pga.org](http://www.p2pga.org) or call 800-229-2038

Valuable information and answers to questions can be obtained from Parent to Parent of Georgia (P2P), which is the state's Parent Information Training Center (PTI) under IDEA. Assistance is also available for parents who speak Spanish.

## CHAPTER TWO: FREE APPROPRIATE PUBLIC EDUCATION (FAPE) (160-4-7-.02)

All students **with an Individualized Education Program** (IEP) are entitled to a free appropriate public education (FAPE). This includes children who are eligible for special education from the ages of three (3) through twenty-one (21).

### *Definition of FAPE*

The special education and related services that make up the FAPE are provided to children identified with disabilities who have an IEP at no cost to the parent.

Special education and related services, including special education at the preschool, elementary, and secondary levels, are services that are provided so eligible students can make progress toward and/or meet the educational standards of Georgia. All students will be provided an education that includes access to the Georgia curriculum and addresses the unique needs of the individual student and his or her disability.

While the education provided to the student with an IEP must be appropriate and must address what the individual student needs in order to make educational progress, this is neither a guarantee of achievement of each goal on the IEP nor a guarantee of promotion, passing grades, or graduation. Likewise, passing from grade-to-grade or receiving all passing grades does not mean that a student is receiving FAPE. Each student is an individual and his or her appropriate education is determined on a case-by-case basis. In addition, the term “appropriate” is not the same as “best”; “appropriate” is a minimal standard that assures the student has the opportunity to make educational progress.

### *Students Entitled to FAPE*

Students are entitled to FAPE when they are determined eligible for special education and related services. This can be as early as 3 years of age. If a child is receiving services prior to age 3 through the Babies Can’t Wait (BCW) program, then both the BCW program and the district have an obligation to work together to transition the child to the public school program by the child’s 3rd birthday. Children should have eligibility for special education determined and an IEP developed and in place by age three if they were previously receiving services.

Children are entitled to continue to receive special education and related services through their 21<sup>st</sup> year (or until they turn 22) if they remain eligible for special education and they

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have not graduated with a regular high school diploma. Entitlement to FAPE ends upon reaching age 22 or graduating with a regular diploma, whichever comes first.

According to Georgia Rules, districts are required to develop a written procedure that identifies a process for completing services when a student reaches the age of 22. The district must state in writing whether services for the student, who is still attending school on his or her 22<sup>nd</sup> birthday, will cease on the birthday, cease at the end of that semester, or cease at the end of that school year. Students who remain in school after their 22<sup>nd</sup> birthday are not entitled to FAPE or other IDEA rights for the remainder of their time in school. Although each district can develop its own procedures, those procedures must be in writing in order to be clear and fair to all students. The ultimate goal is to transition students to the desired activity in collaboration with other agencies or supports so that, by the 22<sup>nd</sup> birthday, transition has occurred and the student can continue in appropriate adult activities.

When a student with an IEP graduates with a regular diploma or ages out of school (i.e., turns 22 years of age), he or she must be provided with a [Summary of Performance \(SOP\)](#) of his or her academic and functional needs. The SOP also includes strategies to assist the student in achieving his or her desired postsecondary goals. Although not required for students who receive a special education diploma or other exit document, such as a certificate of attendance, best practice is to provide the SOP to ALL students with IEPs who are exiting public school. Those students who do not earn a regular diploma or transition to a specific job are those who will most likely need all the assistance available to develop successful adult lifestyles, and the SOP is a tool that can assist with this. (The actual requirement for the SOP can be found in Georgia Rule 160-4-7-.04 Evaluations and Re-evaluations.)

### ***Incarcerated Students***

Students eligible for special education services who have an IEP and who are in a facility operated by the Department of Juvenile Justice (DJJ) or the Department of Corrections (DOC) must receive their educational programs. Each of these agencies provides the services to students within their facilities in Georgia. Each agency has the responsibility to identify, evaluate, determine eligibility, and provide special education and related services to students. These agencies will contact the most recent public school attended by a student to obtain copies of educational records so that FAPE can be provided. DJJ and DOC are public schools and should be treated as other public schools when providing records in an expeditious manner.

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Adult students who are between the ages of 18 and 21 who, prior to being in the correctional facility (jail), did not have an IEP the last time they attended school, are the exception. These students do not have an entitlement to FAPE.

A student with a current IEP who is in the community jail, such as those managed by city or county agencies (i.e., the sheriff's office), is also entitled to FAPE. In these circumstances, the district where the student is incarcerated is responsible for providing services. Districts need to work closely with the local jail in order to gain access to the student and to deliver services. The main concern of the local sheriff or other enforcement agency is safety, while the district's obligation is to provide FAPE.

### ***Funding Sources and Insurance***

Districts and states may use whatever federal, state, private, or other sources of funds that are available to provide services to students under FAPE. Districts must not delay the delivery of services required by an IEP until the funding source is located or secured. Public or private insurance may also be used to support the placements if such use is at no cost to the parents and does not decrease the lifetime coverage available.

Medicaid is a federal/state insurance program for which students may be eligible. The Medicaid agency encourages districts and states to access the public benefits available through Medicaid when students are eligible.

The IDEA clearly states that districts must notify parents each time they propose to access the student's insurance and must have parental consent before accessing these funds. Districts must inform parents of their right to refuse districts access to the insurance benefits and of the fact that such refusal does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parents. If a district is going to access benefits, public or private, it should seek written consent from the parent and inform the parent about the amount of benefits it plans to access. This can be done as part of the annual IEP process. The IEP will define the frequency of any service (for example, occupational therapy one time per week for 30 minutes). This can be used to inform the parents and to obtain their agreement. However, if the district exceeds the amount in the IEP or amends the IEP to provide a different level of service, a new consent must be obtained. If placement in a residential facility, either public or private, is necessary for the student to receive FAPE, then the placement is at public expense, usually paid for by the local district. Districts should not consider placement in residential facilities unless they have exhausted the nonresidential resources. The Georgia Department of Education

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(GaDOE) has tuition grants to assist local districts if they place a student in a residential facility.

If a district believes a medical evaluation is warranted as part of the determination of eligibility or continuing provision of special education and related services, it must seek parental permission before such evaluation is provided, and the evaluation must be provided at public expense or no cost to the parent. As stated previously, any available insurance may be used to offset the costs of the evaluation. A child should not be denied a medical evaluation if it is needed for educational purposes such as the determination of eligibility for special education or the educational needs of the child.

### ***Accessible Instructional Materials and Assistive Technology***

Districts must provide print instructional materials in an accessible format to students who are blind or other print disabled. These materials must be provided in a timely manner, usually about the same time as the traditional materials are received by other students, unless unusual circumstances exist. Accessible formats include braille, audio, or digital text, but do not include the altering of the content. Refer to Georgia Rule 160-4-7-.02 Free Appropriate Public Education for the detailed explanation of children who are blind or otherwise print disabled. Additional information on accessible instructional materials can be found at the Georgia Instructional Materials Center website, <http://gimc.org/>.

Districts must consider each student's need for assistive technology devices and services. Assistive technology is considered by each IEP team in the development, review, and revision of student IEPs. When the IEP team determines that a student requires assistive technology devices or services, this should be clearly documented in the IEP, and the assistive technology should be provided to the student in a timely manner. The provided assistive technology should be integrated into instructional activities, and data should be collected on the use of the technology. If the IEP team determines that the student requires school purchased assistive technology at home or in other settings to receive FAPE, the assistive technology must be provided to the student at no cost to the parent. The student, staff, and family, if appropriate, should be trained in the use of any assistive technology made available to the student. Additional information on assistive technology is located on the Georgia Project for Assistive Technology website: <http://www.gpat.org/>.

Districts must have in place procedures and practices that ensure the proper functioning of hearing aids. Regular inspection of hearing aids should be documented. This also applies to external components of surgically implanted medical devices such as cochlear implants.

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However, districts are not responsible for programming such devices or for providing post-surgery maintenance.

### ***Extended School Year***

Each district must provide extended school year (ESY) services to students who need such services to receive FAPE. ESY services are those services a student requires beyond the normal school year of the district and are not limited to only the summer months. The IEP team makes the determination regarding whether a student needs ESY and, if so, what services will be provided. This includes determining the details of ESY, such as what services will be provided, when and where the services will take place, and the frequency and the duration of the services. Any services provided as ESY must meet the requirements of FAPE. A district must not state that ESY is only for certain groups of students or say it is for all of a certain group. Likewise, a district may not limit ESY services to a certain time period or type of activity.

### ***Nonacademic and Extracurricular Activities***

FAPE can also include nonacademic and extracurricular services. Districts must consider supplementary aids and services necessary to provide students with disabilities the equal opportunity to participate in nonacademic and extracurricular activities. This may include, but is not limited to, participation in clubs, referral to agencies that provide services, special interest groups, employment assistance, counseling, health services, or athletics. An IEP does not negate eligibility requirements such as having to try out for the team or having an “A” average to be in French Club.

### ***Charter Schools***

Children who attend public charter schools and their parents retain all the rights given to them in the public school under the IDEA. In general, two types of charter schools are present in the state: public schools or public school districts that operate according to the terms of a charter or contract that has been approved by a local board of education and the State Board of Education; and state chartered special schools that operate according to the terms of a charter or contract that has been approved by the State Board of Education. Charter schools must make available the services needed to provide education for students with IEPs. The charter that is part of a district has, as part of its resources, the full continuum of services and supports within the district. At times, a student’s IEP may determine that a specific setting is needed that may not be available at the charter, but that is available at another school within the district. The charter that is part of the district may not, however, decline to serve students with IEPs.

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If the charter is a state charter school, the school is responsible for finding a way to provide whatever services the IEP team determines are appropriate for a student with an IEP who chooses to enroll in the charter. Students with IEPs may not be discriminated against, and a state charter must accept students who choose to enroll.

The central office of the district must treat charter schools that are part of the local district the same as all other individual schools within the district. This includes flowing funds, state and federal, to the charter at the same time as money is sent to other schools. This also includes providing services or supports that are centrally based in the same manner as for other schools. For example, if the central office of the local district funds the occupational therapist for any student in any school who needs the service to receive FAPE, then the students in the charter school must also be included. The GaDOE has an extensive web page for charter schools at <http://www.gadoe.org/External-Affairs-and-Policy/Charter-Schools>. Included on this site is the [Special Education Primer for Petitioners, Authorizers, and Districts](#) document that provides guidance for implementing special education in charter schools. Both parents and educators will find this document helpful.

### ***Medication***

Districts may not require medication as a condition of attending school, receiving an evaluation, or receiving services. Parents make the decisions regarding their children and any medication they administer or do not administer. Districts should not make medical decisions that require medication. Nothing prohibits a district, however, from sharing classroom observations regarding the academic, behavioral, or functional performance of a child with the parents in order to better inform the parents of the student's behavior and academic performance when taking or not taking medication. If a district believes a student is not receiving medication that is essential for his or her health or education, it may refer the family to the Department of Family and Children's Services for assistance.

### ***Frequently Asked Questions***

#### **How do special education funds flow to the charter school?**

The State of Georgia allocates state and federal special education funds to the authorizing district that has the responsibility for dispersing either the funds or equivalent services or a combination of funds and services to the charter school based upon each district's policies. The disbursement of special education funds and/or services needs to be considered by the authorizer when developing policies related to charter schools. Charter schools that are a part of a district should receive funds on the same basis as other schools within the district.

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### **If the school does not provide transportation to students in its charter school, must it provide transportation for students in special education who attend charter schools?**

If the school provides transportation to and from school or financial support (e.g., tokens) for non-disabled students for that kind of transportation, then it needs to do the same for students with disabilities. If districts do not provide this support in general, then they typically do not need to provide it to students with disabilities. However, if an IEP team identifies transportation as a related service on a child's IEP, then the district will need to arrange for transportation services or see that the responsible entity does so. As an IEP team considers a student's need for transportation, it is critical that team members understand the differences between a student's need for transportation to get to school (common for all students) and a student's need as a factor of a disability that results in the need for a related service. If a charter school is responsible for providing this related service, a district may contract for it or pay the family to transport the child to and from school or the location of the special services.

### **How do students with disabilities who attend charter schools participate in the NCLB accountability system?**

NCLB includes students with disabilities and special education programs in state assessment and accountability districts. Students receiving special education services, including those with the most significant disabilities who participate in an alternate assessment system, will "count" in the accountability formulas. Not only do they count, they make a difference in a school's ability to meet criteria for "adequate yearly progress" and Georgia specific performance measures under the NCLB law. For additional information, please see <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/GAA.aspx>.

### **What does full educational opportunity mean?**

Educational opportunity, which is not new to IDEA, entitles all children to have access to the same education and services that all other children have within the district. The district should have a plan for ensuring all children the full educational opportunity.

### **Are sound-treated classrooms required for all students who are deaf or hard of hearing?**

Georgia Special Education Rules state that IEP teams should consider a student's need for sound-treated classrooms. The determination of what constitutes sound treatment varies by student and his or her individual needs related to hearing and communication. If the team determines that sound-treated classrooms are required, then they should be provided.



### CHAPTER THREE: CHILD FIND (160-4-7-.03)

Child Find is a process that districts use to identify, locate, and evaluate all children, in the district, birth through 21, who are suspected of having disabilities that may result in a need for special education and related services. Districts must have policies and procedures in place to ensure the identification, location, and evaluation of these children; and public notification must be given before any significant Child Find activities are implemented.

#### *Populations of Children*

Districts have Child Find responsibility for all children suspected of having disabilities, regardless of the severity of their disabilities. This includes:

- children, birth through 3, who may or may not be referred to and served by the state's early intervention program, Babies Can't Wait;
- preschool children, ages 3 through 5, who may not be enrolled in a Georgia-funded pre-kindergarten and kindergarten, including children who are parentally placed in private preschools or daycare centers outside the district;
- children who are enrolled in a public school within the district, including public charter schools;
- children who are parentally placed in private and home schools (refer to the Private Schools Chapter of this manual for additional information on private school Child Find responsibilities);
- children who are attending charter schools within the district or in the area if it is designated as an individual district;
- highly mobile children, including migrant, homeless, and children who are wards of the state;
- children served in community programs such as rehabilitation centers, daycare centers, etc.;
- children, ages 18 through 21, who are incarcerated in facilities operated by the local sheriff's office or other municipalities; and
- any other children suspected of having disabilities.

### ***Child Find Procedures***

Districts may employ a variety of strategies to ensure that students who may need special education and related services are identified and evaluated. For example, districts may annually place printed notices in local newspapers and in local public agencies such as the Department of Community Health and the Division of Family and Children Services. When appropriate, districts may promote Child Find on local television and radio stations. They may also notify public and private childcare facilities and private preschools of Child Find activities. Districts may also utilize their websites as a means for disseminating Child Find information. Regardless of the methods employed, districts must conduct comprehensive Child Find activities.

Districts are required to meet annually with representatives from home schools and private schools to inform them of that district's Child Find procedures. For children transitioning from the Babies Can't Wait program, identification and evaluation should be completed by the child's 3rd birthday. Early identification and evaluation of students with disabilities facilitates a smooth transition into the public school district for these children.

### ***Georgia Student Achievement Pyramid of Interventions***

For children in kindergarten through 12<sup>th</sup> grade enrolled in public schools, Child Find is accomplished through the *Georgia Student Achievement Pyramid of Interventions*, a framework of instructional interventions that begins with standards-based classrooms serving as the foundation for teaching and learning. The *Pyramid* represents the process of continually implementing "progress monitoring" and then providing layers of more intensive interventions so that students can be successful and progress in their learning. This proactive approach does not wait until students have large gaps in their learning that are almost too great to overcome. Neither does it allow high-achieving students to languish in a curriculum that is not challenging to them. This approach focuses on determining when students are struggling and then providing scientific, research or evidence-based interventions to address their areas of need; it also documents students' strengths and provides additional challenges in a variety of ways.

The *Pyramid* facilitates the Child Find process for students in public schools. All students in Georgia schools participate in evidence-based instruction that is developed based on grade level Georgia Performance Standards. When students struggle in the general education curriculum, Tier 2 and, if needed, Tier 3 interventions are provided. At Tier 3, data is collected to determine the students' responses to interventions that have been implemented. Students who do not make progress with the individual interventions

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provided at Tier 3 may be referred for an evaluation to determine eligibility for special education and related services. Consequently, in essence, Tier 3 serves a Child Find responsibility for students who may need special education and related services. Students in private schools, home schools, and charter schools, who are referred for special education services, should also have documentation of these prior interventions to assist in the determination of eligibility for special education services.

Child Find is a critical part of the special education process for all children suspected of having disabilities. With the implementation of the *Pyramid* and the focus on progress monitoring and response to interventions, only those students who are not making progress, despite evidence-based instruction, will be referred to special education to determine their eligibility.

### ***Frequently Asked Questions***

#### **How do districts conduct Child Find activities?**

Districts complete Child Find responsibilities in a variety of ways. Some frequently used Child Find procedures include public announcements through local media, meetings with private and home-school representatives, community service fairs, parent mentors, and collaboration with other public agencies such as the Divisions of Mental Health, Family and Children's Services, and Community Health.

#### **Does Child Find apply to home-schooled children?**

Yes, if the student is a resident of the district, then Child Find applies. In addition, as a home-schooled child, an eligible student must also be considered for proportionate share of federal funds for private school students. In Georgia, home-schooled children are treated as private school children in regard to special education.

#### **Are private/home-school children required to have instructional interventions documented prior to referral to special education?**

Yes, it is expected that all children referred for an evaluation to determine eligibility for special education will have received prior interventions and that the child's response to these interventions will have been documented. This information may be used in determining eligibility for special education services. Referrals from home schools or private schools may not have the same level of documentation as those from the public school. Some interventions may also be implemented as part of any evaluation process as necessary.

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### **Can a parent request an evaluation without prior documentation of interventions?**

Yes. Parents maintain their due process right to request an evaluation. However, eligibility for special education should not be considered without documentation of prior instructional interventions. A Student Support Team bypass procedure does exist (see Georgia Rule 160-4-2-.32) for rare cases or extreme circumstances.

## CHAPTER FOUR: EVALUATION & REEVALUATION (160-4-7-.04)

Evaluations in the world of education range from a quick “screener” administered to a group of students by one person, to an in-depth, comprehensive evaluation performed on an individual student by a multidisciplinary evaluation team. This chapter addresses the individual multidisciplinary evaluation that is used to determine whether or not a student has a disability and, if so, whether special education services are necessary.

Individual multidisciplinary evaluations have major educational as well as legal significance. As such, trained evaluation specialists and sophisticated materials are required to administer them. Since these evaluations often involve considerable time and expense, care should be taken to ensure that an individual multidisciplinary evaluation is necessary prior to making a request for this type of evaluation.

Embedding routine assessment of students and their progress throughout their educational experience provides an informative and efficient process that enables the students to make frequent data “tracks” of their progress so that educators can see when and where timely changes are needed. This gives the schools and parents more flexibility and up-to-date information to consider and use; and, by the time an on-going problem is referred to the SST or for a special education evaluation, this process will have already generated a substantial amount of useful data.

### *Initial Evaluation*

The Individuals with Disabilities Education Act (IDEA) requires that before a student can receive special education services, the district must determine whether the student meets eligibility requirements for special education and needs special education services. The district must conduct (or arrange for) a comprehensive evaluation that

1. provides sufficient data to determine whether the student is a student with a disability;
2. documents how the disability affects the student’s academic or behavioral performance in school; and
3. provides appropriate information for the development of an IEP, if eligible.

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### ***Student Support Team***

A student is typically referred for an evaluation by a Student Support Team (SST) when it has documented sufficient evidence to suspect that a disability may be the primary cause of the student's learning or behavior problem(s). This usually occurs after appropriate interventions in the general education classroom have failed to find a satisfactory solution. A parent may also request an evaluation.

### ***Parent Request***

If the referral is made by parental request, the district can either agree to or refuse the request. If the district refuses, it must give the parent written notice explaining the reason(s) why it is declining to initiate an evaluation, what data the decision was based upon, and other factors considered. The parents then have the right, if they choose, to request a due process hearing to seek a favorable ruling to conduct an evaluation.

Parents should note that Georgia Rules for the IDEA eligibility require "Response to Intervention" (RtI) data in order to eliminate other explanations for student problems. If the SST process has been bypassed, the data may need to be gathered during the evaluation process.

### ***Parent Rights***

If an evaluation is to be conducted, as well as whenever the parent requests an evaluation, the district must give the parent a copy of "Your Rights as Parents - Special Education," and provide an explanation to ensure that the parent understands these rights. If a parent's primary language is not English, a translated copy in his or her language must be given to the parent whenever feasible. Translations may be accessed online at the [Parents' Rights](#) link on the Special Education web page of the GaDOE website.

### ***Parent Consent***

Before an evaluation can begin, the district must obtain a signed, informed parental consent for evaluation. The district has 60 calendar days to complete the evaluation process, completion being defined as when the eligibility meeting is held. Development and implementation of the Individualized Education Program (IEP) can take up to 30 additional days. The 60 calendar day time period begins when a district employee receives the signed consent, but excludes school holidays and other times when the student is not in attendance for five or more consecutive school days. An exception occurs if the parent fails or refuses to produce the child for the evaluation. Refer to the **Frequently Asked Questions**

at the end of this section for discussion of the 60-day time period for students who move to another district.

If the parent refuses to give consent for the evaluation, the district may, but is not required to, pursue the evaluation through mediation or a due process hearing. In some cases (if the child is home schooled or placed by the parents in a private school at their expense), the district cannot use the mediation or due process hearing procedures to override the parents' refusal for evaluation.

Parent consent is not needed for the District to perform these routine duties:

1. Review existing evaluation information.
2. Screen a child to determine appropriate instructional strategies.
3. Administer an evaluation that is given to all students without consent for evaluation.

### ***Multidisciplinary Evaluation Team***

When a referral for special education evaluation is made, the comprehensive evaluation will be conducted by a multidisciplinary team. This team may consist of the district's psychologist, educational diagnostician, speech-language pathologist, occupational therapist and/or physical therapist, and others as appropriate to the evaluation. The child's parents are considered members of this team. The team is responsible for assessing the student in all areas related to any suspected disability and in any other areas deemed relevant. It is recommended that the student be given a hearing and vision screening during the SST or other pre-referral process and that such results be no older than one calendar year. The parents will be asked to provide input during the evaluation process. Their information is valuable in developing the total picture of the child.

### ***Impact on Educational Performance***

Prior to special education eligibility, a number of interventions must have been provided to the child who is at risk for school failure. Frequently, but not always, these students are those whose performance on statewide assessments is in the lowest performance level. The interventions provided through general education are in addition to the traditional instruction that all students receive and may vary in duration and intensity of support. In addition to the actual interventions, data must be analyzed to determine the amount of

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progress the child is making with the evidence-based interventions. This data is collected through progress monitoring such as curriculum-based measurements. The objective is to determine whether the child receiving interventions is making progress toward the established benchmark of performance. Benchmark performance is determined by mastery of the standards and elements identified for a specific grade level. Once sufficient data is collected (for SLD, there must be a **minimum** of 4 data points collected from the progress monitoring over a **minimum** of 12 weeks of interventions), the team will analyze the information to determine what support is required for the child to succeed in the general education curriculum. For some children, core instruction in the curriculum combined with other interventions provided by the general education staff will be ample support for the child to make progress toward meeting the standards. Some children, despite the interventions, will continue to fall behind their peers. For these select children, the progress monitoring data must be reviewed to determine the level of progress being made. A child whose *rate of learning* is comparable to grade level peers cannot be determined to have a disability that impacts educational performance even though the child may be below grade level performance. General education interventions should continue to be made available, possibly increasing in their intensity or duration. On the contrary, a child whose *rate of learning* is not comparable with grade level peers may be considered a child with a disability that impacts educational performance. For these children, special education support may be necessary.

### ***Comprehensive Evaluation***

An initial evaluation needs to look at the needs of the whole child, regardless of the reason for the referral. The evaluation team must ask and answer the following questions:

What do I know?

What do I need to know?

What else do I need to find out to get a true “real world” picture of the student?

Who needs to do additional assessments?

In a comprehensive evaluation, the district will

- assess all areas related to any suspected disability, including vision and hearing, and, if appropriate, health, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;



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- use a variety of evaluation tools and strategies to gather relevant academic, functional, and developmental information about the child, including information provided by the parent;
- not use any single procedure as the only criterion for determining whether a child is a child with a disability or for determining an appropriate educational
- program for the child;
- use assessment techniques that may assess intellectual and behavioral skills in addition to physical or developmental skills;
- use evaluation tools and strategies to provide relevant information that will directly assist the eligibility team in determining the educational needs of the child;
- use assessments and other evaluation materials to assess specific areas of educational need and not only those that are designed to provide a single general intelligence quotient (IQ) score; and
- select assessment methods so that, when administered to a child with impaired sensory, manual, or speaking skills, the results accurately reflect the child's aptitude or achievement level.

### **Information Sources:** Evaluations often use many of the following:

- Individually administered tests and tools
  - Academic achievement
  - Cognitive ability
  - Social/Emotional/Behavioral
  - Speech/Language
- Parent/Teacher/Child Questionnaires
  - Social/Emotional/Behavioral
  - Adaptive behavior
- Parent information and input
- Teacher input (verbal or written descriptions/analyzed classroom work samples)
- Schoolwide standardized testing results
- Medical information, as appropriate
- Classroom observations
- Prior testing done in private settings
- Prior testing done in other school settings, such as formative assessments from classroom progress monitoring

### *Typical Steps in the Evaluation Process*

1. A request for an evaluation is made by either the school or the parent. A parental consent for evaluation is received from the parent. The 60 calendar day timeline is begun upon receipt of the signed consent.
2. If the child has not had a vision and hearing evaluation, those screenings will be conducted by the school. If the child does not pass, the parent will be informed, and the district and the parent will work together to clear up the hearing and vision issue. Some vision and hearing issues require medical evaluations and/or interventions. Once clearance is received, the evaluation process continues.
3. The interventions that occur during the SST process are analyzed. If no interventions have been provided or documented prior to the referral, interventions are immediately implemented and progress data noted. It is not necessary to wait for vision/hearing screening results.
4. The other data available about a student, which include the permanent record, current classroom assessment and progress, previous results of statewide assessments, attendance data, and disciplinary history, are all reviewed.
5. Classroom observations are usually conducted to determine current performance and to look for specific causes or reasons why the student is not learning or behaving at the expected levels. The observations are usually conducted by a diagnostician or other professional with expertise who does not interact with the student on a daily basis.
6. The current and previous teachers of the student are interviewed. The focus of the interviews is to determine whether the problems cited as the reason for the evaluation are new issues or recurring issues. In addition, the interviews will provide information on any interventions or strategies that have been previously tried.
7. The parent is interviewed as part of the evaluation process. If the parents have any independent evaluations or medical information they have not provided to the district, they should provide this information now. Information the parents have about learning at home, such as how long it takes the student to complete his or her homework and how much help the student requires, all assist in the evaluation. Often the behavior of the student at home is also discussed to determine whether the parent sees the same behaviors as the school sees, what kind of interventions work at home, and how frequently certain behaviors occur. In addition, many times the district needs to screen for adaptive behavior, so it may ask questions about household chores or tasks, about

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money management, and about other things that do not always *feel educational* to the parent. This information contributes to the whole picture of the child.

8. All previous information and data on the student is reviewed (e.g., previous evaluations, medical reports, psychological evaluations, and independent evaluations). This helps the team determine which evaluations to administer for the current evaluation.
9. Many evaluations include the administration of surveys or questionnaires. These are usually published forms of questionnaires or surveys that gather information about the typical day to day behavior of the student. The questionnaires or surveys are often completed by multiple people who know the student in order to provide a comprehensive view that encompasses school, home, and the community.
10. As all this information is received, the multidisciplinary evaluation team begins to review the information and determine what individual assessments are needed to provide more in-depth information. The needed assessments are then conducted and may include a variety of instruments that look at learning, listening, speaking, behavior, sensory, motor, or academics.
11. As these assessments are administered, other areas of concern may arise that need to be evaluated and additional assessments will be conducted as necessary. For example, fine motor skills may not have been a concern when the evaluation was requested; but information from the assessments and observations may indicate a concern that warrants an evaluation of the fine motor skills as a component of the comprehensive evaluation.
12. All instruments are scored, and the results are analyzed and interpreted by the professionals who administered the instruments.
13. The summary of the information learned from the evaluation is developed.
14. The person coordinating the evaluation discusses the results of the evaluation with the parent and educators, with or without an accompanying written report at this time. Occasionally, this discussion occurs at the same time as the eligibility meeting.
15. An eligibility meeting is conducted. The eligibility meeting determines whether a disability exists and what the impact is on the education of the student. If there is a significant impact, the team may determine that the student is a student who needs special education and related services. An eligibility report is created regardless of whether the student is determined eligible or ineligible. The eligibility report may serve as the evaluation report if it is detailed enough to report the results thoroughly.

### *Steps in an Evaluation for Special Education Consideration*

- ☐ Get Permission from Parent to Evaluate
- ☐ Receive Evaluation Request
- ☐ Screen Hearing & Vision
- ☐ Analyze and/or Implement Interventions
- ☐ Review Permanent Record & Current Class Work
- ☐ Complete Classroom Observations
- ☐ Interview Current and/or Previous Teachers
- ☐ Interview Parent
- ☐ Review Previous Data (other evaluations, medical reports, information from previous schools)
- ☐ Review Questionnaires and/or Forms from Respondents
- ☐ Determine and Conduct One-on-One Assessments
- ☐ Determine Other Areas to Investigate if Needed, Based on Data
- ☐ Score All Instruments
- ☐ Analyze & Interpret Results
- ☐ Write Report of Evaluation (\*the eligibility report may serve as the evaluation if detailed enough to report results)
- ☐ Share the results with parent and educators
- ☐ HOLD MEETING TO DETERMINE ELIGIBILITY
- ☐ Write Eligibility Report (regardless of whether or not the student is eligible)

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### *Eligibility*

Once the evaluation is completed, the eligibility team, including the parent, will decide whether the student is eligible for special education services. This involves meeting eligibility requirements as well as not having exclusionary criteria that would prevent eligibility. The parent is included on the team and is provided a copy of the evaluation report as well as a copy of the eligibility decision. If there is no report from an evaluation specialist, such as the district's psychologist or speech-language pathologist, then the eligibility report can serve as the evaluation report as long as it is comprehensive enough to document the results of the evaluation.

Many times a parent will request a copy of the evaluation report prior to the eligibility meeting in order to read and understand the results of the evaluation. The law does not require that the parent be provided with a copy prior to the eligibility decision. On occasion, it is appropriate to provide it prior to a meeting. Other times, the report is not provided until a time at which the evaluation specialist can meet with the parent to explain the results of the evaluation. Many of the assessments that are administered as part of the evaluation have results that are reported in numbers that have little meaning to a parent or others until an explanation is also provided. If the results are confusing or upsetting to the parent, it may be necessary to conduct a meeting to discuss the results of the evaluation and then convene a later meeting for the eligibility decision.

In order to be eligible to receive special education services, the student must meet the requirements of one or more of the following categories:

- *Autism Spectrum Disorder (AUT)*
- *Deaf-Blind (D/B)*
- *Deaf/Hard of Hearing (D/HH)*
- *Emotional/Behavioral Disorder (EBD),*
- *Mild, Moderate, Severe, or Profound Intellectual Disability (MIID, MOID, SID, or PID)*
- *Orthopedic Impairment (OI)*
- *Other Health Impairment (OUI)*
- *Significant Developmental Delay (SDD)*
- *Specific Learning Disability (SLD)*
- *Speech-Language Impairment (SI)*
- *Traumatic Brain Injury (TBI)*
- *Visual Impairment, including Blindness (VI)*

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Eligibility criteria can be found in the State Education Rules at

<http://www.gadoe.org/School-Improvement/School-Improvement-Services/Pages/State-Board-Rules.aspx>.

### ***Reevaluation/Redetermination***

The purpose of a reevaluation is to review current evaluation information and to consider what additional information might be needed to decide whether the child continues to have a disability and to determine the needs of the child.

A reevaluation of the child's needs is to be conducted at least once every three years unless the parent and the district agree that a reevaluation is unnecessary. The reevaluation may be conducted at any time if the district feels the needs of the child should be reevaluated or if the child's teacher or parent requests a reevaluation. However, a reevaluation may not occur more than once a year unless the parent and the district agree to more than one a year.

### ***Reevaluation Procedures***

The district must provide written notice to the parent and must receive written informed parental consent before conducting any reevaluation of a child with a disability. If the parent does not respond after several attempts, the district can go forward with the reevaluation but it must document its reasonable, varied efforts to contact the parent. The IEP reevaluation committee then reviews the reasons for the reevaluation, as well as existing evaluation data, including any information provided by the parent.

### ***Review of Existing Evaluation Data***

As part of an initial evaluation, and as part of any reevaluation, the parent and other qualified professionals must review evaluation data on the child that is already available. This review may be conducted without a meeting and may include evaluations and information provided by the parent, current classroom-based local or Georgia assessments, classroom-based observations, and observations by the teacher and related service providers. The team will, on the basis of that review, and considering how long it has been since formal assessment of the student last occurred, identify additional data needed, if any, to determine the following:

- the present levels of academic achievement and related developmental needs of the child;
- whether the child continues to have a disability or has an additional disability;

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- whether the child continues to need special education and related services;
- whether the child needs any additions or modifications to the special education and related services to meet the measurable annual goals set in the IEP; and
- whether or not the child can participate in the general education curriculum, as appropriate.

If the IEP/reevaluation committee determines that no additional information is needed, then the committee can proceed with eligibility. If additional information is determined to be needed, the committee determines which assessments are needed to provide it. The parent has a right to request assessments for the determination of eligibility for the child's educational needs, even if the committee had concluded that no additional data was needed.

### ***Reevaluation Form***

The GaDOE provides a [sample form](#) for use in documenting the considerations for reevaluation. The form provides notice to the parent that the team has considered current information available about the student and has made the decision that for the continuing eligibility of the student, no additional data or evaluation is needed. The form also provides notice to the parents that they have a right to request an evaluation even though the team does not feel it is necessary. Even when the parents want the student to be reevaluated, this does not have to impact the decision of continuing eligibility if the team and the parent are in agreement.

The date of the new eligibility is the date the decision was made not to conduct a reevaluation for eligibility determination. No more than three years from that date, eligibility for special education and the need for reevaluation must be considered again.

### ***Evaluation before Termination of Eligibility***

The district must reevaluate a child with a disability before determining that the child is no longer a child with a disability who requires special education services. However, reevaluation is not needed

1. when the student graduates from high school with a regular education diploma, or
2. when the student has exceeded the age of eligibility (22<sup>nd</sup> birthday) for free appropriate public education (FAPE).

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The district must, however, provide the student with a summary of academic and functional performance that includes recommendations for meeting postsecondary goals when the student is graduating with a regular diploma or aging out of school. Best practice would also include providing the summary of performance for the student who receives a special education diploma or other exit document. It is up to local district policy as to whether services cease exactly on the student's 22<sup>nd</sup> birthday or continue until the end of the school year in which the student turns 22 years of age. Refer to the Free Appropriate Public Education chapter for additional information.

### ***Independent Educational Evaluation***

If a parent ***disagrees with*** the results of a completed evaluation done by the district, the parent may request an outside independent educational evaluation (IEE) paid for by the district. The district must agree to pay for the independent evaluation or begin due process procedures to show that the district's evaluation is adequate. If there is a due process hearing and the district's evaluation is judged to be sufficient, then it will not have to pay for an IEE. A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. The qualifications of the independent evaluator must be the same as those required of the district evaluators. The district may set a reasonable limit on the cost of the independent evaluation. (See 34 C.F.R.§300.502 of the Federal Rules and Regulations for a complete explanation of IEEs.)

A parent does not have the right to an independent evaluation at public expense until he or she has allowed the district to conduct its own evaluation. Then, if the parent disagrees with the results of the evaluation, he or she may request an IEE. The parent always has the right to obtain an outside IEE at his or her own expense, before or after the district's evaluation. As long as the evaluation was conducted by someone who meets the qualifications for district evaluations, the district must consider the results of the parentally obtained evaluation.

### ***Frequently Asked Questions***

#### ***Evaluation***

##### **What part does "Response to Intervention" (RtI) play in evaluation?**

The IDEA 2004 and its regulations have strengthened the long-standing requirement that general education interventions and strategies must be conducted to address area(s) of concern before referring a student for an initial evaluation. Its purpose is to ensure that students who eventually receive special education services truly have disabilities and are



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not merely struggling because of lack of instruction. Thus, 2004 regulations and Georgia Rules require the use of valid Response to Intervention (RtI) procedures and results when determining special education eligibility for students. In Georgia, the RtI process is known as the *Georgia Student Achievement Pyramid of Interventions*.

### **Will I have to begin the RtI process each year if a student is not referred for a special education evaluation?**

No. For those students who completed the school year by receiving either Tier 2 or Tier 3 support, it is expected that they will begin the current school year with the same support. In addition, it is expected that students should not be referred for a special education evaluation immediately upon beginning a new school year. The problem solving team should review any supports that may have been provided during the summer break and the supports that will be provided during the school year. If a referral for a special education evaluation is eventually made, the data from the previous school year and the current school year should be reviewed to determine whether there was a response to intervention.

### **Is the Student Support Team required to begin implementing interventions with progress monitoring this school year?**

Yes, the SST has always recommended specific interventions to address student needs. However, it is now expected that interventions and progress monitoring data are collected in the area(s) of delay.

### **What is considered adequate response to instruction?**

The research findings have defined adequate response as an increase of one standard deviation on a formal measure of progress monitoring. However, districts are not required to utilize a formal measure for progress monitoring.

### **Can parents request an evaluation anytime during the process of RtI?**

Yes, IDEA requires that school districts consider the parent's request for an evaluation. If evidence of prior interventions has not been obtained, the evidence can be collected during the evaluation period. If the school district decides not to conduct the evaluation, it must provide the parents with prior written notice and advise them of their parental rights to seek mediation or a due process hearing.

### **How does a local district implement interventions if a parent requests immediate referral for special education evaluation?**

During the 60-day timeline, a district should begin interventions and the data collection process. Data can be collected from the results of general education instruction and interventions that occurred prior to the date of consent for special education evaluation. In

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addition, it is always appropriate to analyze and utilize data obtained from support in Tier 1 and Tier 2.

### **When are hearing and vision to be screened?**

Federal regulations list vision and hearing as areas that may be evaluated in a Special Education evaluation, “as appropriate.” However, professional ethics require that a diagnostic evaluation not proceed until it is documented that the student has acceptable levels of vision and hearing. Failure to do this would render test results invalid and might prevent discovery of vision and/or hearing problems as the primary or contributing source of the student’s problem(s). Therefore, hearing and vision should be routinely screened during the SST process, and the results can be no older than one calendar year when being applied to an evaluation. If SST is not used, then hearing and vision acuity should be determined to be adequate before the formal assessment of the student begins. If problems with the student’s hearing or vision need medical diagnosis or require the purchase of hearing aids or eyeglasses and the parents are unable to accomplish this, then the district must make sure that these devices and services are made available to the student.

### **If during the course of an evaluation, the student is found to need glasses and the parents do not get the necessary glasses, is the school district responsible for getting them?**

If the eyeglasses are needed for the district to provide FAPE, then the district must provide them. Schools and parents can work with public and private agencies to obtain funding for the glasses.

### **Must a student’s hearing and vision be corrected prior to completing a comprehensive evaluation?**

Districts are expected to complete the comprehensive evaluation and determine eligibility by the 60-day timeline. It must have documentation that the child’s hearing and vision abilities are not interfering with performance. Hearing and vision should be one of the initial factors examined when a child begins to demonstrate delays. Vision and hearing screenings can occur at the first three Tiers of the Georgia Student Achievement Pyramid of Interventions.

