



Harriet Tubman School of Science and Technology

Serving Students with Disabilities

Purpose

The Governing Board (the “**Board**”) and staff of Harriet Tubman School of Science and Technology, Inc. (the “**School**”) is committed to providing a learning experience that allows each of its students to thrive. The policies and procedures below detail how the School intends to serve its students with disabilities. Section 1 concerns identification and evaluation. Section 2 describes the various services and supports the School provides, and Section 3 covers student progress. Finally, Section 4 addresses parent engagement, and Section 5 provides the School’s plans to prepare its students for college and career success.

Duration

This policy is permanent.

Policy

SECTION 1. IDENTIFICATION AND EVALUATION

a. Confidentiality of Personally Identifiable Information (SBOE Rule 160-4-7-.08)

i. Confidential Information

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

All system personnel, including contracted employees, are governed by confidentiality requirements and will receive yearly training, and information updates regarding the law. Written and dated parental consent must be obtained before personally identifiable information is disclosed to unauthorized individuals, organizations or agencies unless authorized to do so under FERPA.

Personal identifiable information including the following:

- The name of the student, the student’s parents/guardians, or other family member

- The student's address
- Any personal identifier such as the student's social security number
- Any personal characteristics or other information that would make it possible to identify the student

FERPA allows parents/guardians 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. The rights of parents regarding education records are transferred to the adult student at age 18.

ii. Access Rights and Required Procedures

The School will maintain in the Special Education Coordinator's a locked file cabinet (the "SPED Cabinet") containing students' special education records. The file cabinet that contains confidential information must have posted a list of personnel or staff who has access to those files. Each special education folder will have a "Permission for Access" attached to the left-hand side of the folder. All personnel reviewing the folder is to sign his/her name, write in the date, and the purpose on the access sheet. Access to confidential records includes School administrators, the special education teacher, the Special Education Coordinator, a contracted psychologist, school counselors, affiliated service personnel (ex. OT, PT, Speech) and general education teachers who have a legitimate educational interest. The School is currently transitioning to the GOIEP platform, and once the transition is complete, access to all confidential records will continue to include above. Each person listed above will be listed as the Team Member in GOIEP which gives them access to an IEP.

Student Records

For students enrolled in special education, any reference to special education status documented in a student's permanent records places the record under the Individuals with Disabilities Education Act (IDEA) confidentiality requirements. Reference to special education status must be maintained in a separate supplemental file and not specifically on the student's permanent record. The permanent record indicates that a supplemental file does exist and should be reviewed. Such a designation would indicate to any review that additional information is available and should be considered before drawing any conclusions regarding that student's record. Verbal references to a student's special education program should be carefully restricted only to professional staff working with the student or professional staff working in the interests of the student. There will be no documentation that the student receives special education services on the official transcript, as well.

Records Management

All official Special Education Records are maintained at the School. All requests for records from transferring schools, parents, Social Security Administration, and medical personnel are handled at the School, when the appropriate Release of Information has been provided. Once a records request has been received and parental consent is obtained, if required under FERPA, the Special Education Coordinator will promptly send the requested Special Education Records.

When a student enrolls at the School, the Special Education Coordinator is responsible for obtaining special education records from previous schools. Once records are obtained, the Assistant Executive Director or Office Manager will place the records in the SPED Cabinet.

iii. Amendment of Records at Parent/Guardian Request

Parents/Guardians who believe that information contained in the education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the student may request that the School amend the information. The request can be made to the Special Education Coordinator. The School will decide whether to amend the information in accordance with the request within a reasonable amount of time of receipt of the request. If the School decides to refuse to amend the information in accordance with the request, it will inform the parents of the refusal and advise the parents of the right to a hearing. The School will, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

iv. Results of hearing

If, as a result of the hearing, the School decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the information will be amended accordingly, and the parents/guardians will be informed in writing.

If, as a result of the hearing, the School decides the information is accurate and not misleading or otherwise in violation of the privacy or other rights of the student, the School will inform the parents/guardians of their right to place in the records it maintains on the child, a statement commenting on the information and setting forth the reasons for disagreeing with the decision of the School.

Any explanation placed in the records of the student will be maintained by the School as part of the records of the child if the record or contested portion thereof is maintained by the School. If the records of the child, or the contested portion thereof, are disclosed by the School to any party, the explanation will also be disclosed to the party.

v. Parental consent

Parental consent is obtained before personally identifiable information is disclosed to other parties unless the disclosure is authorized without parental consent. Prior consent is not required to release information to:

1. Parents or eligible children;
2. Other School officials, including teachers, legally constituted cooperating agencies, or other agencies providing shared services whom the School has determined to have legitimate educational interests;
3. Officials of another school, school system, or institution of postsecondary education in which the child seeks or is eligible to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record, if desired, and have an opportunity for a hearing to challenge the content of the record;
4. Authorized Federal, State or local representatives in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs. (The information is protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to above and must be destroyed when no longer needed.);
5. In connection with a child's application for or receipt of financial aid for which the child has applied or which the student has received, if the information is necessary;
6. State and local officials or authorities to whom this information is specifically allowed to be