### **Does the 60-day timeline end with the evaluation or with eligibility determination?**

The 60-day timeline ends with the completion of the evaluation. The GaDOE interprets the completion of the evaluation to include the determination of eligibility because IDEA and Georgia Rules stipulate that the purpose of the evaluation must include the determination of a disability and the educational needs of the child. Eligibility determination identifies

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whether or not a disability and educational needs that require specialized instruction through an IEP are present.

### **How long does Parental Consent to Evaluate last?**

Consent to Evaluate is for a specific series of evaluations to determine whether the child is a child with a disability and what educational needs of that child need to be addressed. When consent is sought from a parent, the district should explain to that parent why the evaluations are sought and how the results may assist in making a particular determination. Once those evaluations are complete, and the evaluation report(s) have been completed or eligibility has been decided, then the period for that consent for evaluation has ended. Any new evaluations the district wants to conduct in the future require a new consent form.

### **If a parent refuses consent for an evaluation, is the school district required to go through either mediation or due process?**

No, when the school district decides that an evaluation is needed but the parent refuses, the district may choose to, but is not required to, seek mediation or due process. If the student is a home-schooled or private school student, this consent override does not apply.

### **What happens to the 60-day evaluation time period when a student moves to another district before the evaluation is complete?**

It is important to recognize that many aspects of the child's new district, teacher(s), classroom(s), and curriculum expectations may change some of the considerations and questions to be asked as part of an evaluation. The original 60-day time period no longer applies, but only if the receiving district is moving ahead in a timely manner on the evaluation, and the parent and district agree to a specific date by which it will be completed (i.e., if the original 60 days are exceeded).

### **Are there best practices regarding choice and use of evaluation tests and other measures?**

The IDEA goes to great lengths to provide for appropriateness (and therefore, dependability) of an evaluation, both in the Evaluations section and in the Procedural Safeguards. But professional ethics and expected practices go beyond even these extensive federal requirements. For example, the professional conducting an evaluation soon after another evaluation has been completed must be sure to review the technical manual of the same instruments to avoid invalidating the results. In general, the key to obtaining sound evaluation results is in choosing assessment instruments with sufficient validity (they get the desired information) and reliability (the results are trustworthy).

Further, it is expected that the instruments used will be recent editions so that their scoring tables are based on contemporary students and thus give a realistic picture of a student's

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relative performance. This may not necessarily mean the very latest edition since districts may want to ensure that all publishing flaws in new editions have been identified. Whoever administers a screening or evaluation instrument must be properly trained to administer it according to the publisher's instructions. Whoever interprets such results in light of all other results must have proper professional credentials in order to do so. When an evaluator departs from the publisher's instructions or commonly accepted use of an instrument, as is sometimes necessary, the report of the evaluation must contain an explanation of the deviation.

### **Do districts have to provide evaluations for home-schooled or private school students?**

Yes. It is clear that a district's Child Find obligation under the IDEA applies to all students, not just those in public schools. Thus, each district is responsible for locating and evaluating any students who live in or attend a private school in its district who may have a disability. If the parent of a home-schooled or private school student suspects a disability and requests an evaluation, the district must provide this unless it feels that no justification for it exists. In that case, the district must notify the parent of the reason for its decision. This refusal can then be appealed by the parent through a due process hearing.

### **A private school wants to have an evaluation of a student to determine educational need.**

#### **How can the interventions, if any, done in the private school be documented?**

Evidence of prior interventions is required for students referred for an evaluation from a private school. The school district can accept less formalized intervention data from the private school setting, or it can assist the private school in strategies for collecting valid data based on interventions implemented prior to the referral for evaluation or during the evaluation period.

### **What about preschool age children who are not in a formal program?**

The Child Find obligation of districts under the IDEA applies to all students living in a district, whether they are in a formal program or not. Thus, the challenge is to advertise the availability of evaluation services publicly in order to reach parents with information about the availability of evaluations for suspected disabilities. Pediatricians' offices, county health clinics, local newspapers, and brochures at grocery stores and other locations where virtually all parents must occasionally go are logical means of getting the information to parents of young children.

### **What type of interventions and progress monitoring are expected for preschool students?**

The data collection on the interventions will be informal and may be of a qualitative nature; much of the evidence of interventions and progress monitoring will be through interviews.

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The school district should also use the opportunity to work with early education providers to ensure that children have access to the DECAL standards.

### **How does a Speech/Language evaluation differ from the other types of evaluations?**

Speech-Language Pathologists (SLPs) work with and evaluate students who have problems in pronouncing sounds and in using or understanding language or both. Thus, evaluation of each of these may require different or overlapping sets of procedures and areas of focus. It is incumbent upon the SLP to be sure to evaluate (or refer for others to evaluate) any areas beyond those of speech and language if it appears that other factors may have an effect on the production of speech or the use of language or on other aspects of educational functioning.

### **Are students with speech or language issues required to have interventions through the Georgia Student Achievement Pyramid of Intervention?**

Yes, any student presenting with a delay must be provided evidence based interventions in the area of concern.

### **What special considerations are there for evaluation of English Language Learners (ELL)?**

These are among the most challenging evaluations because

- language is a fundamental part of learning and thinking;
- English is considered one of the hardest major languages to learn; and
- a student's family culture and background are powerful influences on the student's ability and desire to learn and perform in the English-rich environment.

The fundamental challenge is to tease out any problems that are not due to the difficulty of learning English. In order to do this, it is necessary to

- determine the fluency of the student in his/her native language;
- determine, by comparison, fluency in English;
- gain an understanding of the student's cultural and family influences; and
- ensure that assessment materials and instructions are appropriate for and understood by the ELL student.

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An important method of obtaining pertinent cultural information is by interviewing key family members. All results obtained must be interpreted in relation to the student's dominant cultural influences.

### **Must the sources for adaptive behavior scores be obtained from standardized assessments?**

Yes, at least two assessments, that have been normed on the general population, must be conducted.

### **Is a local district required to obtain an adaptive behavior score from someone outside of the school district?**

It is expected that the second measure of adaptive behavior shall be completed from someone outside of the school.

### **What happens to students who are not found eligible for special education services?**

In general, this is left to the option of the district, since it can be affected by a number of local factors. One recommended practice would be to consider Section 504 plans for those students who do indeed have an impairment that impedes their ability to have the same chance to succeed in the general education classroom as their non-impaired peers. It may be that general education classroom accommodations are all that are needed to give such a student equal access. In many districts, the cases of students found ineligible for special education are automatically assigned to the Student Support Team in the student's school. That team is responsible for helping design an individual plan for overcoming obstacles to success. The substantial information that comes back from the comprehensive evaluation can assist the SST in this task.

## *Reevaluation*

### **What are the timelines for completing a reevaluation?**

The 60-day timeline only applies to the initial evaluation. Once a student is in special education, all further evaluations are considered reevaluations. The reevaluation must be completed within a reasonable timeframe, no later than the three year eligibility determination date.

### **What is the starting date of the three-year period for a reevaluation?**

The date of each eligibility meeting begins the next three-year reevaluation cycle.

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### **What happens if the parent refuses consent for reevaluation?**

The school district can determine, based on the current data and other information, that the student either continues to or does not continue to be eligible. The district should then provide prior written notice to the parents. Districts may also use the consent override procedures (due process hearing or mediation) to gain permission to evaluate.

### **If the parent requests an evaluation at the reevaluation consideration meeting, and the district does not feel that it needs one to continue eligibility and documents that the student is still eligible, what happens if the information obtained in reevaluation conflicts with the current eligibility?**

The team must consider all information, not just the assessment/psychological. Test scores alone should not determine whether the district should reconsider eligibility. On a case-by-case basis, this information should be reviewed and the initial determination that the student continues to meet eligibility may need to be revised based on the additional information. The district certainly does not have to wait three years to consider eligibility again.

### **How do we address the issue of students not being formally evaluated at multiple successive reevaluation milestones?**

Occasionally students have been evaluated at a young age and found eligible for a special education category but never or seldom evaluated again. While this is not prohibited, assessment and placement issues must be considered. The overriding consideration is that the student's school experience continues to be appropriate every year. This highlights the importance of annual IEP reviews, which themselves amount to a kind of brief evaluation through a review of current information about the child. A student whose eligibility and needs were determined at a young age undergoes substantial changes during maturation that call for a new appraisal of needs and appropriateness of placement. Reevaluation can identify and document any changes that have occurred and determine whether the disability is still impacting education and the child's current educational needs.

### **How are RtI requirements to be handled in a reevaluation?**

The student's performance in the specific IEP activities defines the student's Response to Intervention for a reevaluation.

### **What data are used for progress monitoring for a student who is being reevaluated?**

Students currently served by special education can have progress monitoring data collected from their established IEP goals.

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### *Eligibility Form*

#### **Is the local district required to use the state recommended eligibility form?**

No; however, it is expected that all of the required components specified in the Special Education Rules and included on the model form will be included if districts choose to develop and utilize different eligibility reports.

#### **Are the short and long versions of the old eligibility forms being discontinued?**

Yes, the GaDOE recommends the use of one eligibility form and encourages school districts to transition to the new form as initial evaluations are conducted to determine initial eligibility for special education. The new eligibility form documents the determination decision based on all the information presented and records a process completed by the team. During redeterminations, it is not necessary to use the new form when no new information is being collected and reported. If new data is being collected and used to make an eligibility determination, the new form can be used.

### *Evaluation Report*

#### **Are school psychologists required to write a psychological evaluation report?**

Yes; however, special education directors and school psychologists should work together to determine the essential components needed in a psychological report due to the comprehensive requirements of the eligibility report. Psychological evaluation reports may not need to be as detailed due to the comprehensive nature of the new eligibility report.

#### **How should public announcements be made before destroying records?**

One or more written notices are sufficient to inform parents of the intent to destroy records. Notices are often published in the newspaper or on the web page of the school district.



## CHAPTER FIVE: SPECIAL EDUCATION ELIGIBILITY REQUIREMENTS (160-4-7-.05)

### *Georgia's Student Achievement Pyramid of Interventions*

Special education eligibility and the required pre-referral process are intended to support the practice of providing high quality instruction and intervention matched to student needs, while monitoring progress frequently in order to make decisions about changes in instruction and to apply child response data to important educational decisions. This framework should guide eligibility teams in applying decisions to general, remedial, and special education, creating a well integrated system of instruction/intervention guided by child outcome data.

To obtain child outcome data, a multi-tier system of intervention options integrates educational problem solving across educational levels. Multi-tiered systems of interventions are consistent with the federal legislation (Individuals with Disabilities Education Act, IDEA, 2004, and No Child Left Behind, NCLB, 2001) and evidence-based research. These laws serve two purposes: to produce better outcomes for all children, and to apply procedures with strong scientific bases to a wide range of educational decisions, including determination of eligibility for special education.

The Georgia Department of Education (GaDOE), in collaboration with the Divisions of Curriculum and Instructional Services, School Improvement, Innovative Academic Programs, and Special Education, has adopted the framework of *Georgia's Student Achievement Pyramid of Interventions*. This four-tiered process provides an integrated approach to service delivery that encompasses general, remedial, gifted, and special education. The Pyramid is based on strong academic standards and research-based interventions. It relies heavily on frequent progress monitoring to assess student progress in the curriculum. By developing and implementing the *Pyramid of Interventions* framework at the local level, child outcome data are expected to increase due to the consistent use of common formative assessments that guide decision-making procedures for student interventions.

Implementation of *the Pyramid of Interventions* requires three essential components:

1. Multiple tiers of interventions service delivery (Georgia employs a four-tier model)
2. A problem-solving method
3. An integrated data collection system to inform decision at each tier of service delivery.

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The problem-solving method provides educators with a consistent step-by-step process to identify problems and to evaluate the effectiveness of interventions. A consistent method of problem solving must be available to teachers and other staff if they are to understand why some students are not responding to the academic, behavior, or communication expectations of the school; however, **there is no need to classify children as having a disability if a significant educational impact is not obvious**. Many times, less restrictive interventions delivered by highly qualified general education personnel with the support of others within the school work very well to increase student achievement. **In addition, it is critical that all factors (e.g., curriculum, effective instruction, school, classroom, and home environment) be examined prior to assuming that an intrinsic disability is responsible for poor performance.**

The problem-solving process must occur at each tier of intervention. Predicting which instructional approach will work with each student may be difficult prior to implementation. The effectiveness of instruction at each tier must be determined through implementation; therefore, school districts must put in place a decision-making system that will help design instructional strategies as well as provide for the frequent monitoring of instructional effectiveness. The diagram on page 52 illustrates the needed components of a problem-solving process for *Georgia's Student Achievement Pyramid of Interventions*.

### ***Decision Making along the Continuum of the Pyramid of Interventions***

#### ***TIER 1***

1. Universal screening or benchmarking is conducted at school level.
2. Evidence-based curricula and strategies are in place for all students.
3. Differentiation is documented by general education teachers through the general education environment.
4. At-risk students are identified in an area of instructional delay (language, academics, behavior).
5. Data are analyzed by classroom general education teachers for decision making.

Movement between Tier 1 and Tier 2 is fluid and flexible. Adequate time should be given for the Tier 1 instructional program to be implemented before determining whether Tier 2 support is needed. However, common sense is critical in assessing student performance

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and individual responses to Tier 1 instruction (i.e., a student with a documented visual impairment would be provided interventions immediately).

### *TIER 2*

1. Parent is notified that additional small group instruction may be needed for student.
2. Parent is contacted concerning strategies to be attempted.
3. Small group instruction is provided in addition to the core curriculum.
4. Progress monitoring is administered frequently to determine whether a change in delivery or strategy is required.
5. Data are analyzed by classroom general education teachers for decision making.

After the appropriate amount of time (time in weeks dependent on the intervention), the data team should assess student progress and determine whether continued support through Tier 2 is required, additional Tier 2 interventions are required, or Tier 3 support, in addition to Tier 1 and Tier 2, is required.

### *TIER 3*

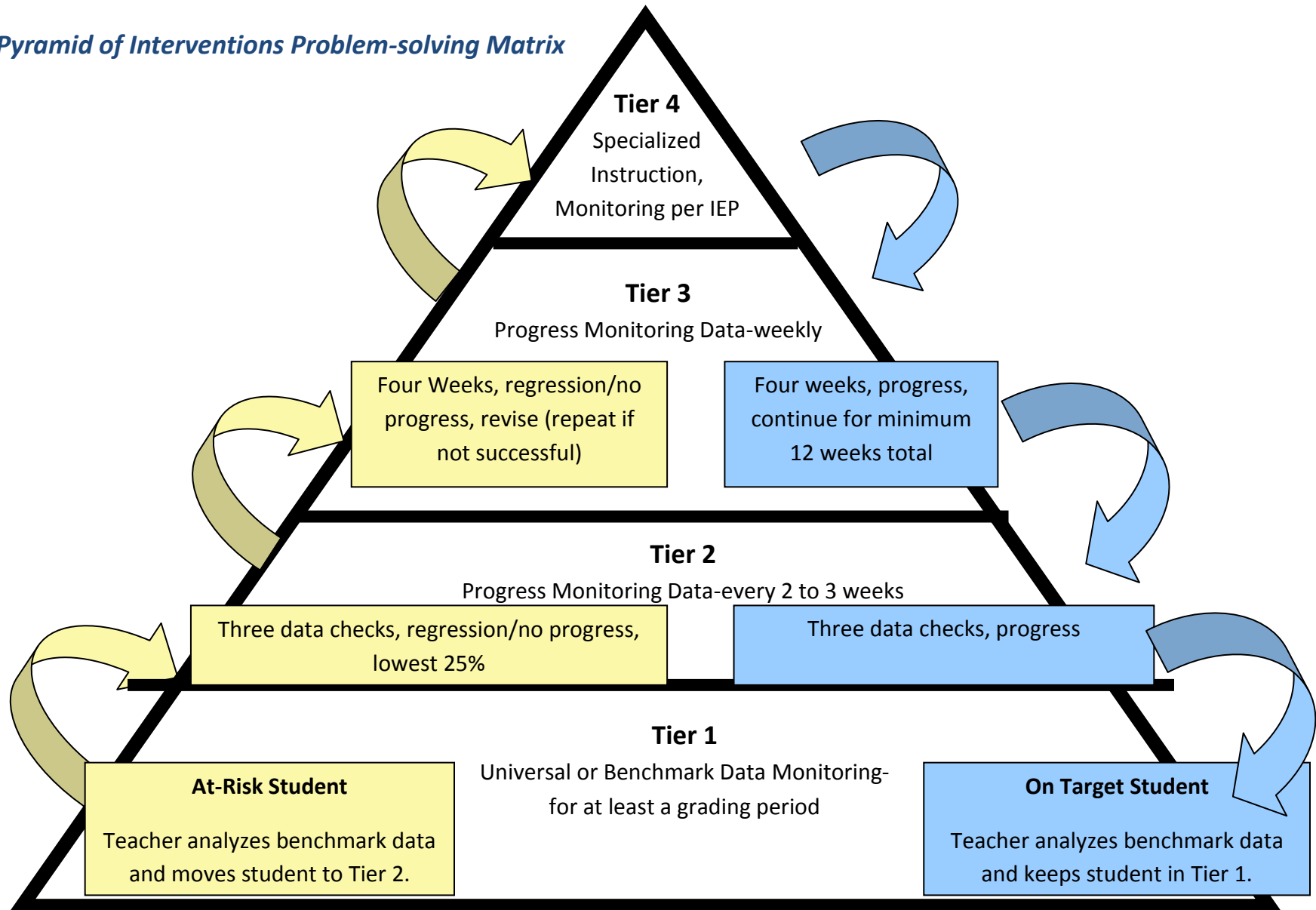
1. Baseline and progress monitoring data from Tier 2\* are analyzed to create specific goal(s) for student improvement.
2. The SST may determine the need for additional information on a student including the use or administration of informal or formal measures to gather individual data in the area of concern.
3. The interventions are continued If the student is making progress using the SST interventions; however, if progress toward the goal is minimal, SST members will revise or change the intervention.

The SST may make a referral to special education (Tier 4) if the intervention plan and its revisions are not successful in helping the student meet the goals identified by the SST.

\*Interventions from Tier 2 may also count toward the required collection of data to consider eligibility for Specific Learning Disability (SLD). For students being considered for eligibility in areas other than SLD, the key consideration is that interventions have been given a reasonable amount of time to work and that there are enough data points over time to provide a sound basis for making decisions about how the student is responding to the intervention.

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### *Pyramid of Interventions Problem-solving Matrix*



### ***Special Education Eligibility Decision Making***

Districts must recognize the direct and relevant relationship between practices within *Georgia's Student Achievement Pyramid of Interventions* and the individual evaluation requirement of the IDEA 2004. Once problem-solving teams determine that a child is suspected of having a disability, a full and individual evaluation shall be provided to the student being considered for special education categorical eligibility. **However, an eligibility determination cannot occur until the existing data is reviewed to determine whether exclusionary factors related to specific eligibility categories are present.**

#### **All categories include the following exclusionary factors:**

- Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in section 1208(3) of ESEA)
- Lack of appropriate instruction in mathematics
- Limited English proficiency

Moreover, eligibility determination for special education services occurs only when a student's response to both core instruction and supplemental interventions does not result in **movement toward achieving** benchmarks resulting in grade level performance. Likewise, a student may be considered for special education if the individual response to intensive interventions **produces meaningful growth**, but that growth **requires significant and ongoing** resources to maintain.

Eligibility determination must be made using the convergence of data from multiple sources to document each of the following:

- **grade level difference**, such as large performance difference compared to peers and benchmark expectations in specific areas (data from statewide testing, district level benchmarks, etc.);
- **rate of learning difference**, such as a large difference in rate of learning compared to the trajectory toward the benchmarks when provided with high-quality interventions implemented over a significant period (CBM, progress monitoring, tiered support);

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- **adverse educational impact**, such as a review of the individual student qualitative and quantitative data that indicates the need for specially designed instruction;
- **exclusion factors**, such as those that rule out more significant impairments and absence of meaningful instructional opportunities.

### *Guidance on Determining More Significant Impairments*

In most cases, student performance will be reviewed by the SST prior to determining that a referral to special education is warranted. However, for students exhibiting the most significant disabilities, ongoing interventions through *the Pyramid of Interventions* may not be appropriate due to the unique learning needs of this population; therefore, the SST may request an expedited special education evaluation process for students exhibiting these characteristics. When determining eligibility for a child with significant disabilities, the team must carefully consider the impact of any sensory, motor, or communication impairments that impacted the evaluation.

### *Quick Reference Eligibility Guide and Model Eligibility Form*

The IDEA 2004 governs eligibility decisions with requirements regarding multi-factored assessment and the consideration of a variety of domains in placement decision making. IDEA 34 C.F.R. Section §300.304(b)(4) and Georgia Rule 160-4-7-.04 (Evaluation and Reevaluation) state that, “the child is assessed in all areas related to the suspected disability.” In order to assist districts in this process, an eligibility form that encompasses all categorical areas has been developed. This single eligibility form is intended to prevent the assessment of a child for a preconceived categorical placement. In addition, eligibility teams should consider multiple data sources that include quantitative and qualitative data from classroom work samples, observations, and teacher and parent reports. The eligibility form was created to complete this task effectively. The [Quick Reference Guide for the Eligibility Form](#) and the [model eligibility form](#) are located on the Special Education website.

It is the responsibility of an eligibility team to determine which students actually exhibit the required characteristics to be considered a student with a disability. The need for support is not always parallel to the data indicating an educational impact. Therefore, collaboration among general, remedial, and special education will ensure that students who require specially designed instruction will be those who are determined to be children with disabilities. When local districts follow the framework of the *Pyramid of Interventions*, all students will have access to high quality instruction and needed intense interventions.

### *Frequently Asked Questions*

#### **Upon parent request, when must a district evaluate a student?**

If the district agrees with the parent that the child may be a child who is eligible for special education services, the district must evaluate the child. The IDEA (34 C.F.R. § 300.301(b)) allows a parent to request an evaluation at any time. If a district declines the parent's request for an evaluation, the district must issue a prior written notice as required under 34 C.F.R. § 300.503(a)(2), which states, "written notice must be given to the parent of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of free appropriate public education (FAPE) to the child." The parent can challenge this decision by requesting a due process hearing to resolve the dispute regarding the child's need for an evaluation. The district can use the evaluation period to implement interventions and document the student's response to those interventions. This documentation may be required to determine eligibility for certain disability categories, per Georgia Rules.

#### **May a district require that all children suspected of having a Specific Learning Disability (SLD) first be assessed using a Response to Intervention (RtI) process before an eligibility determination may be made?**

Children suspected of having SLD must document according to Georgia Rule 160-4-7-.05-19, (iii) Results from supplementary instruction that has been or is being provided:

- (a) that uses scientific, researched, or evidence based interventions selected to correct or reduce the problem/s the student is having and was in the identified areas of concern;
- (b) such instruction must be implemented as designed for the period of time indicated by the instructional strategy(ies). If the instructional strategies do not indicate a period of time the strategies should be implemented, the instructional strategies shall be implemented for a minimum of 12 weeks to show the instructional strategies' effect or lack of effect that demonstrates the child is not making sufficient progress to meet age or State-approved grade level standards within a reasonable time frame:

#### **Must a district follow the Georgia Department of Education (GaDOE) criteria for determining whether a child has a Specific Learning Disability?**

A district must comply with the criteria adopted by the GaDOE regarding this requirement. The requirements at 34 C.F.R. §300.307 (a) require that States adopt criteria for determining SLD. Page 46649 in the final Part B regulations clarifies: "The Department

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believes that eligibility criteria must be consistent across the State to avoid confusion among parent and district personnel. The Department also believes that requiring districts to use State criteria for identifying children with disabilities is consistent with the State's responsibility under Section 612(a)(3) of the Act to locate, identify, and evaluate all eligible children with disabilities in the State."

### **May an eligibility determination be made using only information that was collected through formalized interventions progressing through the tiers on the Pyramid of Intervention?**

IDEA 34 C.F.R. §300.304 (b) states that in conducting an evaluation, a public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. A district may not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or for determining an appropriate education program for the child.

### **Would a student's participation in Tier 1 or Tier 2 of the Pyramid of Interventions be considered a "basis of knowledge" that the student may be a "child with a disability"?**

No. Participation in the RtI process, in and of itself, would not appear to meet the "basis of knowledge" standards. The standards for whether a public agency has a "basis of knowledge" include written concern from the parent or a teacher that the child may be in need of special education or a request by the parent for an evaluation.

### **Are we going to get any clarity on the ambiguity on the exclusionary factors?**

The implementation manual provides guidance regarding these exclusionary factors. The eligibility team must complete the evaluation and eligibility processes and decide the impact of the exclusionary factors based on the data and other information. This is a reasoning process; no magic formula exists. A student who has irregular school attendance, for example, may be a student with a disability if the team determines that the attendance has not impacted the performance or response to interventions. The presence of exclusionary factors does not necessarily mean the student cannot be eligible. It means that the team must consider the factor, discuss the impact of the factor, and make and document the professional judgment of eligibility. If an exclusionary factor is determined to be the primary reason for the delays, the team must provide the data that was analyzed to make this decision.



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### **What are the procedures for determining eligibility for out-of-state transfer students?**

The local district may review the out-of-state eligibility and data and accept the eligibility determination. If the local school needs additional data prior to making an eligibility determination, FAPE must be provided while this determination is being made. In the meantime, if the student is referred for an evaluation to determine eligibility, this is considered an initial evaluation and the 60-day timelines apply.

### **When a student transfers into the school district from another state, is the determination of eligibility up to one individual who is reviewing the records or is it a team decision?**

Eligibility is always a team determination. However if the student was determined eligible in another state, the team determination was already made and the receiving district can accept the eligibility determination. If the district chooses not to accept the determination, the team should refer the student for a comprehensive evaluation to determine eligibility under Georgia Special Education Rules.

### **When a student moves into a district (especially from out of state or out of county), and parents report that their child received special education services in the previous district, is the receiving district obligated to go on the statement of the parent when no records have been received? Can the student be placed in the general education classroom and receive instruction and supports through the Georgia Student Achievement Pyramid of Interventions while the records from the previous school are obtained?**

If a child with a disability has an IEP developed in another state or district and transfers to a new district, the new district, in consultation with the parent, must provide the child with FAPE. This should include services comparable to those described in the child's IEP from the previous LEA or, in the absence of an IEP, as reported by the parent. During this time, the new district may choose to adopt the out of district IEP in its entirety, including annual review date, or develop a new IEP using information from the IEP developed in the prior district and establish a new annual review date. In the absence of complete or appropriate documentation, the new district may complete an evaluation and develop a new IEP. The least restrictive placement for students with disabilities should be the general education classroom with appropriate accommodations and supports. If a student's IEP services cannot be provided in a general education classroom, placement in other environments is also appropriate if needed for the student to receive FAPE.

**What is the timeline for accepting eligibility and IEP from another state that the district feels is incomplete? If additional information is needed, can the district accept the eligibility and then complete the additional assessments, or is the timeline 60 days regardless of whether the eligibility is accepted or not?**

If an out-of-state eligibility is initially accepted, with the understanding that additional information is needed, then that information is gathered and reported. The 60-day timeline does not apply because the student has been determined eligible.

**What is the procedure for students who enter the district with an expired eligibility or IEP? Do those students have to go back through the Student Achievement Pyramid of Interventions or is it considered an initial evaluation with the 60-day timeline?**

If the student has been in a program, available information should be reviewed to assist the eligibility/IEP team in making decisions about additional information needed, supports, and services.

For those students who come into the district with an expired eligibility, and the team determines that services are necessary while the initial eligibility information is being gathered and reviewed, the IEP date reported could precede the reported date of the initial eligibility. While this may affect data reporting, the reasons for the discrepancy can be documented. If the student comes into the district with an out of date eligibility or IEP, the district should not report that it was out of date. The eligibility should be identified as an initial eligibility, with the timeline starting at the date consent to evaluate is received.

The progress monitoring and other information gathered during the 60-day timeline for initial eligibility for a student who comes from out of state with an expired eligibility may look very different from that of the student who has gone through the Pyramid of Interventions. However, professional judgment should be utilized so that the information needed and then gathered meets the needs of the eligibility team.

**Is there a policy regarding accepting a student with an Other Health Impaired eligibility from another state?**

No, there is no specific policy related to students with Other Health Impairments who transfer into a Georgia school district. The receiving school district must review the information received and make an eligibility decision based on the individual child. A diagnosis of Attention Deficit-Hyperactivity Disorder can be made by a physician or a clinical psychologist.

**Can a child have a primary disability and a secondary disability?**

A child may present with more than one disability.

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### **What medical diagnosis does not require physician documentation?**

Under OHI, students who are ADD/ADHD may have the medical diagnosis made by a licensed psychologist who has a community based practice.

### **Are two IQ scores required prior to determining a student eligible under Intellectual Disability?**

As has been the standard for many years, at least two assessments of intellectual functioning must be conducted prior to determining Intellectual Disability eligibility.

### **Who is responsible for completing the structured observation required to determine eligibility for Intellectual Disability?**

Any member of the eligibility team may complete the observation. The GaDOE has a sample structured observation form that may be used or modified by systems.

### **Did Intellectual Disability remain an exclusionary factor for determining Emotional Behavior Disorder?**

Yes, an Intellectual Disability is an exclusionary factor for Emotional Behavior Disorder; however, a team must determine whether an Intellectual Disability and Emotional Behavior Disorder exist concurrently or if the observed behaviors are a characteristic of the Intellectual Disability.

### **Can a student with an articulation impairment be eligible for special education?**

Yes, as long as documentation verifies the student is not responding to prior interventions and the articulation or other communication impairment adversely affects the student's educational performance.

### **Can a gifted child be considered a student with a specific learning disability?**

Yes, a child may be gifted and also eligible for special education if the child meets the specific criteria for eligibility.

### **Can initial eligibility under Significant Developmental Delay occur during the school year the child turns seven?**

Initial eligibility must occur on or before the child's seventh birthday.

### **If a child is dismissed from special education, must the eligibility form be completed?**

A review of the data must indicate that the child is not a child with a disability. This must be shared with the parents. To meet the requirements of prior written notice, the parents must be informed of changes, data that were considered, and options that were considered. Completing or updating the eligibility form will document this.

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### *References*

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### CHAPTER SIX: YOUNG CHILDREN, AGES 3-5

Early identification and intervention for young children with special needs is critical for their future academic success. The Individuals with Disabilities Education Improvement Act (IDEIA) 2004 requires that services be provided for young children with disabilities beginning at birth through age 5. Babies Can't Wait (BCW) is a program of the Georgia Department of Community Health (DCH) that provides early intervention services to young children with disabilities from birth to age 3. Special education services and supports must be provided through the public schools for young children with disabilities beginning at age 3.

#### ***GaDOE Rule: Young Children, Ages 3-5***

The Individuals with Disabilities Education Improvement Act (IDEIA) 2004 mandates that special education services and supports be provided through the public schools for young children with disabilities beginning at age 3.

IDEA requires that the local school district locate, identify, and provide services and supports to young children with suspected disabilities or developmental delays. These delays may occur in the areas of self-help/adaptive behavior, cognitive development, communication, physical development, and/or social-emotional development.

#### ***Data Collection***

In Georgia, children ages 3-5 (including 2-year-olds who will turn 3 during the school year) must receive a comprehensive evaluation to determine eligibility for services via the preschool program. The comprehensive evaluation includes assessment the following areas of development:

- **Adaptive development** (e.g., dressing, eating, toileting);
- **Cognitive development** (e.g., thinking and learning);
- **Communication** (e.g., hearing, speaking, language skills);
- **Motor development** (e.g., physical development, large and small muscle development); and
- **Social–emotional development** (e.g., relating with adults and other children).

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After the comprehensive evaluation is completed, the Eligibility or Individual Education Program (IEP) team meets to review all of the information about the child in order to determine eligibility.

### ***Eligibility Determination***

Although preschool-aged students may be determined to be eligible in various disability categories, the most common is *Significantly Developmentally Delayed (SDD)* [34 C.F.R. § 300.8(b)]. A young child is eligible for special education and/or related services when team members agree that the evaluation information indicates the child meets the eligibility criteria in one or more areas of development. Additionally, the team must agree that special education and/or related services are required for the child to learn and be part of an appropriate educational setting.

Initial eligibility must be established and an IEP in place on or before the child's 7th birthday. The SDD eligibility may be used for children from ages 3-9. Eligibility continues to the end of the school year in which the child turns 9.

The IEP team shall consider the child's continued eligibility no later than 3 years from the date of initial eligibility.

### ***Referrals from Babies Can't Wait (BCW)***

Babies Can't Wait coordinates and facilitates the referral process to the local school district through a **transition conference**. A parent or guardian must consent to allow BCW to contact the local district. Children being referred from BCW are children with disabilities who

- are approaching the age of three;
- are transitioning from BCW;
- have an Individualized Family Service Program (IFSP);
- are identified as being potentially eligible for preschool special education service.

### ***Transition Conferences***

- The transition conference will be held as early as nine months but no later than 90 days prior to the child's 3rd birthday.

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- The parent/guardian, BCW coordinator, local school district representative, and other persons as appropriate attend the conference and serve as the transition team.
- The transition team reviews the IFSP and other documents that pertain to the child's disability.
- The local school district representative obtains the parental/guardian written consent to conduct a comprehensive evaluation.
- The local school district conducts a comprehensive evaluation.
- The parent/guardian, BCW coordinator, regular early childhood provider (as appropriate), special education early childhood provider, and local school district representative participate in the eligibility determination and IEP development.
- The local school district implements the IEP on or before the child's 3rd birthday.

### ***Referrals from Parent/Guardian, Child Care Provider, or Early Regular Childhood Provider***

Children suspected of having disabilities who are not receiving special education services and supports from the local school district may be referred by parents/guardians, child care providers, early regular childhood providers, or other individuals.

### ***Components of the Referral Process***

- The team reviews information regarding the child's education and development.
- The team reviews early childhood RtI strategies\* and progress monitoring implemented *prior* to referral and provided by referring party (**5 years of age and in kindergarten**).
- If appropriate, the team identifies and implements additional early childhood RtI strategies and progress monitoring.
- The local school district representative obtains the parental/guardian written consent to conduct a comprehensive evaluation.
- The local school district conducts a comprehensive evaluation within 60 days of written consent.

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- The parent/guardian, BCW coordinator (if appropriate), regular early childhood provider (as appropriate), special education early childhood provider, and local school district representative participate in the eligibility determination and IEP development.
- The local school district implements the IEP on or before the child's 3rd birthday.

\* For further information on Response to Intervention (RtI) and young children, refer to chapter 8.6 of the GaDOE RtI Guidance document at <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Curriculum-and-Instruction/Pages/Response-to-Intervention.aspx>.

### ***Least Restrictive Environment (LRE)***

Special education services and supports for young children should be provided in the “least restrictive environment,” which means that to the **maximum extent** appropriate, the young child should receive special education services in regular early childhood settings with other children of the same age who do not have special needs.

Young children with disabilities in Georgia may receive their special education services in a variety of environments. The child's IEP team will discuss the individual child's needs and determine the type of services, supports, and setting(s) that are appropriate to address those needs.

### ***Service Delivery Models for LRE***

- Regular early childhood setting (over 50% of children are non-disabled)\*
- Special education early childhood setting (over 50% of children are disabled)
- Home (home of child)
- Service provider location (e.g., location of a person providing speech, occupational, physical, audiological, or other related services)
- Separate school (school for children with disabilities)
- Residential setting (e.g., state school for children with disabilities where they live on the premises, such as GA School for the Deaf)

\* Regular early childhood settings for young children include the following:

- Georgia Pre-K
- Head Start or Early Head Start



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- Child care facilities
- Private or church preschools
- Mother's-day-out programs
- Homes of child care providers

Service delivery models for young children ages 3-5 years are typically provided on either a full-time or part-time basis.

- Full-time is based on the typical amount of full day preschool and/or day care (6.5 hours).
- Part-time is based on the typical amount of half day preschool and/or day care (less than 4 hours).

Regular early childhood setting for the school-aged child (ages 5-9) takes place in his/her regular education setting, (e.g., kindergarten, first grade, second grade, or third grade). In this setting, special education services and supports are provided either in the regular education setting or in a special education setting. The child's IEP team will discuss the individual child's needs and determine the type of services, supports, and setting(s) that are appropriate to address those needs.

### ***Transition from Preschool to Kindergarten***

Children are eligible for kindergarten when they will reach 5 years of age by September 1st. The kindergarten classroom provides the least restrictive or most natural environment for the child and allows him or her to be with same age peers. The year before the child's 5th birthday, the IEP team should meet to discuss the child's development and to determine how the child can be part of the kindergarten classroom. The kindergarten teacher should be invited to these meetings so that he or she can get to know the child and be ready for the child to attend school in the fall.

### ***Role of Parents in the Eligibility Determination, IEP Development, and Placement/LRE Decision-Making Process***

Parents should be involved in all the decision making for their child. This involvement includes

- giving written consent to allow Part C Babies Can't Wait or other programs or providers to share the child's records with the school district;

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- voicing educational concerns, desires, and goals for the child;
- giving written consent for a comprehensive evaluation;
- actively participating in the eligibility meeting;
- actively participating in the development of the child's program (IEP) for special education services and/or related services; and
- giving written consent for placement.

### ***Role of the Regular Early Childhood Provider or Teacher in Eligibility Determination, IEP Development, and Placement/LRE Decision-Making Process***

The role of the general education teacher is to assist in determining appropriate positive behavioral interventions, supports, and strategies; and to make the determination of supplementary aids and services, program modifications, and support for school personnel.

If the child is, or may be, attending a school-based preschool program, the school will invite the preschool teacher. The teacher is required to attend the IEP meeting unless the parent provides written consent to excuse the teacher from the IEP meeting.

If the preschool age child is attending and/or receiving special education services in a community-based preschool program, daycare, or early childhood program (GA Pre-K or Head Start), the local school district will invite the teacher of the preschool program to attend the IEP meeting. The local school district should try several different ways to encourage the attendance of the teacher. The school can hold the IEP meeting without the community-based preschool teacher, but the local school district should be able to show that they invited the teacher and the teacher did not attend.

### ***Specific Stakeholder Roles and Responsibilities***

#### ***Parent/Caregiver***

- Identify concerns about child's development.
- Discuss concerns with caregiver/parent or teacher.
- Contact local school district for assistance and/or referral.

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- Implement, in coordination with local school district, regular early childhood Response to Intervention (RtI) strategies as deemed appropriate for children **5 years of age and in kindergarten**.
- Monitor and document progress of RtI strategies for children **5 years of age and in kindergarten**.

### *Daycare /Head Start/Private Preschool/ GA Pre-K Provider*

- Identify and document concerns about child's development, including documenting information from universal screenings.
- Discuss concerns with parents.
- Although not required, identify and implement in coordination with local school district, regular early childhood RtI strategies as deemed appropriate.
- Monitor and document progress.
- Contact local school district for assistance and/or referral.

### *Local School District*

- Use the Child Find process to identify young children who are suspected of having a disability.
- Identify, implement, and/or monitor appropriate, regular early childhood RtI strategies in coordination with parents and/or early childhood provider for children **5 years of age and in Kindergarten**.
- Accept and process referrals of young children.
- Conduct comprehensive evaluations on all initial referrals.
- Assist in determining eligibility, appropriate services, and supports.
- Provide special education services and supports.
- Educate young children with disabilities under the framework of the Department of Early Care and Learning (DECAL)/Bright from the Start Pre-K content standards and Georgia Early Learning Standards (GELS), which have been aligned with the GaDOE Georgia Performance Standards for Kindergarten.

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### *Resources*

Recognition and Response [www.recognitionandresponse.org](http://www.recognitionandresponse.org)

National Center of Learning Disabilities <http://www.nclld.org/>

### *National Technical Assistance Centers funded by OSEP*

Early Childhood Outcomes Center <http://www.fpg.unc.edu/~eco/>

National Early Childhood Technical Assistance Center <http://www.nectac.org/>

National Early Childhood Transition Center <http://www.ihdi.uky.edu/nectc/>

Technical Assistance Center of Social Emotional Intervention <http://www.challengingbehavior.org/>

Technical Assistance Communities [http://www.tacommunities.org/ev\\_en.php](http://www.tacommunities.org/ev_en.php)

### *Early Childhood Associations*

National Association for the Education of Young Children <http://www.naeyc.org/default.asp>

Georgia Association of Young Children <http://216.15.146.20/index.htm>

Office of Head Start <http://www.acf.hhs.gov/programs/ohs/>

Council of Exceptional Children, Division of Early Childhood <http://www.dec-sped.org/>

### *Georgia State Agencies Serving Young Children*

Georgia Department of Early Care and Learning <http://www.dec.state.ga.us/>

Georgia Head Start <http://www.dec.state.ga.us/HeadStart/HeadStartMain.aspx>

Department of Community Health/ Babies Can't Wait (Part C Agency)  
<http://www.health.state.ga.us/programs/bcw/>

## CHAPTER SEVEN: INDIVIDUALIZED EDUCATION PROGRAM & TRANSITION (160.4-7-.06)

The Individualized Education Program (IEP) serves as the framework for determining the meaning of the term “free appropriate public education” in the least restrictive environment, a term frequently referenced in the IDEA. IEPs must be developed and reviewed annually and must be in effect at the beginning of each school year. The IEP may be reviewed more than once a year if the parent or the district requests a review.

### *Notice of IEP Meeting*

The parent must be notified of the proposed date, time, and location of an IEP meeting to give him or her sufficient time to make arrangements to attend or to contact the school to reschedule the meeting. This notice should include the purpose of the meeting (including transition, if appropriate); the proposed date, time, and location of the meeting; as well as (when possible) the names and positions of the people that the district will invite or has invited to attend.

The IEP meeting should be scheduled for a time, date, and location that is mutually agreeable to the parent and the district. The parent may request to reschedule the IEP meeting or to participate by telephone or videoconference if attending in person is not possible.

### *Changes to the IEP*

After the annual IEP meeting, the IEP may need to be changed. This can be done either by reconvening the IEP team to amend it or by mutual agreement between the parent and district to make changes to the written document without a meeting. The parent always retains the right to request a meeting for any and all changes or amendments to the IEP. Regardless of the method of changing the IEP, the parent must be provided with both a copy of the changes and an explanation of those changes in a timely manner.

### *IEP Team Members*

At a **minimum** the IEP team must include

- the parent (or the person acting as the parent under the IDEA);
- not less than one of the student’s general education teachers, if the student is or may be participating in the general education environment (for preschool students,

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this is someone who is currently providing preschool services to nondisabled preschool students);

- not less than one of the student's special education teachers or providers; and
- a district representative who meets the following requirements:
  - is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the child,
  - knows about the general education curriculum, and
  - knows about the availability of resources in the district.

Other members required under certain circumstances:

- someone who can interpret how evaluation results relate to classroom instruction and settings (this person may be one of the persons already listed above);
- other individuals who have knowledge of the child or special expertise, such as related services personnel (based on the discretion of the parent or district);
- the child with a disability, when the transition services plan is being discussed or earlier when appropriate; or
- a representative of any agency that is likely to provide or pay for any transition services, if appropriate and with consent of the parent or student (if he or she has reached the age of 18).

### ***The Role of Parents***

The parents of a student with a disability are necessary participants in the development of the IEP. It is important that the parents provide information about their views of the student's progress or lack of progress, as well as express any concerns about the overall educational development of the child. Parents provide important knowledge about how the student behaves and performs outside the school setting.

Parents should be involved in every part of the development of the annual IEP that should include

- a description of the student's academic, developmental, and functional performance;

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- a description of how the student will be included in the general curriculum;
- the annual goals for the student, along with a description of how those goals will be measured;
- a statement of what special education and related services are needed by the student;
- a discussion of how the student will participate in district and statewide assessments or why an alternate assessment is appropriate;
- the accommodations and/or modifications that are appropriate for instruction and assessment; and
- a discussion of the transition services (when appropriate).

### ***Special Parent Requirements***

In the event that a parent requires a translator or interpreter, it is the responsibility of the district to ensure that an appropriate adult is available to serve in that capacity.

### ***The Role of the General Education Teacher***

The general education teacher must attend the meeting unless the parent agrees, in writing, to excuse the teacher. At the IEP team meeting, the general education teacher is present to assist in the development of the IEP and to help determine appropriate accommodations, supplemental aids and services, program modifications, and support for district personnel that will be provided to assist the student, as well as to develop a Behavior Intervention Plan, if required.

### ***Excusal from the Meeting***

Two circumstances may allow a required member of the IEP team to be excused.

- When an IEP team member's area of curriculum or related services is NOT being changed or discussed at that IEP meeting, the parent and the district may agree to excuse an IEP team member from all or part of a meeting if the parent consents, in writing, to this excusal.
- When the IEP team member's area of curriculum or related services is being discussed at the meeting, the parent and the district may excuse an IEP team member from all or part of a meeting if the parent consents, in writing, to the

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excusal and the excused person submits relevant, written input to the IEP team prior to the meeting.

### ***Present Levels of Academic Achievement and Functional Performance***

The present levels of academic achievement and functional performance section establishes the starting point or baseline that is used to develop the entire IEP. It includes a description of the child's current academic, developmental, and/or functional strengths and needs; results of the initial or most recent evaluation; the results of district or statewide assessments; an explanation of how the disability affects the child's participation in the general education curriculum; any concerns of the parent; and, for preschool children, the impact of the disability on participation in age-appropriate activities. The remainder of the IEP, including goals and objectives, accommodations, transition services, and placement decisions, should be directly linked to the information contained in the present levels of academic achievement and functional performance, which include the following:

- The results of the initial or most recent evaluation of the child: This should include a summary of the relevant information from the child's evaluation (not just a listing of scores). This section does not have to include only formal evaluation measures performed on a child. It can include additional formative and summative assessments used for instructional purposes.
- The results of district or statewide assessments: This information must include test scores and must indicate whether the child did not meet, met, or exceeded standards. This should also provide a frame of reference for how the child is performing in comparison to same age peers. In addition, IEPs should include the strengths and weaknesses as indicated by the domains of the subtests.
- A description of academic, developmental, and/or functional strengths and needs:
  - Areas of strength may refer to
    - academic subjects such as reading, language arts, math, etc.;
    - developmental areas such as communication, motor, cognitive, social/emotional, etc.;
    - functional areas such as self-care, social skills, daily living, communication, social/emotional, etc.



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- This area should describe **SPECIFIC** needs that impact achievement and must be addressed through the IEP goals and/or objectives or through accommodations.
- Parental concerns regarding the child's education: What is written should be the result of ongoing communication with the parent regarding the child's academics, behavior, performance on goals, and/or future plans. Even if the parent does not attend the meeting or does not provide input at the time of the meeting, this information should be drawn from communication that has occurred over the previous school year.
- Impact of the disability on involvement and progress in the general education curriculum: This section should describe individual characteristics of the child's disability that affect his or her classroom performance. Examples of specific characteristics for a specific learning disability may include short term memory problems, poor organizational skills, and auditory processing problems, etc. This section must indicate how classroom instruction is impacted by the specific characteristics or deficits of the disability. Merely stating the student's eligibility category does not adequately describe the impact on involvement and progress in the general education curriculum. Statements should reflect individual needs and not be applicable to a large group of students.

### *Consideration of Special Factors*

Consideration of special factors must be documented in the IEP by checking **Yes** or **No**. The factors to consider are behavior, limited English proficiency, visual impairments, communication needs, assistive technology, and alternative format instructional materials. If needs are determined in any of these areas, the IEP must include a description of the supports and/or services that will be provided to the child.

### *Transition Service Plan*

The successful transition of students with disabilities from school to post-school environments should be a priority of every IEP team. The purpose of a Transition Service Plan is to assist students in building the skills and supports they need to reach their post-school goals.

Transition requires support from multiple sources so the student and his or her family can make choices, develop connections, and access services. Beginning not later than the IEP to be in effect when the student begins ninth grade or turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP must include

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1. appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and
2. the transition services (*including courses of study*) needed to assist the child in reaching those goals. A course of study should focus on instructional and educational classes and experiences that will assist the student in preparing for transition from secondary education to postsecondary life. This should relate directly to the student's postsecondary outcome goals and should show how a planned course of study is linked to these goals. The course of study should be meaningful to the student's future and should motivate the student to reach successful post-school outcomes.

**Desired Measurable Postsecondary Outcome/Completion Goals** should be measurable and related to what the student wants to achieve *after* graduation. They should be "major life accomplishments" or "completion goals." Goals should be written in the areas of education/training, employment, and independent living (if appropriate). They should be clear and understandable, positively stated, and based on academic achievement and functional performance. They must be based on age-appropriate assessments and must be practical and relevant to transition needs. Outcome/completion goals can change and become more refined as the student has more experience and gets closer to graduation.

**Preferences, Strengths, Interests, and Course of Study Based on Present Levels of Performance and Age-appropriate Transition Assessments** should provide an assessment of the skills and interests related to education, employment, training, and independent living skills (as appropriate) and should be conducted in conjunction with the development of the transition components. The initial transition assessment may be prior to the eighth grade and could occur when a reevaluation consideration is conducted. It should also be ongoing and fluid. Assessment tools that clearly describe a student's strengths and weaknesses and document a student's interests and perceptions about their skills should be utilized. Surveys and interviews work well for this type of assessment. Also, six characteristics should be considered when conducting a transition assessment.

The transition assessment should

- be child centered,
- be continuous,

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- occur in many places,
- involve a variety of people,
- have understandable data, and
- be sensitive to cultural diversity.

**Measurable Transition IEP Goals** are based on age-appropriate transition assessment, including transition activities and services appropriate to attain the postsecondary outcome/completion goals. This section should include measurable transition IEP goals that directly relate to the how, when, where, and what answers that are needed to complete each postsecondary outcome/completion goal. These goals should be relevant to “how to get to” the desired postsecondary outcomes. They must be meaningful. This section is divided into the following areas: education/training, development of employment, community participation, adult living skills and post-school options, related services, and daily living skills (as appropriate). At least one measurable transition IEP goal must be determined for education/training and development of employment. Measurable transition goals for independent living should be addressed if appropriate.

**Transition Activities and Services** should address the transition activities and services that are needed to attain these measurable goals. Transition activities and services should be planned as the “what is needed to achieve these goals.” Many activities and services should be planned and implemented for each goal.

**Persons and Agency Involved** should include those who will help the student achieve the goals stated. Documentation that these persons were invited to the Transition IEP meeting and that the parent and student (if over 18) were notified of their possible attendance must be kept. (If a necessary, participating agency does not attend, document other actions for agency linkages.)

**Date of Completion and Achieved Outcome** should state the date completed and specify what was achieved. If the student does not attend the IEP meeting, the district must take other steps, including verbal and written input, to ensure that the student’s preferences and interests are considered before developing the transition aspects of the IEP.

### ***Transfer of Rights at 18 Years of Age***

At the IEP meeting before the student turns 18, a statement that the student has been informed of his or her rights that will transfer to the student upon reaching the age of 18

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must be included in the IEP. The IEP should also document, at age 18, that the rights have been transferred. Once the rights have transferred to the student at age 18, the district must provide any notice required to both the child and the parent. All rights given to the parent transfer to the student.

### ***The Summary of Performance (SOP)***

For a student whose eligibility terminates due to graduation with a regular diploma or to exceeding the age requirements, the district must provide the student with a summary of his or her academic achievements and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals. Although not required, it is good practice to provide the SOP for students who graduate with a certificate of attendance or a special education diploma as well. The purpose of the SOP is to provide strategies for successful transition with needed supports. The [SOP](#) and [directions for completing the SOP](#) are available on the GaDOE Special Education web page.

### ***Annual Goals***

IEP goals are written to address an individual student's deficits in order to enable that student to make progress in grade level standards. All students are expected to be working toward grade level standards, so it is not necessary to list those standards in the IEP.

The goals should address the needs described in the present levels of academic achievement and functional performance that will enable the child to progress in the grade level standards-based curriculum. The goals should be written in measurable form and should describe what the student can be reasonably expected to accomplish within one school year.

**Example:** The student is not making progress in the general education curriculum because of his inability to follow directions from the teacher, and he often completes assignments incorrectly.

Goal: The student will comply with oral directions the first time given by the teacher by listening, clarifying, and verbally agreeing to do as asked 4 out of 5 times for three consecutive weeks.

Short term objectives or benchmarks are not required for all students. Only those students who participate in the GAA are required to have either benchmarks or short term

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objectives. However, nothing prohibits a district from requiring short term objectives or benchmarks for all students.

At times a parent may request short term objectives for a particular area of the IEP even though they may not be required. The district must determine its policy and prepare teachers for the appropriate response to this request. The district and the parent should work together to reach an agreement about short term objectives as appropriate.

### ***Student Supports***

Student supports consist of accommodations for instruction and testing, supplemental aids and services, and/or supports for district personnel. These may be provided to assist students in advancing toward attaining annual goals, in being involved and making progress in the general curriculum, and/or in being educated and participating with other nondisabled students.

- **Instructional accommodations** may include how instruction is provided, how the child is expected to respond instructionally, how the child participates in classroom activities, and the kinds of instructional materials used. Accommodations provide children with disabilities a variety of ways to access the Georgia Performance Standards so that their disabilities are not barriers to achievement. Children with accommodations are still expected to meet the same grade level standards as their peers without disabilities. For example, a student might listen to portions of a text on tape rather than reading it, answer questions orally or use a computer keyboard instead of writing with a pencil, use large print text books, watch video with captions, or participate in a discussion in a biology class with a sign language interpreter. Accommodations should provide access to or promote skill growth, and some accommodations may be used instructionally that **will not necessarily** be used for assessment. Appropriateness and efficacy of accommodations should be evaluated on an ongoing basis. Accommodations should not be confused with differentiated instruction.
- **Classroom testing accommodations** should be individualized, determined by subject area, and be as specific as possible. For example, if a student may require additional time to complete tests, it is recommended that the amount of time is specified such as, "50% more time." Other examples of testing accommodations are the use of a text reader or calculator, special seating, etc. Testing accommodations should only be recommended if they are also the student's instructional accommodations, and some instructional accommodations may not be appropriate for testing.

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Please refer to the [Georgia Student Assessment Handbook](#) located on the [Assessment web page](#) of the GaDOE website.

- **Supplemental aids and services** should include supports that are provided in general education classes or other education-related settings to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate. Examples include tutoring, adult assistance, note-taking, peer helper, pre-teaching/re-teaching or reinforcing concepts, behavior intervention plan, point sheet, assigned seating, etc. Some accommodations used for instruction may also be considered a supplemental aid and service.
- **Supports for district personnel** should be included when training or other supports are being provided to district staff regarding a specific student's need. Examples may include training on an assistive technology device, a workshop on a content area or disability area, crisis prevention training, etc.

### ***Assessment***

Georgia requires all students to participate in grade level district and statewide assessment programs. For any grade where all students are assessed, students with disabilities must participate in the regular assessment, modified assessment, or the Georgia Alternate Assessment (GAA).

The Georgia Department of Education, Testing Division, has an extensive assessment manual that addresses all aspects of testing, including accommodations for each standardized assessment. Only a small number of students with disabilities will take the GAA.

For information on the GAA see  
<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/GAA.aspx>.

The section of the IEP about district and statewide assessments should be as specific as possible and should only identify testing accommodations the student must have in order to participate in the assessment. The IEP team may not identify any accommodations that are not on the approved list. If a student must have an accommodation that is not on the list, the IEP team should work with the district testing coordinator who will contact the GaDOE Testing Division to discuss the ramifications of the potential accommodations. Each

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assessment should be listed by content areas so that accommodations can be individualized.

### ***Placement Options***

Special education is a service and **not a place**. After the IEP team has reviewed all required information and developed an IEP, it must make the decision as to where services need to be delivered in order to enable the student to receive a free appropriate public education in the least restrictive environment. Placement decisions should start with the expectation that services will be provided in the general education setting and should be made on a subject by subject basis. The placement decision should be fully supported by the present levels of academic achievement and functional performance and by the level of supports and accommodations/modifications the student requires to access the curriculum.

### ***Extended School Year (ESY)***

The IEP team shall consider each child's need for extended school year services annually. The individual needs of the child shall be considered and may include such factors as:

- the severity of the disability;
- the age of the child;
- any transitional needs;
- the rate of progress or regression that may limit the child's ability to achieve IEP goals/objectives;
- the relative importance of IEP goals at issue;
- whether the child is at a critical point of instruction, such as emerging skills; and
- whether any delays or interruptions in services occurred during the school year.

If the need for ESY is determined, the IEP team must identify which goals in the current IEP are being extended or modified. ESY is not the same thing as summer school; however, ESY services may be provided during summer school.

### *Frequently Asked Questions*

#### **What happens when the parent doesn't show up for an agreed upon meeting?**

If a parent has indicated that he or she will attend the IEP meeting at the date and time on the notice and does not arrive, efforts to contact the parent should be made and documented. If no contact can be made, the IEP team should then determine what action is in the best interest of the child and either postpone or proceed with the meeting accordingly.

#### **Who has access to the child's special education file?**

Those with a need to know who are employed by the district directly or through contract have access to a student's special education file.

#### **What are the timelines for developing an IEP after a determination of eligibility is made?**

After a student is determined eligible for special education services, the district has 30 calendar days to develop and implement the IEP. A local school district is required to have an IEP in place by the beginning of the school year for any currently eligible students.

#### **Can a district give parents a final date for conducting a meeting if the deadline for developing an IEP is approaching and the district has tried to get the parent to commit to a meeting but has been unsuccessful?**

The school should make and document all attempts to schedule the meeting using multiple formats (e.g., written notice, phone calls, home visits, etc.). If the parent does not respond, the school may have the meeting without the parent present and then send the parent a copy of the IEP within a reasonable time prior to implementation of the IEP. If a parent responds and indicates that he or she wishes to participate in the development of the IEP, but cannot meet, the district must document the multiple good faith attempts to involve the parent before conducting the IEP without the parent.

#### **What happens if a parent fails to respond to a meeting invitation?**

If, after multiple attempts to contact the parent, the district is unable to convince the parent to attend, the district should keep detailed records of any letters, telephone calls, and/or visits to the parent. If attempts to assure parental participation do not result in parent attendance, the district may conduct the IEP meeting without the parent. A copy of the IEP will be sent to the parent.

#### **What can be done prior to the IEP meeting?**

IEP team members sometimes prepare a draft of the present levels of academic achievement and functional performance and proposed annual goals prior to the meeting



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and share this draft with the parent to provide focus for the IEP team meeting. It should be understood that no decisions will be made until the actual IEP meeting is held and that all draft documents can be changed based on the decisions of the team.

### **What other persons may attend an IEP meeting?**

The parent or the child may invite other persons with knowledge or expertise of the child to the IEP team meeting if either wishes. This includes relatives, advocates, and/ or tutors. It is a good idea for the parent to let the district know who is coming before the meeting. If the parent invites other persons who charge a fee for attending the meeting, the district is not responsible for paying those costs.

### **How do we document participation in the IEP?**

The first page of the model IEP lists the team members in attendance at the meeting. Some districts have attendees initial by their names. Others have them sign their names under the section for members in attendance. Members should not be listed if they are not participating in the meeting. This section is for actual participants in the meeting and not a listing of invited participants.

### **How much do we have to delineate the provider title?**

The district has the option of determining how titles are listed. Abbreviations such as Spec. Ed. Teacher may be used as long as the abbreviations are clear to the team members, including the parents.

### **If a child has never been in general education do we need to have a general education teacher?**

Yes, a general education teacher is required to participate in the meeting. Very few exceptions to this rule are allowed. Federal regulations and State Special Education Rules require that the IEP team consider the continuum of services and that a general education teacher be a participant if the student is or may be participating in a general education class. In only a very few circumstances would a general education teacher not be needed in order to consider the full continuum and the participation in general education.

### **For state schools and GNETS programs, who should be responsible for ensuring the participation of the general education teacher?**

In most circumstances, it is the local school district's responsibility to provide a general education teacher for the IEP meeting. Participation can be in person or via conference call or other means of participation.

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### **Who should be the regular teacher when the child is a 3 or 4 year old receiving services in the home?**

The parent or other caregiver would be the general education teacher if the child is receiving services only in the home.

### **Can someone who is an instructional coach and not in the classroom serve as a general education teacher?**

First preference is someone who teaches the child, but the instructional coach can fill the role. If the instructional coach is serving as the general education teacher, he or she should know the child in a regular education environment and know the curriculum in which the child will be participating.

**If a teacher is dually certified both in special education and general education, can he or she serve dual roles?** When making the decision to use the same person to fill both roles, it is important that the needs of the child be considered first. The letter of the law would allow a teacher to fulfill dual roles, but it is not best practice.

### **Can the LEA representative also fill the role of the general education person?**

Yes, as long as one of the child's general education teachers meets the requirements of the LEA, he or she can serve these dual roles.

### **Does the LEA representative have to be able to COMMIT to services (as in the past) or just be knowledgeable of the resources of the district?**

For IEP meetings, the LEA representative must be knowledgeable about the resources; however, in an early resolution session, the LEA representative must be able to commit resources.

### **On the first page of the IEP, do the additional IEP members need an excusal?**

No, only the required members of the team need excusal.

### **During a course of an IEP meeting, if an emergency comes up and a person has to leave unexpectedly, what is the best practice?**

When the team member leaves, stop and ask the parent whether he or she wants to continue the meeting. If the parent wants to excuse the team member, the meeting can proceed. If the parent does not want to proceed without the team member, the meeting can be rescheduled.

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### **Can the general education teacher be excused from an IEP meeting if the parent agrees?**

Yes, but districts must be sure parents understand that they can refuse to permit the excusal and reschedule the meeting if they prefer.

### **Are related service providers such as occupational and physical therapists required to have an excusal?**

Only the required members should have an excusal. If the therapist is a required member for an individual student, an excusal would be required.

### **On the parent request for excusal form, it says in whole and or part. Would we need to do an excusal form if the teacher does not stay the whole time?**

Yes, an excusal would be needed if any of the required members leave before the meeting is over. Districts should discourage the practice of having the general education teacher leave in the middle of the meeting. His or her role is important for the entire meeting.

### **Can the written excusal be through e-mail?**

Yes, if the parent communicates with the school staff routinely via email and the response from the parent is received prior to the meeting.

### **If new services and/or goals are added to the IEP within a short time of departure from a previous district, and they have not even been implemented before leaving the school, what is the receiving district's responsibility?**

The receiving school has an obligation to provide comparable services until such time as the local district either adopts the previous IEP or develops its own.

### **When we have a student moving within Georgia, can the IEP be accepted?**

Yes, if the IEP team believes that the IEP addresses the student's individualized needs. If the IEP from another district is accepted, it should be implemented in a timely manner.

### **What are the requirements if a student transfers from within Georgia?**

When a student transfers from another district within Georgia with a current IEP, the receiving district (in consultation with the parent) must provide services comparable to those services described in the sending district's IEP until the receiving district either adopts the previous IEP or develops and implements a new IEP.

### **What are the requirements for students who transfer from other states?**

When a student transfers from another State with a current IEP, the new district (in consultation with the parent) must provide services comparable to those in the out-of-state IEP until the new district can collect any necessary additional information necessary to

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complete the evaluation/eligibility determination and can develop, adopt, and implement a new IEP, if appropriate. If an evaluation is required, it is treated as an initial evaluation in Georgia.

### **How would an IEP transition team work through what seems to be unrealistic expectations of students and or/parents during the transition time?**

The team should explore the basis for the expectations and determine whether intermediate steps can be taken to ensure that the student is given a highly challenging program based upon his or her strengths and needs and that the outcomes of the program provide the student with as successful a post-school experience as possible.

Transition assessments can be utilized to assist in identifying what the student truly wants to do. More refined expectations can be identified; and the student's strengths, needs, and goals toward meeting those expectations can be explored using these assessments. Through interagency integration, opportunities may be available for students to participate and learn about possibilities related to their expectations.

Identify exactly what intermediate steps would be necessary to attain the goal. For instance, if a student wants to be a professional football player, he would need to attend college. In order to attend college, he must obtain a high school diploma. The transition plan could then address coursework, GHSGTs, admission requirements at selected colleges, and college entrance exams, as well as participation on the high school team.

### **Considering the required measurable goals for transition services, can the district be responsible for measuring how other agencies follow through on what they say they will do?**

Districts must convene an IEP team meeting if another agency does not carry out the responsibilities it has on the transition services plan. The team will develop alternate strategies for accomplishing the goals that were not carried out. As IEPs are developed, transition goals should focus on what the student is/will be doing rather than what the other agencies will do for the student.

### **When a goal on the transition plan contains a final goal of “will attend college” or “will attend a technical school,” what is the school district’s role in actually having the student attend college? Is the school district responsible for paying for college or a technical school since this was a goal on the transition plan?**

No, the school district would not be responsible for paying for college or technical school. The purpose of the transition plan is to show the steps the student and school district will

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take to obtain that final goal. In previous court cases, the school district was found to be out of compliance if a goal was not measurable, or if the measurable goal was not backed by objectives and a plan of action for the student to achieve the goal.

### **What is the difference between goals and short term objectives?**

Goals describe what the student can be reasonably expected to accomplish within one school year. Short term objectives are measurable, intermediate steps or targeted sub-skills between the present levels of performance and the annual goal.

### **Are goals and short term objectives required for all students?**

Goals are required in IEPs but short term objectives are required only for students who are assessed on the Georgia Alternate Assessment (GAA). However, the IEP team may decide to write short term objectives for goals for any students, as appropriate. Some students who are not assessed on the GAA may have a combination of measurable annual goals and goals with short term objectives/benchmarks.

### **If a student is taking the Georgia Alternate Assessment (GAA), what are necessary goals and short term objectives?**

Students assessed on the GAA are expected to be working toward grade level content standards the same as for all students. If the student is assessed using the GAA, IEP goals should address the individual student's needs described in the present levels of academic achievement and functional performance. The goals should be written in measurable form and must have a direct relationship between the area of instruction and the deficits in order for the student to progress in the standards-based curriculum. These students must have short term objectives as well as annual goals.

### **What if the parent refuses to sign the IEP?**

A parent is not required to sign the IEP for it to be implemented. The law provides the parent the opportunity to participate in and be a part of the team that makes the decision about the student's educational program. If the parent disagrees with the IEP, he or she should inform the district. Usually the district will set up another IEP meeting to determine whether an agreement can be reached. The district, however, may implement the IEP unless the parent informs the district not to implement and/or requests a due process hearing. If a parent requests a due process hearing, then "stay put" goes into place; and the student will receive the services from the previous IEP that is not being contested.

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### **What are some examples of supportive services?**

A range of supportive services are available. Some examples of supportive services include nursing, interpreters, and paraprofessionals.

### **Where is the place for a parent signature?**

A parent is not required to sign the IEP. The IEP is a consensus document and reflects the program to be implemented for the student. The IEP documents whether or not the parent participated in the IEP meeting. If the parent does not agree with the IEP, he or she may request another IEP meeting or a due process hearing.

### **What are the differences between the two types of goal sheets?**

One sheet has annual goals and short term objectives, and the other is for annual goals only. Only students who participate in the GAA are required to have short term objectives. When annual goals are used without short term objectives, the annual goals must be measurable.

### **What if the parent requests short term objectives, but the student is not in the Georgia Alternate Assessment?**

The school district should develop procedures regarding the development of short term objectives. Under IDEA and Georgia Special Education Rules, no language would prevent an IEP team from developing short term objectives for a non-GAA student.

### **How should annual goals be written?**

Goals should be directly related to the present levels of performance and to deficits due to the student's disability. These goals should also be based upon assuring access to the grade level content standards.

### **Is it necessary to have a page of goals for each domain (such as behavior, communication, etc.) or can all goals be listed on the same page?**

The goals may be listed on the same page if short term objectives are not developed. If short term objectives are developed, the annual goal for each domain area and subsequent short term objectives should be listed on the same page.

### **Why is transportation not separate on the model IEP form?**

Transportation should be considered under related services.

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### **Is there a minimum requirement of time for consultative services such as OT?**

The IEP team may determine any amount of occupational therapy services needed by the student. In order to report the services for FTE, consultation is defined as at least one segment per month of direct services.

### **Is it necessary to provide testing accommodations for classroom or school tests, such as benchmarking?**

Accommodations that are required for classroom testing, including benchmarking, should be identified on the IEP in the section identified as Classroom Testing Accommodations.

### **On the IEP form, what is the best way to document that you have considered the placement options?**

Put a check in the box along the side by the option(s).

### **If an IEP team wants to use a special accommodation not specified/approved for a state assessment, what is the process?**

Work with your district Assessment Coordinator who will contact the Assessment and Accountability Division of the Georgia Department of Education to ask permission for an individual student accommodation that is directly related to the student's disability and the specific assessment for which it is requested. Students must use approved accommodations or the student will count as a non-participant in the assessment. IDEA, NCLB, and State Rules require that all students participate in the district or statewide assessments.

### **If we put a specific concern that the parent has under Parental Concerns, does that mean it has to be implemented since it is in the IEP?**

Putting the parents' concerns under the Parental Concern section does not mean that it is an IEP decision, it is the documentation of the parental concern and consideration by the team.

### **Is it okay if accommodations related to assistive technology are provided in the accommodation section but not in the assistive technology section of the Consideration of Special Factors section?**

As long as the required assistive technology devices and services are contained in the IEP, it would be acceptable; however, it would be best practice to put the technology in the Special Factors section as well.

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### **Does the GaDOE require that the standards being assessed on the Georgia Alternate Assessment be listed on the IEP?**

No. Although the IEP is standards-based, specific standards do not need to be listed within the IEP. In the case of students assessed on the GAA, the IEP should focus on those skills that the student needs to develop to access the grade level content standards better and to address other developmental and functional needs. Although only a certain number of standards are assessed for the GAA, this should not limit the exposure of the student to other standards at that grade level.

### **Are minutes of the IEP meeting required?**

Formal minutes are not required for IEPs. Prior to this reauthorization, minutes were focused on the options considered, discussion around those options, and documentation of the decisions. All required information is documented in the IEP form. Minutes of the IEP meeting that are separate from the IEP are not required. In some cases, districts may want to record some minutes to document prior written notice as necessary. Districts should develop their own guidelines on the development and use of minutes.

### **How can minutes be used for prior notice?**

When a school district chooses not to provide an evaluation or other service requested by the parent, the minutes can document prior written notice. If used for this purpose, the minutes should include all components of prior written notice.

### **What is prior written notice?**

Prior written notice is a response to parents from the school district that includes a description of an action either proposed or refused by the school district and an explanation of why the district proposes or refuses to take action. The explanation must include a description of each evaluation, assessment, record, or report that the district used as a basis for the proposed or refused action. Any other facts relevant should be included as well as other actions considered. The notice must include a statement that the parent has the protections of IDEA and must provide sources of assistance for parents to help them understand the procedural safeguards.

### **On the example of the IEP form, time is not listed, just segments (i.e., daily, periods per week, etc.). In the past we were required to put time (hours, minutes)? Does the amount of time have to be listed?**

Segments are preferred, especially when a student moves from one school to another school in the same district that may be following a different schedule or to a school in another school district.



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**If an IEP is amended, can changes be made on the document and, if so, is a rationale required?**

The amendment can be documented directly on the IEP and a copy sent to the parent. A rationale is not required.

**Is it appropriate for a teacher to recommend an actual meeting because a parent is calling frequently to request changes without having a meeting?**

Yes, if frequent changes are needed, it is probably important to have a meeting. Any member of the IEP team may request a meeting rather than just documenting an amendment.

**How can an IEP be amended without having a face-to-face meeting?**

Following communication with the parents, if both the school and parents agree that a meeting is not necessary to amend the IEP, an amendment can be made. The parents and staff working with the student must be provided a copy of the amended IEP.

**Can we make a change in time or placement on the IEP without a meeting—as part of an amendment? Are there any changes that can be made to an IEP that require a meeting, and cannot be made through the use of an amendment?**

The answer to both of these questions is yes, but IDEA does not specify any specific circumstances in which these changes may be made. Professional judgment should be used to determine when it is necessary to convene a meeting. Amendments are intended to relieve the paperwork burden when minor changes need to be made in the IEP.

**Are interim IEPs required?**

Georgia Rules do not define interim IEPs, and they are not required. When a student transfers into a school district from another state, the receiving school may accept the previous IEP as is until it expires or until a new IEP is developed. The school may also choose to conduct an evaluation and implement a new IEP. If a new evaluation is conducted, this is treated as an initial evaluation and required timelines apply. If the student is transferring from another school district in the state of Georgia, the school district may accept the IEP as written or amend it if necessary.

**Is it more restrictive to have a dedicated paraprofessional all day in the general education setting or to have a combination of general education and special education locations?**

This would be a case-by-case decision based on individual needs of the student. Sometimes when an adult is with a child all day, it may inhibit the other students from interacting with the student with a disability. In some circumstances, IEP teams may want to consider adding a paraprofessional to the classroom rather than to a specific student. Or the IEP

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team may consider how much support is really necessary and determine other ways to accomplish this while allowing the student to remain in the regular education setting.

**Can a teacher choose to use an instructional accommodation in the classroom and not use it on the state mandated test? In the past, it seemed like there had to be a one-to-one correspondence between the accommodation in the classroom and the accommodation on the assessment. Is that still the case?**

Students may require accommodations for classroom instruction that are not required to participate in statewide testing. However, an accommodation used in statewide testing should be consistent with the accommodations used in classroom instruction. In other words, an accommodation should not be used in statewide testing if it is not used for classroom instruction or testing.

**How do we document student progress in ESY on the IEP? Do we have to have a new document or can space be added on the current IEP?**

Progress in ESY can be documented in the Present Levels of Academic Achievement and Functional Performance on the IEP. It may also be updated on the annual goals and, if appropriate, on the short term objectives.

**SPEECH-LANGUAGE SERVICES: Where should Speech-Language Impaired services be listed on the IEP?**

Pull out Speech-Language Impairment services should be listed in the Supportive Services section of the options considered section of the IEP. Services provided in the general education classroom for less than one segment should be listed in the Collaborative section.

**FEEDING AND SWALLOWING: Which section in the implementation manual addresses the new requirement for feeding and swallowing procedures?**

Additional information about best practices regarding swallowing is included in a separate chapter in this Implementation Manual. Georgia Rules state that districts must develop plans to address these needs in students.

**REPORTING PROGRESS: We used to have to report progress on IEP goals/objectives as often as general education reports progress. Is this still the case?**

The new rules address progress reporting differently. The parent must be informed of when they will receive progress on goals and objectives, but this does not have to be as frequently as all students receive progress reports. Districts may choose to report only on goals progress with report cards rather than all progress reports.

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**DISMISSAL:** The new regulations state that before a child is dismissed from special education services, the LEA must evaluate and assess students for dismissal. If a student has mastered all articulation goals and objectives with no remaining errors, does that child have to have a full evaluation with the new eligibility report in order to consider dismissal? I see how that would be good to address any academic concerns.

An evaluation does not necessarily require additional quantitative assessments, unless the IEP team determines that these are needed to determine whether the student continues to have a disability. The state does not mandate that full assessments, including standardized tests, be completed prior to dismissal.

### ***Sample Forms***

[IEP Form](#)

[Quick Guide to the IEP](#)

[Notice of IEP Meeting](#)

[Parent Consent for Excusal from IEP Meeting](#)

[Prior Written Notice](#)

[Transition Service Plan](#)

[Summary of Performance](#)

## CHAPTER EIGHT: SERVICE DELIVERY & LEAST RESTRICTIVE ENVIRONMENT (160.4-7-.07)

Special education and related services are designed to help meet the unique needs of students with disabilities in the least restrictive environment (LRE). Improving educational experiences for students with disabilities is a requirement of both the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind (NCLB) Act.

**The intention of NCLB is to help students with disabilities achieve high standards by**

- **promoting accountability for results;**
- **enhancing parental involvement;**
- **using effective practices and materials; and**
- **providing more flexibility and reducing paperwork burdens for teachers and districts.**

To effectively meet these standards, students with disabilities in Georgia must be exposed to and held accountable for the Georgia Performance Standards (GPS). Ultimately, the Individualized Education Program (IEP) team's goal is for students with disabilities to be educated in general education settings with supplementary aids and services to the maximum extent possible. Students with disabilities, including those placed by the district in public or private institutions or other care facilities in Georgia, are to be educated with children who are nondisabled to the maximum extent possible. Expectations must be high because ALL students, including those with disabilities, are accountable for the GPS.

Education of students with disabilities can be made more effective by

- teaching the GPS effectively, holding the same challenging expectations that have been established for all children;
- preparing students with disabilities to lead productive and independent adult lives, to the maximum extent possible;

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- providing opportunities for parents to participate meaningfully in the education of their students at school and at home;
- providing effective special education services\*;
- providing supplementary aids and services so students with disabilities can learn in general education settings whenever appropriate; and
- providing general education classroom teachers with professional learning to ensure that students with disabilities receive appropriate accommodations or modifications and are not removed from general education settings because accommodations or modifications are not being provided.

\*The term “special education” refers to services provided for students with disabilities, rather than the place where services are provided. Students with disabilities should be part of all school activities, and special education administrators and faculty should be part of all school improvement activities.

### ***Least Restrictive Environment***

One of the most significant requirements of the IDEA is that students with disabilities be educated in the least restrictive environment (LRE) to the maximum extent appropriate.