- reported or disclosed pursuant to a State statute concerning the juvenile justice system;
7. Organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. Information may only be disclosed if the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization and the information is destroyed when no longer needed;
 8. Accrediting organizations to carry out their accrediting functions;
 9. In compliance with a judicial order or a lawfully issued subpoena. The School will make a reasonable attempt to notify the child's parents of the judicial order or subpoena before releasing the records, unless the disclosure is in compliance with a Federal grand jury subpoena or other subpoena issued for law enforcement purposes and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
 10. Disclosure in connection with a health or safety emergency if the knowledge of the information is necessary to protect the health or safety of the child or other individuals;
 11. The disclosure is information the School has designated as "directory information" and the School has given public notice to parents and eligible students of the types of personally identifiable information that the School has designated as directory information, a parent's or eligible student's right to refuse to let the School to designate any or all of those types of information about the student as directory information, and the period of time within which a parent or eligible student has to notify the School in writing that he or she does not want any or all of those types of information about the student designated as directory information;
 12. The Office for Civil Rights; and
 13. Officials within the Department of Human Resources (DHR), Department of Corrections (DOC), Department of Juvenile Justice (DJJ) and Department of Labor (DOL) for the purpose of making appropriate educational decisions regarding placements.

vi. Safeguards

The School protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction states. The Executive Director or designee ensures the confidentiality of any personally identifiable information. Access of unauthorized persons to personally identifiable information without parent's consent is forbidden. All persons collecting or using personally identifiable information will receive annual or more frequent, if needed, training or instruction regarding department policies and procedures concerning personally identifiable information. The School maintains, for public inspection, a current listing of the names and positions of School employees who may have access to personally identifiable information.

vii. Destruction of confidential information

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. In compliance with the Individuals with Disability Act (IDEA) the Special Education Coordinator or designee may destroy special education records at the end of the school year (June 30) of the year a student turns 27 years of age. Data collected, maintained, or used in the provision of a free and appropriate education of students with disabilities, are no longer needed for the educational purposes after this age. Prior to the destruction of records, a yearly notice will be placed on the School's website. For more information, the Special Education Coordinator should be contacted.

b. Student Support Team and the Multi-Tiered System of Supports (SBOE Rule 160-4-2-.32)

i. Definition; Requirement

A Student Support Team is an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students in the School. The School must have at least one SST and shall establish Multi-Tiered System of Supports (MTSS) procedures.

ii. Student Evaluation

MTSS is an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students. It is comprised of SST members whose purpose shall be to collaboratively problem-solve for individual students who are not making adequate progress at the School. MTSS recommendations, which include a specific academic and/or behavior plan, are documented and provided to the student's teacher(s) and/or others to implement with the student. The SST team then meets periodically to review the student's progress and determine the need for continuing, modifying, or concluding the intervention. Students may be referred to MTSS by teachers, parents, administrators, student services staff, etc.

The School shall establish a regular, monthly meeting date and time to review active referrals. Meetings must be held at least monthly. All new referrals and all follow-ups on past referrals will be reviewed on that day.

iii. SST Members

The SST shall include the referring teacher and at least two of the following participants, as appropriate to the needs of the student:

1. Executive Director
2. Assistant Executive Director
3. General education teacher
4. Special Education Teacher
5. School Administrator
6. Section 504 Coordinator
7. Other appropriate personnel.

iv. Parent/guardian participation

Parents/guardians shall be invited to participate in all MTSS meetings with the SST and in the development of interventions for their child.

v. Steps of the MTSS process

The School shall include the following steps in the MTSS Process:

1. Identification of learning and/or behavior problems.
2. Assessment, if necessary.
3. Educational plan.
4. Implementation.
5. Follow-up and support.