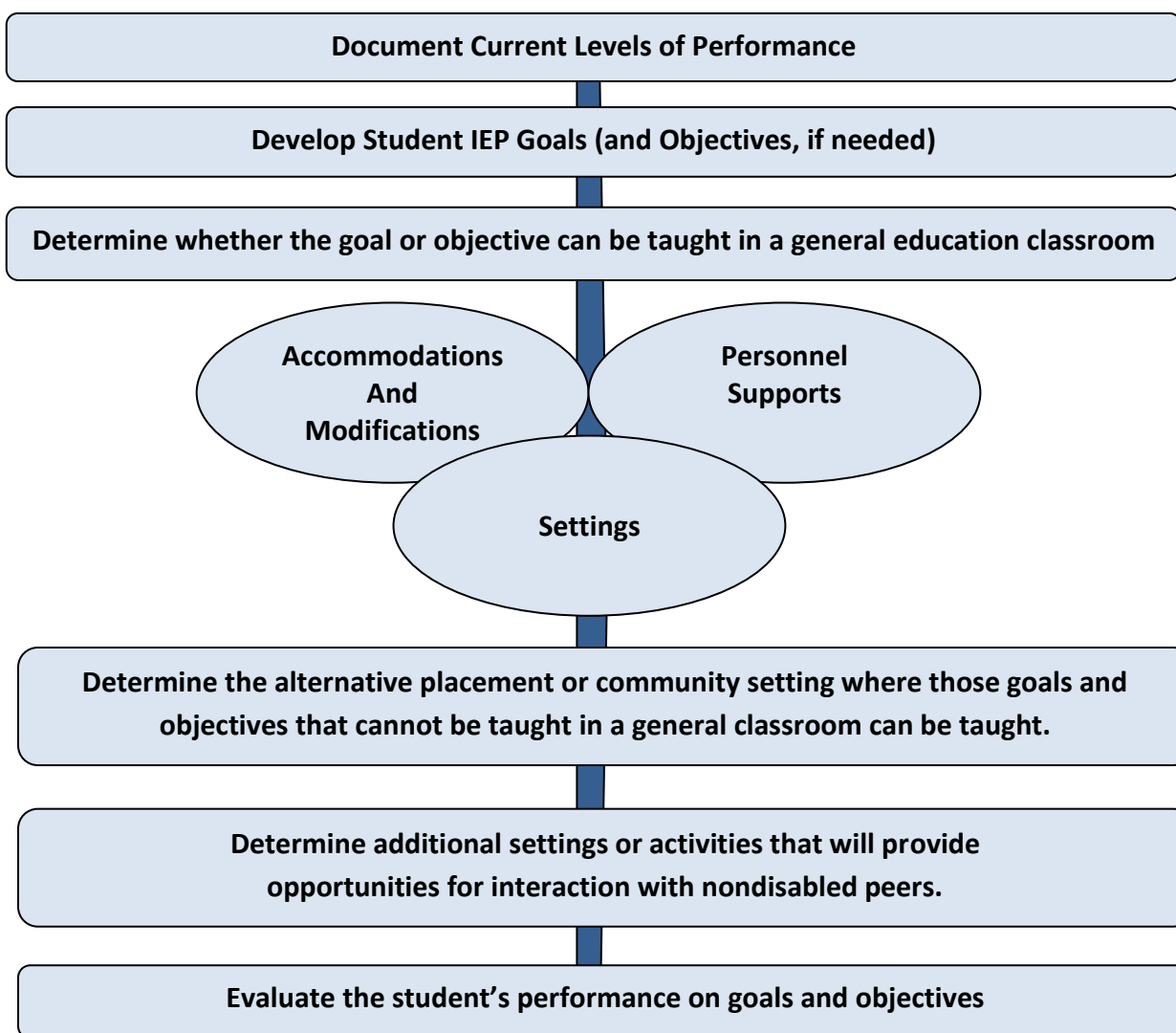
When the IEP team has reviewed the student’s progress (present levels of academic achievement and functional performance); decided on the goals and, in some cases, objectives for the next year; and developed a transition plan when needed; the team then considers the kinds of supports and services the student will need in order to meet the goals and the setting in which the services will be provided (Georgia Rule 160-4-7-.07).

The IEP team always begins by considering how the goals can be met in the general education classroom. The team should determine the education services, related services, supplementary aids and services, and assistive technology that are necessary for the student to stay in general education, continue to have access to the Georgia Performance Standards, and meet the goals in the IEP. Examples might include use of an assistive technology device, a behavior intervention plan, support from a paraprofessional or sign language interpreter, or changes in the physical environment such as use of positioning devices for a student with an orthopedic impairment. The IEP team determines the student’s needs, services, supports, and/or accommodations that are required to make progress in general education settings.

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The IEP team can consider placing the student outside of general education settings **only** when the IEP team has evidence that even with the use of supplemental aids and services, education in general education settings will not be successful. If the student is placed in a setting other than general education settings for a portion of the school day, high expectations for achievement in the GPS and a plan for moving back into less restrictive settings should continue to be in place.

### ***LRE Decision Process***



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### *Personnel Supports*

PERSONNEL SUPPORT	DESCRIPTION OF SERVICE
GENERAL EDUCATION	Students with disabilities are served in the general education class with no personnel support.
CONSULTATION	Students with disabilities receive at least one segment per month of direct service from the special education teacher.
SUPPORTIVE INSTRUCTION	Students with disabilities receive service from personnel other than a certified teacher in the general education classroom (i.e., a paraprofessional, interpreter, or job coach).
COLLABORATION	A special education teacher works with identified students with disabilities and the general education teacher within the general education classroom (less than full segment daily).
CO-TEACHING	The special education teacher provides service in the general education classroom by sharing teaching responsibility with the general education teacher (full segment everyday).
ALTERNATIVE PLACEMENT	The special education teacher provides instruction to students with disabilities in a separate classroom, special schools, home environment, hospitals, or institutions.

### *Frequently Asked Questions*

#### **What is the Least Restrictive Environment?**

The Individuals with Disabilities Education Act (IDEA) requires that students with disabilities, to the maximum extent possible, are educated with students who are not disabled. This requirement includes children who are publicly placed in public or private institutions or psychiatric care, group homes, or state-operated hospitals in Georgia. **Only** when the nature or severity of the disability is such that education in general education classrooms with supplementary aids and services cannot be satisfactorily achieved can students with disabilities be moved to other settings such as special classes or separate schooling. Regardless of where services are being provided, students with disabilities are expected to continue to have access to the GPS for their grade level, and teachers are expected to maintain high expectations for student performance in meeting the standards (Georgia Rule 160-4-7-.07).

#### **Who decides what placement is the least restrictive environment for a student with a disability?**

The IEP team determines the least restrictive environment, which includes the services and supports needed for each eligible student with a disability. The IEP team makes the placement decision in accordance with the Georgia Department of Education (GaDOE) Special Education Rules. The student's placement must be based on the IEP and be reconsidered at least annually by the IEP team. The student attends the same school that he or she would attend if nondisabled unless the IEP indicates that some other arrangement is necessary. The IEP team must consider any potential harmful effects on the student or on the quality of services needed when selecting the least restrictive environment for each individual student with a disability. Districts are to ensure that a full continuum of alternative placements is available to meet the special education and related service needs of students with disabilities.

The IEP team may not make placement decisions based only on the category of the student's disability, the severity of the disability, the placement options currently available, the availability of educational or related services, space available, or administrative convenience.

The law is also clear that students with disabilities have a right to an equal opportunity to participate in nonacademic and extracurricular services and activities. Districts must provide these activities in such a way that students with disabilities have an opportunity to participate in general school activities such as lunch, counseling services, athletics, transportation, health services, recreation activities, clubs, or employment opportunities.



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### **What types of support must be considered by the IEP team for a student with a disability to stay in the general classroom?**

The IEP team, which includes the parent and the district personnel, must carefully consider accommodations, modifications, personnel supports, and possible changes to the physical environment that will enable the student with a disability to be educated in general education settings.

### **In a co-taught classroom who is responsible for providing special education services?**

In a co-taught classroom the special education teacher is responsible for providing special education services and should be listed as the service provider on the IEP.

### **Why is the option of general education with no support not included on the IEP?**

Students with disabilities are in general education settings except for what is specified in the IEP, so this does not need to be reiterated. Districts may choose to develop IEP forms that require the listing of general education classes.

### **On the IEP, where should it be documented that the setting of general education with no support has been considered?**

The basis of the student's educational program is the general education classroom with no special education supports. Therefore, the IEP should only document those things that constitute a change in the student's educational program.

### **What are accommodations?**

Accommodations are changes in how instruction is provided, how the student is expected to respond, how the student participates in classroom activities, and in the kinds of instructional materials and how they are used. For example, a student might listen to portions of a text on tape rather than reading it, answer questions orally or use a computer keyboard instead of writing with a pencil, use large print text books, watch video with captions, participate in a discussion in a biology class with a sign language interpreter, or have a peer take notes on carbon paper so a copy of the notes can be easily shared. Accommodations provide students with disabilities a variety of ways to access the GPS so that their disabilities are not barriers to achievement. Students with accommodations are still expected to meet the same grade level GPS as their peers without disabilities.

Accommodations must be appropriate and specific to the student's needs. Too many accommodations or unnecessary accommodations can hinder achievement or lower expectations. On the other hand, a lack of needed accommodations in the classroom can prevent a student from meeting the standards that may have been possible with the right

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accommodations implemented well. Accommodations offer the opportunity for success, but they cannot guarantee that the student will be successful.

### **What are program modifications?**

Program modifications are alterations that change, lower, or reduce learning expectations. Modifications can increase the gap between the achievement of students with disabilities and the expectations for proficiency at a particular grade level. Consistent use of certain modifications could adversely affect students throughout their educational career. Modifications in statewide assessments will invalidate the results.

### **What are related services?**

Related services are those services that are required to assist a student with a disability in benefiting from special education. The IEP team determines the related services needed for each individual student. Related services may include audiology, interpreting, psychological services, physical and occupational therapy, recreation, counseling, rehabilitation counseling, orientation and mobility services, medical services (diagnostic or evaluation services only), school health services, school nursing services, school social work, and parent counseling and training. Related services do not include optimization, maintenance, or replacement of surgically implanted devices, including cochlear implants.

### **What is an assistive technology device?**

Many people think of technology as equipment such as a wheelchair or an expensive computer-based communication device. In fact, most assistive technology devices are simple and inexpensive. The definition of an assistive technology device is very broad in the IDEA. The definition of assistive technology services is also general. IEP teams must consider each student's need for assistive technology in the development, review, and revision of the student's IEP. When the team determines that assistive technology is required, the assistive technology devices and services should be clearly specified in the student's IEP and provided in a timely manner. The student, school staff, and student's family, if appropriate, should receive training in the use of the device.

"The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability."

**Source:** 34 CFR 300.5, July 1, 2010

“The term ‘assistive technology service’ means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. This may include:

- a) the evaluation of the needs of such student, including a functional evaluation of the student in the student’s customary environment;
- b) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for such student;
- c) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- d) coordinating and using other therapies, interventions, or services with assistive technology devices such as those associated with existing education and rehabilitation plans and programs;
- e) training or technical assistance for such student, or, where appropriate, the family of such student; and
- f) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such student.”

**Source:** 34 CFR 300.6, July 1, 2010

### **What is the continuum of alternative placements?**

The continuum of alternative placements includes options that must be available such as general classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. Provisions for supplementary aids, services, and supports such as resource rooms or specialized instruction in small group and/or instruction from itinerant teachers who provide services in several schools, must be made available.

### **What are the placement options for preschool age students with disabilities?**

A variety of placement options are available for preschool students with disabilities. The IEP team should consider the full continuum of options when making the placement decision for a preschool child with a disability. Options include

- participation in general early childhood programs in the public school or in the community, Head Start, Bright from the Start Pre-Kindergarten, public or private child care/day care, and preschool programs;

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- placement in a separate special education program housed in the public school or in a community-based setting;
- placement in separate school or residential facility, if necessary;
- services in the home as the natural environment for a young child;
- services at the office of a service provider; or
- a combination of the above based on the child's IEP.

### **What are the placement options for school-aged students with disabilities?**

A continuum of placements will be considered by the IEP team for school-aged students with disabilities and must include the following:

- Support in General Education settings
  - Support Services
    - Personnel supports from paraprofessionals, interpreters, or others
    - Support from itinerant teachers
  - Direct special education services
    - Consultative services
    - Collaborative services
    - Co-teaching services
    - Support from an itinerant teacher
- Other placement options, including
  - Special education pull-out classes
  - Special schools
  - Private schools
  - Home instruction
  - Hospital/homebound
  - Residential services

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Consultative services involve special education or related service providers consulting with the classroom teacher and working directly with the student for at least one class period a month. Collaborative or co-teaching services call for special education or related service providers to collaborate in the general classroom with the classroom teacher for a portion of a class period or for the full class period.

### **Does the full continuum of placements apply to all areas of disabilities?**

The full continuum of services applies to all areas of disabilities.

### **Can the departmentalized model still be used?**

When a student is served through the departmentalized model, the student must receive at least one segment per month from a teacher certified in a student's primary area of disability. The departmentalized model involves the student receiving special education or related services from a certified teacher, but one who is not certified in the student's area of disability. For example, a student who is deaf/hard of hearing may receive specialized instruction in mathematics, but from a teacher highly qualified in mathematics and not certified in deaf/hard of hearing. When this model is used, the district has the responsibility to make sure that all of the student's needs are met. The departmentalized model is not appropriate for every student. When serving students with sensory impairments and speech and language impairments, the IEP team should include all required services on the IEP, along with all required personnel, to meet the student's needs.

The IEP may call for instruction outside of the general classroom or for a separate day school or program. Home instruction may be used as a short term placement option when the parent and the district agree that it is necessary. Residential placements either in Georgia or out of state may be considered when the nature and severity of the disability indicate a need.

The IEP team must document the placement options that were considered. The more restrictive the placement, the more important it is to document the reasons the more restrictive environment was selected. Documentation must include all options the IEP team considered and rejected when making the decision.

### **How is the need for hospital/homebound services determined?**

Hospital/homebound instruction may be used for students who have a medically diagnosed condition that will significantly interfere with their education and that requires them to be restricted to home or a hospital for a period of time. The district provides hospital/homebound instruction only when the district has received a completed medical referral form signed by a physician. The form must state that it is anticipated that the

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student is unable to participate in instruction and will be absent for at least ten consecutive school days or has a chronic health condition that will cause absences over an intermittent time period. When that situation occurs, the IEP team meets to review the IEP, consider the medical referral, and make necessary changes to the IEP as appropriate.

When the IEP team considers hospital/homebound services, it is important to note that the final determination of services, the setting, and delivery method rests with the IEP team. The medical referral provides a medical opinion on the student's treatment; however, the referral is not a guarantee that hospital/homebound services will automatically be provided. The medical opinion must be considered by the IEP team as part of determining the services and setting(s) for the student. If the IEP team places the student in the hospital/homebound setting, it should also include a plan in the IEP for reintegrating the student into the school setting in the future. If a student with a disability is hospitalized outside of his or her home-school district, the responsibility for the student's hospital/homebound services remains with the school district in which the student lives. The district where the student lives may contract with the hospital to provide instructional services, contract with the district in which the hospital is located, or contract directly with appropriately certified teachers in that geographic area.

Many times it is very helpful to the team to have the practitioner who provided the hospital/homebound referral participate via a conference call in the IEP team meeting.

### **What are home-based services?**

Home instruction or home-based services may be used as a short term placement option on occasions when the parent and district agree at an IEP team meeting and FAPE is provided. When deciding on home-based services as a placement option, the IEP team should write an appropriate transition plan to incorporate the student back into the school setting. During the time the student is being served in the home-based setting, access to the general education curriculum, as well as IEP services, should be provided.

### **How are home-based services different from hospital/ homebound services?**

The basis for hospital/homebound services is a medical condition that requires medical documentation and the recommendation by the IEP team. Home-based services are provided for reasons other than medical concerns, and the IEP team determines that the home is the most appropriate setting. Both are viewed as temporary placements with the expectation that the student will be transitioned back into the school setting as quickly as possible and with a transition plan that specifies the support necessary to enable the student's reintegration back into the school-based setting.

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### How does LRE apply in nonacademic settings?

The LRE requirements also apply to nonacademic and extracurricular services and activities such as meals, recess periods, sports participation, participation in clubs, and field trips. Students with disabilities are to participate with their nondisabled peers in these kinds of activities to the maximum extent appropriate based on the child's needs. The IEP team decides what supplementary aids and services are appropriate and necessary for the student to participate in these activities.

### What administrative issues impact the provision of LRE?

In the Georgia Rules, information is provided for districts on certain requirements for recruiting, hiring, training, and retaining an adequate supply of highly qualified (certified or licensed) speech/language pathologists, special education teachers, related service providers, occupational and physical therapists, and educational interpreters. The rules also specify the requirements for appropriate classroom space and list the maximum class sizes for preschool and school-aged students with disabilities.

### Resources

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## CHAPTER NINE: ACCOMMODATIONS

For students with disabilities, the decision for teams determining the instructional program through the Individualized Education Program (IEP) is **not whether** the student will be included in the general curriculum and classroom and state administered testing program, **but how** they will participate. (Participation of students with disabilities in Georgia's state administered testing program is Georgia Department of Education (GaDOE) Rule (160-3-1-.07)). Appropriate inclusion of the students with disabilities in standards-based instruction and in all assessments, classroom and state administered, must be assured.

The use of accommodations does not apply to students whose IEP teams have determined that the student will participate in the GAA.

The selection and use of appropriate accommodations for students with disabilities assure that the results of classroom instruction, classroom assessments, and state administered tests can provide an accurate measure of the student's progress toward grade level standards, which can then be used to make instructional and programmatic decisions.

### *GaDOE Performance Goals and Indicators for Students with Disabilities*

Goal 3. Improve the provision of free appropriate public education (FAPE) to students with disabilities.

- Increase the percentage of student with disabilities who receive their instruction in the general education setting with appropriate supports and accommodations.
- Increase the performance of students with disabilities on statewide assessments when given appropriate accommodations.

### *Accommodations*

Accommodations are changes to the manner in which instruction/assessment is administered or how a student responds to a learning task/assessment. Accommodations do not reduce or change the learning expectations for the student or the construct the test is designed to measure (knowledge or skill). Accommodations are designed and put into place to reduce or eliminate the effect of the disability on the instructional tasks/assessment. Accommodations do not change the meaning of the results or an assessment, so the results provide an accurate measure of what the student knows and can do within the construct being measured. Accommodations are designed to provide equity for the student with disabilities, not to provide an advantage or ensure proficiency. Accommodations should not be confused with differentiated instruction.

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Accommodations DO	Accommodations DO NOT
keep the test construct intact while changing the manner in which a test is administered or how the student responds	change the construct the test is designed to measure (this would be a modification)
reduce or eliminate the affect of the disability on the assessment	reduce learning expectations for the student with a disability (this would be a modification)
help ensure the results of the assessment are an accurate measure of student knowledge and skill within the construct	absolutely ensure a proficient score on an assessment
help ensure that the assessment is equitable for the student with disabilities	provide an advantage

Accommodations can be made within the classroom instruction or on classroom assignments, on classroom assessments (both formative and summative), and on state administered tests. IEP teams are charged with determining appropriate accommodations within each of these areas and with documenting those accommodations on the IEP. The selection of accommodations by the IEP team should follow a consistent process that reviews data from a variety of sources. After the selection and documentation of appropriate accommodations is complete, the accommodations must be provided consistently throughout a student's instructional program.

### ***Frequently Asked Question***

#### **What is the difference between an accommodation and a modification?**

IEP teams may believe that both accommodations and modifications reduce the affect of the student's disability on an assignment or assessment; however, there are important differences. An accommodation does not change the construct of the assessment and does not lessen the learning expectations for the student. The construct is not changed in depth or breadth under an accommodation. A modification often changes the construct and changes the learning expectations. For example, an accommodation for a classroom assignment might be extended time so that the student can complete all parts of the assignment. A modification for that assignment might be taking a portion of the assignment

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away for the student so that the student is not expected to complete all parts of the assignment. As such, a modification changes the breadth of the construct.

### ***Identification of Appropriate Accommodations***

IEP teams should consider four important points when making decisions about accommodations. First, the accommodations are intended to lessen the affect of the student's disability as progress is made on grade level standards. Documentation of accommodations, one part of a standards-based IEP, should reflect the student's inclusion in those standards that are being taught in the grade level in which the student is enrolled. Second, accommodations must be chosen on an individual basis. The delivery of an accommodation (or a set of accommodations) to a student based solely on an eligibility category or grade level must be avoided. Third, providing unnecessary accommodations and/or the inaccurate assignment or misuse of accommodations can counteract the perceived or intended benefits of an accommodation (Ketterlin-Geller, Alonzo, Braun-Monegan & Tindal, 2007). Finally, the interaction of accommodations within and across content areas must be considered. An accommodation may be necessary for the student to participate appropriately in one content area but not in another. The student's individual work within each content area must be considered throughout the five step process for determining appropriate accommodations.

### ***A Five Step Process***

IEP teams can utilize a five step process to identify appropriate accommodations located in the [Accommodations Manual](http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/default.aspx) located on the Assessment web page on the GaDOE website (<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/default.aspx>).

This process can help guide IEP teams in making appropriate accommodation decisions.

FIVE STEP PROCESS FOR IDENTIFYING AND IMPLEMENTING ACCOMMODATIONS	
Step 1: Ensure high expectations for student learning are in place	
Step 2: Learn about accommodations for use in instruction and assessment	
Step 3: Use current information to identify accommodations for the classroom and for state administered testing	
Step 4: Implement accommodations during instruction and assessment	
Step 5: Evaluate and improve accommodation use	

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### *Step One*

Step One of the process for determining appropriate accommodations ensures that high expectations are in place for the student. This includes expecting the student with disabilities to achieve grade level academic content standards. In order for this step to be implemented, it is imperative that the student have access to **grade level** content for the grade in which the student is enrolled. In order to have access, the student's daily classroom work must not only include specific instruction in those academic areas identified as goals on the IEP, but also include multiple opportunities to practice and use skills within the grade level content and with materials utilized by all students.

### *Step Two*

Step Two of the process involves learning about accommodations available for both instruction and assessment. The IEP team should be familiar with different types of accommodations (i.e., setting, presentation, response, and scheduling), with options for accommodations within the classroom and on classroom assessments, and with accommodations that are available (standard or conditional) for all state administered tests that the student will take.

The IEP team should also clearly understand the difference between an accommodation (which lessens the effect of the disability on the student's work) and a modification (which lessens the expectation of learning for the student and/or changes the academic construct of the work). Once the IEP team understands the available accommodations and the benefits of each, the members can begin to match a student's need to the appropriate accommodation.

Federal regulations require that consistency exist between accommodations utilized in the classroom and those used for state administered tests. Students with disabilities must have access to and practice with accommodations utilized on state administered tests before the time of test administration. However, certain accommodations may be appropriate for use in classroom instruction that are not appropriate or not allowable on state administered tests. IEP team members must understand the difference between accommodations for state administered tests and those for classroom instruction and assessments.

Within the Georgia Department of Education (GaDOE) Student Assessment Program, certain accommodations have been identified for use on the state administered tests (found in the [Student Assessment Handbook](#) and the [Accommodations Manual](#), located on the GaDOE Assessment web page

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(<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/default.aspx>).

These accommodations fall into two categories: standard accommodations and conditional accommodations.

### Standard accommodations

- do not change the construct that the item or test is intended to measure but do allow for the reduction or elimination of the effects of the student's disability on the test;
- are available for any student with an IEP, provided that the IEP team determines the accommodation to be appropriate and that it is documented on the IEP form;
- are appropriate when used alone, in combination, and for specific content areas, depending on the unique needs of the individual student.

Conditional accommodations are more expansive than standard accommodations and are designed to provide access for a small number of students who have more severe deficits in certain academic areas.

### Conditional accommodations

- may encroach on the construct being measured by the test, meaning that these accommodations can change what the test measures;
- require that the results of the test in which conditional accommodations are utilized be interpreted in light of the use of those accommodations.

The use of conditional accommodations on state administered tests is predicated on a set of criteria that the IEP team must ensure that the student meets. These criteria are described in the Student Assessment Handbook and Accommodation Manual.

There is no compiled list of accommodations appropriate for classroom instruction, assignments, or formative/summative assessments from which IEP teams must choose. Starting with the standard or conditional accommodations listed for state administered tests, IEP teams can determine whether additional types of accommodations are necessary for the classroom. These classroom accommodations can include the assistance of other people, such as peers, and/or the incorporation of alternate types of materials (e.g., books on tape or computer programs) that are not available or are not appropriate as accommodations on the state administered tests. It is important that IEP teams understand the difference between standard and conditional accommodations for state administered

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tests, as well as the difference between accommodations that are allowable for classroom use and those that are allowable for state administered tests.

In addition to understanding the difference between types of accommodations and understanding which accommodations are allowable in the classroom and during state administered testing, IEP team members must understand how accommodations can impact and are impacted by the general curriculum (Destefano, Shriner & Lloyd, 2001).

For example:

- Special education teachers are often well aware of how accommodations may be implemented to support a student, but may not be as aware of the content within a class in which an accommodation may be utilized.
- General education teachers may understand the content, but may not be as aware of the different accommodations that might be implemented to support a student.
- Discussing the “intersections” of accommodations and content allows the IEP team to learn about accommodations that can be implemented effectively in order to allow the student to make true progress within the general curriculum, thereby keeping learning expectations high (Destefano, Shriner & Lloyd, 2001).

### *Step Three*

Step Three of the process specifies the use of current learning information to select accommodations for both instruction and assessment. The IEP team can review current information about the student, including classroom observations of participation and needs during instruction, participation and progress on classroom assessments, and prior scores and accommodation use on state administered tests, to determine whether the needs of the student are matched appropriately with the accommodation.

Before engaging in a discussion of accommodations needed by the student, the IEP team should ensure that the student has had appropriate instruction within the general curriculum. Ensuring that the student has consistent access to the general curriculum as the basis of the overall special education program leads to ensuring that the accommodation provides the amount of support necessary for the student to learn and make progress in both specific goals and grade level content. The implementation of an accommodation, or group of accommodations, does not take the place of appropriate instruction in the general curriculum. Rather, appropriate accommodations help ensure that, given the instruction provided, the student is engaged in and can show progress within the curriculum.

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Federal regulations require that consistency exist between accommodations utilized by the student during classroom instruction, classroom assessments, and state administered tests. In each situation, the decision to implement accommodations should be based on documented student need. The selection of accommodations must be done with the past, present, and future of the student in mind.

Specifically:

- Previous accommodation use during instruction and assessment, and the effectiveness of the accommodations provided, should be considered.
- The student's current strengths and needs, as documented in the IEP, should also be considered.
- The IEP team must determine whether the use of the accommodation in the classroom and on state administered tests will allow the student to demonstrate knowledge more independently in the future.

Accommodations may be necessary for a short amount of time (e.g., extended time due to poor reading and comprehension skills) or may be necessary for as long as the student works in the classroom or takes tests (e.g., extended time to answer due to a physical disability). In either situation, however, the goal is to allow the students to show what they know and can do more effectively and efficiently. The team should consider whether the use of the accommodation will lead to greater independence by a student over time.

Each member of the IEP team, including the student, has a unique perspective of the student's strengths and needs, the way the student functions within the classroom during instruction and on classroom assessments, and the effectiveness of the student's participation on state administered tests. Each perspective is important and should enhance the information gathered through the process outlined above. Once the IEP team evaluates these factors, the possible accommodations can be determined and the effectiveness of each can be discussed. The IEP team should discuss when and how the accommodation should be evaluated for its effectiveness, whether decreasing the use of the accommodation should be implemented over time, and whether the use of the accommodation truly leads to better learning and increased independence of the student in the future.

### *Step Four*

Step Four of the process involves the administering of the accommodation during instruction and assessment. The accommodations identified by the IEP team through the

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previous steps of the process must be included in daily classroom instruction, in formative and summative assessments in the classroom, and in state administered tests. The identification of an accommodation on the IEP signifies that the student is unable to access the general curriculum adequately and successfully without such support. Therefore, the accommodation must be utilized consistently and should be presented and taught to the student in the same way as other instructional supports.

### *Step Five*

Step Five provides for the evaluation and improvement of accommodation use. Information gathered during instruction, classroom assessments, and state administered tests can guide IEP teams in the adequate and appropriate identification and implementation of accommodations. This step leads directly back to Step One, since the determination of appropriate accommodations must be considered for each student with an IEP who is taking the general assessment each and every year.

### *Frequently Asked Questions*

#### **Do students with an IEP have to have accommodations listed?**

No, just because a student has an IEP does not mean that accommodations are necessary. It is up to the IEP team to determine WHETHER accommodations are necessary and, if so, what those accommodations will be.

#### **My student recently had a series of psychological tests from which strengths and weaknesses were identified. Shouldn't there be an accommodation for each weakness?**

A psychological assessment, as well as other assessments of educational performance for eligibility purposes, can certainly provide information for the IEP committee to consider in relation to the use of accommodations in the classroom and/or on state administered tests. However, the inclusion of any accommodation within the IEP must be backed by data collected in the classroom. Many times, the weaknesses identified during a psychological assessment will be evident in the classroom, and appropriate accommodations can lessen their effect on learning and testing. However, there may be learning behaviors identified as weaknesses during a psychological assessment that are not evident or, if evident, do not warrant the provision of an accommodation. Likewise, there may be learning behaviors identified as age-appropriate or relative strengths in the psychological, which, due to other factors, may warrant the provision of an accommodation. Even for IEP committees considering the initial program for a student with disabilities, classroom data should be included in the present level of functional and educational performance; and that data, more than psychological or eligibility testing alone, should determine the provision of accommodations.



### *Implementing Accommodations*

#### *In the Classroom*

The implementation of accommodations in the general education and/or special education classroom allows students with disabilities to participate meaningfully in learning activities within the classroom and to show what they know and can do as a result of instruction, while lessening the effect of their disability on their performance in both areas. Once accommodations have been identified for a student as part of the IEP process, the accommodations must be implemented appropriately. In order to have a basis for this implementation, it is important to have a clear understanding of the purpose of instruction for students with disabilities.

The purpose of special education instruction is to teach the student with disabilities specific academic, general learning, communication, and other skills that are currently lacking but that are needed for the student to reach the academic standards for the grade level in which he or she is enrolled. In addition to teaching specific academic skills, other general learning skills and coping strategies may be required for the student to continue to make progress in the general classroom and/or in grade level content. For students who participate in the GKIDS, CRCT, CRCT-M, EOCTs or GHSGT, the instruction must provide full access to the grade level curriculum, utilize a variety of research-based instructional methods, and incorporate a variety of assessments in order to support the student's ability to show what he or she knows and can do.

Accommodations can be implemented in all stages of a student's program in the general education curriculum. The use of accommodations during instruction allows the student to have changes to:

- setting: where the instruction is provided,
- presentation: how the information is provided,
- response: how the student shows what they know, and
- scheduling: when the student is instructed.

TO BE EFFECTIVE IN THE EDUCATIONAL PROGRAM, ACCOMMODATIONS MUST BE

- implemented consistently within all appropriate classrooms and across teachers,
- implemented as written on the IEP within and across content areas,
- described to the student, and
- documented when data on student progress is collected.

To be effective, the accommodations listed in the IEP must be utilized consistently. This requires that all teachers who come into contact with the student:

- review the IEP,
- become familiar with the accommodations listed, and
- clearly understand the exact implementation of the accommodations in their classrooms.

When the accommodation includes the use of specific materials and/or assistive technology (AT), these items must be provided in each classroom in which the accommodation is to be implemented. In addition, AT devices must be in working order and be available for student use at all times. Discussions on the use of the accommodations within specific activities may need to take place between the general and special education teachers. Developing dialogues between teachers working with a student will not only help ensure that the accommodation is being utilized consistently, but will also form the basis for discussion in future IEP meetings about the appropriateness of various accommodations.

To be effective, accommodations must be implemented as written on the IEP within and across content areas. The IEP is a legal and binding document, and the instructional program of the student must include all parts as written on the IEP. Again, the provision of accommodations in classroom instruction and on classroom assessments is part of the IEP. Therefore, the implementation of the accommodations AS WRITTEN on the IEP must be assured.

A student may have an accommodation provided in one content area, i.e., reading, but not another, i.e., mathematics. A student may also have certain accommodations that flow

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through all content areas. To meet the IEP requirements, accommodations must be provided in each content area specified on the IEP and as written on the IEP. However, those persons implementing the accommodations during grade level instruction must ensure that the implementation itself does not change the construct being taught or limit the student's access to the general curriculum. Therefore, consistent discussions between general education and special education teachers regarding the use and effectiveness of the accommodations should take place.

To be effective, the purpose and use of accommodations within classroom instruction and on classroom assessments should be explained to and discussed with the student. This is done so that the student

- can begin to take ownership of the accommodation and
- can self-evaluate the effectiveness of the accommodation.

Students can be important participants in the IEP team when making decision about appropriate accommodations for classroom instruction (Ketterlin-Geller, et al., 2007). In order to be an effective part of the team, a student must be aware of how and why accommodations are provided and be able to evaluate the effectiveness of each accommodation. Likewise, in order to be effective, students must learn how to use the accommodation. This is critical when AT is included as an accommodation. In addition, a student is more likely to utilize an accommodation when he or she understands why an accommodation is put in place, how it is to be implemented, and what outcome is expected in relation to learning. Finally, students can practice important and appropriate self-advocacy skills when given the opportunity to be a partner in the implementation of accommodations in the classroom.

To be effective, accommodations must be considered and documented when data around student learning is collected. Classroom assignments that will be utilized to document student learning should be clearly annotated, and the accommodations provided during an assignment should be clearly indicated. This can include a description of the student's use of the accommodation (e.g., just beginning to learn to use the accommodation, used the AT independently, showed a decreased need for the accommodation) and/or whether the accommodation is thought to have had an impact on the final outcome. As with the implementation of accommodations, the documentation of the use of accommodations should be consistent among the teachers and classrooms.

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### *During State Administered Tests*

The implementation of accommodations on state administered tests must be determined by the IEP team for the individual student and documented on the IEP (Georgia Department of Education (GaDOE) Rule 160-4-7-.06). The use of accommodations during state administered tests is one step in the process for accommodation implementation. Before accommodations can be implemented on state administered tests,

- accommodations must be accurately identified through the IEP process; and
- accommodations must be consistently and appropriately implemented during instruction and on classroom assessments.

When accommodations are not implemented consistently, distractions or confusing changes to the testing environment that the student doesn't understand may significantly jeopardize the measure of student achievement provided by the state administered (Ketterlin-Geller, et al., 2007).

TO BE EFFECTIVE IN THE STATE ADMINISTERED TESTING PROGRAM,  
ACCOMMODATIONS MUST BE

- reviewed before the testing window,
- included in a plan for implementation,
- reviewed and understood by test examiners, and
- accurately coded and reported.

To be effective, accommodations provided during state administered tests must be reviewed before the testing window. The IEP is the guiding document for the implementation of accommodations. However, in many districts an IEP may be written nearly a year before the student participates in the state administered test covered by the accommodations listed. Changes in skill level during this time period, as well as the needs and requirements of the test, can severely limit the appropriateness of the testing accommodations previously indicated (Ketterlin-Geller, et al., 2007). Therefore, accommodations listed in the IEPs should be reviewed regularly (and well before the state administered testing window) in light of data from the classroom and from testing requirements. Amendments should be made by the IEP committee as needed, following IEP review guidelines. If changes are made to the accommodations listed in the IEP, the student

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and all classroom teachers should be informed, questions asked and answered, and support provided to ensure that the new accommodations are implemented in the classroom appropriately. Again, appropriately implementing the accommodations in the classroom will help ensure appropriate implementation during state administered tests.

To be effective, accommodations provided during the state administered tests should be included in a school or district level plan for accommodation implementation. Each state administered test has guidelines and processes for the administration of the test to students, including training of examiners, accurate coding student of demographic information, test security, and the setting up of the testing environment. These guidelines are found in both the Georgia [Student Assessment Handbook](#) and the Examiner's Manual for the specific test. Accommodations provided to students with disabilities must fit within the guidelines and processes for the test. The school and district plan for providing accommodations that meet these requirements during the state administered test will vary from school to school and year to year, depending on the number of students with accommodations being tested within an administration and the types of accommodations to be provided. However, a consistent system for determining how, when, where, and by whom the test will be administered should be developed to ensure that each student receives the appropriate accommodations in an effective manner.

To be effective, accommodations provided during a state administered test should be administered by examiners and proctors trained in both the implementation of the accommodation as well as the appropriate administration of the test. School personnel administering the state tests must be trained before the administration by the school principal or his or her designee, usually the school testing coordinator (Georgia Student Assessment Handbook). This training includes administration procedures for each specific test/content area, administration policies and procedures, and accommodations. During this training, plans for how, when, where, and by whom the accommodations will be discussed, as well as questions about the implementation of accommodations, can be addressed and answered.

While not every teacher in the school will administer a test to a student requiring accommodations, being aware of the plan for implementation will help maintain the high expectation that all students are testing in a way that best allows them to show what they know and can do.

To be effective, student demographic forms must be appropriately coded so that data and reports on the student, school, district, and state level accurately reflect the type (standard

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or conditional) of accommodations provided. The use of accommodations during the state administered tests provides valuable information to the members of a student's IEP team, classroom teachers, school level administration, district level directors, and state consultants, all of whom want to ensure that students with disabilities are receiving free appropriate public education (FAPE). To provide a clear and accurate picture of what an individual student or all students with disabilities within a district has/have achieved, the conditions under which the state administered tests are provided must be appropriately coded. While not all coded information will appear on an individual student's score label or score report to parents, information on the conditional accommodations will appear. This information is necessary for the interpretation of the resulting score. Individual schools and school districts have access to information regarding the number of students who receive specific standard and conditional accommodations. This information is necessary to ensure that accommodations are not being over-utilized and to further guide district level training on the determination and use of accommodations within the schools. On the state level, reviewing the use of accommodations, as reported by the school personnel completing the student demographic forms, assists with the identification of needs for future training and implementation of state administered tests.

### *Frequently Asked Questions*

#### **Is there a list of standard and conditional accommodations for use in the classroom?**

There is no specific list of standard and conditional accommodations for use in the classroom (during instruction, assignments, or classroom assessments). The list of approved accommodations for state administered tests should provide the basis for IEP teams to determine accommodations used in the classroom. The list of accommodations that can be utilized for a state administered test can be found in the [Student Assessment Handbook](#) and the [Accommodations Manual](#).

#### **How long before a state administered test can an IEP be amended to include an accommodation for use on that test?**

There is no specific timeline for the determination of the need for an accommodation on the state administered test; however, if an accommodation is to be added to the IEP for the state administered test, the student must have an opportunity to practice the use of the accommodation, and teachers must have the opportunity to determine whether the accommodation is effective before the accommodation is provided during the administration of the state test. If an accommodation listed on the IEP is no longer needed, the determination should occur in enough time for the student to adjust to the elimination of that accommodation.

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## CHAPTER TEN: FEEDING & SWALLOWING FOR SWDs

All children require adequate nutrition to support growth and development. Adequate nutrition is also necessary for students to participate and learn in the classroom. Students must have adequate health and sufficient physical well being and energy in order to attend school, receive instruction, and function in the educational setting. Participating in meals and snacks are important parts of a student's day because these activities provide not only nutrition but also opportunities for significant social, language, and cognitive development of skills and abilities that allow students to become productive citizens as adults.

This chapter provides guidance to local school districts regarding feeding and swallowing concerns and how to address them in the public schools. The Georgia Department of Education Division for Special Education would like to acknowledge Gwinnett County and Cobb County for allowing the use of some of the materials in this chapter.

### *Feeding and Swallowing Concerns*

The Individuals with Disabilities Education Act (IDEA) requires school districts to locate, evaluate, and identify children with disabilities from birth through 21 years of age and to provide the special education and related services and/or accommodations necessary to address their disabilities. Many students with intricate medical and developmental needs are being served in the public schools. Some of these students may require an evaluation and/or intervention in the areas of feeding and swallowing in order to access, participate, and progress in their curricula.

These children represent a variety of conditions such as cerebral palsy, traumatic brain injury or other neurologic or neuromuscular impairments, craniofacial anomalies, developmental disabilities, or autism. Some of these children present with obvious or already identified concerns; others may have frequent absences or hospitalizations due to respiratory-pulmonary conditions that may be caused by unidentified aspiration of liquids or food. While many of these youngsters can take nutrition orally, many others need to be fed by tube. Some children may be transitioning from tube to oral feeding, and still others need to supplement their oral input with tube feedings temporarily or permanently to meet their nutrition needs. Students who are undernourished or dehydrated due to swallowing and feeding problems cannot attend adequately to the learning environment; consequently, their performance at school may suffer, and/or they may miss school more frequently than other students due to related health issues.



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### *Implementation*

It is the expectation of the Georgia Department of Education that all districts will develop and implement procedures for addressing the special education needs of children whose swallowing impairment adversely affects their progress in their curricula (capacity and performance in daily educational contexts). This plan should specify when a student will need an individualized health plan and when the needs will be addressed by the Individualized Education Program (IEP).

This plan will include the creation of a collaborative team process through which all parties work together to gather sufficient information to determine the adverse affects of the disorder and to provide effective feeding and swallowing services that protect children's health and safety and respect their dignity, while ensuring proper nutrition to help them be alert and available for learning. Collaborative partners should include parents, general education teachers, special education teachers, the school nurse, school food preparation staff, and medical staff. The needs of students with health concerns (i.e., feeding and swallowing disorders) can be managed efficiently via an interdisciplinary team of adequately trained and qualified school staff who work closely with a student's parents and medical staff.

Qualified school personnel, including nurses, occupational therapists, physical therapists, paraprofessionals, nutrition staff, speech-language pathologists, nutritionists, teachers, substitute staff, and others, should follow the district's policy in dealing with a child's medical concerns; and districts should provide and document professional development to ensure that staff members have the knowledge and skills they need. Some districts may have the resources to hire and maintain the skills of staff within the district. Others may need to develop plans for securing the applicable services/service providers outside of the school district. Plans can vary depending on the resources of the school districts and the number of students in need.

All plans should be written and provided to staff to ensure adherence. The information provided in this chapter should assist districts in developing their own policies, practices, and procedures. Regardless of the qualifications of district staff, it is the expectation that students will be safe while eating at school. All staff members have the responsibility to ensure that students are safe. If a student is not safe while eating, then staff should follow the district's plan regarding what to do next.

### *Frequently Asked Questions*

#### **What is a feeding or swallowing disorder?**

Feeding includes the act of preparing food and getting it to the child either orally or through alternative means. Feeding disorders include problems gathering food and getting ready to suck, chew, or swallow it. For example, a child who cannot pick up food and get it to her mouth or cannot completely close her lips to keep food from falling out of her mouth may have a feeding disorder. Swallowing includes the manipulation of food in the mouth and directing its passage from the oral cavity down to the stomach. The term **food** will be used to include various forms on the continuum from liquid to solid. Swallowing disorders, or in medical terminology dysphagia (dis-FAY-juh), can occur at different stages in the swallowing process. This disorder ranges from mild to severe and, although physiologically based, may include a behavioral component.

- **Oral phase**—sucking, chewing, and moving food or liquid into the throat
- **Pharyngeal phase**—starting the swallow, squeezing food down the throat, and closing off the airway to prevent food or liquid from entering the airway (**aspiration**) or to prevent choking
- **Esophageal phase**—relaxing and tightening the openings at the top and bottom of the feeding tube in the throat (**esophagus**) and squeezing food through the esophagus into the stomach (ASHA).

#### **Who is at risk for dysphagia?**

Swallowing disorders occur in all age groups, from newborns to the elderly, and can occur as a result of a variety of congenital abnormalities, structural damage, and neurological disease or disorder. Students at high risk for a swallowing disorder are those identified with

- cleft palate;
- cerebral palsy (CP);
- traumatic brain injury (TBI);
- neurological impairment;
- various syndromes; and
- certain medications (such as diuretics, antihypertensives, and antidepressants).

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### What are some signs and symptoms of dysphagia?

Recognizing signs and symptoms of dysphagia are critical for identifying children with evaluation and intervention needs in this area. The most common signs and symptoms of swallowing disorders are

- arching or stiffening of the body during feeding;
- irritability or lack of alertness during feeding;
- refusing food or liquid;
- failure to accept different textures of food (e.g., only pureed foods or crunchy cereals);
- long feeding times (e.g., more than 30 minutes);
- difficulty chewing;
- difficulty breast feeding;
- coughing or gagging during meals;
- excessive drooling or food/liquid coming out of the mouth or nose;
- difficulty coordinating breathing with eating and drinking;
- increased stuffiness during meals;
- gurgly, hoarse, or breathy voice quality;
- frequent spitting up or vomiting;
- recurring pneumonia or respiratory infections; and
- less than normal weight gain or growth.

If multiple signs or symptoms are evident, it is imperative that the student's feeding and swallowing skills be evaluated as soon as possible. It is also very important that the educational records of a child with a suspected or identified feeding and swallowing disorder frequently be sent to the child's physician and other community health care providers. In this circumstance, before a school can disclose personally identifiable information from a student's record, it must secure written consent from the parent, guardian, or eligible student [34 CFR §99.30].

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### **How are feeding and swallowing disorders related to a student's access to and participation in the curriculum?**

As is common in special education, case law (the decisions of the administrative and court hearings) frequently interprets or clarifies the statute or regulations. Collectively, the recent court cases suggest to school personnel that attention to a child's swallowing and feeding needs is a health issue that, if not attended to, can result in a child's absence from school, denying the child free appropriate public education (FAPE) [*Cedar Rapids Community School District v. Garrett F.*, 526 U.S. 66 (1999), *Contoocook Valley School District*, 41 IDELR 45 (SEA NH 2004) and *Irving Independent School District v. Tatro*, 468 U.S. 883 (1984)]. *A district's culpability for denying FAPE increases if it does not provide for the child's safe swallowing and feeding while at school.*

A U.S. Supreme Court case, *Irving Independent School District v. Tatro*, 468 U.S. 883 (1984), was the first to address the question of whether health care services are excluded from medical services or supportive services under IDEA (then called the *Education for All Handicapped Children Act of 1975*). The Court used the Act's definition of "related service" as "transportation and such developmental and other supportive service as may be required to assist the handicapped child to benefit from special education." In subsequent court decisions, the Tatro standard became the measure of whether a school health service is a related service or a medical service, which is excludable when it is not related to diagnostic services. The Tatro decision clarifies that children with health care needs, which can include dysphagia, may receive medical services as a related service in order to diagnose the condition and health services as a related service to meet their day to day service needs associated with swallowing and feeding.

Tatro was affirmed more recently in *Cedar Rapids Community School District v. Garret F.*, 526 U.S. 66 (1999), when the U.S. Supreme Court held that "supportive services" are those services that are necessary for the student to attend school. The court held that if the services are supportive services that the student needs in order to attend school and benefit from his education, and the services do not need to be performed by a licensed physician, then the school district must provide them. The Garrett case changed the landscape for school districts. As a Supreme Court case, the findings of the Garrett case apply to school districts nationwide. This case established that any non-educational service may be a required service if it is critical to keeping the child in school during the day. This concept encompasses a large number of health services and includes services associated with swallowing and feeding.

### **Aside from the long range issues related to lack of sufficient nutrition, what is the most pressing concern for students with swallowing or feeding disorders?**

The aspiration of food or liquids into the airway (trachea) that leads to the lungs is a major concern and could lead to other major medical issues that could increase time out of school for illness.

### **How can the school district share and receive information with the student's medical staff?**

To facilitate the receipt of health information from outside parties, school personnel need to be aware of the privacy rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The privacy rule requires most doctors, hospitals, or other health care providers, including speech and language pathologists (SLPs), physical therapists (PTs), or occupational therapists (OTRs) in private practice, who have a direct treatment relationship with a patient to secure written consent of the patient before disclosing his or her health information. Parents need to understand the critical importance of giving their consent for the exchange of information between their outside health care providers and school personnel.

### **What rule or guidance is in place for school food preparation and dietary modifications?**

The United States Department of Agriculture (USDA) regulates accommodations for special dietary needs in the federally funded school nutrition programs. For districts that participate in these programs, these regulations require substitutions or modifications in meals for children who are considered disabled and whose disabilities restrict their diet, including students with disabilities or students who are 504 eligible [7 CFR, Sec 210.10(g)(1)]. If a school district does not participate in these federally funded programs, the USDA regulations regarding accommodating special dietary needs do not apply. However, all districts are still required to make accommodations specified by IDEA and Section 504. Dietary accommodations for children whose disabilities restrict their diet can only be made when documented in a statement signed by a licensed physician. The USDA defines a licensed physician as a doctor of medicine or osteopathy. The physician's statement must identify all of the following:

- the child's disability and provide an explanation of why the disability restricts the child's diet;
- the major life activity affected by the disability;
- the food or foods to be **omitted** from the child's diet; and
- the food or choice of foods that **must be substituted**.

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Additional information can be found in the United States Department of Agriculture's Guidance: [Accommodating children with special dietary needs in the school nutrition programs](#) (2001).

### **Can the student be charged additional fees to recoup the extra cost related to modifying the menu?**

Schools may not charge IDEA or 504 eligible children with feeding and swallowing disorders who require food substitutions/modifications more than they charge other children for program meals or snacks. In most instances involving food substitutions, the school food service account will be used to pay the cost of special food and food preparation equipment. Food service personnel will generally be responsible for providing the alternate meal. For example, if a child must have a pureed meal, it is reasonable to expect the school food service program to purchase a blender or food processor and to have the meal prepared by the food service staff. With appropriate documentation on the physician's medical statement referred to above, the school food service could also be responsible for prescribed food supplements or tube feeding formulas that are required as substitutions or modifications to the USDA funded meals or snacks.

In most cases, children with disabilities can be accommodated with little extra expense or involvement. However, when the school food service program has difficulty covering the additional cost, several alternative funding sources can be considered. These include the school district's general fund; IDEA; Medicaid, Early and Periodic Screening, Diagnostic and Treatment Program; Supplemental Security Income; Medicare, Maternal and Child Health Services Block Grants; and community sources, (e.g., PTA, voluntary health associations, and other local community groups). For more information on these funding resources, consult the USDA's manual about accommodating children with special dietary needs (2001). In the final analysis, the overall responsibility for accommodating children with disabilities (including those that involve feeding and swallowing disorders) rests with the school district. Additionally, the school district administration is responsible for allocating the personnel who will work with individual children.

### **How can a district establish a feeding and swallowing team?**

School districts would be wise to establish interdisciplinary teams to address the needs of children with disabilities. These teams should establish policies and procedures associated with serving children with swallowing and feeding problems, including development and implementation of individual health care plans and IEPs, training of school personnel, and development of emergency procedures. Districts can look to their state's Medicaid policies and procedures to determine whether school-based dysphagia services are billable to

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Medicaid. Refer to Georgia's Medicaid Plan ([http://dch.georgia.gov/00/channel\\_title/0,2094,31446711\\_80466652,00.html](http://dch.georgia.gov/00/channel_title/0,2094,31446711_80466652,00.html)) and Georgia's Policies and Procedures for Children's Intervention School Services (CISS) ([https://www.ghp.georgia.gov/wps/output/en\\_US/public/Provider/MedicaidManuals/CISS\\_v11\\_2008-07.pdf](https://www.ghp.georgia.gov/wps/output/en_US/public/Provider/MedicaidManuals/CISS_v11_2008-07.pdf)).

Children with feeding and/or swallowing needs require a team approach to evaluation and treatment in order to bring together the knowledge, training, and experience of many professionals and family members for the benefit of the child. Depending on the needs of children and families and the qualifications of personnel, these multidisciplinary teams may operate in an interdisciplinary manner. An interdisciplinary approach frequently includes co-treating, with each discipline drawing attention to the child's needs as related to its particular area of expertise. Typically, speech and language pathologists (SLPs) or occupational therapists (OTRs) will take the lead in actually feeding the child and/or training him or her in compensatory strategies and will direct skill building because their training generally includes study of the anatomy, neurology, and physiology of the upper aerodigestive system. Because of their training in voice disorders, SLPs also have special understanding of laryngeal anatomy, neurology, and function, which is critical in dealing with aspiration issues.

In the management of swallowing disorders of children in educational settings, the following steps should be followed after establishing a team to consult in the management of the disorder.

1. Follow the district's policy in dealing with students with medical concerns.
2. Adhere to the medical recommendation for feeding/positioning/diet and consistency.
3. Determine and document that the swallowing disorder has a negative impact on the student's education.

**Note:** Many speech-language pathologists have had training in the treatment of dysphagia, so they may be asked to serve as a member of the team that assists students who have swallowing problems. The treatment of swallowing problems is not to be considered as a speech-language pathology service, however, unless the swallowing problem interferes with communication and, as stated above, has a negative impact on the student's education. A sample of a district protocol regarding addressing students with feeding and swallowing concerns is provided later in this chapter.

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### **What information should be included on a referral form?**

The referral form should serve as a *“needs assessment”* so that it can allow for informed decisions about what team structure and size are desirable. Surveying the district for children who present with the signs and symptoms of and risk factors for dysphagia, and examining attendance records that might raise flags about absences due to aspiration-induced respiratory illnesses, will help determine how many children may need feeding and swallowing services.

### **What are the purpose and the tasks of the interdisciplinary team?**

The purpose of the team is to provide a centralized structure for addressing the complex issues related to feeding and swallowing disorders that exist or may arise. The major tasks of the team include

- identifying children at risk for feeding and swallowing disorders, or with already identified problems in these areas, who require specialized services or accommodations;
- consulting and collaborating with families, their physicians, and related community based health care providers in a timely manner regarding identification, evaluation, and reevaluation procedures, as well as the development, implementation, and monitoring of appropriate evidence-based programs and services;
- coordinating the scheduling and delivering of services;
- designing, implementing, and monitoring a child’s health care plan that includes emergency procedures (e.g., administering medications and suctioning, informing parents of emergency situations, implementing cardiopulmonary resuscitation, notifying ambulance and hospital personnel);
- developing, implementing, and monitoring risk management procedures for infection control;
- determining what special equipment needs to be available to carry out feeding and swallowing activities safely (e.g., sink, gloves, masks, disinfectants, tubes, food preparation equipment, suctioning equipment);
- resolving issues related to different perspectives about the child’s and family’s needs, with priority for safe nutrition and hydration;
- providing information to families, other school personnel, child peers, and the community at large about feeding and swallowing disorders and their management;



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- training and supervising other school personnel to ensure their effectiveness in delivering safe feeding and swallowing services in accordance with a child's feeding plan;
- evaluating the effectiveness of dysphagia programs and services and making data-based recommendations for improvements to administrators.

### **Who should or could participate on the interdisciplinary team?**

**Parent:** The parent of the student is a very integral member of the interdisciplinary team. The parent can provide longitudinal history on the areas of concerns and can also provide information on how the student performs in settings outside of school. Parental signed consent is required for the district and school staff to share and receive medical information with the student's medical staff.

**Occupational Therapist (OTR):** The American Occupational Therapy Association (2004) has approved entry-level knowledge and skills for OTRs, including the pre-feeding, oral phase of eating, selection of appropriate utensils in the school environment, and the training and evaluation of others who carry out eating/feeding interventions during school day.

**Speech and Language Pathologist (SLP):** SLPs who have graduated in the last 10–15 years from a graduate program accredited by the American Speech-Language-Hearing Association (ASHA) are likely to have had academic coursework and practicum experience in the area of swallowing disorders. ASHA has published documents that address the basic competencies, roles, knowledge, and skills that SLPs practicing in the area of feeding and swallowing should demonstrate. Of the competencies needed for management of feeding and swallowing disorders delineated by ASHA (2002), the following are relevant to school SLPs:

- identifying students at risk for feeding and swallowing disorders;
- providing treatment for students with diagnosed feeding and swallowing disorders;
- providing education, counseling, and training to students with feeding and swallowing disorders, their families, peers, other team members, and school colleagues;
- managing or serving as a significant resource on the district's or school's feeding and swallowing team;
- maintaining a quality control/risk management program;
- providing discharge/dismissal planning and follow-up care;

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- teaching and supervising persons, clinical fellows, supportive personnel, and students in-training; and
- providing public education and advocacy for serving individuals with swallowing and/or feeding disorders.

**NOTE:** Not all school-based SLPs have the appropriate competencies in the area of feeding and swallowing necessary to provide intervention for the advancement or improvement of the student's feeding/swallowing skills. However, all SLPs have knowledge about and are expected to provide support to ensure that the student is safe while eating at school; this includes training school staff to adhere to any recommendations or physician orders. Districts must determine the competencies of SLPs and make appropriate assignment/professional development needs decisions based on these skills and student needs.

**Nurse:** The American Nurses Association and the National Association of School Nurses (2005) publications addresses knowledge of nursing interventions for students with swallowing disabilities, including

- precautions to prevent aspiration;
- oral feeding and non-oral methods (tube feeding, IV feeding);
- emergency care (CPR, Heimlich technique, suctioning, airway maintenance);
- feeding protocol;
- positioning, in collaboration with OT and PT;
- safety and surveillance;
- referral to and ongoing communication with medical teams; and
- nourishment preparation.

**Physical Therapist (PT):** Although the American Physical Therapy Association offers no specific guidelines regarding the practice of physical therapy as it relates to the treatment of children with feeding and swallowing disorders, the school-based PT has knowledge and training to provide input to the school team that includes

- positioning (tonal issues, head/trunk control);

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- seating options (e.g., wheelchair, adapted chair); and
- assistance with assistive technology needs.

***Dietitian or Nutritionist:*** A registered dietitian is a food and nutrition expert who has met the academic and professional requirements of the Commission on Dietetic Registration (CDR). Prerequisites include current certification from the CDR, or having taken CDR's registration examination, and holding a minimum of a master's degree focused on human nutrition and dietetics. The American Dietetic Association has standards of practice and professional performance that should be used by districts to identify a dietitian or nutritionist qualified for a role on the feeding and swallowing team. The ADA standards address four areas of nutrition practice: assessment, diagnosis, intervention, and monitoring/evaluation. Knowledge and skills relevant to the activities of the dietitian or nutritionist on the feeding and swallowing team include

- evaluating the child's diet for factors that affect health, including nutrition risk (e.g., nutrient adequacy and appropriateness of food and beverage intake, meal patterns);
- evaluating nutrition consequences of health and disease conditions and physical activity habits and restrictions;
- using the child's body measurements to help assess impact of diet on growth and development;
- identifying signs, symptoms, and etiology of the child's nutrition problems and validating nutrition diagnosis with others (e.g., child, family, other health care professionals);
- collaborating with feeding and swallowing team members to design and coordinate scientifically based nutrition plans with measurable outcomes, including selecting, implementing, or delegating (as appropriate and with supervision) activities to address identified problems;
- developing or suggesting materials to help implement the plan; and
- monitoring the child's and the team's understanding of, and adherence to, the plan; determining the child's progress; identifying unintended barriers; and recommending modifications, as appropriate.

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**Paraprofessionals:** Support personnel may play a role in evaluating students and implementing their intervention plans. These include nursing, occupational and physical therapy and speech-language pathology assistants, and classroom paraprofessionals. Their qualifications, appropriate roles, and supervisory requirements are delineated in various laws and guidelines. The professionals who oversee the work of their paraprofessionals should stay current with relevant laws and standards of practice.

### **What knowledge and skills should the core members maintain?**

The national associations of the key professionals involved in pediatric feeding and swallowing have published several relevant documents related to the knowledge and skills needed for this area of practice. These documents can be used to help identify personnel with qualifications to serve on a district or school team. If qualified personnel are not available, the competencies can be used to identify the training needs of those interested or selected to participate on a team or to oversee feeding and swallowing services. They can also be used when considering hiring external consultants.

Regardless of which discipline assumes the role of team leader or lead for any particular child, decisions regarding the safety, comfort, and success of eating and drinking must be made by professionals who have undergone rigorous training. “Achievement of proficiencies should be documented and systematic plans for attaining proficiency should be in place in settings serving individuals with swallowing and feeding problems” (ASHA, 2002, p.81). ASHA’s [Competency checklist: Swallowing and/or feeding disorders](#) (2002) provides a format for the rating of team members’ knowledge and skills that could be readily adapted by districts. Although designed for SLPs, the competencies generalize across the disciplines that should be represented on a school or district team. It is imperative that a district determine the competency of its staff to serve as members of this team. It is also important to provide the necessary on-going training and support to assist these members in maintaining or improving their levels of competency.

### **Can any SLP provide intervention to students with disabilities with feeding and swallowing issues?**

As with other areas of speech-language, only those persons possessing a competent level of education, training, and experience should conduct assessment and intervention for students with feeding and swallowing issues.

### **Can the district require the parents to use their insurance to pay for a medical exam to assist in determining the need for additional special education services?**

IDEA specifies that districts cannot require parents with private family coverage to use that coverage to pay for IEP services required at school (34 CFR§ 300.142 (f) ). In addition, given

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the experiences of health care providers regarding the administrative support needed to access private insurance and the morass of varying insurance requirements, it is not uncommon for districts to determine that the amount of funding they might receive from private insurance would not justify the increased administrative costs.

### **What are some best practices when it comes to students with feeding and swallowing concerns?**

As dysphagia is a health issue, the child's health needs should be addressed immediately. The child's dysphagia requires direct and immediate intervention and should not wait for determination of special education eligibility. As best practice, school staff should develop an individualized health care plan for children with health care needs as part of the standard of practice, including a child identified as requiring swallowing and feeding services while at school. The health care plan can be incorporated into the child's IEP if the child later is found eligible for special education. The health care plan should include descriptions of the child's medical history and current status, such as

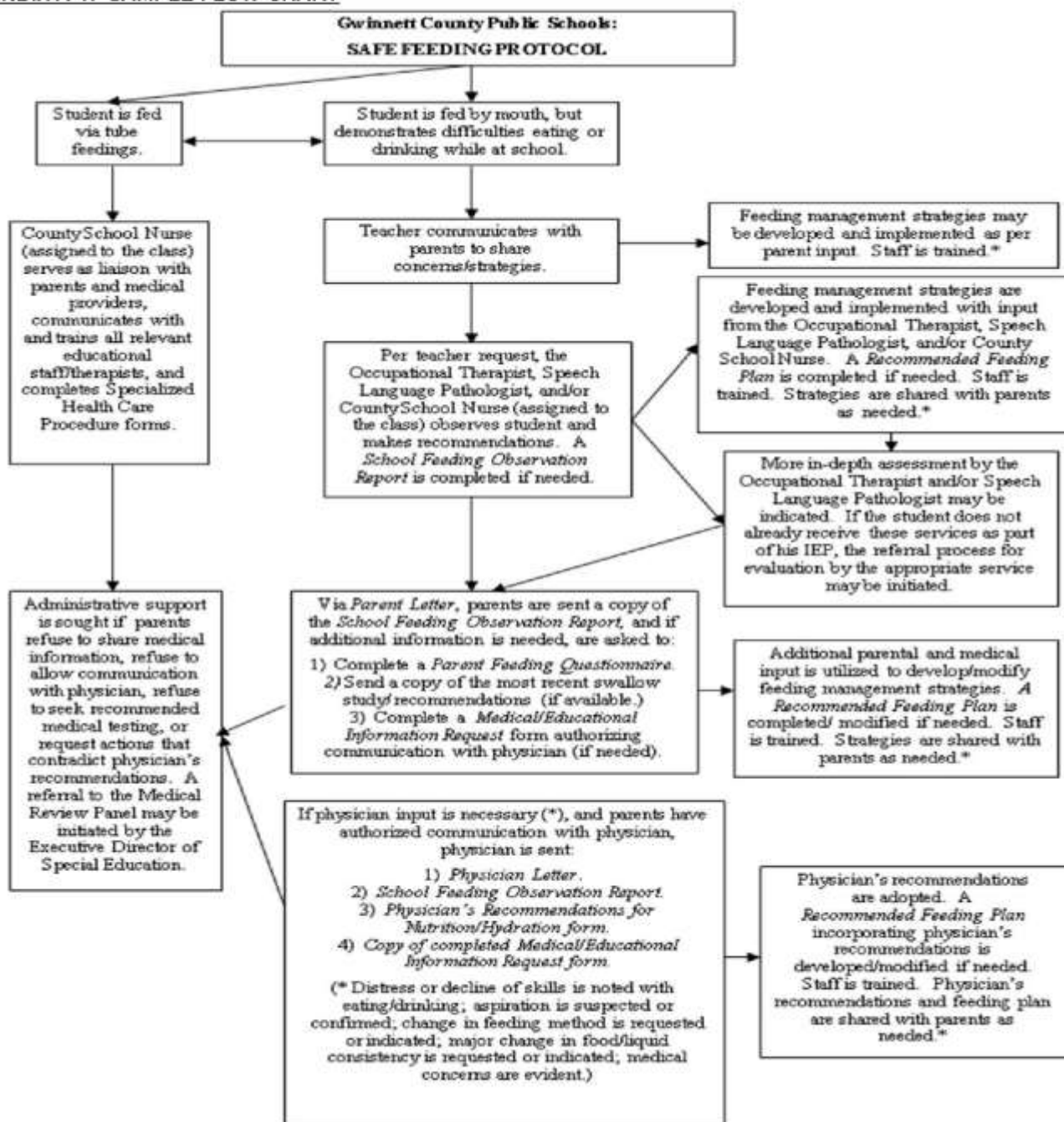
- health care needs, medication;
- feeding and nutritional needs;
- transportation and restroom arrangements; and
- any specific procedures required to address the child's health care needs (Lowman & Murphy, 1999).

Specific procedures related to feeding and swallowing should identify the roles and responsibilities of the SLP, nurse, teacher(s), paraprofessional(s), and others working with the child. Districts should ensure that the IEP and any health care plan are adhered to for all children, including children with dysphagia. Each person working with the child on swallowing and feeding should have a current copy. Since the health care plan will focus on medically related service needs, the IEP may address social and cultural aspects of swallowing and feeding.

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## Sample Form

### APPENDIX A-1: SAMPLE FLOW CHART



\* Indicates no further action may be required to meet student's needs at this time.

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### Resources

#### Electronic

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### *Print*

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Logemann, J. (1997). *Evaluation and treatment of swallowing disorders* (2<sup>nd</sup> ed.). Austin: Pro-Ed.

Lowman, D. K., & Murphy, S. M. (1999). *The educator's guide to feeding children with disabilities*. Baltimore: Brookes.

Manganello, C., Meriano, C., Rosenfield, J., Rowe, C., Tancreti, C., & Telke, K. (Feb. 11, 2006). *Collaborative dysphagia management: Occupational therapy and speech working together as a team*. Seminar conducted at Meriden Care Center & Swallowing Diagnostics in Manchester, CT.

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## CHAPTER ELEVEN: DISCIPLINE (160.4-7-.10)

District personnel should follow specific procedures when they discipline students with disabilities. In this manual, removals of students by district officials refer to Out-of-school Suspensions (OSS), expulsions, or other disciplinary actions of students under the Individuals with Disabilities Education Act (IDEA). Questions concerning disciplinary actions for students with disabilities should be addressed with the administrator, the local special education director, or the Georgia Department of Education (GaDOE).

All schools in Georgia have a code of student conduct and school rules. Usually a handbook is given out at the time of enrollment. Parents, students, educators, and administrators need to know what the code of conduct and rules are, and students with disabilities should be expected to follow the rules that are in effect for all of the students in the school. Disciplinary procedures described in this chapter pertain to all students with disabilities in any category of eligibility who violate the code of student conduct.

### *Schoolwide Positive Behavior Supports*

The mission of schools is to provide opportunities for students to achieve three primary and interrelated expectations that enable participation, contribution, and success in schools, communities, and post-school outcomes. These three expectations are

1. *academic skill competence;*
2. *social skill competence; and*
3. *lifestyle skill competence.*

In order for schools to address problem behavior successfully, best practice dictates placing an increased emphasis on proactive approaches rather than reactive behavior management. Proactive approaches to discipline for all students include expectations of more socially acceptable behaviors that are directly taught, skills that are regularly practiced in the school environment by staff and students, and frequent recognition of everyone in the school environment in the performance of these behaviors.

To shift from a reactive and aversive approach for managing problem behavior and discipline issues, to a positive and prevention oriented approach, schools must

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- work for and with all students, since every student entering school needs behavior support;
- give priority to evidence-based procedures;
- integrate academic and behavioral success for all students;
- emphasize prevention in establishing and maintaining safe and supportive school climates;
- expand the use of effective practices to district, county, regional, and state levels;
- increase collaboration among multiple community support systems, (i.e., education, juvenile justice, community mental health, family, and medical); and
- build a school environment where team building and problem-solving skills are expected, taught, and reinforced.

Schools that imbed positive and prevention oriented schoolwide discipline programs in the current student code of conduct will achieve

- a decrease in office discipline referrals;
- a safe and healthy school climate;
- a climate where teachers can teach and students can learn; and
- a climate where learning and teaching are valued.

### ***Disciplinary Actions of 10 School Days or Less***

Students with disabilities should be expected to follow the code of conduct. A student with a disability, who has an Individualized Education Program (IEP) in effect, can be removed to OSS, another setting, or an appropriate interim alternative educational setting (IAES), just as any other student without a disability can, for up to a total 10 school days, for violations of the code of conduct or school rules. The 10 days can be consecutive or cumulative and can occur during one school year. It is not necessary for the IEP team to meet when this occurs. Likewise, it is not necessary for a manifestation determination to be completed, a functional behavior assessment to be conducted, a behavior intervention plan to be developed, or for any special education services to be provided if the removal is for 10 or fewer school days in the school year.

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Students with disabilities who are in In-School Suspension (ISS) must continue to have access to the general curriculum and to progress toward the goals in the IEP in order for ISS not to be considered a removal and not to be counted toward the 10 days of suspension.

**Scenario 1: A student with a disability exhibits a behavior that violates the code of conduct. The principal is thinking of suspending the student for 5 days. The student has not been suspended at all during the current school year.**

In this scenario, district personnel may suspend the student with a disability if this discipline is the same as for students without disabilities. During the suspension, the district is not required to provide special education services for the student.

### ***Disciplinary Actions beyond 10 Days***

When frequent disciplinary actions add up to more than 10 school days in a school year, or when frequent disciplinary actions clearly indicate a pattern that is a change in placement, the IEP team must determine appropriate services that allow the student to continue to participate in the general education curriculum **and** progress toward meeting the goals outlined in the student's IEP, although in another setting.

After a student has been removed for 10 school days in the same school year, and a subsequent removal is not for more than 10 consecutive days and is not a change in placement, then the district personnel and at least one of the student's teachers must determine the extent of services needed so the student can continue to participate in the general education curriculum **and** progress toward meeting the goals outlined in the student's IEP, although in another setting.

**Scenario 2: A student with a disability gets into a fight with several other students in the school cafeteria. The other students do not have disabilities. The school is thinking about suspending all of the students involved for 5 days. The student with a disability has already been suspended for 8 days this school year.**

In this scenario, the school may suspend the student with a disability. However, because this suspension would cause the student with a disability to have been suspended from more than 10 school days in the same school year, the student **MUST** continue to receive services enabling participation in the general education curriculum and progression toward meeting IEP goals, although in another setting. Also, the student may receive a functional behavioral assessment and behavioral intervention services and modifications. If school personnel determine the new suspension does not constitute a change in placement, a manifestation determination is not required.

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If district officials want to suspend a student from school for more than 10 consecutive school days, or to have a student's educational setting changed to an interim alternative educational setting for up to 45 school days for weapon or drug possession or for infliction of serious bodily injury on another person, district officials must notify the parent immediately of this decision.

District personnel may consider unique circumstances when determining whether a change in placement is appropriate for a student with a disability. These circumstances are best determined at the local level by district personnel who know the student and the facts and factors related to the behavioral violation. District personnel may consider various forms of information such as the student's disciplinary history, ability to understand the consequences, and expression of remorse, as well as the supports that were provided to the student prior to the behavioral violation.

### ***Manifestation Determination***

Within 10 school days from the beginning of a disciplinary action that either exceeds 10 school days in a row or that constitutes a pattern of removals (a change in placement), the student's IEP team must meet to determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability or whether the conduct was a result of the district's failure to implement the student's IEP. These steps are referred to as a "manifestation determination."

In making this determination, the district, the parent, and relevant members of the IEP team (as determined by the parent and the district), will review

- the student's IEP,
- the student's behavior intervention plan,
- any relevant teacher observations, and
- any other information provided by the parents.

If the IEP team finds that the student's behavior was caused by or had a direct and substantial relationship to the student's disability, or that the behavior was a direct result of the district's failure to implement the IEP, then the behavior is a manifestation of the

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student's disability. In this case, if the student does not have a behavior intervention plan, the IEP team must conduct a functional behavioral assessment and implement a behavior intervention plan to address the behavioral violation. If the student already has a behavior intervention plan that addresses the conduct in question, the IEP team must review and modify it as necessary to address the behavior.

If the IEP team finds that the student's behavior was not a manifestation of the student's disability, the same disciplinary actions can be imposed on the student with a disability as those imposed on any student. If these actions include expulsion, the IEP team must determine how the student will continue to receive educational services that allow him or her to continue to participate in the general education curriculum and progress toward meeting the goals in the IEP. In addition, the IEP team, if appropriate, will conduct a functional behavior assessment and develop a behavior intervention plan.

**Scenario 3: A student with a disability violates the code of student conduct. The violation did NOT involve weapons, serious bodily injury, drugs or controlled substances. The principal wants to suspend the student until the end of the semester, which would be 15 days.**

The district must notify the parent of the decision to make a removal that constitutes a change in placement and provide the parent with the procedural safeguards notice.

The parent, the district, and relevant members of the IEP team must conduct a manifestation determination within 10 days. If the behavior is determined to be a manifestation, the student must be returned to the placement from which he or she was removed, unless the parent and district agree otherwise. Also, a functional behavior assessment must be conducted and a behavioral intervention plan must be implemented. If a plan is already in place, it must be reviewed and revised, if necessary.

If the determination is made that the behavior is not a manifestation of the student's disability, the student may be suspended, as long as that same discipline would be applied to students without disabilities. However, he or she **MUST** continue to receive services enabling participation in the general education curriculum and progression toward meeting IEP goals, although in another setting. Also, the student may receive a functional behavioral assessment and behavioral intervention services and modifications.

### *Special Offenses*

Certain serious behavior problems can lead to a student being moved to an interim alternative educational setting (IAES) for up to 45 school days, even if the conduct is determined to be a manifestation of the student's disability. Removing the student for these offenses does not require parent consent or agreement, nor does it require a tribunal hearing. These offenses involve:

**Weapons**—If a student carries or possesses a weapon

- to school
- on school premises
- at a school function

**Drugs**—If the student knowingly possesses or uses illegal drugs or sells or solicits the sale of controlled substances

- at school
- on school premises
- at a school function

**Serious bodily injury**—If a student has inflicted bodily injury upon another person

- at school
- on school premises
- at a school function

#### **Scenario 4: A student with a disability is found with illegal drugs while at the school prom that was held in a hotel ballroom in a nearby town.**

In this scenario, the district's proposed discipline may involve sending the student to an interim alternative educational setting for up to 45 school days. This is a change in placement, so the district must notify the parent of the disciplinary action and their procedural safeguards. The same procedures are followed as in Scenario 3, except that the student is not returned to the IEP placement if the determination is made that the behavior is a manifestation of the student's disability. The student's parent has a right to challenge the decision for assignment to an interim alternative educational setting (IAES). Additionally, nothing prohibits district personnel from reporting the alleged criminal activity to law enforcement authorities.

### ***Frequently Asked Questions***

#### ***Authority of District Personnel***

##### **What is meant by consecutive school days?**

Consecutive refers to the number of days of suspension in a row.

##### **How are cumulative days of suspension in a school year addressed?**

The Discipline Rule addresses cumulative days by referring to school days in the same school year. Districts may suspend a student with disabilities for up to 10 (cumulative) school days total in a school year without providing special education and related services, unless the district would provide services to a student without disabilities who has been similarly removed.

##### **Does in-school suspension (ISS) constitute a removal from school?**

If the student has access to the general curriculum and receives his or her IEP services while assigned to ISS, it is not counted as an out-of-school suspension.

##### **What is free appropriate public education (FAPE) for a student who has been removed for more than 10 school days in a school year for disciplinary reasons?**

FAPE applies in those circumstances and consists of

- services that enable the student to continue to participate in the general education curriculum and
- services that enable the student to progress toward meeting the goals set out in his or her IEP.

##### **At what point in the disciplinary process is a student required to have a behavioral intervention plan (BIP)?**

Within 10 days of any decision to change the placement of a student with a disability because of a violation of the code of student conduct, the relevant members of the IEP team must make the determination as to whether the conduct was a manifestation of the student's disability. If it is determined to be a manifestation of the student's disability, a functional behavioral assessment (FBA) and a behavioral intervention plan (BIP) must be developed, reviewed, and/or modified.

##### **What is a functional behavioral assessment?**

A functional behavioral assessment (FBA) is the process of gathering information in order to determine the cause or function of a behavior prior to developing a behavior intervention

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plan. Many tools and assessments can be used for functional behavioral assessment. These should be individually selected on a case-by-case basis. Data for functional behavioral assessments should be derived from the student's school setting in order for accurate conclusions to be made.

### **What is the definition of behavioral intervention plan?**

A [behavioral intervention plan](#) (BIP) consists of positive interventions, strategies, and supports designed to address the behavior in question. A team approach that includes relevant district staff and the parent is critical to developing a successful BIP. The BIP is a fluid plan that should be modified as necessary.

### **Does a Behavior Intervention Plan (BIP) have to be based on a Functional Behavior Assessment (FBA)? Is an FBA required before a BIP can be done?**

If the IEP team has adequate information to develop a Behavior Intervention Plan, a Functional Behavior Assessment may not be required. Although not required, best practice is to conduct an FBA prior to the development of a BIP.

In the case of a required FBA and BIP due to discipline procedures and the determination that the behavior in question was a manifestation of the student's disability, both an FBA and a BIP must be developed. If already completed, the FBA and BIP must be reviewed and revised as necessary.

### **Do removals from the school bus count as days of out-of-school suspension?**

Yes, if special transportation is listed in the student's IEP, and if a student is suspended from the bus, IEP services have been interrupted. Therefore, the bus suspension/removal will be counted as out-of-school suspension unless the district makes provisions for alternative transportation.

### *Manifestation Determination*

#### **Who makes the manifestation determination?**

The determination is made by

- the parent;
- relevant members of the IEP team, as determined by the district and the parent;
- the district.



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**Districts conduct a tribunal to determine guilt or innocence when a student is accused of a serious or repeated violation of the code of conduct. Is the manifestation determination conducted before or after the tribunal?**

The manifestation determination should be conducted before the tribunal.

**What must occur if the determination is made that the behavior in question was a manifestation of the student's disability?**

The student must be returned to the placement from which the student was removed, except in cases involving weapons, serious bodily injury, or illegal drugs or controlled substances, unless the parent and the district agree to a change in placement.

- If a BIP is not in place,
  - the IEP team must conduct a functional behavioral assessment (FBA), unless the district had conducted one prior to the behavior; and
  - a behavioral intervention plan (BIP) should be implemented.
- If a BIP is already in place,
  - the IEP team must review the existing BIP; and
  - the IEP team must make changes needed in the BIP to address the behavior.

**What occurs if the determination is made that the behavior in question was not a manifestation of the student's disability?**

For disciplinary removals that would exceed 10 consecutive school days, district personnel may apply the relevant disciplinary procedures in the same manner and for the same duration as the procedures would be applied to students without disabilities, except that the student must

- continue to receive educational services so as to enable the student to participate in the general education setting and to progress toward meeting IEP goals, although in another setting; and
- receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

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**If the Manifestation Determination decides that student's behavior was not a manifestation of the disability, and the tribunal decides that the student is to be served in an alternative educational setting, must the school district provide transportation?**

First, the tribunal does not determine the placement, the IEP determines the placement of the student so that he or she may continue to progress toward meeting the IEP goals and to have access to the general education curriculum. Whether or not transportation must be required will depend on whether specialized transportation was required in the IEP. If it was in the IEP, then it must be provided for the alternative school. In other circumstances, the team must consider whether not having transportation results in removing the student from services. If so, the IEP team should consider an alternative.

### *Special Circumstances/Definitions*

**What is the definition of a dangerous weapon?**

"The term *dangerous weapon* means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury." The definition as of the date of publication of this manual is from 18 U.S.C. Section 930 (g)(2). This definition from the United States Code is used for the term "weapon" in Georgia's Special Education Discipline Rule.

**What is the definition of a serious bodily injury?**

"*Serious bodily injury* means injury that involves (A) substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty." Accusing a student of inflicting serious bodily injury is a serious matter. Best practice suggests that careful consideration should be made to ensure the validity of the injury claim. For the purposes of this rule, the definition of serious bodily injury is found in the United States Code. The definition as of the date of publication of this manual is found in 21 U.S.C. Section 18(c).

**What is the definition of controlled substance?**

For the purposes of this rule, the definition of controlled substance is that found in section 202(c) of the Controlled Substances Act. The definition is not included here because it is lengthy and changes frequently.