6. Continuous monitoring and evaluation

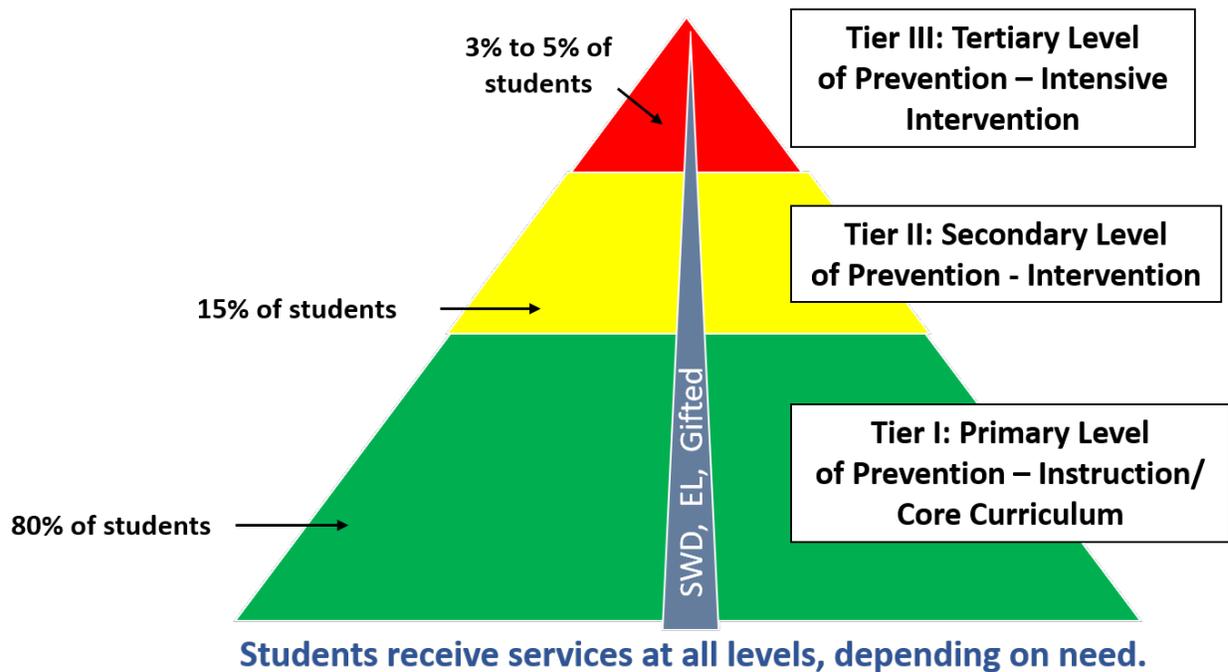
vi. Documentation of MTSS activities

Documentation shall include the following:

1. Student's name.
2. Names of team members.
3. Meeting dates.
4. Identification of student learning and/or behavior problems.
5. Any records of assessment.
6. Educational plan and implementation results.
7. Follow-up and, as appropriate, continuous evaluation.

Requests for service for a student from the MTSS may include curriculum accommodations, individual tutoring, learning style assessment, behavior management techniques, achievement evaluation, home school communication, or study skill assistance.

The SST will use the Response to Intervention (RTI) Tiers of Intervention and will document Interventions and Responses on the RTI Classroom Documentation form.



vii. Exceptions to the use of the MTSS Process

School personnel and parents/guardians may determine that there is a reasonable cause to bypass the MTSS process for an individual student. Documentation in the student's record shall clearly justify such action, including whether the parent or guardian agreed with such a decision. In cases where immediate referral is sought, the SST shall still determine what interim strategies, interventions, and modifications shall be

attempted for the student.

Students who transfer into the School with a current Individualized Education Program or Section 504 plan do not need to go through the MTSS process.

c. Child Find Procedures (SBOE Rule: 160-4-7-.03)

i. Notification

Child Find is a process that the School uses to identify, locate, and evaluate all children with suspected disabilities birth through age 21, including those who are homeless, are wards of the State, or are attending private schools, regardless of the severity of their disability.

Before the School engages in any significant Child Find activity, at least annually, the School provides notice of this activity. Notice may be published or announced in newspapers, on the School website, or in other media.

ii. Screening and Evaluation

The School engage in screening and evaluation of all children with suspected disabilities birth through age 21. Such screening and evaluation may include:

1. Children from birth through age three. The School may refer to the Babies Can't Wait early intervention program operating by the Department of Community Health;
2. Preschool children, ages 3-5, not yet eligible for state-funded kindergarten;
3. Children enrolled in the School, including (i) children who are suspected of being children with disabilities and in need of special education, even though they are progressing from grade to grade, and (ii) highly mobile children, including migrant children
4. Children who are detained or incarcerated in city/county operated jails or correctional facilities.
5. Children who reside near the School and are enrolled in home school/student programs.
6. Parentally placed private school children, including children enrolled by their parents in private, including religious, elementary and secondary schools located in the School's jurisdiction.

iii. Student Referral

Prior to a referral to special education, the School shall screen children to determine appropriate instructional strategies for curriculum implementation. A student must first receive scientific, research or evidence-based interventions selected to correct or reduce the academic, social, or behavioral problem(s) that the student is having.

A referral may be made by any of the following:

1. Parents/Guardians
2. Other family members
3. Physicians/health care providers
4. Preschool programs
5. School personnel through the MTSS or RTI process
6. Community agencies
7. Private School personnel
8. Others who are concerned about a child's development

All referrals are considered confidential. Parent(s) have the right to refuse services. The Special Education Coordinator is trained annually on Child Find rules and procedures and will serve as the initial point of contact. Each Special Education Coordinator follows the procedures below:

1. Upon registration, a student and parent/guardian are provided with a registration form that requests information regarding prior participation in program areas that include Special Education.
2. In addition, the Special Education Coordinator surveys records in the State Longitudinal Data System and GUIDE to ensure that every entering student is served for Special Education that has been identified in prior systems.

The implementation of a multi-tiered system of supports, including the use of scientific, research, or evidenced-based interventions are required before referring a child for an initial evaluation for special education. If a parent or teacher request an evaluation and interventions have not been provided prior to the referral, interventions maybe provided while the child is being evaluated (within the 60-day timeline requirement).

iv. Parent Request Procedures

Parents may suspect their child has a disability and is in need of special education services. They will be directed to contact the Special Education Coordinator. The following procedures should be followed:

1. Parents make a verbal or written request for services. The Special Education Coordinator is notified.
2. The Special Education Coordinator discusses the request with the parent. The parents are asked to complete the Parent Interview Form. Parental rights are given and explained.
3. The parent completes Parent Interview Form and returns it to the Special Education Coordinator.
4. Informed Consent Meeting is held.
5. The School reviews the request and all relevant information regarding the student to determine if the request for special education evaluation and eligibility consideration is accepted or not accepted.
6. If the request is accepted, the Special Education Teacher will send a letter to the parent along with parental the consent for evaluation form, evaluation instruments description, and parent rights. All students will be evaluated, and eligibility determined within 60 days of parental consent.
7. Within 24 hours of the School receiving consent form, the Special Education Teacher will scan and send to Special Education Coordinator.
8. If the request is not accepted, the Special Education Coordinator will provide a letter and prior written notice to the parent indicating the information reviewed and why the School is denying the request and other options the system is recommending or offering along with a copy of parent rights.
9. If the parent disagrees with the School's decision, the parent has the right to request a due process hearing.
10. The parent should contact the Special Education Coordinator to request a due process hearing.
11. If the School does not suspect that the child has a disability, and denies the request for an initial evaluation, the School must provide written notice to the parent explaining why the School refuses to conduct an initial evaluation and the information that was used as basis for the decision. The parent may challenge by filing a formal complaint or requesting a due process hearing to resolve the dispute regarding the child's need for an evaluation.

v. Private and Home School Procedures

Child Find applies to children with disabilities placed by parents in private schools or home schools. They are not entitled to a free appropriate public education (FAPE), but the School will provide services based on a proportionate share of federal funds. If a child is suspected of having a disability that is parentally placed in a private school or home school and needs evaluation for special education and eligibility consideration, the Special Education Coordinator should be contacted. The School is zoned for students living within the City of Atlanta.

If a state charter school and a traditional school district serve the same demographic area, the state charter school's Child Find obligation extends only to students enrolled in the state charter school.

vi. Pyramid of Interventions

To comply with the Child Find Rule for children in kindergarten through 12th grade, the School uses the Georgia Student Achievement Pyramid of Interventions, a framework developed by the Georgia Department of Education. It is expected that all teachers will seek ways to meet the unique educational needs of all children within the general education program by using this multi-tiered system of interventions. Implementation of the Pyramid of Interventions requires three essential components:

1. Multiple tiers of interventions service delivery
2. A problem-solving method
3. An integrated data collection system to inform decision at each tier of service delivery

Tier I and Tier II interventions are implemented and documented in the general education program by the classroom teacher. The School's unique structure, student to teacher ratio and support staffing serve as Tier I intervention. Tier II interventions could also be implemented through school programs that exist outside of the classroom. This added flexibility within the general education classroom enables teachers to differentiate instruction to meet the needs of each student without implementing the formalized Multi-Tiered System of Supports (MTSS) process.

If a student does not achieve success through Tier I and Tier II interventions, research-based Tier III interventions can be implemented through the formal MTSS process. At Tier III, data is collected to determine the student's response to interventions that have been implemented. Students who do not make progress with the individual interventions provided at Tier III may be referred for an evaluation to determine eligibility for special education and related services. Consequently, Tier III serves as a Child Find responsibility for students who may need special education and related services. Tier IV was developed specifically for students who need specialized instruction that cannot be provided through the general education program alone.

The School may not refuse to conduct an evaluation nor delay an evaluation due to the absence of information about prior interventions. Interventions and documentation of such maybe developed during the evaluation period to support the other information the evaluation is gathering.

vii. Exception to Rule

The Special Education Coordinator provides sustained professional learning on the written procedures for the Child Find Rule to all faculty members throughout the school year. Professional learning activities may include but are not limited to:

1. Faculty meeting presentation
2. Present at registrar training
3. Meeting with student service staff

4. Trainings with special education staff
5. New teacher orientation

Sustained supervision and monitoring of compliant practices for Child Find is provided by the Special Education Coordinator.

d. **Evaluations and Reevaluations** (SBOE Rule: 160-4-7-.04)

i. Initial evaluation referral process

A student is typically referred to for an evaluation by a Multi-Tiered System of Supports (MTSS-Tier III) when there is sufficient documented evidence to suspect that a disability may be the 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 in writing an evaluation). Honoring a parent request in the absence of interventions: The MTSS team reviews available school data when determining what interventions, if any, are needed. If Tier III and/or Tier II interventions are needed and are not already in place, then these are implemented during the 60- day evaluation timeline period. Although a parent's request may be honored and the student evaluated in the absence of interventions, it is important for the parent and other team members to understand that eligibility for special education requires documentation of prior instructional interventions except for rare cases or extreme circumstances. All students will be evaluated within 60 days of receiving the parental consent to evaluate. Note: Upon receipt of special education consent to evaluate documents, the Special Education Lead teacher should stamp date received. It is the expectation that students should not be referred for a special education evaluation immediately upon enrollment. Note: There are occasional situations that are so compellingly appropriate for Special Education consideration that it would be unacceptable to delay needed services by having to go through Response to Intervention (RTI)/Multi-Tiered System of Supports (MTSS) processes. The committee must review the information presented by the parents and school to determine if the intensity of the rare, unique situation warrants referral for immediate comprehensive special education evaluation and eligibility consideration.