**When are the provisions about weapons, illegal drugs, controlled substances, and serious bodily injury in effect?**

These provisions are in effect when students are

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- at school;
- on school premises; and
- at school functions.

### *Notification*

#### **When should a parent be notified of a change of placement due to a removal because of a violation of the code of student conduct?**

The district is responsible for notifying the parent and providing procedural safeguards on the date on which the decision is reached to make such a removal that constitutes a change of placement.

### *Appeals*

#### **What decisions about discipline can a parent appeal?**

A parent may appeal

- the manifestation determination and
- the selection of an interim alternative educational setting regarding the issues of weapons, illegal drugs or controlled substances, or serious bodily injury.

#### **Can the district appeal any decisions related to discipline?**

Yes, the district may appeal if it believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

#### **What occurs if the parent or the district wants to appeal?**

An expedited due process hearing occurs within 20 school days of the date the hearing is requested. A determination must be made by the administrative law judge within 10 school days after the hearing. [Also, see first two questions under “Appeals.”]

#### **May the hearing officer’s decision on an expedited due process hearing be appealed?**

Yes. The parent or the district may appeal the administrative law judge’s opinion consistent with Rule 160-4-7:10 Dispute Resolution.

### *Placement During Appeals*

#### **What happens to the student’s placement when an appeal under the Discipline Rule is made?**

When the parent disagrees and appeals, the student will remain in the interim alternative educational setting (IAES) pending the hearing decision or until the expiration of the 45

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school day time period if the infraction involved illegal drugs, controlled substances, weapons, or serious bodily injury, unless the parent and the district agree otherwise. The student does not stay put in his or her special education placement that was in place prior to the IAES.

### *Protections for Students Not Yet Eligible*

**What protections are in place for a student who has not been determined to be eligible for special education and related services and who has violated the code of student conduct?**

A student may assert protections under the Discipline Rule if the district had knowledge that the student was a student with a disability.

**How is it determined that the district had knowledge that the student was a student with a disability?**

A district is deemed to have knowledge that a student was a student with a disability if any of the following occurred prior to the behavior that precipitated the disciplinary action:

- The parent expressed concern that the student was in need of special education and related services. (This concern must have been expressed in writing to supervisory or administrative personnel in the district, or to a teacher of the student.)
- The parent requested an evaluation of the student (consistent with Rule 160-4-7.04 Evaluation & Reevaluations).
- The teacher of the student, or other district personnel, expressed specific concerns about a pattern of behavior of the student. (These concerns must have been expressed directly to the local special education director or other district supervisory personnel.)

**If a student becomes involved in a disciplinary action and has been previously evaluated and determined ineligible for services, what is the district's responsibility? In addition, if a parent requests an additional evaluation, what is the district's responsibility?**

- The district is not deemed to have knowledge that a student is a student with a disability if the parent has refused services or the student has been evaluated and found ineligible for services.
- If a parent requests an evaluation of a student during the time in which a student is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

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- Until the evaluation is completed, the student remains in the educational placement determined by district authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability, the district must provide special education and related services.

### *Referral to and Action by Law Enforcement and Judicial Authorities*

#### **Can law enforcement officials be informed of suspected criminal activity of a student with a disability?**

Yes. The district may report criminal acts committed by a student with a disability. Nothing in the Discipline Rule prohibits district officials from reporting criminal activity allegedly committed by a student with a disability.

#### **What happens when the district or other agency reports a crime committed by a student with a disability?**

Copies of the student's special education and disciplinary records, if appropriate, are sent to the agency to which the crime was reported.

### *Change of Placement Because of Disciplinary Removals*

#### **When does a change of placement occur?**

A change of placement occurs

- if the disciplinary removal is for more than 10 consecutive days or
- if the removal is part of a series of removals that constitutes a pattern.

#### **What constitutes a pattern of removals?**

A pattern of removals occurs when

- a series of removals totals more than 10 school days in a school year;
- the behavior is substantially similar to previous incidents that required removal; and
- the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another have been considered.

#### **How is it determined that a series of removals constitutes a change of placement?**

The district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process hearings and judicial proceedings.

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### *Discipline Procedures Involving Violations of a Code of Student Conduct (Table)*

LENGTH OF REMOVAL	SERVICES REQUIRED	IEP MEETING REQUIRED	SERVICES DETERMINED BY WHOM	IF CHALLENGED
<b>1. Short term removals, not exceeding 10 consecutive school days, and not cumulating to more than 10 school days</b>	None  34 C.F.R. §300.530(d)(3)	No, but if a long term suspension or expulsion is anticipated, conduct a manifestation determination within 10 days, and prior to formal disciplinary hearing. See row 4.	N/A	N/A
<b>2. Next short term removal that includes the 11<sup>th</sup> cumulative day and each subsequent short term removal (but does not constitute change of placement)</b>	Those, if any, that are necessary to enable the student to 1) participate in the general curriculum (although in another setting); and 2) progress toward meeting the goals in the IEP and the location of the services. 34 C.F.R. § 300.530(b)(2), 300.530(d)(4)	No. No manifestation determination is required. 34 C.F.R. § 300.530(e) - Also see row 4 if long term suspension/expulsion is anticipated.	District officials, (General Education Administrator, Director of Special Education, and the student's special education teacher). 34 C.F.R. § 300.530(d)(4). Rule 160-4-7-.10	N/A
<b>3. 45-day alternative educational settings</b>	Services are provided in IEAS	IEP meeting is not required	School personnel and/or IEP team	Student remains in IEAS until conclusion of appeals process

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### *Discipline Procedures Relating to Weapons, Drugs, Serious Bodily Injury Resulting in 45-Day Placement in IAES (Table)*

LENGTH OF REMOVAL	SERVICES REQUIRED	IEP MEETING REQUIRED	SERVICES DETERMINED BY WHOM	IF CHALLENGED
<b>1. First 10 school days</b>	None, 300.530(d)(3) However, if this removal includes the 11th cumulative day (and any subsequent day) of removal in a school year, required services are those that are necessary to enable the student to 1) participate in the general curriculum, although in another setting; and 2) progress toward meeting the goals in the IEP. 34 C.F.R. §300.530(b)(2), 300.530(d)(4)	Not required, BUT ALSO SEE ROW 2	If removal includes the 11th day, or any subsequent day, district officials (district administrator, special education director, and special education teacher). 34 C.F.R. § 300.530(d)(4) 160-4-7-.10	N/A
<b>2. A removal for</b> <b>a. more than 10 consecutive days, 34 C.F.R. §300.536(a)(1) or</b> <b>b. another removal that cumulates to more than 10 school days, and shows a pattern constituting a change of placement. 34 C.F.R. § 300.536(a)(2)</b>	Those services necessary to enable the student to a. participate in the general curriculum, although in another setting; and b. progress toward achieving the goals in the IEP and, if the behavior is a manifestation of the disability or it is otherwise appropriate, an FBA and BIP designed to address the behavior so it does not recur. 34 C.F.R. § 300.530(d)(5)	Yes, a. to make a manifestation determination (Notice of action and procedural safeguards immediately, and meeting within 10 school days.) 34 C.F.R. §300.530(e),300.530(h), or b. if the behavior is a manifestation of the disability or if otherwise appropriate, to develop an FBA plan and BIP or to review existing BIP and its implementation and make any changes needed to address behavior. 34 C.F.R. § 300.530(f)	IEP team determines services and place where the services will be provided. 34 C.F.R. § 300.530(d)(5)	STAY PUT in Disciplinary Placement. 34 C.F.R. §300.533

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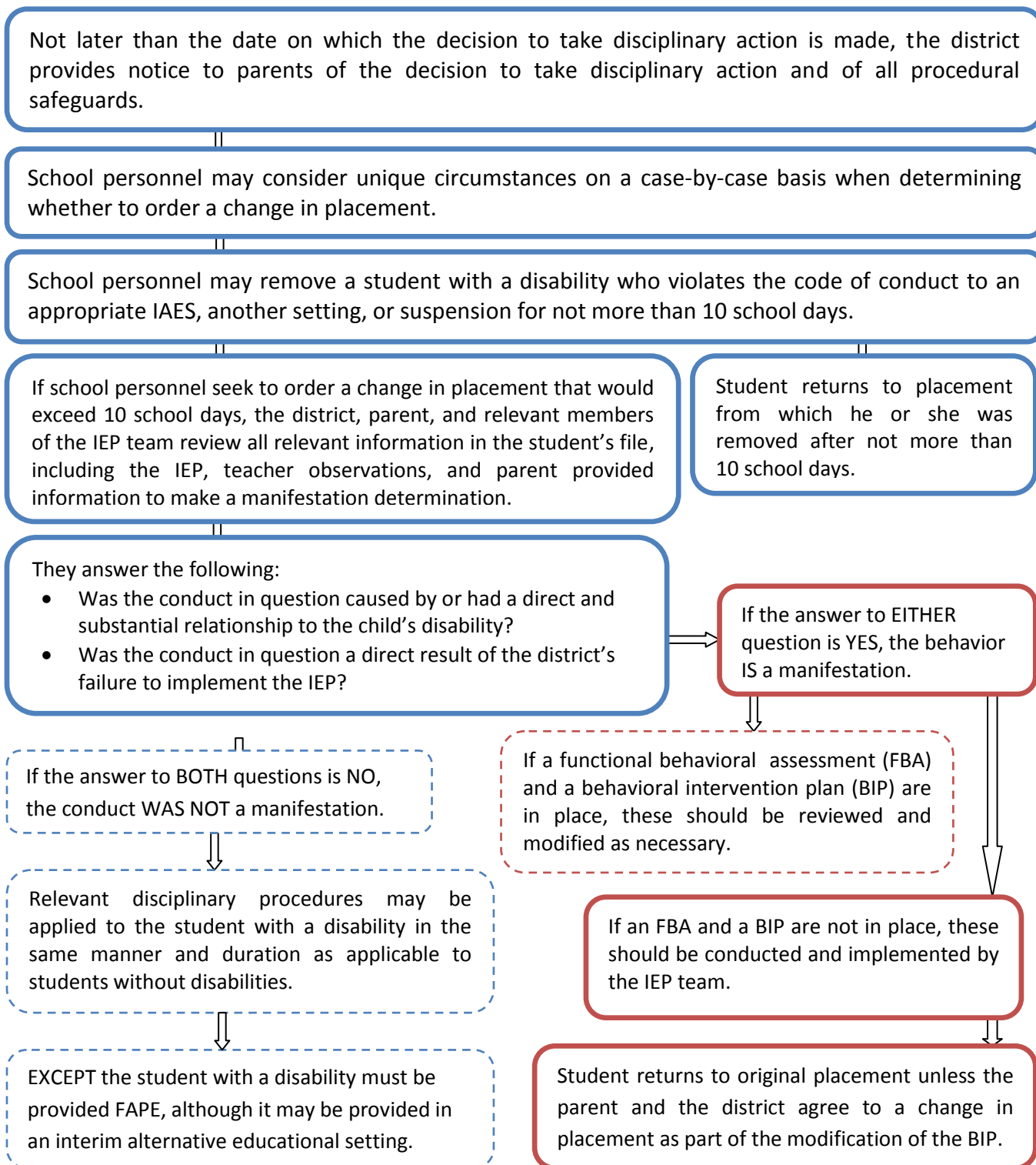
LENGTH OF REMOVAL	SERVICES REQUIRED	IEP MEETING REQUIRED	SERVICES DETERMINED BY WHOM	IF CHALLENGED
<b>3. 45-day alternative educational setting (weapons, drugs or serious bodily injury) 34 C.F.R. § 300.530(g)</b>	Same as above and 34 C.F.R. §300.530(d)(1)	Yes. Same as above, and determine the alternative educational setting. 34 C.F.R. §300.531	IEP team. 34 C.F.R. § 300.530(d)(5)	Alt Ed Set pending H.O. decision or end of 45 school days, or by agreement. 34 C.F.R. §300.533. Process may be repeated. 34 C.F.R. § 300.532(b)(3)
<b>4. 45-day alternative educational setting ordered by the hearing officer (Dangerous behavior). 34 C.F.R. § 300.532(a), 300.532(b)(2)(ii)</b>	Same as above.	Yes. Same as above.	Proposed by district officials (district admin., sp. ed. director, and sp. ed. teacher). Review by Hearing Off. 34 C.F.R. § 300.532(b)(2)(ii)	Same as above



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### *Student with a Disability: Violates Code of Conduct (Flow Chart)*

(Not including infractions involving weapons, drugs, or inflicting serious bodily injury)



***Violations of Code of Conduct: Special Circumstances (Flow Chart)***

School personnel may remove a student with a disability who violated the code of conduct to an appropriate interim alternative educational setting (IAES) for not more than 45 *school* days, without regard to whether the behavior is determined to be a manifestation of the student's disability, in cases where the student carries or possesses a weapon, knowingly possesses or uses illegal drugs, sells or solicits the sale of a controlled substance, or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or district.

The student's IEP team determines the interim alternative educational setting for services.

An agency may report a crime committed by a student with a disability to the authorities.

Not later than the date on which the decision to take disciplinary action is made, the district provides notice to parents of the decision to take disciplinary action and of all procedural safeguards.

Within 10 school days, the IEP team must convene so that the following can take place:

1. Manifestation can be determined.
2. Services can be determined.

The student must receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

In the IAES, the student must continue to receive FAPE so as to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting IEP goals.

A hearing may be requested by

1. The parent, if in disagreement with the placement or manifestation determination.
2. The district, if it believes that maintaining the current placement is substantially likely to result in injury to the student or to others.

If no hearing is requested.

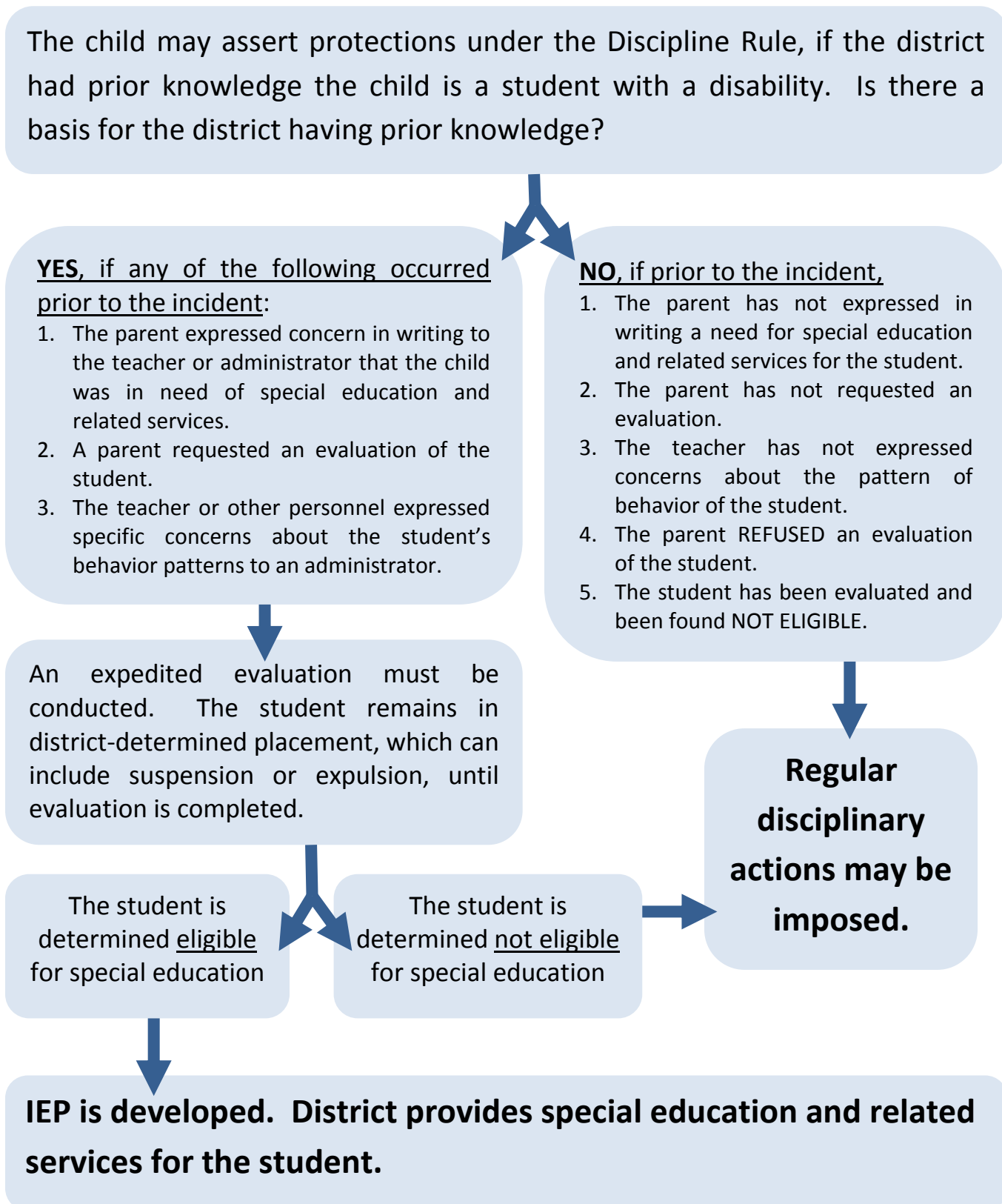
Stay put is in the IAES, unless the parent and school district agree otherwise.

The school district shall arrange for an expedited hearing within 20 school days of the date requested, resulting in a determination within 10 school days of the date of the hearing.

The hearing officer may return the student to the placement from which he or she was removed or order a change in placement to an IAES for not more than 45 days if maintaining the current placement is substantially likely to result in injury to the student or others.

**The student returns to the placement from which he or she was removed on the 46<sup>th</sup> school day, unless a change in placement has been otherwise made.**

***Protections for Students Not Yet Eligible for Special Education (Flow Chart)***



### ***Standards of Practice: Components of a Functional Behavior Assessment (FBA)***

1. FBA team members work collaboratively through the process and document the results.
2. Team members utilize the antecedent-behavior-consequence model as the basis for behavior.
3. A description/operational definition of the target/problem behavior is developed by the team that clearly describes and states what the student is doing in observable, objective, and measurable terms.
4. Team members select FBA direct measurement data systems that are appropriate for the target behaviors (e.g., frequency, duration, latency, interval recording, time sampling, and permanent product recording).
5. Team-based decision making should include manageable strategies for sampling behavior during relevant times and contexts.
6. Direct data collection team planning should include how the raw data will be converted into a standardized format (e.g., rate, percent).
7. In addition to direct observation of behavior, FBA information sources can include multi-element assessments; documentation of student, teacher, and parent interviews (including student preferences); indirect data collection (checklists, questionnaires); previous interventions tried; educational impact of the behavior; and record review.
8. The team's analysis of the comprehensive FBA assessments should identify patterns and result in summative information that should include
  - time of day and settings where the behavior typically occurs
  - subject/activity when the behavior most often occurs
  - frequency/duration/intensity of the behavior
  - people present during the behavior
  - antecedents/events or conditions that immediately precede/trigger the behavior
  - consequences that maintain the problem behavior
9. Through the collaborative team-based decision-making process, the team agrees on a hypothesis/summary statement as to the function/purpose of the target behavior.

### ***Standards of Practice: Components for a Behavioral Intervention Plan (BIP)***

1. Target/problem behavior, the hypothesized function of the behavior, and a summary of data collected that led to the hypothesis are included in the plan.
2. Behavior intervention plans are driven by the hypotheses, and the FBA data collected are individualized for the student and include
  - positive (preventive) strategies to avoid the target behavior (e.g., antecedent modifications), which can include instructional modifications, behavioral precursors as signals, modification of routines, opportunities for choice/control, clear expectations, pre-correction, errorless learning, etc.
  - selected new skills to replace problem behaviors that can be as or more effective than the problem behavior (replacement behaviors may include communication skills, social skills, self-management/monitoring skills, choice making, etc.)
  - instructional methods to teach replacement behaviors that can include pre-instruction; modeling; rehearsal; social stories; incidental teaching; peer buddy; meeting sensory needs; direct instruction; and verbal, physical, and/or visual prompting; etc.
  - consequences that promote the learning of the replacement behavior that are based on student preferences
  - consequences that address the occurrence of the target behavior
  - the desired outcomes of the behavioral intervention plan for the student
3. The action plan for the implementation of the BIP should include
  - activities, dates, and documentation describing who is responsible for completing each task
  - materials, training, and support for the implementers of the plan
  - explanation of how data will be collected and analyzed
  - timelines for team meetings, data analysis, and monitoring the success of the BIP
4. If necessary, a crisis intervention plan is developed when the safety of the student or others must be assured.

## CHAPTER TWELVE: PRIVATE SCHOOLS (160-4-7-.13)

### *Children with Disabilities Placed in Private Schools by the District*

If the Individualized Education Program (IEP) team, including the parent, decides that the most appropriate placement for a student is in a private school, the district that places the student in the private school continues to be responsible for making sure that the student receives the special education and related services included in the student's IEP and that those services are provided at no cost to the parent.

The district should make sure that the education provided at the private school meets the standards that apply to other students with disabilities and that the student and parent continue to have all the same rights that other students with disabilities and their parents have. A district representative must visit the private school at least annually. Ultimately, the district remains responsible for ensuring free appropriate public education (FAPE) when the student is placed in the private school.

The IEP team, with all of the appropriate members including the parent, private school or facility staff, and district representative will develop the IEP for the child. IEP team members may participate in the meeting through a conference call or other means. The district will ensure that the parent can attend at no cost to the parent.

Districts may apply for grant funds if the child is placed in a private school or facility that is approved by the Georgia Department of Education (GaDOE). If the private school is out of the state, it must be on the approved list of the state where the school is located.

### *Children with Disabilities Placed in Private Schools by the Parent*

Children who are home-schooled within the boundaries of the district are considered parentally-placed private school children for the purposes of special education.

### *Child Find*

The district is required to carry out child find activities to locate, identify, and evaluate children attending the private schools within the jurisdiction of the district. The district must consult with representatives of the private school to complete child find activities. These activities must be similar to activities undertaken for the children in the district and must be completed in a timely manner comparable to other children attending the district. Child find activities include any parentally-placed children who attend a private school within the jurisdiction of the district, even if the student resides in a different district or in a state other than Georgia.

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### *Consultation Process*

The [consultation process](#) is important to ensure the provision of equitable services. Consultations with the representatives of private schools, parents of private school students, and parents of home-schooled students must be timely and meaningful. Consultation requirements include

- how parentally-placed private school children suspected of having a disability can participate equitably in the Child Find process;
- how the parents, teachers, and private school officials will be informed of the Child Find process;
- how the determination of the proportionate share of federal funds available to serve the children with disabilities was calculated;
- how the process will operate throughout the school year;
- how, where, and by whom the special education and related services will be provided;
- how funds will be apportioned if funds are insufficient;
- how and when those decisions will be made; and
- how the district will provide to the private school officials a written explanation of the reason why it chose not to provide services directly or through a contract.

The district must obtain a written affirmation signed by the representatives of the participating private schools as documentation of the consultation process and must be prepared to submit this documentation to the GaDOE upon request.

If the private school officials believe that the district did not engage in the consultation in a meaningful or timely manner or did not consider the views of the private school officials, it may submit a complaint through the Formal Complaint Process to the GaDOE. (See the chapter on Dispute Resolution). If the private school is not satisfied with the decision of the GaDOE, they may submit the complaint to the United States Department of Education (USDOE).

### *Equitable Services Determined*

No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in the district. The district only has an obligation to provide these children an opportunity for equitable participation in the services funded with Federal Part B dollars that the district has determined, after consultation, to make available to its population of parentally-placed private school children with disabilities. These children with disabilities may receive a different amount of services than children in public schools. Some children will not receive any services. The district will make the final decisions regarding services to be provided prior to the start of the school year.

### *Services Plans*

A [Services Plan](#) will be developed and implemented for each private school child with disabilities who will receive services from the district. The district will initiate and conduct the meetings to develop, review, and revise a services plan.

It will ensure that a representative of the private school attends each meeting. As with IEPs, in-person participation in the meeting is encouraged, but participation may be through conference call or other means.

#### **A Services Plan must**

- contain a statement of the special education and related services, and supplementary aids and services, to be provided to the child;
- be in effect at the beginning of each school year; and
- be developed, reviewed, and revised periodically, but not less than annually, in accordance with IEP requirements in Georgia Rules.

Services provided to private school children must be provided by district personnel who meet the same standards as personnel providing the services in the district, except they do not have to meet the highly qualified special education teacher requirements.

Services may be provided at the private school, or children may be transported to the public school or community setting to receive services. Transportation may be provided by the district, but it cannot transport the child from home to the private school. Transportation



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costs will be included in calculating whether the district has met the requirements of proportionate funding.

The district may provide materials, equipment, and property purchased to implement the services to the children with disabilities in the private school; but these must be used only for those purposes and must be returned when no longer needed. No funds may be used for repairs, minor remodeling, or construction of private school facilities. The district may not use the IDEA Part B flow-through or federal preschool funds to finance the existing level of instruction in a private school, the needs of the private school, or the general needs of the children in the private school.

### *Expenditures*

To meet the requirements for provision of services to parentally-placed private school children, the district must follow these guidelines:

- For children ages 3-21, the district must expend an amount that is the same proportion of the district's total Part B of the IDEA flow-through funding as the number of private school children with disabilities, ages 3-21, attending private and home schools in its jurisdiction is to the total number of children with disabilities in its jurisdiction.
- For children ages 3-5, the district must expend an amount that is the same proportion of the district's preschool funding as the number of private school children and home-schooled children with disabilities, ages 3-5, attending private and home schools in its jurisdiction is to the total number of children with disabilities, ages 3-5, in its jurisdiction.
- If the district has not expended all of the funds required by the end of the fiscal year, the district must carry over funds for a period of one additional year to be used for proportionate share.
- The district must consult with representatives of the private school in deciding how to conduct the annual count of the number of private school children with disabilities who reside in its jurisdiction.
- The district must ensure that the child count is done on October FTE-1 of each year since this count is used to determine the amount the district must spend in the following fiscal year.

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Parentally-placed private school provisions are to be applied to preschool-aged children only when these children who are eligible for a service plan attend private nonprofit elementary school (grades K and higher).

Preschool students who attend private preschools within their district of residence are served by the district through an IEP.

Parentally-placed private school preschool students who attend private preschools (that are not considered elementary or secondary schools) outside their residential district are not entitled to services from that district.

Each District must maintain records and report to the GaDOE the following information related to parentally-placed private school children:

- the number of children evaluated
- the number of children determined to be children with disabilities
- the number of children served

### ***Placement of Children by Parent When FAPE is at Issue***

Sometimes a district will make free appropriate public education (FAPE) available to a child but the child's parent decides to place the child in a private school or facility. The district is not required to pay for the cost of the education for this child at the private school. When the district and the parent disagree regarding the availability of an appropriate program for the child, due process hearing procedures may be initiated by the parent. An administrative law judge (ALJ) may find that the district had not made FAPE available to the child in a timely manner prior to the child's enrollment in the private school and that the private placement is appropriate, resulting in reimbursement to the parent of the cost of the private school. A parental placement may be found to be appropriate by an ALJ even if it does not meet Georgia's standards that apply to education provided by Georgia or the district.

When FAPE is at issue between the parent and the school district, and the parent determines that he or she is going to place the student in a private school at public expense, the parent must notify the district in writing at least 10 business days prior to the removal of the child or at an IEP meeting prior to the removal. If the parent does not provide the notice, then the cost of reimbursement for private school services may be reduced or

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denied. The cost of reimbursement will not be reduced or denied for the parent's failure to give the above described notices if the district prevented the parent from providing the notice, the parent had not received the information regarding the notice requirement, the parent is not literate or cannot write in English, or the notice requirement would result in serious emotional or physical harm to the child.

### *Frequently Asked Questions*

#### **What are equitable services?**

The regulations state that children with disabilities enrolled in private schools by a parent do not have an individual right to receive some or all of the special education and related services they would receive if enrolled in the public schools. The district only has an obligation to provide parentally-placed private school children with disabilities an opportunity for equitable participation in the services funded with Federal Part B dollars that the district has determined, after consultation, to make available to its population of parentally-placed private school children with disabilities. The consultation process is important to ensure the provision of equitable services and must be provided in accordance with a services plan.

#### **How often must a services plan be written?**

A services plan must be in effect for eligible children when the school year begins. The services plan must be reviewed annually to determine whether the annual goals for a child are being achieved, and must be revised as appropriate.

#### **Does the district where the private school is located have an obligation to make an offer of FAPE?**

The district where a child attends private school is responsible for ensuring Child Find and equitable participation. If a parentally-placed private school child also resides in that district, the district is then responsible for making FAPE available to the child. If the child resides in a different district, the district where the private school is located is not responsible for offering FAPE to that child.

#### **Can the district where the private school is located require another district to pay for the services of a parentally-placed private school child with a disability from another state?**

No. Out-of-state children with disabilities must be included in the group of parentally-placed children with disabilities whose needs are considered in determining who will be served and the types and amounts of services to be provided.

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**When making a determination regarding the services that a district will provide to a child with a disability placed by the parent in a private school, could a district decide to provide services only to students from its own district or state?**

Districts have the discretion to determine how the proportionate share of Federal Part B funds will be expended so long as the consultation requirements are followed. Districts cannot make determinations outside of the consultation process regarding equitable services, and they must be able to explain their decisions.

## CHAPTER THIRTEEN: SERVICES FOR AGENCY-PLACED STUDENTS (160-4-7-.19)

Students placed by the Department of Human Services (DHS) or Department of Behavioral Health and Developmental Disabilities (DBHDD) in DHS or DBHDD-operated or contracted facilities and students placed by the Department of Juvenile Justice (DJJ) in DJJ-contracted facilities are eligible for education services in the district in which the facility is located. This does not include students in a DJJ Youth Development Center or in a Department of Corrections (DOC) facility, regardless of their custody status.

A child is considered to be in the physical or legal custody of DHS, DBHDD, or DJJ or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement and the child has been admitted or placed according to an individualized treatment or service plan of DHS or DBHDD.

### *Students With or Without Disabilities*

The placing agency (DHS, DBHDD, or DJJ) for the child notifies the district in which the facility is located in writing at least 5 calendar days in advance of the child entering the facility. The responsibility of the receiving district begins once the student is present in the facility. Transfer of education records and educationally related records between a district, DHS, DBHDD, or DJJ do not require signed parental/guardian consent. The receiving district shall request the records from the appropriate school district or facility no later than 10 days after receiving notification of the student placement in the facility. Even though consent is not required for the transfer of records, parents of the student are notified and, upon request, provided copies.

### *Educational Meetings for Students Without Disabilities*

Within 5 calendar days from the receipt of the records, the receiving district schedules an educational planning meeting with the DHS, DBHDD, or DJJ and the facility representative. The district keeps a record of the meeting for documentation. If at the meeting, a referral for special education is recommended for the student, the district conducts the evaluation and is responsible for the determination of eligibility within the evaluation timeline.

### *Educational Meetings for Students with Disabilities*

For a student who has a disability, the district must provide free appropriate public education (FAPE), including services comparable to those described in the previous Individualized Education Program (IEP) once the student enters the facility. Within 5

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calendar days of receipt of the student's records, the receiving district conducts a meeting to adopt the current IEP or to develop and implement a new IEP. A surrogate parent must be appointed for students in DHS or DBHDD custody. For other students, the district will document attempts to notify and invite the parent/guardian to attend the IEP meeting. In the event the parent/guardian does not attend the meeting, the district will forward a copy of the IEP to the parent/guardian.

If the IEP committee determines that the least restrictive environment (LRE) for a student is the DHS or DBHDD operated/contracted facility or DJJ contracted facility, the district continues to be responsible for the education program for that student.

### ***Frequently Asked Questions***

#### **Are there any records that would require parental consent prior to releasing to the district by the facility or placing agency (DHS, DBHDD, or DJJ)?**

The placing agency may possess records that are not part of the educational records, such as medical records. In this situation consent of a parent or legal guardian is required to authorize the release of such records. The placing agency shall obtain consent from the parent or guardian prior to such release.

#### **Who is responsible for a free appropriate public education (FAPE) eligible student in an adult correctional facility?**

If it is a Department of Corrections (DOC) facility, then the DOC must provide IEP services.

#### **How does adjudication change the rules in terms of responsibility?**

Once the student has been adjudicated and moved to a DOC or DJJ facility, the DOC or DJJ will assume responsibility for the implementation of IEP services.

#### **How can a school district ensure FAPE if a student is in a Sheriff's Detention Center, and the center will not allow the district to provide services?**

A student with a current IEP who is in the community jail, such as those managed by city or county agencies (i.e., the sheriff's office) are also entitled to FAPE. In these circumstances, the district the student attends is responsible for providing educational services. The district will need to work closely with the local jail in order to gain access to the student and to deliver services.

The concern of the local sheriff or other enforcement agency is safety, while the district's obligation is to provide FAPE. The district should work collaboratively with the appropriate enforcement agency to ensure implementation of FAPE.

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**If a surrogate and a parent attend an IEP meeting, does the parent have any rights? Does the surrogate have the final say-so?**

A parent will retain his or her rights unless a court of law has determined that parental rights have been severed. If parental rights have been removed by a court order, then the surrogate will act on behalf of the child.

## CHAPTER FOURTEEN: DISPUTE RESOLUTION (160-4-7-.12)

A resolution in a dispute with a district over the rights and services afforded to students with disabilities and their families can be accomplished several different ways. The quickest and most efficient method is to contact the special education administration in the district. The special education director can often assist a family in working out the differences with minimal time and conflict. When a resolution cannot be worked out locally, other processes are guaranteed to students with disabilities under the Individuals with Disabilities Education Act (IDEA). These include (1) formal complaints, (2) mediation, and/or (3) a due process hearing.

### *Dispute Resolution Comparison Chart*

Question	Complaint	Mediation	Due Process Hearing	Resolution Session (only upon request for a due process hearing)
<b>Who can initiate the process?</b>	Any individual or organization.	Parent or district, but must be voluntary for both parties	Parent or district	District schedules the resolution session upon receipt of a due process hearing request unless the parties agree to waive or use mediation
<b>What is the time limit for filing?</b>	One year from the date of the alleged violation	None specified	Two years from when the party knew or should have known of the problem, with limited exceptions	Triggered by a parent's due process hearing request
<b>What issues can be resolved?</b>	Alleged violations of federal regulations and Georgia Department of Education Rules for Special Education	Any matter under the IDEA federal regulations and Georgia Department of Education Rules for Special Education, including matters arising prior to the filing of a due process complaint <i>(some exceptions)</i>	Any matter relating to the identification, evaluation, educational placement, or provision of free appropriate public education <i>(some exceptions)</i>	Same issues as the due process hearing request



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<b>What is the timeline for resolving the issues?</b>	60 days from receipt of the complaint unless extended for unusual circumstances	None specified	45 days from the end of the resolution session unless specific extensions to the timeline are granted	District must convene a resolution session within 15 days of receipt of the due process hearing request unless both parties agree in writing to waive the session or agree to use mediation. The resolution period lasts for not more than 30 days.
<b>Who resolves the issues?</b>	Georgia Department of Education/ Division for Special Education	Parent and district with a mediator; both parties must agree to the solution in writing; decisions are legally binding	Administrative Law Judge	Parent and the district; both parties must agree to the solution in writing; decisions are legally binding

### ***Formal Complaints***

A formal complaint is a written, signed complaint alleging the violation of the Individuals with Disabilities Education Act (IDEA) procedures or of Georgia Rules or the failure of a party to comply with the written agreement of a mediation or resolution session.

Any organization or individual may file a signed written complaint. The complaint must include

- a statement that a public agency has violated a requirement of the IDEA or Georgia Rules for Special Education;
- the facts on which the statement is based; and
- suggested resolutions to the problem(s).

To file a formal complaint, the violation must have occurred within one calendar year of receipt of the complaint.

### ***Procedures for Filing a Complaint***

1. Formal complaints are filed in writing and sent to the local district and the Georgia Department of Education (GaDOE), Division for Special Education. A formal complaint form, which may be used to submit a formal complaint, is located at the bottom of the [Formal Complaint](#) web page on the GaDOE website. Upon receipt of the written

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complaint, the district may contact the person filing the complaint to propose a resolution to the complaint.

2. Once the complaint is received by the GaDOE, a team will determine that the allegation(s) can be investigated and will begin its investigation as appropriate. Once the complaint is received by the local district personnel, they may contact the person filing the complaint to present a proposal to try to resolve the complaint. If the parent accepts the district's proposal to resolve the complaint and notifies the GaDOE, the GaDOE may discontinue the investigation. If an agreement is not reached, the investigation will continue.
3. In addition to the district having the opportunity to present a proposal, the mediation process is also available. Mediation is available at no cost. Mediation is a non-adversarial process conducted by a qualified and impartial mediator who is trained in effective mediation techniques to resolve disputes. If both parties choose to participate in the mediation process, the complaint investigation may still proceed. The timeline for the complaint may be extended if both parties agree to participate in mediation. If both parties agree to mediation, a written agreement will be developed and implemented. Mediation is legally binding in a State or District Court. If an agreement is reached, the complaint will be closed. If agreement is not reached, the complaint investigation will continue, and a decision of compliance will be made by the GaDOE.
4. Upon receipt of the first written complaint, the district will provide a copy of procedural safeguards to the parent of a child with a disability. If indicated on the complaint form that both parties are interested in mediation, then the GaDOE will assign a mediator.
5. The district must provide a written response to the GaDOE and also send a copy to the person filing the complaint. The GaDOE requests that the district send this response within 10 days of receiving the notification. The GaDOE will conduct an investigation to confirm details and to get clarification of the issues. The investigation may include interviews with the parties, observations, on site visits, and other activities as indicated by the nature of the allegation.
6. The GaDOE will give the complainant the opportunity to submit additional information in writing about the allegations of the complaint once it has seen the response from the district. If both parties reach an agreement and resolve the complaint before the GaDOE investigation is complete, the complaint will be closed without making a determination regarding compliance. If both parties go to mediation and reach

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agreement, then the complaint will be closed without a decision regarding compliance. If mediation is used and an agreement is not reached, then the complaint investigation will continue.

7. Within 60 days of the receipt of the complaint, the GaDOE will issue a written decision that addresses each allegation in the complaint and contains findings of fact and determinations of compliance or noncompliance. The timeline may be extended to accommodate for mediation or other exceptional circumstances with respect to a particular complaint. When a violation of the law or regulations has occurred, a resolution will be required. The resolution may include technical assistance activities, compensatory services, reimbursement, and other corrective actions to achieve compliance.

### *Why File a Complaint?*

Filing a formal complaint provides an opportunity to express concerns regarding possible IDEA violations. The GaDOE will review the complaint and will assist the parties in coming to a resolution. The process is simple and user friendly. Most individuals who file a complaint are not represented by legal counsel.

### *Frequently Asked Questions*

**May the Georgia Department of Education complaint procedures, including the remedies, address the problems of a group of children? If so, please provide an example of a systemic complaint.**

Yes. The GaDOE is required to resolve any legitimate complaint, including a systemic complaint alleging that a district failed to provide free appropriate public education (FAPE) to a group of children with disabilities. If the district is not in compliance, it will be required to correct the noncompliance, and the GaDOE will verify correction.

An example of a systemic complaint could include a complaint alleging that a district has a policy, practice, or procedure that results in not providing occupational therapy to children in a specific disability category; which, if true, would be inconsistent with the requirements of the Individuals with Disabilities Education Act (IDEA).

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**May a complaint be filed with the Georgia Department of Education over an alleged violation that occurred more than one year prior to the date of the complaint if the violation is continuing or the complainant is requesting compensatory services for failure to provide appropriate education services?**

No, the regulations at 34 C.F.R. §300.153(c) and Georgia Rule 160-4-7-.12 Dispute Resolution stipulate that a complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.