The school can refuse a parent's request to evaluate.

ii. Timeframes for evaluations

Once the signed Consent for Evaluation form is received, the evaluation process will be completed no later than 60 calendar days. Holiday period and other circumstances when children are not in attendance do not count toward the 60-calendar day timeline, including weekend days before and after such holiday periods, if contiguous to the holidays. Summer vacation is not considered a "holiday period" for the purposes of the 60-calendar day timeline, and the School will conduct evaluations if necessary, over a summer vacation period unless a majority of the School's teachers are not under contract during such summer vacation period.

Additionally, the timeframe described above does not apply if:

1. The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
2. A child enrolls in a school of another school system after the relevant timeline has begun, and prior to a determination by the child's previous school system as to whether the child is a child with a disability. This exception applies only if the subsequent school system is making sufficient progress to ensure a prompt completion of the evaluation and the parent and subsequent school system have agreed to a specific time when the evaluation will be completed.
3. If extenuating circumstances, e.g., illness, unusual evaluation needs, or revocation of parent's

consent for evaluation affect this timeline, the School will document the exceptions.

iii. Parental Consent

A designated school staff member will schedule a “Final MTSS” meeting with parents and the SST. The SST must include documentation of interventions attempted, observations, and any assessment results.

If the SST agrees to refer the student for psychological evaluation to assist with determining eligibility for special education services, the SST completes the referral for special education.

The special education teacher and/or case manager will obtain required information for the evaluation and will submit the referral packet to the Special Education Coordinator. The referral to the Special Education Coordinator is made through the Georgia On-Line IEP program. A trained special education teacher enters the initial referral data into the GOIEP and sends the Permission to Evaluate form for parent signature.

Accompanying the Parental Consent for Evaluation form will include a list of areas to be assessed, Procedural Safeguards for Special Education, and a Parent Questionnaire.

iv. Reevaluation Consideration

A reevaluation determination, consistent with federal and state statutes and regulations, is required for special education students at least once every 3 years, unless the parent and the School agree that reevaluation is unnecessary. The 60-day timeline does not apply to reevaluations. The purpose of reevaluation is to decide if further information is needed to determine if a disability continues to exist, to establish present levels of performance, or to determine where the student continues to need special education and related services. If the IEP/reevaluation committee determines that no additional information is needed, the committee can proceed with reevaluation determination meeting. The date of the new reevaluation determination is the date the decision was made not to conduct a reevaluation for eligibility determination.

If additional information is determined to be needed, the committee determines which assessments are needed to provide it. The Reevaluation/Redetermination Form is completed to indicate that the student’s eligibility will continue during the interim time and that additional evaluation data is necessary to reconsider eligibility.

Reevaluations may be requested by any member of the IEP team prior to the triennial due date. Some of the reasons for requesting early reevaluations may include:

1. concerns, such as lack of progress in the special education program,
2. the acquisition by an IEP team member of new information or data, or
3. review and discussion of the student’s continuing need for special education (i.e., goals and objectives have been met and the IEP team is considering the student’s exit from his/her special education program)

Depending on the child’s needs and progress, reevaluation may not require the administration of tests or other formal measures. However, the IEP team must thoroughly review all relevant data when determining each child’s evaluation needs.

If the SST decides a reevaluation is appropriate, the following procedures are followed:

1. Provide copy of Parent Rights

2. Obtain consent to evaluate from the parent
3. Referral to school nurse for hearing/vision screening
4. Complete Referral for Evaluation Form (see below)
5. Obtain Case History (completed by parent)
6. Provide other documentation, if applicable

Once the reevaluation has been completed, the Special Education Coordinator will contact the parent to schedule a meeting to review results and to develop a new Eligibility Report. If appropriate, the current IEP will be amended to reflect the new eligibility results, additional goals and objectives, etc., with vital information supplied in the Meeting Minutes section of the IEP. The date of this IEP/Eligibility meeting will become the new eligibility date. All paperwork will be provided to the child's parent/guardian.

The School considers the consent to evaluate to be valid up to one year after it has been signed by the parent. If a parent refuses consent for reevaluation, the School can determine, based on the current data and other information, that the student either continues or does not continue to be eligible.

v. Speech-Language Referrals

Speech-Language Impairment (SI) is a disability category of special education. All students referred for special education are provided comprehensive evaluations. However, sometimes a speech-language evaluation may be comprehensive for the child without the need for an additional psychological evaluation. RTI and MTSS procedures are always followed for the speech-language referrals. A "speech language" referral may be appropriate when the child is not responding to Tier II and Tier III speech language interventions but is progressing in other areas. A psychologist is consulted when students with Tier III speech/language interventions are not responding to interventions in other areas, including academic, medical and/or behavioral-emotional concerns.

vi. Comprehensive Evaluations

The School conducts a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability. When a referral for special education evaluation is made, the comprehensive evaluation will be conducted by a multidisciplinary team. The team may include a psychologist, a speech-language pathologist, an occupational therapist and/or physical therapist, and other areas as appropriate to the evaluation. The student's parents are considered as members of the team. In conducting an evaluation, the School uses a variety of appropriate tools and technically sound instruments to assess the relative contribution of cognitive, emotional, and behavioral factors, in addition to physical or development factors. Evaluation tools are administered by trained and knowledgeable staff, including a contracted psychologist. Existing data is reviewed and if needed, additional data is gathered.

vii. Reevaluation Procedures

A request for consent to evaluate must be signed by the parent/guardian. Once the consent to evaluate is received by the Special Education Coordinator, the School will follow the procedure detailed below:

1. The Special Education Coordinator will submit a request to school nurse, or tele-health nurse, as applicable, if hearing and vision screening is not current within the last year.
2. The SST will analyze interventions or implement interventions if not already in place.
3. The SST will review special education records, including:
 - a. the Multi-Tiered System of Support Minutes/Intervention Strategies/Progress Monitoring
 - b. other data including the student's permanent record; current classroom assessments and

progress; results of statewide assessments; attendance data; disciplinary history; and classroom observation data.

4. Current and/or previous teachers will be interviewed.
5. The School will stamp the signed parent consent with date the School received it.
6. The SST will review previous data (i.e., other previous or independent evaluations, medical reports, information from previous schools).
7. The SST will review questionnaires and/or forms from respondents
8. The Special Education Coordinator will review the referral packet. Once the referral packet is approved by Special Education Coordinator, the special education teacher will place the referral packet in the evaluation folder.
9. The special education teacher will notify the SST when the packet is complete.
10. If applicable, a psychologist will conduct a comprehensive evaluation (within 60-days of the consent for evaluation) that provides sufficient data to determine whether the student is a student with a disability; document how the disability affects the student's academic and/or behavioral performance in school; and provide appropriate information for the development of an IEP, if eligible. After the evaluation is complete, the psychologist will notify special education teacher and request an eligibility meeting to be scheduled.
11. The special education teacher will schedule meeting with parents and the SST.
12. The special education teacher will send notification of meeting to parents and confirm meeting date/time with involved parties.
13. The School will hold a meeting to determine eligibility within 60 days of receipt of signed parental consent. The SST determines whether a disability exists based on state criteria and what the impact is on the education of the student. If there is significant impact, the team may determine that the student is a student who needs special education and related services.
14. The SST will write/complete an eligibility report (regardless of whether or not the student is eligible).
15. The Special Education Director will be notified of the results. Whether eligible or ineligible, the student's file will be placed in the SPED Cabinet. If eligible, an IEP will be written.

viii. Referral Packet Requirements

_____ **Multi-Tiered System of Supports (MTSS)/RTI minutes** for initial referrals (*in most cases, there should be minutes from several RTI meetings*) or Reevaluation/Eligibility Consideration Form for reevaluations

_____ **Progress Monitoring**

(*For initial referrals*). Compile all progress monitoring data. Be sure to include baseline and progress monitoring data. Be sure to document the specific area(s) of concern as well as the specific interventions that are implemented. When interventions are changed, this must be documented as well.

(*For reevaluations*). Complete the Summary of Progress Monitoring Data Toward Achieving Standards form electronically. Be sure to include the methodologies ("interventions") and at least two data points for EACH IEP goal.

_____ **Hearing and Vision form.** Please be sure to note on the form whether or not the child was wearing glasses or a hearing aid when the screening was conducted.

_____ **Classroom Observation.** These should come in with every referral. (If it is an SLD referral, submit an academic observation in the area of suspected weakness. If it is an EBD referral, submit a behavioral observation. You use the same Classroom Observation form for both.)

_____ **Work Samples.** These should also come in with every referral. (For SLD referrals, submit work samples in the child's area(s) of weakness)

_____ **Student History Form.** These are sometimes difficult to get back from the parents. Document the date(s) you sent it to the parent, but don't hold the referral if the form is not returned.

_____ **Behavior Rating Scales** for EBD, OHI, and Autistic referrals. (Request from psychologist)

_____ **Discipline Reports and 10-Day Anecdotal Record of Behavior.** Submitted for all EBD and OHI due to ADHD referrals, and all referrals in which there is a behavioral concern.

_____ **Medical Documentation. For initial OHI and OI referrals.** (For re-evaluations, a current form is preferable; however, if you are unable to obtain one, we are now able to use the old form.)

_____ **Report Cards** for the previous and current school year.

_____ **Copy of the most recent test results** (i.e., ITBS, CRCT, GAA, WIDA, and Georgia Writing Assessment).

_____ **Attendance information**

_____ **Parental Consent for Evaluation.** Make sure the parent checks yes and dates the form. (Also, be sure to provide the parent with a list of tests. If you do not have this list, please contact the school.)

The district selects assessments and other evaluation materials based on the following criteria:

1. Are they selected and administered so as not to be discriminatory on a racial or cultural basis?
2. Are they provided and administered in the child's native language or other mode of communication and in the format most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer?
3. Are they used for purposes for which the evaluations or measures are valid and reliable?
4. Are they administered by trained and knowledgeable personnel?
5. Are they administered in accordance with any instructions provided by the producer of the assessments?