**If the complainant is a party other than the parent, may parties use the mediation process to attempt to resolve the issue in the Georgia Department of Education complaint?**

The regulations and rules require the GaDOE to offer the parent and the public agency the opportunity to engage in mediation voluntarily to resolve the issues in a GaDOE complaint. The regulations do not require GaDOE to provide mediation when an organization or individual other than the child's parent files a GaDOE complaint.

### ***Mediation***

When the parent and the district disagree about the education of a student with a disability, either may request mediation. An impartial or neutral person, called a mediator, assists the school and the parent in clarifying the problem, exploring interests, discussing options, and reaching a mutually agreeable solution. The mediator does not tell either party how to resolve the dispute, but he or she works with both in the development of their solution. If an agreement is reached, it is documented in writing and signed by all parties. The written agreement is a legally binding agreement and is enforceable in any Georgia court of competent jurisdiction or in a District Court of the United States. This informal and collaborative approach to problem solving can often foster a positive working relationship between the district and the family.

Mediators are trained in conflict resolution, collaborative problem solving, and effective communication. In addition, mediators for special education are required to have knowledge and experience in the laws impacting the education of students with disabilities. The GaDOE has a set of mediators under contract. When mediation is requested, a mediator will be assigned from that list.

### MEDIATION

- is confidential
- is voluntary
- is informal
- occurs in a short period of time
- is free to both the family and the district
- is less burdensome than a due process hearing or a formal complaint
- has a high success rate
- Is a legally binding agreement

### *Procedures for Mediation*

- Either the parent and the student or the district may request mediation.
- The first step is to ask the other party if he/she/it is willing to mediate the disputed issues.
- If a family member is requesting mediation, contact the district's special education office, and district personnel will complete the request for mediation and submit it to the GaDOE. A mediation request form is located at the bottom of the [Mediation Requests](#) web page on the GaDOE website.
- The mediation request is faxed to the GaDOE Legal Services, 404-657-8376.
- Upon receipt, Legal Services assigns the request to a mediator.
- The mediator will contact both parties to develop the timeline, set up the meeting location, and begin preparation.
- Mediation will occur at a location and time convenient to both parties.

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- Once parties have agreed to a date and location, participants should be prepared to spend most of the day in mediation.
- If a resolution is reached, the mediator will facilitate the agreement, and all parties will sign the mediation agreement.
- After mediation, both parties are expected to carry out the activities they agreed to during the mediation as outlined in the agreement, which is a legally binding document.
- If mediation is being requested as part of a due process hearing, the mediation will not delay nor deny the right to a due process hearing. However, discussions during mediation cannot be used as evidence in any due process hearing or civil proceeding.

### *Preparing for Mediation*

- Be prepared to define the problem and explain any concerns.
- Be prepared to state preferred resolutions.
- Be prepared to share information that will help clarify and resolve the problem.
- Be prepared to listen to the information and the points of view shared by others.
- Be prepared to keep an open mind. (Multiple solutions to a problem are often possible.)
- Be prepared to brainstorm with the other parties involved and to develop a creative solution to the problem.

### *Frequently Asked Questions*

#### **Are discussions that occur in mediation confidential?**

Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal or District Court receiving assistance under Part B of the IDEA. Whether the mediation agreement should include a statement setting out this confidentiality requirement is not specifically addressed by the regulations.

#### **Can attorneys participate in special education mediations?**

Attorneys are allowed to participate in special education mediations. Most of the time, the presence of attorneys is discussed prior to the actual mediation, so neither party should be

surprised. Because mediation is a voluntary process, any party that objects to the presence of an attorney may withdraw from the mediation.

### **What is the role of the mediator?**

Once the mediator is assigned, the mediator makes the conference arrangements, conducts and facilitates the conference, writes the agreement reached, assures that all copies are signed and given to both parties, and informs parties of their options if an agreement is not reached. If issues cannot be resolved, the mediator will declare that an impasse has been reached, and the mediation will be terminated. Mediators use a variety of techniques to structure the mediation. The mediator helps the parent and district representative clarify the issues in disagreement and find solutions that are satisfactory to both parties.

### **How long does mediation take?**

Many mediation sessions have been successfully completed in half a day. The mediator will determine whether progress is being made or whether additional time is needed to reach a resolution.

### ***Due Process Hearing***

When the parent and the district disagree over the identification, evaluation, placement, or provision of FAPE, either party may request a due process hearing. An impartial due process hearing is designed to provide an opportunity to resolve differences between concerned parties in the identification, evaluation, placement, or provision of a free appropriate public education for a student with a disability. A hearing may be requested by either the school district or the family when the parties cannot agree and other means of dispute resolution have not been successful.

A due process hearing request must allege a violation that occurred not more than two years before the date the parent or district knew or should have known about the alleged action that forms the basis of the request, with some exceptions. The two-year timeline does not apply if the parent was prevented from filing a due process complaint due to specific misrepresentations by the school district indicating that it had resolved the problem forming the basis of the complaint, or if the school district withheld information from the parent that was required to be provided to the parent.

Due process hearings are provided at no cost to either party; however, each party is responsible for his, her, or its costs associated with hiring legal counsel or expert witnesses unless a court awards the recovery of these costs to a prevailing party. The district must

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inform the parents of low cost legal and other relevant services available if the parent requests the information or whenever a due process request is received by the district.

Due process hearings are conducted by the Office of State Administrative Hearings (OSAH). Once a request is received by OSAH, an administrative law judge (ALJ) will be assigned to conduct the due process hearing. That ALJ will contact both parties and begin to set up the arrangements for the impartial due process hearing.

A due process hearing must be conducted and the decision issued within 45 days of the request for a hearing. The 45-day timeline starts the day after the ALJ has been informed of one of the following events: (1) Both parties agree in writing to waive the resolution meeting; (2) After either the mediation or resolution meeting starts, but before the 30-day resolution period ends, the parties agree in writing that no agreement is possible; or (3) If both parties agree in writing to continue the mediation at the end of the resolution period, but later, the parent or district withdraws from mediation. Extensions to the 45 days for a decision may only be allowed when both parties agree and the extension does not violate the rights of the student.

### ***Requesting an Impartial Due Process Hearing***

- The initiating party should inform the other party and the Georgia Department of Education (GaDOE) of the request for a due process hearing.
- The district is responsible for relaying the hearing request to the GaDOE Legal Services on the day the request is received in the district.
- The request is required to contain the name of the student, the school, and the district in which the student is enrolled, contact information for the family, and school district contact information. The request must also contain a description of the problem and a proposed resolution. **The form provided by GaDOE should be used.** This form is located at the bottom of the [Due Process Hearing Requests](#) web page of the GaDOE website. A hearing may not occur until the party or the attorney representing the party files a request that meets all of the requirements.
- A district may assist the parent in completing the form as necessary in order to obtain a sufficient complaint notice.
- Once received by GaDOE, immediate contact will be made with the Office of State Administrative Hearings (OSAH) to assign the case to an ALJ.
- The ALJ will contact the parties and begin to set up the logistics of the hearing.



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- An expedited due process hearing may be requested if the request is related to a manifestation determination or placement in an alternative educational setting.

### *Timeline*

A due process hearing must be conducted and the decision issued within 45 days of the request for a hearing. If a resolution meeting or mediation is used, the timeline of 45 days begins at the conclusion of a 30-day resolution period, or earlier if the meeting does not result in a settlement. Other extensions may only be allowed when both parties agree and the extension does not violate the rights of the student.

### *Responsibilities of District Upon Receipt of a Request for a Due Process Hearing*

- The district must send the Due Process Request to the GaDOE.
- If the district has not provided prior written notice to the requestor regarding the issues in the request, it must, within 10 days, provide such prior written notice.
- If the district has provided prior written notice, it must respond to the due process request within 10 days.
- If the district feels that the due process request is insufficient, the district must notify the ALJ within 15 days of receiving the request. (The ALJ has 5 days to determine whether the request is sufficient. If sufficient, the timeline moves forward. If not sufficient, the parent must re-file the request.)
- The district must offer the option of a resolution meeting within 15 days of receiving a parent's due process hearing request and prior to the initiation of a due process hearing. The district must convene a meeting with the parent and relevant members of the IEP team who have knowledge of the facts identified in the due process request. This meeting must include a representative of the district who has decision-making authority on behalf of the district. The resolution meeting may not include an attorney for the district unless the parent is accompanied by an attorney. The parent and the district determine the relevant members of the IEP team who will attend the meeting. The resolution meeting need not be held if the parent and the district agree in writing to waive the meeting, or the parent and the district agree to use mediation to attempt to resolve the due process hearing request.

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### *Responsibilities of the Parent Upon Requesting or Receiving a Request for a Due Process Hearing*

- If the parent is the receiving party (not the party making the request), he or she must respond to the district within 10 days of receiving notice of a due process request.
- If the parent is the initiating party, he or she must provide sufficient information with the request to allow the district to understand why the request is being made. **The form provided by GaDOE should be used.** This form is located at the bottom of the [Due Process Hearing Requests](#) web page of the GaDOE website.
- The parent should consider using the resolution meeting or mediation to resolve the differences.

### *Resolution Meeting*

- If agreement is reached, a written settlement will be developed and signed by the district and the family.
- An agreement is binding in State or District Court after a 3-day review period or through the State complaint process.
- The agreement must be implemented by the end of the 30-day resolution period or the due process hearing will proceed.
- If no agreement is reached, the timeline for due process hearings (45 days) begins upon notice to the ALJ.

### *Procedures/Rights for a Hearing*

- The hearing will be conducted at a time and place convenient to the parent and the district involved and at an impartial location.
- The district shall provide the parent/guardian information about low cost or no cost legal services.
- Parents have the right to request and obtain copies of all records concerning the student from the school district 5 or more business days prior to a hearing.
- Either party may be accompanied and advised by legal counsel or another individual with knowledge or training related to the student about whom the hearing is being conducted.

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- Either party may present evidence at the hearing if disclosed to the other party at least 5 business days prior to the hearing.
- Either party may compel the attendance of witnesses. One party must provide a list of witnesses to the other party at least 5 business days prior to the hearing.
- Both parties will receive a copy of the written record of the hearing.
- Parents have the right to have the student present at the hearing.
- Confidentiality of information shall be maintained even when in a hearing.
- Parents in a hearing have a right to obtain relief that the ALJ determines appropriate, which may include payment for an independent evaluation, reimbursement for services, alteration of the IEP, alteration of the placement, or other relief as determined by the ALJ.
- An appeal to a due process hearing must be filed within 90 days in a State or District Court.

### *Student Status During the Hearing*

- When a hearing has been requested by either party, the student shall remain in his or her current educational placement unless the parent and the district agree to an alternate placement.
- If the hearing is the result of an initial admission to public school, the student shall be placed, with the consent of the parent, in the school program until completion of the hearing proceedings.
- The current educational placement includes the services provided in the IEP and all related services.
- Other special circumstances may apply, and the Georgia Rule (160-4-7-.18) should be reviewed to determine the student status pending a due process hearing.

The form provided on the GaDOE website must be used to request a due process hearing. This form is located at the bottom of the [Due Process Hearing Requests](#) web page.

Both parties should receive a copy of the request.

The form should be faxed to:

**GaDOE Legal Services at 404-657-8376**

### *Frequently Asked Questions*

**What happens if a parent files a due process complaint with the district but does not forward a copy of the due process complaint to the Georgia Department of Education? When does the timeline for convening a resolution meeting begin?**

The district is responsible for sending a copy of the complaint to the GaDOE. The timeline for convening a resolution meeting begins on the day the district receives the request.

**May a parent file a due process complaint because his/her child's teacher is not highly qualified?**

No. The regulations at 34 C.F.R. §300.18(f) allow no right of action on behalf of an individual student or class of students for the failure of a particular state or district employee to be highly qualified. However, a parent may file a GaDOE complaint about staff qualifications with the GaDOE.

**If a due process complaint is amended and the 15-day timeline to conduct a resolution meeting starts over, must the district conduct another resolution meeting?** Yes. The complaint can be amended only if the parties mutually agree in writing to the amendment and **are given the opportunity for a resolution meeting**, or the hearing officer grants permission to amend the complaint at any time not later than 5 days before the due process hearing begins. This process ensures that the parties involved understand and agree on the nature of the complaint before the hearing begins. When a due process complaint is amended, the timelines for the resolution meeting and the time period for resolving the complaint begin again with the filing of the amended due process complaint.

## CHAPTER FIFTEEN: RECRUITMENT & RETENTION OF SPEECH-LANGUAGE PATHOLOGISTS

The Georgia Department of Education (GaDOE) Division for Special Education is dedicated to providing support and guidance to local school districts concerning procedural and compliance issues regarding federal and state Individuals with Disabilities Education Act (IDEA) rules and regulations. To avoid potential sanctions, local school districts must document due diligence in creatively trying to meet the Individualized Education Program (IEP) needs of their students and actively searching for certified speech-language pathologists.

### *Providing Speech-Language Services*

#### *GaDOE Personnel Rule*

Georgia Rule and Regulation 160-4-7-.11 (PERSONNEL, FACILITIES, EQUIPMENT, MATERIALS AND CLASS SIZE) stipulates that each certified speech-language pathologist (SLP) can have a maximum caseload of 55 students with speech, language, or communication impairments. Local school districts that have SLPs serving larger caseloads in an attempt to service all IEPs are not in compliance with this rule and may be subjected to various forms of support and/or sanctions. Many school districts have expressed frustration at the inability to hire enough special education staff personnel, especially SLPs, to provide special education services to eligible students.

#### *Caseload Management and Scheduling*

Districts should carefully examine the caseload composition, student needs, and schedules of current speech-language pathologists hired by the local school district. The IDEA sets specific parameters for services that should be provided in educational settings. The goal of providing services under IDEA is to help students progress in the general education curriculum. If a student has difficulties that do not adversely affect that student's educational performance, the student does not qualify for special education services under IDEA. Consider the following questions:

- Are the students on a caseload those who need the services of a speech-language pathologist in order to progress in the general and specialized education curricula?
- Is there a plan for generalization of skills into the general or special education setting?

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- Is there an overall focus on providing services in the least restrictive environment for applicable students?
- Are the students getting the amount of services required in order to access the general and/or special education curricula?
- Could communication paraprofessionals be used? Communication paraprofessionals may be used to assist certified SLPs in meeting the IEP needs of the students on their caseloads. However, the paraprofessional does not assist in increasing the caseload maximum for a certified SLP.

### *Eligibility Criteria*

Districts need to ensure that all special education service providers are carefully implementing the Special Education State Rules regarding eligibility. New referrals must have documentation of prior interventions that the student has not responded to or has not responded to sufficiently, or the district may collect data during the evaluation period. For students who are already eligible, a periodic review of the current, real world (i.e., the general education classroom), performance should assist districts in helping to transition students back into the general education environment if specialized instruction is no longer required to access the curriculum. IEP meetings should be scheduled for students who no longer require specialized instruction to determine whether these students continue to be eligible for special education services.

### *Current Staff Scheduling Options*

Adjustments to special education service providers' schedules may allow for services to be provided to more students by offering extended day pay to current staff members (e.g., SLPs) who are willing to work before or after the normal work day. It is best to pay these individuals at least their hourly rate for the time that they are working in addition to the typical workday. For example, if schools are on a staggered start and end time, and an SLP typically works at the elementary school starting at 8:15 a.m., that SLP could serve students at the high school before the workday begins at the elementary school. The same thing could occur at the end of the workday. Care should be taken to ensure that this service delivery option meets the needs of the students targeted to receive them. If a student needs to have collaborative support during the school day, then providing services outside of the school day will not be appropriate.

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### *Compensatory Services*

Finally, it may be necessary to offer compensatory services to students who still are not receiving the required services, per their IEP. In these instances, the local school district pays for students to receive their speech services outside of the normal school day. The district also provides transportation or reimburses the parents' mileage, if the parents are transporting the child. The district could offer the students doubled speech services in the summer if they missed services during the year. The provider of the compensatory services could be an employee of the district or a private SLP.

### *Advertising Open Positions*

Districts should list position openings on all available resources until personnel have been hired. Documentation should be kept of these actions.

- National—For pricing information regarding posting positions on national speech-language pathology job search websites, visit:
  - American Speech-Language-Hearing Association (ASHA) Career Center's website (<http://asha.jobcontrolcenter.com/post.cfm>)
  - Advance for Speech-Language Pathologists (<http://speech-language-pathology-audiology.advanceweb.com/>)
- State—Post positions within Georgia
  - Teach Georgia Jobs (<http://www.teachgeorgia.org/>)
  - Georgia Speech-Language Hearing Association—To have a vacancy included in the list, contact the GSHA Management Office by email ([execdir@gsha.org](mailto:execdir@gsha.org)) or phone (1-800-226-4742).
  - Colleges and Universities—Send a flyer announcing the job opening to all five of Georgia's Communication Disorders Programs to attract newly graduating speech-language pathologists. Participation in job fairs on-site might also prove helpful.

#### **ARMSTRONG ATLANTIC STATE UNIVERSITY**

Special Education/Speech-Language Pathology Program  
11935 Abercorn St., Savannah, GA 31419-1997 (912-921-7319)

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### **GEORGIA STATE UNIVERSITY**

Communication Disorders Program  
PO Box 3979  
Atlanta, GA 30302-3979 (404-651-2310)

### **UNIVERSITY OF GEORGIA**

Dept. of Communication Sciences & Disorders  
516 Aderhold Hall, Athens, GA 30602-7152 (706-542-4561)

### **UNIVERSITY OF WEST GEORGIA**

College of Education, Special Education and Speech-Language Pathology  
Carrollton, GA 30118-5000 (770-836-6567)

### **VALDOSTA STATE UNIVERSITY**

The Department of Special Education and Communication Disorders  
The Communication Disorders Program  
1310 N. Patterson Street, Valdosta, GA 31698-0102 (229) 333-5932

- Local—Post job openings locally in newspapers, school newsletters, and/or surrounding area newspapers.

### ***Telepractice Service Delivery***

Telepractice is the application of telecommunications technology to deliver professional services at a distance by linking clinician to client, or clinician to clinician for assessment, intervention, and/or consultation. According to the Agency for Healthcare Research and Quality (AHRQ, 2001), telemedicine is “. . . the use of telecommunications technology for medical diagnostic, monitoring, and therapeutic purposes when distance separates the users.” The *Comprehensive Telehealth Act of 1997*, S. 385, 105<sup>th</sup> Cong. (1997), uses the broader term “telehealth” to refer to services delivered by non-physician as well as physician providers. Telehealth is the expansion of telemedicine to include applications across the full spectrum of the health sciences, including but not limited to audiology, speech-language pathology, nursing, occupational therapy, physical therapy, pharmacy, physical education and health promotion, and dentistry and dental hygiene; these are in addition to medicine.

It is the position of the American Speech-Language-Hearing Association (ASHA) that telepractice (telehealth) is an appropriate model of service delivery for the profession of speech-language pathology. Telepractice may be used to overcome barriers of access to services caused by distance, unavailability of specialists and/or subspecialists, and impaired



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mobility. Telepractice offers the potential to extend clinical services to remote, rural, and underserved populations, and to culturally and linguistically diverse populations (ASHA, 2005). The use of telepractice does not remove any existing responsibilities in delivering services, including adherence to all state and federal regulations; therefore, services delivered via telepractice must adhere to the same level of quality as services delivered face-to-face. According to the Code of Ethics, clinical services provided solely by correspondence should not be considered acceptable applications of telepractice. Any clinical service must be appropriate based on the unique needs of the client. Teleservice is innovative and, in the long run, can be a cost effective approach for specialty services to rural school districts that are unable to recruit and retain certified SLPs. Utilizing real-time, two-way interactive teleconferencing, the speech-language pathologist can provide comprehensive speech therapy services off site. Telepractice is not appropriate in all circumstances, and a variety of factors need to be considered.

Currently, the GaDOE limits telepractice, known hereafter as teleservice, to speech-language pathologists providing services to students with speech-language impairments.

- The district has the ultimate responsibility to ensure that free appropriate public education (FAPE) is provided for eligible students with disabilities. The district must develop policies and ensure that confidentiality is maintained.
- Students who are provided their special education services through telepractice must have at least one hour per month of direct (face-to-face) services from a certified SLP to meet the definition of consultative services as defined in the Service Delivery and Least Restrictive chapter of this Implementation Manual; this is ***in addition*** to the teleservice segments. Districts may use the multi-system instructor FTE reporting flexibility described in the FTE Data Element Detail for Cycles 1 and 3 where services provided on the Monday prior to the first FTE Count and the Friday after the second FTE count can be funded.
- The use of telepractice does not have an effect on maximum caseload size. All students being served via telepractice must also be included on the caseload of an SLP who will serve the students at least once per month.
- The district must provide a trained communication paraprofessional to supervise and facilitate all telepractice sessions.

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- Finally, due to the innovativeness of this delivery model, the use of telepractice requires documentation of the items listed above and requires prior GaDOE approval.

Please contact Zelphine Smith-Dixon (404-463-0678 or [zsmith@doe.k12.ga.us](mailto:zsmith@doe.k12.ga.us)) for more information about telepractice/teleservice.

### ***Frequently Asked Questions***

#### **What are some of the responsibilities local districts have regarding the equipment required for teleservice?**

Districts must work with the teleservice provider and provide compatible equipment. In addition, the district must

- provide an electronically-wired and Internet accessible room at the school site with a door that closes to ensure confidentiality;
- supply, outfit, secure, provide technical support staff, and maintain and repair the necessary equipment to run the telepractice program; and
- arrange for and pay for all expenses incurred for a dedicated network line as required for the implementation of the telepractice program.

#### **What are the credentials that teleservice providers must hold in order to bill for FTE funding?**

SLPs providing teleservice must have or be eligible for Georgia SLP license by the Secretary of State and ASHA certification. FTE funding can be provided for speech services delivered in accordance with FTE requirements as long as the student receives direct (face-to-face) services from a certified SLP at least one hour per month (consultative services) in addition to the teleservice segments provided on the day of the FTE count or documented multi-system count day flexibility .

#### **What services will be provided by the telepractice professional and how?**

The district will need to develop guidance on the involvement of the telepractice service provider, outside of the sessions with the student(s). Other important items to consider are

- development of and participation in any meetings regarding the Individualized Education Program for each participating school and/or student;
- training in and access to the GPS;

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- access to and facilitation of collaboration with students' classroom teachers, other special education providers, and parents to ensure FAPE;
- agreement of school to provide a designated contact person to assist with the implementation of the program among and between the parties; and
- availability of trained communication paraprofessional to supervise the student(s) and assist during all sessions.

### **What is the role of the Communication Paraprofessional in Teleservice?**

The paraprofessional will provide assistance with scheduling of therapy, bringing students to treatment sessions, organizing materials, and clarifying tasks as needed. Task clarification will be done under the speech-language pathologist's guidance. For example, the paraprofessional may need to point to specific parts of pictured materials on the remote end to help direct a student's attention to the given target. A significant role of the paraprofessional is to be the speech-language pathologist's hands for manipulating therapy materials. Under the direction of the speech-language pathologist, the paraprofessional will set up games, present flash cards, turn on the videoconferencing equipment, problem solve if technical difficulties arise, and provide tactile cues as appropriate. The paraprofessional will always function under the direction of the SLP.

Regarding organization of materials, the paraprofessional should have access to speech-language therapy materials on site. A list of materials will be shared with the teleservice SLP to assist in lesson plan preparation, development, and implementation. The SLP will select the materials to be used during the sessions. The paraprofessional will maintain the files at the remote site and send home invitations and homework (under the SLP's direction) to the parents and guardians. The paraprofessional will schedule meetings as directed by the speech-language pathologist.

### **What documentation will be required for teleservice segments?**

The teleservice providers will need access to student records that are stored on a secure server with password protection. Every effort should be made to keep parents and teachers informed of student progress and to gain feedback on satisfaction of this model of delivery.

### **What criteria should be used to determine which students would be good candidates for teleservice?**

The selection of who would benefit and who wouldn't benefit from speech therapy through a telepractice delivery model should be made on a case-by-case basis by the IEP team. Telepractice may not be the appropriate delivery model for students

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- who require less or more restrictive service delivery in order to progress in or participate in their curricula;
- who are highly distracted by the videoconferencing medium;
- whose therapy sessions necessitate the clinician being able to physically manipulate something at the remote site, such as an augmentative communication device, and it may be too time consuming and inefficient for the clinician to direct the paraprofessional in demonstrating the device to the student; or
- who need a significant amount of hand-over-hand guidance.

### **What about accommodation of special needs? How will accommodations be handled?**

Consideration must be taken of physical and sensory characteristics such as hearing ability, visual ability, manual dexterity, and physical endurance. Additionally, cognitive, behavioral, and motivational factors must be considered. All students considered for teleservice will be provided modifications or accommodations (as appropriate) for the above stated factors. Just as “in person” therapy sessions involve the need for flexibility and the ability to make accommodations, teleservice sessions will necessitate flexibility and the ability to tailor treatment protocols to each student.

### **How does teleservice impact Least Restrictive Environment (LRE) for speech students?**

Consideration must be given to the delivery of all special education services, including speech, in a general education setting. In most circumstances, the equipment requirements of teleservice do not lend themselves to a generalized setting. For this reason, teleservice should not immediately be considered the delivery of choice for speech services but rather as an alternative option when other means of providing speech services are not viable.

### **Resources**

Agency for Healthcare Research and Quality. (August, 2001). Telemedicine for the Medicare population (Supplement). *AHRQ evidence reports*. National Library of Medicine. Retrieved from <http://www.ncbi.nlm.nih.gov/bookshelf/br.fcgi?book=erta24s&part=A35411>.

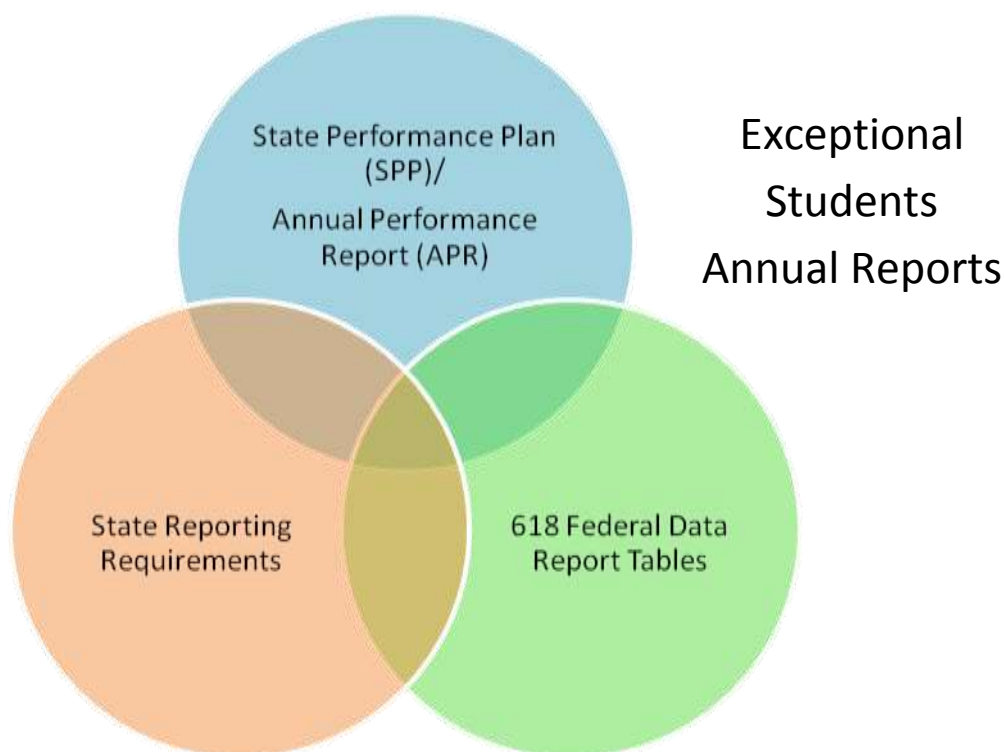
American Speech-Language-Hearing Association. (2005). *Speech-language pathologists providing clinical services via telepractice* [Position statement]. Retrieved from <http://www.asha.org/docs/html/PS2005-00116.html>.

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American Speech-Language-Hearing Association. (2005). *Speech-language pathologists providing clinical services via telepractice* [Technical report]. Retrieved from <http://www.asha.org/docs/html/TR2005-00152.html>.

The Comprehensive Telehealth Act of 1997, S. 385, 105<sup>th</sup> Cong. (1997). Retrieved from [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105\\_cong\\_bills&docid=f:s385is.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_cong_bills&docid=f:s385is.txt.pdf).

## CHAPTER SIXTEEN: EXCEPTIONAL STUDENTS ANNUAL REPORTS (160-4-7-.17)



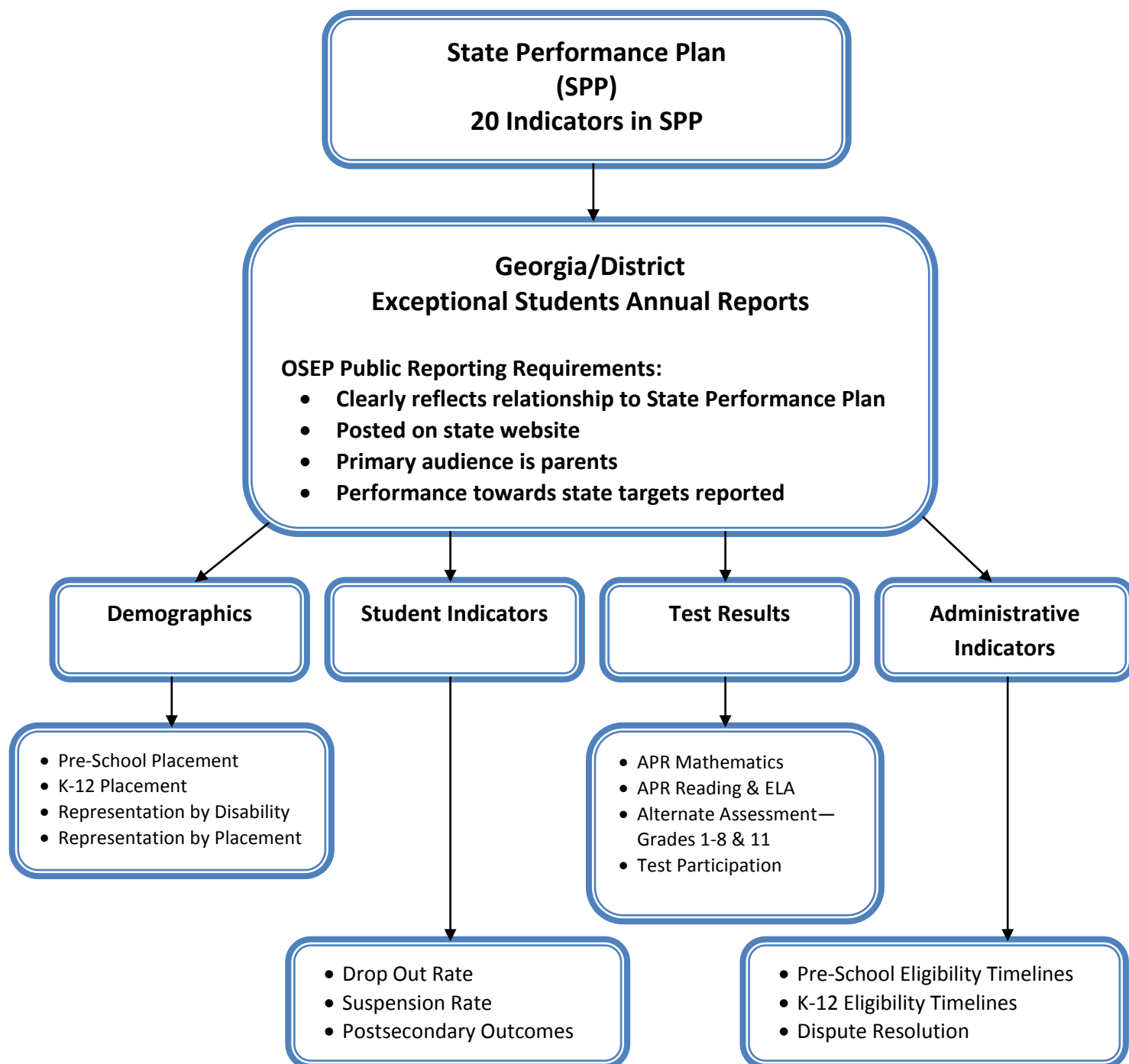
The Individuals with Disabilities Education Act (IDEA) 2004 states: PUBLIC REPORT- the Georgia Department of Education (GaDOE) shall **report annually to the public on the performance of each local educational agency located in the State on the targets in the GaDOE's performance plan**. The GaDOE shall make the performance plan available through public means, including by posting on the website of the state educational agency, distribution to the media, and distribution through public agencies, IDEA Section 616(b) (2) (C)(ii)(I). The Exceptional Students Annual Reports located on the GaDOE website report the performance for Georgia and individual districts.

The web address for the Georgia Department of Education is [www.gadoe.org](http://www.gadoe.org). Navigation to the Exceptional Students Annual Report is provided by selecting the Data Reporting drop down menu or by using the School Finder map and following the appropriate links. Data are presented by school year, and three-year trend data are reported when available. "About the Reports" provides information regarding the contents of the reports, sources of data,

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definitions and rules for reporting, ways data were disaggregated, etc. Data are organized into four sections: Demographics, Student Indicators, Test Results, and Administrative Indicators. Sub-sections for the four sections are outlined in the chart below.

### *IDEA Public Reporting Chart*



### ***State Reporting Requirements***

#### ***Certified/Classified Personnel Information***

**FTE Cycles 1 and 3:** FTE (Full-Time Equivalent) reporting refers to the GaDOE funding mechanism based on the student enrollment and the educational services districts provide for the students. Educational programs are divided into seventeen GaDOE-funded categories. A specific funding weight is assigned to each category. The base amount of money received for each FTE student is determined by the Georgia General Assembly. Refer to O.C.G.A. § 20-2-161 for information concerning the *Quality Basic Education* (QBE) formula.

#### ***Federal Child Count of Students with Disabilities (Formally collected in FTE Cycle 2):***

FTE Cycle 2 information for the federal child count was changed to be incorporated into FTE Cycle 1 for FY 2011 (can be counted between October 1 and December 1). This information is gathered to fulfill federal reporting requirements and is different in *population, purpose, and data elements* reported. Thus, the information reported is unrelated to the state FTE weights formula for funding.

***Student Record:*** The largest annual student data collection conducted by the GaDOE is student record. Data is collected for accountability reporting, which provides data for Adequate Yearly Progress (AYP) Reports, the GaDOE Report Card, and the special education Annual Performance Report. Student Record data provide information on student program participation for an entire school year, data that are used for program evaluation and to meet federal reporting requirements.

Student Record contains nine (9) record types:

1. District
2. School
3. Student
4. Enrollment
5. Course
6. Discipline
7. Program
8. Special Education
9. Addresses



### ***618 Federal Data Report Tables***

#### *Child Count*

A count is taken of students, ages 3 through 21, receiving special education and related services under *the* IDEA, Part B on specified days each year. Data are collected as a two-way tabulation of disability by individual age and as a two-way tabulation of disability by race/ethnicity. A cross-tabulation of individual age by race/ethnicity is not collected. Data are reported separately for children ages 3 through 5 and children ages 6 through 21.

#### *Personnel*

The GaDOE counts the number of special education teachers, special education paraprofessionals, and related services personnel providing special education and related services each year. Counts of personnel are reported in the Certified/Classified Personnel Information.

#### *Placement*

The GaDOE counts the number of students ages 3 through 21 receiving special education and related services under the IDEA on a GaDOE-designated date between October 1 and December 1 (inclusive) of each year, according to the educational environment in which these services were received. The date must be the same as the child count date. These data provide a measure of the extent to which students with disabilities are educated with their non-disabled peers. Data for children ages 3 through 5 are collected as a two-way tabulation of educational environment by individual age, as a two-way tabulation of educational environment by disability, as a two-way tabulation of educational environment by race/ethnicity, as a two-way tabulation of educational environment and gender, and as a two-way tabulation of educational environment and limited English proficiency. No three-way tabulations are available. For children ages 6 through 21, counts are collected as a three-way tabulation of educational environment by age group (6-11, 12-17, 18-21) by disability. A two-way tabulation of educational environment by race/ethnicity is also reported for this age group.

#### *Exiting*

The GaDOE counts the number of the number of students, ages 14 through 21, who exit *special education* during a school year. These data are collected as a three-way tabulation of basis of exit, individual age, and disability category, and also as a two-way tabulation of basis of exit and race/ethnicity. A cross-tabulation of disability by race/ethnicity is not

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collected. A two-way tabulation of basis of exit and gender is also collected, as well as a two-way tabulation of basis of exit and limited English proficiency.

### *Discipline*

The GaDOE counts the number of students ages 3 through 21 receiving special education and related services who were unilaterally removed to interim alternative educational settings and the number of students with disabilities suspended or expelled. This collection was first required by the 1997 Amendments to Individuals with Disabilities Education Act (IDEA). A two-way cross-tabulation is done for disciplinary removals by disability, disciplinary removals by race/ethnicity, disciplinary removals by gender, and disciplinary removals by limited English proficiency. No three-way cross-tabulations are conducted.

### *Assessment*

The GaDOE reports the number of students with disabilities participating in GaDOE assessments and their performance on those assessments. Grade levels and achievement level are the same levels states use for reporting under NCLB. However, the data collected by the Office of Special Education Programs (OSEP) may not be the same levels used for reporting under NCLB.

### *State Performance Plan/Annual Performance Report*

The IDEA 2004 requires each state to develop a performance plan that evaluates the state's efforts to implement the requirements and purposes of the IDEA 2004 and to describe how the state will improve such implementation. This plan is called State Performance Plan (SPP). State educational agencies must establish measurable targets for the performance of students with disabilities. The IDEA 2004 requires states to report their progress toward achieving the measurable targets set forth in the SPP through an Annual Performance Report (APR).