When a parent disagrees with an evaluation conducted by the School, the parent has the right to request the School fund an independent educational evaluation (IEE). The School must agree to pay for the independent evaluation or begin due process procedures to show that the district's evaluation is adequate. A parent requesting an independent evaluation for his/her child should be referred to the Special Education Coordinator.

ix. Determination of eligibility

Students' ages three through twenty-one years of age may be determined eligible for twelve Special Education Categories. Every student placed in Special Education must first be determined eligible for services by the Individual Education Program (IEP) team.

If the student does not meet eligibility for a special education program, regular education options are discussed, and the student is referred back to the Multi-Tiered System of Support Team for follow-up and continuing interventions, as needed.

Eligibility is a team decision. However, a draft eligibility report can be started prior to the meeting that includes summarized results of the evaluation. The case manager and a psychologist, if applicable, as well as other service providers as appropriate, work together to complete the draft eligibility report. If the student meets eligibility requirements an eligibility meeting will be held within the 60-day timeline.

x. Notice of Eligibility/IEP Meeting

The parents must be notified of the proposed date, time, and location of an Eligibility/IEP meeting to give them sufficient time to plan to attend or contact the school to reschedule the meeting. The case manager is responsible for scheduling an eligibility team meeting within the 60-day initial timeline window. The School must give the parents every opportunity for a convenient, mutually agreed upon meeting time as well as the option to reschedule so that the parents may attend.

xi. Eligibility Meeting

Once the comprehensive evaluation is completed, the case manager will schedule an eligibility meeting prior to the eligibility due date. The eligibility team will determine if the student is eligible for special education services. The eligibility meeting provides an opportunity for all parties involved in the education of the student to meet to review the data and provide input to determine if the student meets eligibility requirements as indicated in the state special education rules. The parent is included on the team and is provided a copy of the evaluation report as well as a copy of the eligibility report/decision. Often a parent will request a copy of the evaluation report prior to the eligibility meeting. The law does not require that the parent be provided with a copy of the evaluation report prior to the eligibility decision. On occasion, it is appropriate to provide the report prior to the 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. Evaluations contain information that may be confusing to a parent. The School always considers parent requests to have the evaluation report explained to them by qualified professional examiners. 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 convene a later meeting for the eligibility decision. If there is no report from an evaluation specialist, such as a psychologist or speech language pathologist, then the eligibility report serves as the evaluation report providing that it is comprised of the following data: student identifying information, case history, hearing and vision screening, summary of interventions, summary of progress monitoring, area of difficulty, tests results, individual student data, exclusionary factors, decision-making for eligibility, summary of considerations, determination of eligibility and eligibility information. The eligibility report is the documentation that verifies if the student is or is not eligible for special education services.

The case manager will notify the parent in writing of the date and time of the eligibility meeting. After three attempts to schedule a meeting with the parent, the eligibility team will proceed with a meeting without the parent.

If the parent failed to attend the meeting where eligibility and placement were decided, the date for initiation of services must be at least 10 days from the date of the IEP meeting to allow proper notice and opportunity for the parent(s) to respond (assuming the parent agrees to the placement and signs the Consent for Placement form). The student's case manager will send the parent a copy of the eligibility report, the IEP, psychological report, parental rights and Consent for Placement form by mail for review and signature,

following up with a telephone call to ensure understanding.

xii. Individualized Education Program (IEP) Developed

An IEP is required for each student that is eligible for special education and is reviewed at least annually. For initial referrals, the expectation is for the IEP meeting to occur on the same day following the eligibility meeting. When this is not possible, then an IEP must be developed within 30 days of the initial eligibility meeting if the student is found to be eligible for special education services. The IEP is developed to meet the special needs of the student as identified by the assessments, observations, and other data collected during the referral process. The IEP is developed after the student is determined eligible for services. Once the IEP is developed, the parent must sign consent for placement for special education services prior to implementation of the IEP.

xiii. Exclusionary Factors

Exclusionary factors are considered in eligibility determinations. Each factor is considered for its impact or lack of impact on educational progress. The explanation describes why or why not a factor has influenced educational progress. Once the factors have been addressed, the team refers to the responses and to the eligibility criteria for each disability category.

The School utilizes the following guidance from the Georgia Department of Education when addressing each exclusionary factor:

1. **Lack of appropriate instruction in reading, math and written expression.** The Eligibility Team discusses whether the child had access to quality instruction and research-based curricula.
2. **Limited English Proficiency.** It is very important to include an English Learners staff member who is familiar with the child suspected of having a disability if the child being evaluated is an English Learner. A language profile for this child is necessary so that it specifically investigates the language proficiency in both the primary language and English.
3. **Cultural Factors.** A child's culture should not be a determinant factor of a disability. The School obtains pertinent cultural information by interviewing key family members. All results obtained are then interpreted in relation to the child's dominant cultural influences.
4. **Environmental or economic disadvantage.** A child's environment or economic disadvantage should not be a determinant factor for determination of a disability. The committee thoroughly examines family stressors that may be impacting educational progress to include homelessness, unemployment, extended illnesses, death in the family, divorce, pre-school experiences, lack of books in the home or expectations of the family for the child.
5. **Atypical education history.** The team discusses if the child has elevated levels of mobility and/or absenteeism which may have influenced the educational progress of the child.
6. **Visual, hearing, or motor disability.** The committee analyzes information to rule out as source of difficulty when determining specific disabilities.
7. **Mutism, tongue thrust and dialectic.** Mutism, tongue thrust behavior without associated speech sound impairment, and dialectic differences cannot be a speech language disorder. The committee analyzes information to rule out as source of difficulty when determining specific disabilities.