### *Monitoring Priorities and Indicators*

#### ***Monitoring Priority: Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)***

1. Percent of youth with Individualized Education Programs (IEPs) graduating from high school with a regular diploma compared to percent of all youth in the state graduating with a regular diploma (20 U.S.C. §1416 (a)(3)(A))
2. Percent of youth with IEPs dropping out of high school compared to the percent of all youth in the state dropping out of high school (20 U.S.C. § 1416 (a)(3)(A))

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3. Participation and performance of children with disabilities on statewide assessments:
  - a. Percent of districts that have a disability subgroup that meets the state's minimum "n" size meeting the state's AYP objectives for progress for disability subgroup
  - b. Participation rate for children with IEPs in a regular assessment with no accommodations; regular assessment with accommodations; alternate assessment against grade level standards; alternate assessment against alternate achievement standards
  - c. Proficiency rate for children with IEPs against grade level standards and alternate achievement standards (20 U.S.C. §1416 (a)(3)(A))
4. Rates of suspension and expulsion:
  - a. Percent of districts identified by the state as having a significant discrepancy in the rates of suspensions and expulsions of children with disabilities for greater than 10 days in a school year and
  - b. Percent of districts identified by the state as having a significant discrepancy in the rates of suspensions and expulsions of greater than 10 days in a school year of children with disabilities by race and ethnicity (20 U.S.C. §1416(a)(3)(A); 1412(a)(22))
5. Percent of children with IEPs aged 6 through 21:
  - a. Removed from general education classroom less than 21% of the day
  - b. Removed from general education classroom greater than 60% of the day or
  - c. Served in public or private separate schools, residential placements, or homebound or hospital placements (20 U.S.C. § 1416(a)(3)(A))
6. Percent of preschool children with IEPs who received special education and related services in settings with typically developing peers (i.e., early childhood settings, home, and part-time early childhood/part-time early childhood special education settings) (20 U.S.C. §1416(a)(3)(A))
7. Percent of preschool children with IEPs who demonstrate improved:
  - a. Positive social-emotional skills (including social relationships)
  - b. Acquisition and use of knowledge and skills (including early language/ communication and early literacy) and
  - c. Use of appropriate behaviors to meet their needs. U.S.C. §1416(a)(3)(A))
8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities (20 U.S.C. §1416(a)(3)(A))

### Monitoring Priority: Disproportionality

9. Percent of districts with disproportionate representation of racial and ethnic groups in special

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education and related services that is the result of inappropriate identification (20 U.S.C. §1416(a)(3)(C))

10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification (20 U.S.C. §1416(a)(3)(C))

### **Monitoring Priority: Effective General Supervision Part B**

#### **Effective General Supervision Part B / Child Find**

11. Percent of children with parental consent to evaluate, who were evaluated within 60 days (or state established timeline) (20 U.S.C. §1416(a)(3)(B))

#### **Effective General Supervision Part B / Effective Transition**

12. Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays (20 U.S.C. §1416(a)(3)(B))
13. Percent of youth aged 16 and above with an IEP that includes coordinated, measurable, annual IEP goals and transition services that will reasonably enable the student to meet the post-secondary goals (20 U.S.C. §1416(a)(3)(B))
14. Percent of youth who had IEPs, are no longer in secondary school, and who have been competitively employed, enrolled in some type of postsecondary school, or both, within one year of leaving high school (20 U.S.C. §1416(a)(3)(B))

#### **Effective General Supervision Part B / General Supervision**

15. General supervision district (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification (20 U.S.C. §1416 (a)(3)(B))
16. Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint (20 U.S.C. §1416(a)(3)(B))
17. Percent of fully adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party (20 U.S.C. §1416(a)(3)(B))
18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (20 U.S.C. §1416(a)(3)(B))
19. Percent of mediations held that resulted in mediation agreements (20 U.S.C. §1416(a)(3)(B))

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20. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. (20 U.S.C. §1416(a)(3)(B))

## CHAPTER SEVENTEEN: SPECIAL EDUCATION BUDGETS & GRANT APPLICATION PROCESS

To receive IDEA grant funds, each LEA must submit a Comprehensive Plan for Special Education and Related Services annually for serving all eligible students with disabilities ages 3 through 21, including parentally-placed private and home schools students and those in local jails within the LEA's jurisdiction (State Board Rule 160-4-7-.17). The federal flow-through grant funds are used to

- ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and to prepare them for further education, employment, and independent living;
- ensure that the rights of students with disabilities and their parents are protected;
- enhance ongoing learning for parents, teachers, paraprofessionals, and instructional staff in conjunction with the Georgia Learning Resources System (GLRS) personnel;
- provide LEAs with support services and/or technical assistance to students, parents, and staff through Georgia's Project for Assistive Technology (GPAT), Georgia's Instructional Materials Center (GIMC), the Positive Behavioral Supports (PBS) program, and Georgia's Network for Educational and Therapeutic Supports (GNETS); and,
- assess and ensure the effectiveness of efforts to educate children with disabilities.

### ***Statutes/Regulations***

**Federal:** 20 United States Code 1400, et seq., the Individuals with Disabilities Education Improvement Act of 2004 - P.L. 108-446 and 34 CFR Part 300, et seq., establish the authority and parameters for these procedures.

**State:** O.C.G.A. 20-2-152 et seq., Georgia State Board of Education Policy IDDF and Rules 160-4-7-.01 et seq. mandate programs and services for students with disabilities enrolled in the public and private schools of Georgia. Board Rule 160-4-7-.17 *Required Reports* states that:

The Consolidated Application is due annually. The Comprehensive LEA Improvement Plan (CLIP), a part of the Consolidated Application, is due every three years. Annual updates of progress and activities toward meeting the IDEA performance goals and indicators are required. The application for federal funds under Part B of IDEA 2004 and state funds for

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preschool special education is contained in the Consolidated Application. Failure to submit all required components could result in a delay of funding approval.

### *Distribution of Funds*

#### *Federal Distribution of Funds*

**IDEA Flow-through Grants – Part B – Section 611** establishes a formula for grant awards as described in 34 CFR 300.703. After reserving up to 2.726% for technical assistance activities, outlying areas and states, and the Department of the Interior for Indian Tribes, the remaining amount is allocated to states. If the state allocation is greater than the preceding fiscal year, each state is allocated what it received for FY 1999 with any remaining amounts divided among states according to their relative population of all children aged 3-21 at 85% and those living in poverty at 15%. If there is a decrease in funding but an amount greater than FY 1999 then each state is allocated an amount equal to what it received in FY 1999 with any remaining funds divided proportionally based on the increase it received between the prior fiscal year allocation over the FY 1999 level compared to the total of such increase for all states. If there is a decrease equal to or lesser than the FY 1999 amount, each state would receive the FY 1999 amount or ratably reduced amount respectively.

**American Recovery and Reinvestment Act (ARRA) of 2009** – The ARRA IDEA, Part B funds are a supplemental appropriation to the annual IDEA Flow-through and Preschool Grants to States for FY 2010 with a September 30, 2011 completion date. The overall goals of the American Reinvestment and Recovery Act (ARRA) are to stimulate the economy in the short term; invest in education and other essential public services; ensure the long-term economic health of our nation; spend funds quickly and create jobs; improve student achievement through school improvement and reform; ensure transparency, reporting, and accountability; and to invest one-time ARRA funds thoughtfully to minimize the “funding cliff.”

**IDEA Flow-through Grant** – Part B, Section 611 of IDEA 2004 requires that from FY 1999 forward, funds be distributed as follows:

The State shall first award each local education agency the amount that agency would have received for FY 1999, if the State had distributed 75% of its grant for that year. After making this base allocation, the State shall allocate 85% of any remaining funds on a basis of relative numbers of children enrolled in public and private elementary and secondary schools within the agency’s jurisdiction and allocate 15% of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty. Free and reduced lunch figures from the previous full time equivalency (FTE – 1) count are utilized to define poverty for each agency (34 CFR 300.705).

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**IDEA Preschool Grant** – Part B, Section 619 of the IDEA 2004 requires that from FY 1997 forward, funds be distributed as follows:

The State shall first award each agency the amount that agency would have received for FY 1997 if the State had distributed 75% of its grant for that year. After making the base allocation, the State shall allocate 85% of any remaining funds on a basis of relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction and allocate 15% of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty. Free and reduced lunch figures from FTE - 1 are utilized to define poverty for each agency (34 CFR 300.816).

**American Recovery and Reinvestment Act (ARRA) of 2009 grants for IDEA Flow-through and Preschool Stimulus Funds.** The state allocates 85% of these supplementary funds on a basis of relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction and allocates 15% of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty. Projects or activities must be completed, and a report on the use of the funds will be made available to the public ([www.Recovery.gov](http://www.Recovery.gov)). As of July 10, 2009, all quarterly reports shall be completed no later than ten calendar days following the end of the quarter. For example, when the quarter ends on June 30, the quarterly report will be submitted between July 1 and July 10. At a minimum, districts should anticipate reporting:

- the total amount of ARRA funds received and expended or obligated;
- the name, description, and evaluation of the project or activities completion status; and,
- an estimate of the number of jobs that were saved or created with the funds.

### *Distribution of GNETs, State Preschool, and Other State Grant Funds*

The Georgia General Assembly annually appropriates funds for GNETs, the state preschool program, and for other grants for students with disabilities. GaDOE calculates each grant award based on the number of students who are provided services utilizing a modified Quality Basic Education (QBE) formula. In addition, other state grant applications are accepted, reviewed, and approved based on specific grant purposes – Residential and Reintegration and Other State Agencies Grants.

### **LEA Allocations**

Local educational agency (LEA) allocations from federal programs, to include state charter schools and state operated programs, are based on a formula provided in the regulations (34 CFR 300.705). The United States Education Department (USED), Office of Special



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Education Programs (OSEP) sends the state allocation to each State Educational Agency (SEA) in the spring. The SEA applies the allocation formula, which has a restricted amount for discretionary and administration funds deducted from the total grant, with the remaining funds distributed to LEAs. This LEA formula has a base allocation of 75% of the FY 1999 allocation amount with any remaining funds for flow-through being distributed based on each LEA's general population (85%) and poverty (15%). Poverty is defined as free and reduced lunch data from FTE-1.

GNETS and GLRS federal allocations are based on a range within a regional population. All allocations are presented to the State Board of Education (SBOE) for approval at its June meeting. Official LEA allocations are posted on the Georgia Department of Education's (GaDOE) web site following State Board approval. IDEA provides for a Section 611, Part B Flow-through award and Section 619, Part B Preschool award. In addition, the American Recovery and Reinvestment Act (ARRA) of 2009 provided a supplemental ARRA IDEA Flow through and Preschool awards for FY 2010. The latter funds were distributed based on each LEA's general population (85%) and poverty (15%). The allocations can be found at <http://www.gadoe.org/curriculum-instruction-and-assessment/special-education-services/Pages/default.aspx>.

Distribution of state funds appropriated by the General Assembly for the GNETS and the State preschool program for students with disabilities is based on the number of students who received services. A modified state formula is used for the calculation of these allocations. In addition, applications for other state grants such as the Residential and Reintegration and Other State Agencies Grant, are reviewed and approved for allocation to LEAs.

### ***IDEA Fiscal Requirements***

IDEA provides several fiscal requirements that are applicable to IDEA funds. Local educational agencies (LEAs) must maintain the state/local special education financial effort previously provided. LEAs may not use IDEA funds to supplant or replace state or local funds unless the LEA meets MOE requirements.

### ***Maintenance of Effort (MOE)***

A local educational agency (LEA) may receive IDEA funds only if the Georgia Department of Education (Department) determines that the LEA has maintained the level of funding from the preceding fiscal year on the basis of aggregate expenditures of state and local special education funds or on a per pupil expenditure basis:

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- The Department will test aggregate expenditures of state and local funds to determine whether the MOE standard is met. If the Department determines that the LEA has met the MOE requirement based on aggregate state/local special education expenditures, no further calculations are required.
- If the LEA does not meet the MOE requirement based on aggregate expenditures of state /local special education funds, a per pupil amount is calculated by the Program Manager.

If an LEA fails to meet the MOE standard for the aggregate and per pupil expenditures of state and local special education funds, the LEA may reduce the level of expenditures where such reduction is attributable to one or more of the following MOE exceptions:

- the voluntary departure, by retirement or otherwise, of special education personnel;
- the termination of the LEA's obligation to provide a program to a student with a disability that is an exceptionally costly program because the student has left the LEA, reached the maximum age, or no longer needs the program;
- the termination of costly expenditures for equipment; and/or,
- the amount of the 50% reduction in local effort if the LEA's initial allocation was greater than the previous year's allocation.

The "Exception to the Local MOE" form must be copied, completed, and placed in the Upload File in the Program Information tab before the IDEA budget can be reviewed and approved. If the LEA does not meet the MOE requirement with the above exceptions, the LEA must reimburse the difference to the state with non-federal funds.

### *Excess Cost*

IDEA funds provided to LEAs may be used only to pay the excess costs of providing special education and related services to children with disabilities. Excess costs are those costs for the education of an elementary or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year for an elementary or secondary school student. An LEA must spend at least the average annual per student expenditure on the education of an elementary or secondary school student with a disability **before** IDEA funds can be used to pay the excess costs of providing special education and related services. The LEA is required to compute the minimum average amount separately for students with disabilities in its elementary and secondary schools (34 CFR 300.16). This amount is calculated by the Department based on the most current expenditure reports. The combined enrollments may not be used to

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compute this average. The method for calculation of excess cost is available in the regulations at Appendix A of part 300.

### *Supplement NOT Supplant*

A local educational agency (LEA) may use IDEA funds only to supplement and not supplant federal, state, and local funds. However, if the LEA meets or exceeds its level of state/local expenditures for special education and related services from year to year, either in total or per pupil, then IDEA funds are, in fact, supplementing those state/local expenditures.

An LEA presumed to be in violation of the supplement not supplant requirement in IDEA will be required to document that the MOE standard has not been met prior to the presumption being tested. It is important to remember, however, that any determination about supplanting is very case specific; this makes it difficult to provide general guidelines without examining the details of the situation. OMB Circular A-133 Compliance supplement presumes supplanting has occurred if federal funds are used to provide services that

- were required to be made available under other federal, state, or local laws;
- were provided with non-federal funds in prior years; or
- were provided to IDEA participating children, if those same services are provided with non-federal funds to non-IDEA children.

An LEA may rebut a supplanting determination if it can demonstrate it would not have provided services if the federal funds were unavailable. An LEA should consider maintaining documentation, including (but not limited to)

- fiscal or programmatic documentation to confirm that, in the absence of IDEA, Part B funds, the LEA would have eliminated the services in question;
- state or local legislative or local board action; and/or
- budget histories and other data.

### *Comingling of Funds*

Federal funds paid to the state cannot be comingled with state funds (34 CFR 300.162(b)). This is satisfied by using a separate accounting system for each of the different grant awards to prevent the comingling of funds.

### *Other Fiscal Requirements*

#### **1. *Coordinated Early Intervening Services (CEIS) (34 CFR § 300.226 and § 300.646)***

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- A. The LEA may not use more than 15% of the IDEA funds to develop a CEIS for regular education students in grades K-12 (with emphasis on K-3 students) who are not identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.
- B. If a determination of significant disproportionality based on race or ethnicity is occurring in the LEA with respect to the identification of children as children with disabilities, the placement in particular educational settings of these children and/or the incidence, duration, and type of disciplinary actions, including suspensions and expulsions, the LEA must reserve the maximum 15% of IDEA funds for CEIS to serve at-risk regular education students, particularly, but not exclusively, in those groups significantly over identified.

### **2. *Treatment of Charter Schools and Their Students (34 C.F.R. § 300.209)***

- A. Children with disabilities who attend public charter schools and their parents retain all their rights.
- B. LEAs must serve the children with disabilities in charter schools in the same manner as the LEA serves the other public schools, including supplementary and related services on site at the charter school to the same extent as the other public schools.
- C. LEAs must provide funds under the IDEA to those charter schools on the same basis as the LEA provides funds to the other public schools including proportional distribution based on relative enrollment of children with disabilities and at the same time as the LEA distributes other federal funds to the other public schools.

### **3. *Children with Disabilities Enrolled by Their Parent in Private Schools - Expenditures (34 C.F.R. § 300.133)***

To meet the requirement of 34 C.F.R. § 300.132, each district must spend the following on providing special education and related services to parentally-placed private/home-school children with disabilities:

For children aged 3-5 and 3 through 21, an amount that is the same proportion of the district's total subgrants under Section 619(g) and 611(f) of the Act as the number of private school children with disabilities aged 3-5 and 3-21 who are enrolled by their parent in private schools, including religious, elementary, and

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secondary schools located in the school district served by the district, is to the total number of children with disabilities in its jurisdiction aged 3-5 and 3-21.

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### *Calendar for Special Education Reports and Data*

<b>JULY</b>	<input type="checkbox"/> <b>Submit Timelines Report</b> <input type="checkbox"/> <b>Federal budget begins IF the district's Consolidated Application or update and budgets are approved</b> <input type="checkbox"/> <b>Decision made by district for Proportionate Share services for private/home-school with disabilities</b> <input type="checkbox"/> <b>Annual Public Notification for Child Find/Record Destruction in media</b>
<b>AUGUST</b>	<input type="checkbox"/> Submit Discipline Report <input type="checkbox"/> Notification to attend Data Collection Workshop
<b>SEPTEMBER</b>	<input type="checkbox"/> Report preschool outcomes data on portal <input type="checkbox"/> Deadline for Consolidated Application/updates <input type="checkbox"/> Budget completion reports to Grants Accounting for previous FY
<b>OCTOBER</b>	<input type="checkbox"/> FTE 1 begins
<b>NOVEMBER</b>	<input type="checkbox"/> Suggested district stakeholders meeting to review/revise targets/goals
<b>DECEMBER</b>	<input type="checkbox"/> FTE 2 begins and Special Education Level Student Records opens <input type="checkbox"/> Private/home school count to determine proportionate share <input type="checkbox"/> Check with Testing Coordinator about GAA 1% exceptions for March
<b>JANUARY</b>	<input type="checkbox"/> Data verification of demographic data for April district profile release <input type="checkbox"/> Submit Residential/Reintegration Grant for SWD if >\$30,000 <input type="checkbox"/> GAA participation form with 1% exceptions for testing
<b>FEBRUARY</b>	<input type="checkbox"/> Parent Mentor participation letter for next FY <input type="checkbox"/> Required district stakeholder meeting to review goals/targets for Consolidated Application/updates for next FY <input type="checkbox"/> Check QBE report for mid-term adjustment and estimated local budget <input type="checkbox"/> Prepare local estimated budgets for submission to include the three grants from DSESS <input type="checkbox"/> Postsecondary Transition survey begins
<b>MARCH</b>	<input type="checkbox"/> Application for Grants for Residential and Reintegration Services (GRRS) due <input type="checkbox"/> FTE 3 begins
<b>APRIL</b>	<input type="checkbox"/> Postsecondary Transition survey closes <input type="checkbox"/> EIS end of the year report <input type="checkbox"/> Student record submittal <input type="checkbox"/> Begin Consolidated Application/update for initial submission
<b>MAY</b>	<input type="checkbox"/> Low Incidence Grant application if <60% of salary of teacher earned <input type="checkbox"/> Last month to do budget amendments for this FY
<b>JUNE</b>	<input type="checkbox"/> Postsecondary Transition survey closes <input type="checkbox"/> EIS end of the year report <input type="checkbox"/> Student record submittal

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### *Useful Links*

State Specific	
Georgia Department of Education	<a href="http://www.gadoe.org/">http://www.gadoe.org/</a>
Georgia State Board Rules	<a href="http://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/Pages/PEABoardRules.aspx">http://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/Pages/PEABoardRules.aspx</a>
Data Collections	<a href="http://www.gadoe.org/technology-services/data-collections/Pages/Home.aspx">http://www.gadoe.org/technology-services/data-collections/Pages/Home.aspx</a>
FTE Documentation Preschool Environment Calculator Ages 6-21 Environment Calculator	<a href="http://www.gadoe.org/Technology-Services/Data-Collections/Pages/Full-Time-Equivalent-(FTE)-Resources.aspx">http://www.gadoe.org/Technology-Services/Data-Collections/Pages/Full-Time-Equivalent-(FTE)-Resources.aspx</a>
Student Record Documentation	<a href="http://www.gadoe.org/Technology-Services/Data-Collections/Pages/Student-Record.aspx">http://www.gadoe.org/Technology-Services/Data-Collections/Pages/Student-Record.aspx</a>
Enrollment Data	<a href="http://app.doe.k12.ga.us/ows-bin/owa/fte_pack_ethnicsex.entry_form">http://app.doe.k12.ga.us/ows-bin/owa/fte_pack_ethnicsex.entry_form</a>
Division for Special Education Services and Supports	<a href="http://www.gadoe.org/curriculum-instruction-and-assessment/special-education-services/Pages/default.aspx">http://www.gadoe.org/curriculum-instruction-and-assessment/special-education-services/Pages/default.aspx</a>
Special Education Annual Reports	<a href="http://archives.gadoe.org/ReportingFW.aspx?PageReq=211&amp;PID=61&amp;PTID=67&amp;CTID=216&amp;StateId=ALL&amp;T=0&amp;RID=105">http://archives.gadoe.org/ReportingFW.aspx?PageReq=211&amp;PID=61&amp;PTID=67&amp;CTID=216&amp;StateId=ALL&amp;T=0&amp;RID=105</a>

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<b>Governor's Office of Student Achievement Report Cards</b>	<a href="http://www.gaosa.org/reportinfo.aspx">http://www.gaosa.org/reportinfo.aspx</a> <a href="http://www.gaosa.org/FindASchool.aspx?PageReq=106&amp;StateId=ALL&amp;SY=2009">http://www.gaosa.org/FindASchool.aspx?PageReq=106&amp;StateId=ALL&amp;SY=2009</a>
<b>Graduation Rate Calculator</b>	<a href="http://www.gaosa.org/reportinfo.aspx#D9A">http://www.gaosa.org/reportinfo.aspx#D9A</a>
<b>QBE Reports</b>	<a href="http://app3.doe.k12.ga.us/ows-bin/owa/qbe_reports.public_menu?p_fy=2000">http://app3.doe.k12.ga.us/ows-bin/owa/qbe_reports.public_menu?p_fy=2000</a>
<b>AYP Reports</b>	<a href="http://www.gadoe.org/AYP/Pages/default.aspx">http://www.gadoe.org/AYP/Pages/default.aspx</a>
<b>Assessment Handbook</b>	<a href="http://archives.gadoe.org/DMGetDocument.aspx/Student%20Assessment%20Handbook%202010-2011.pdf?p=6CC6799F8C1371F60BC67B9FB11B98598DD9EAB4B6AC63677E6F151E6D39BA07&amp;Type=D">http://archives.gadoe.org/DMGetDocument.aspx/Student%20Assessment%20Handbook%202010-2011.pdf?p=6CC6799F8C1371F60BC67B9FB11B98598DD9EAB4B6AC63677E6F151E6D39BA07&amp;Type=D</a>
<b>Georgia Alternate Assessment</b>	<a href="http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/GAA.aspx">http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/GAA.aspx</a>
<b>Accommodations Manual (for Testing)</b>	<a href="http://archives.gadoe.org/DMGetDocument.aspx/Accommodation%20Manual%20August%2008.pdf?p=6CC6799F8C1371F6D1C69D60E4029F1085A5BB31C1B556F24ADBA65C89A3BD77&amp;Type=D">http://archives.gadoe.org/DMGetDocument.aspx/Accommodation%20Manual%20August%2008.pdf?p=6CC6799F8C1371F6D1C69D60E4029F1085A5BB31C1B556F24ADBA65C89A3BD77&amp;Type=D</a>
<b>GLRS</b>	<a href="http://www.glrs.org/">http://www.glrs.org/</a>
<b>Georgia School Boards Association</b>	<a href="http://www.gsba.com/">http://www.gsba.com/</a>
<b>Georgia Professional Standards Commission</b>	<a href="http://www.gapsc.com/">http://www.gapsc.com/</a>



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### Records Retention Schedules

[http://www.sos.States.ga.us/archives/who\\_are\\_we/rims/retention\\_schedules/retsched/default.htm](http://www.sos.States.ga.us/archives/who_are_we/rims/retention_schedules/retsched/default.htm)

### Nation Specific

#### Southeast Regional Resource Center

<http://www.rffcnetwork.org/serrc>

#### State Ranks

[http://www.monitoringcenter.lsuhs.edu/Stateranks\\_B%20ReleasedFeb2007.htm](http://www.monitoringcenter.lsuhs.edu/Stateranks_B%20ReleasedFeb2007.htm)

#### IDEA Data

<https://www.ideadata.org/index.html>  
<http://idea.ed.gov/>

#### National Center for Educational Statistics

<http://nces.ed.gov/>  
<http://nces.ed.gov/help/sitemap.asp>  
<http://nces.ed.gov/datatools/>

#### OSEP Sponsored

<http://www.ed.gov/parents/needs/speced/resources.html>  
<http://www.osepideasthatwork.org/toolkit/index.asp>  
<http://idea.ed.gov/explore/home>

## CHAPTER EIGHTEEN: RELATED SERVICES

### *General Overview of Related Services*

#### *Definition of Related Services*

The current federal regulations found at Title 34, Section 300.34, Code of Federal Regulations (CFR), define related services as services required to assist a child with a disability to benefit from special education. Students who are found eligible to receive services under the thirteen special education disability categories can be considered for related services. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and include

- audiological services;
- psychological services;
- speech-language pathology;
- physical therapy;
- occupational therapy;
- social work services;
- counseling services, including rehabilitation services;
- orientation and mobility services;
- interpreting services;
- school nurse services;
- medical services for diagnostic or evaluation purposes;
- recreation, including therapeutic recreation;
- early identification and assessment;
- parent training; and
- transportation.

#### *Determining Related Services*

To determine what special education services and/or related services will be provided to the child, the IEP team looks at the child's present levels of academic and functional performance, assessment

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results, measurable annual goals, and, if appropriate, the short term objectives or benchmarks that are included in the IEP. Any services should

- be based on the unique needs and abilities of the child and,
- help the child advance appropriately toward attaining his or her annual goals.

IDEA refers to related services and supplementary aids and services that are “based on peer-reviewed research to the extent ‘practicable.’” This means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to educational activities and programs, which refers to those services and supports that are proven through research data to improve student learning.

Related services may be documented in the IEP in several areas, including

- the recommended special education and related services section,
- the supplementary aids and services section, or
- the instructional accommodations or modifications section.

### *Adding or Discontinuing Related Services*

Federal regulations indicate that if the IEP team determines that related services are needed, these services must be provided whether or not commonly linked to the disability category. The only exception to this general rule is the provision of orientation and mobility training, which is a related service specifically for students with visual impairments.

1. If a student is currently receiving special education services, refer to the following procedures for adding a related service.
  - a. Before adding a related service that has specific eligibility requirements as defined in State Board of Education rules (i.e., Speech), the reevaluation process must be followed, and it must be determined by the IEP team that the student meets the eligibility criteria. The IEP team must determine that the related service is required to assist the student to benefit from special education. The parent participation notice for the IEP meeting must indicate the reason for the meeting, such as to discuss an action being proposed or a change in FAPE. The student’s IEP must be revised as appropriate, and a prior written notice of a change of FAPE must be provided to the parent.
  - b. Before adding other types of related services, the IEP team must meet to review current, documented information regarding the student’s progress and need for the related service. The parent participation notice for the IEP meeting must indicate

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the reason for the meeting. The reevaluation process is not required unless additional data (e.g., formal testing) are necessary to make the determination. The student's IEP must be revised, as appropriate, and a prior written notice of a change in FAPE provided to the parent.

2. If a student is currently receiving special education services, refer to the following procedures for discontinuing a related service.
  - a. This decision must be made during an IEP meeting or in an amendment and must be based on current, documented information regarding the student's progress and need for the related service. Common criteria for discontinuation of a related service include
    - i. successful achievement in the general curriculum without support of the related service, and
    - ii. progression to a level commensurate with the student's ability.
  - b. At the conclusion of the IEP meeting, the parent must be provided with the "Prior Written Notice" document indicating a proposed change in services before services cease, and the IEP team must revise the student's IEP, as appropriate.

### *General FTE Guidance for OT/PT and SI*

#### **Related Services Provided During Regularly Scheduled Special Education Service Segment**

- Report with the disability area program for which the student has an eligibility established
- Earns the weight of disability report

**Example:** If the students' primary eligibility is "Q" and he or she receives speech while in the special education classroom, then the student pulls the weight of "Q" not "3."

#### **Related Services Provided During Regularly Scheduled General Education Service Segment in General Education Classroom**

- Report with general education program code
- Report with inclusion code "7" beside service provided
- Earns at Level 5—Special Education

**Example:** If the student receives OT services during his or her reading segment in his or her classroom, then he or she is not removed from the general classroom, so a "7" is placed next to the reading segment.

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### **Related Services Provided During Regularly Scheduled General Education Service Segment and the Student Is Pulled Out of the General Education Classroom**

- Reported with general education program code
- No inclusion code report
- Earns at general education rate

**Example:** If a student is pulled from the classroom during science to receive PT services in the therapy room, the general education weight is applied.

### ***Audiological Services***

This section is under construction.

### ***Psychological Services***

This section is under construction.

### ***Speech-Language Pathology***

This section is under construction.

## ***Occupational Therapy and Physical Therapy***

### ***OT and PT Frequently Asked Questions***

#### **What is school-based occupational therapy and physical therapy (OT and PT)?**

School-based OT and PT are related services as defined under § 300.34 of the Individuals with Disabilities Education Act (IDEA) that are provided to students who meet criteria for special education services under Special Education Rule 13 160-4-7-.05, “Eligibility Determination and Categories of Eligibility.” The IEP team writes students’ annual goals. The OT and PT provide support for the IEP teams to assist the student in achieving the IEP goals and objectives. OTs and PTs do not write goals in isolation. Therapy should occur in the educational environment or setting as opposed to a pull-out service. These environments include, but are not limited to, the classroom, cafeteria, gymnasium, playground, restrooms, hallways, and bus, as well as, community locations where educational instruction takes place.

School-based occupational therapy and physical therapy are separate related services. See [specific definitions](#) under 160-4-7-.21 Code: IDDF (21).

#### **Who can provide occupational therapy and physical therapy services?**

Only a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist can provide occupational therapy services. Only a licensed physical therapist or physical therapy assistant under the supervision of a physical therapist can provide physical therapy services. Other professionals may, following training by the occupational or physical therapist and at the discretion of the therapist, implement activities to support the physical or occupational therapy. Consultation and ongoing monitoring by the therapist is necessary under all circumstances where other personnel are utilized. Therapists must follow the protocols of their licensing authority.

#### **Can licensed occupational therapy assistants and licensed physical therapy assistants delegate tasks or activities to be implemented and provide supervision to paraprofessionals?**

Yes. Under the supervision of the occupational and physical therapist who holds ultimate responsibility, assistants can provide supervision to paraprofessionals.

#### **What are the roles of occupational and physical therapist in a public school district?**

The role of the school-based occupational therapist or physical therapist is to support the student in meeting the goals on the IEP. If a student has an identifiable therapy need that does not prevent him or her from accessing or progressing in his or her educational program, then the services of a school-based occupational or physical therapist are not needed.

#### **Should occupational and physical therapists work on handwriting skills?**

In many instances, general and special education teachers work on improving handwriting skills. In some situations, it may be appropriate for a student to be referred for an evaluation to determine

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the need for occupational therapy when his or her underlying motor difficulties have an impact on handwriting that impedes his or her progress in the curriculum. OTs can provide support by working on visual perception skills and fine motor skills. PTs can assist teachers with information and training on appropriate positioning and posture. The therapists would work in conjunction with the team members and not in isolation.

### **How do occupational therapists address Sensory Processing Deficits?**

School-based therapy services support children in the educational environment who present with sensory processing deficits that impact their educational performance. The role of the therapist is to provide compensatory strategies and tools to help the student's progress on their educational goals and objectives. Decisions concerning the programs and delivery model used are left to the IEP team.

### **Should occupational and physical therapists provide splinting in a school setting?**

While a school-based therapist is capable of performing this task, this should be done by a doctor as a medical intervention. Therapists can provide assistance in the maintenance and proper use of the existing appliance, if it is necessary for the student to access his or her educational program.

### **Do occupational and physical therapists address self-help skills such as toileting, dressing, and feeding?**

The IEP team develops the goals and objectives based on the student's needs and abilities at school. The occupational and physical therapists assist in supporting goals that each team member works on, but not independent of the team effort.

### **How is the need for occupational and physical therapy determined in a school setting?**

It is the responsibility of the IEP team, based on the evaluation evidence presented by the occupational or physical therapist, to determine whether or not the student requires occupational or physical therapy to receive a Free Appropriate Public Education. School-based occupational and physical therapists provide services when these services are determined to be necessary for the student to benefit from his or her specially designed instruction to make progress in his or her educational program. Occupational and physical therapy in a school setting are not based entirely on a medical need, and therapists do not provide services when there is no educational need for the service. The OT and PT evaluation/testing must be related to the educational need, and the team as a whole makes decisions about what is educationally relevant.

### **Is an OT/PT evaluation needed prior to providing occupational or physical therapy respectively?**

Yes, if occupational and/or physical therapy will be the related services on the IEP, a licensed OT and/or PT, as appropriate, will need to provide an assessment before occupational or physical therapy is provided to the child. This process may or may not involve the use of a formal assessment instrument.

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### **Does a physical therapist need a prescription before providing services indicated on the IEP to a student with disabilities.**

There is no regulation in the State Board of Education (SBOE) rule that indicates a physician's prescription is required in order for a child to receive physical therapy services. The state of Georgia has a physical therapy licensure board and physical therapists must follow their scope of practice. There may be requirements, by the licensing board, for a physical therapist to have a prescription before providing services. It is the responsibility of the physical therapist to know these requirements and follow them to avoid placing his or her license in jeopardy. Meeting these requirements cannot interfere with the provision of FAPE for the student.

### **Does the concept of LRE in the federal law apply to the provision of OT and PT services too?**

Yes. The Individuals with Disabilities Education Act (IDEA) specifies that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Related services are included in this requirement. Providing services to children in the general education environment helps ensure that the skill is generalized to that setting.

### **What is the course of action when a parent has a prescription for occupational or physical therapy but the remaining members of the IEP team believe that the therapy is not educationally necessary?**

The written medical prescription must be considered by the IEP team in making its determination as to whether or not occupational or physical therapy is required based on educational impact. In making its decisions, the IEP team will review available data and may request additional assessments as needed. The school must provide prior written notice if it refuses to conduct the evaluation, and the parent may use dispute resolution procedure.

### **Who makes a referral for occupational or physical therapy?**

After a child is placed in special education, the IEP team determines the need for an occupational or physical therapy evaluation. Consideration for occupational or physical therapy services is part of the comprehensive evaluation and is considered after the annual review of the IEP goal. Teachers, parents, and other school personnel may initiate the referral for an evaluation through the IEP process. The IEP team determines the need for services.

### **When an IEP team makes a referral for an occupational or physical therapy evaluation, and the therapist believes that the referral is not warranted, can recommendations be made for classroom implementation as an alternative to the evaluation being completed?**

If an IEP team recommends an occupational or physical therapy evaluation, the evaluation must be completed in a timely manner. If the therapist believes strongly that an evaluation is not needed, the school may reconvene the IEP meeting to discuss the educational impact for the student. No one member of the team decides on the services provided to the student. All decisions are part of the IEP process. The school must provide prior written notice if it refuses to conduct the evaluation, and the parent may use dispute resolution procedure.



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### **Are there any guidelines to support occupational and physical therapists in determining the amount of occupational or physical therapy services that should be provided to a student with a disability?**

The amount of time for occupational and physical therapy relates to the educational goals on the IEP and is determined by the IEP team based on each student's individual need. Should the IEP team determine after evaluating the effectiveness of the intervention that more time is needed, the IEP can be amended in accordance with state requirements. However, the focus of an educational model of therapy is for the student to access the special education and school environment, as opposed to addressing medical conditions and impairments. With this mind, the services could change as the focus of the educational goals on the IEP changes. Because delivery of services is individualized, the state does not make recommendations concerning norms.

However, the state has adopted a tool to assist the IEP team in determining the appropriate amount of educationally relevant therapy needed by a student. The tool is available at the end of the OT/PT section of this document. It is a district decision as to whether or not the tool is used. If a district chooses to use the tool, it must be used as directed for every student who is being considered for occupational or physical therapy.

### **If a student is receiving occupational or physical therapy on a consultative basis, must this consultation be provided in a direct service model for one segment a month?**

For FTE purposes, students are required to receive at least one segment per month of direct services from the occupational or physical therapist to be counted as receiving services through a consultative model. A segment refers to one sixth of the school day and may be split up within a month to multiple segments (contacts) or provided all at once.

### **Do occupational and physical therapists provide progress reports for students that they serve? If yes, is this done on the student's IEP or is a separate report used?**

The requirement for reporting progress on goals supported by the occupation and physical therapist is the same as the requirement for reporting progress on all IEP goals and objectives. The therapist should not report on separate goals. Progress on IEP goals should be reported to the parents at least as often as parents of nondisabled students are notified about progress. If a district is billing Medicaid for occupational or physical therapy, progress must be documented as required. Parents should be informed about how they will receive these reports of progress toward annual goals.

### **When is it appropriate not to provide occupational or physical therapy services or to decrease the frequency of services? What happens when the IEP team believes that therapy is required, but the therapist believes that it is not required?**

The provision of occupational and physical therapy services is determined by the IEP team based on the needs of the student and the educational goals that have been developed in the current IEP. Determination of the need for therapy is the decision of the IEP team of which the therapist is a contributing member. No one member of the team unilaterally requires or denies any aspect of the recommended services for the child; this includes the provision of occupational or physical therapy services and/or the frequency of these services. As the goals on the IEP change, the educational

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need for therapy may also change. The provision of services should reflect that. If a therapist believes that he or she is asked to perform a service that is in violation of his or her Code of Ethics, the therapist should communicate these concerns to the director of special education within the district.

### **What is the course of action when a parent requests that a student continues to receive occupational or physical therapy although the remainder of the IEP team feels the student has met his/her goals and educational impact is not established?**

The IEP team determines the ongoing need for occupational and physical therapy for students with disabilities. This decision should be based on the evaluations used and the student's IEP goals. The parents are members of the IEP team, and their concerns should be a part of the decision-making process. Should the team decide occupational or physical therapy is not needed for the student to meet the goals on the IEP successfully, it should make every effort to help the parent understand the difference between the educational need and the medical need for therapy. It is not a requirement that all members agree with the determination, but it is a requirement that the input of all members be a part of the decision-making process. If the process is followed and justification for the decision is based on the results of the comprehensive evaluation, the decision should be sound. The parent can exercise his or her rights under due process.

### **Is there a policy or specific guidelines regarding caseload size for occupational and physical therapists working in a school district?**

There are no state GaDOE guidelines regarding caseload size for occupational and physical therapists. As a school district assigns students to a therapist's caseload, it is important to consider factors such as the frequency, duration, and intensity of assessments and interventions provided; documentation required by the school district; and travel time between locations. When determining an individual therapist's caseload, it is important to consider the "workload" rather than the actual number of students being served.

## ***Resources***

### Therapy Guidance Tools

[Characteristics of Educationally Relevant Therapy and Medical/Clinical Therapy](#)

[Things to Think About When Using the "Considerations" Tool](#)

[Considerations for Educationally Relevant Therapy Tool](#)

- Tool
- Directions
- Student Profile

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- Therapy Profile

The [Considerations for Educationally Relevant Therapy Training Video Series](#) has been designed to assist districts in training administrators, teachers and occupational and physical therapists in the use of the OT/PT guidance tools. This series is available under the Training Videos menu on the right side of the [Occupational and Physical Therapy](#) webpage. A link to this webpage can be found on the [IEP and Related Resources](#) webpage after selecting [Related Services](#).

### Documents

[The Los Angeles Unified School District Physical Therapy Program Position Paper](#)

[Recommended Practices for Occupational and Physical Therapy in Illinois' Schools](#)

[Occupational Therapy and Physical Therapy in Louisiana Schools: Reference Handbook for Special Education Administrators and Therapists.](#)

[Guidelines for Occupational Therapy in Educational Settings, Connecticut Department of Education](#)

[Resource Manual for Educationally Related Occupational Therapy and Physical Therapy in Kentucky Public Schools](#) [Two considerations worksheets, one for OT and one for PT]

### Websites

[Georgia Occupational Therapist Association](#) (GOTA)

[Physical Therapist Association of Georgia](#) (PTAG)

[Georgia Alliance of School Occupational and Physical Therapists](#) (GASOPT)

### ***Orientation and Mobility Services***

For [Orientation and Mobility Services](#) information, go to the [IEP and Related Services Resources](#) webpage and select [Related Services](#).

### ***Interpreting Services***

This section is under construction.

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This manual is meant to serve as a practical guide for implementing IDEA and its regulations. It is not intended to state new law or supplant any federal or state laws, regulations, or requirements. Nothing in this manual should be seen as having the force of law. This manual should not be cited as law or as imposing any additional requirements or obligations outside the requirements of existing law. Districts, schools, and parents are not required to adhere to this manual, but only to the requirements of IDEA as codified in 20 U.S.C. § 1400 *et seq.*, its regulations promulgated in 34 C.F.R. Parts 300 and 301, and the rules of the State of Georgia promulgated by the State Board of Education.