xiv. Parental Consent for Placement

If a student is determined eligible for special education and an IEP is developed, the parent must sign parental consent for placement before services/IEP can be implemented. Parental Consent for Placement is

only required to be signed for initial placement in special education. After the initial IEP is developed, the parent must sign the Parental Consent for Placement form indicating whether or not they agree to placement to receive special education and related services. If the parent is present at the initial IEP meeting, the team should obtain the parent's signature at the end of the meeting. If the parent is not present, the case manager will send the parent a copy of the eligibility report, the IEP, psychological report, parental rights, and parent consent for placement form by mail for review and signature. If the parent does not attend, the date for initiation of services must be at least 10 days from the date of the IEP meeting to allow proper notice and an opportunity for the parent to respond and return the parent consent for placement form. If the parent agrees to consent for placement, the IEP will be implemented on the start date. If the parent does not agree for services, the IEP will not be implemented.

e. Eligibility Determination and Categories of Eligibility Definitions for areas of disability for children aged 3 to 21 (SBOE Rule: 160-4-7-.05)

AUTISM

1. Psychological Evaluation
2. Educational Evaluation
3. Communication Evaluation
4. Behavioral Evaluation
5. Developmental History

DEAF-BLIND

1. Audiological Evaluation
2. Otological Evaluation
3. Ophthalmological Evaluation

DEAF/HEARD OF HEARING

1. Audiological Evaluation
2. Otological Evaluation
3. Educational Evaluation
4. Psychological Evaluation (Optional)

EMOTIONAL/BEHAVIORAL DISORDER

1. Documentation of interventions
2. Psychological Evaluation
3. Educational Evaluation
4. Behavioral Observations
5. Social History
6. Documentation of duration, frequency, and intensity
7. Exclusionary factors documented

INTELLECTUAL DISABILITY

1. Psychological Evaluation
2. Educational Evaluation
3. Structured observation
4. Adaptive Behavior Evaluation
5. Relevant medical information
6. Exclusionary factors documented

ORTHOPEDIC IMPAIRMENT

1. Medical Evaluation
2. Developmental/Educational Evaluation
3. Psychological (if significant cognitive/ academic deficits are present)

Other Health Impairment

1. Medical Evaluation
2. Developmental and Educational Assessment

Significant Developmental Delay

1. Assessment of adaptive development
2. Assessment of cognition development
3. Assessment of communication development
4. Assessment of physical development
5. Social/emotional development

Specific Learning Disability

1. Two years of state required assessments
2. Educational Evaluation
3. Results of researched-based interventions
4. Documentation of duration, frequency, and intensity
5. Relevant medical findings
6. Psychological Evaluation

Speech-Language Impairment

1. Comprehensive Evaluation by SLP
2. Educational Evaluation
3. Medical Evaluation
4. Functional Evaluation
5. Behavioral Evaluation

Traumatic Brain Injury

1. Pre-injury information
2. Medical Evaluation
3. Neuropsychological, psychological or psychoeducational evaluation

Visual Impairment and Blindness

1. Ophthalmologist or optometrist report
2. Comprehensive Evaluation
3. Educational Evaluation

Professional Learning/Monitoring/Supervision

The School will use the “Train the Trainer” model for most professional learning. The Special Education Coordinator will conduct annual professional learning for special education teachers in Child Find, Evaluations, Reevaluations and IEP development. The lead teacher will redeliver the information. In addition, the Special Education Coordinator and lead teacher will train new staff as needed.

The Special Education Coordinator will visit each classroom bi-weekly and observe and review education procedures. Also, special education services will be monitored by the Special Education Coordinator by using GOIEP to determine if eligibilities and IEPs are current, if progress reports are being completed timely, if transitions plans are accurately written and monitored, if services are appropriate and progress of special education students.

f. Private Schools (SBOE Rule: 160-4-7-.13)

i. Special Education Referrals for Children Placed in Private Schools by their Parents and Home School Children

If a parent or private school staff suspects a child of having a disability, the parent should submit a special education request to the district. 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.

ii. The School will refer private and home-schooled children to the local school district in which they reside.

Children who are **home-schooled** are also considered parentally placed private school students. If an LEA charter school and a traditional LEA serve the same demographic area, the LEA charter school's Child Find obligation extends only to students enrolled in the LEA charter school. When the student is in private school by parent choice, the student and the parent lose their individual rights to special education services, however, to the extent consistent with their number and location in the state, provisions are made for the participation of private school children with disabilities in programs provided under Part B of the Individuals with Disabilities Education Act (IDEA) by providing children with special education and related services in accordance with this section. 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 a public school.

iii. Children with Disabilities in Private Schools Placed or Referred by the School

The School ensures that a child with a disability who is placed in or referred to a private school or facility by the School as a means of providing special education and related services is provided special education and related services in conformance with an IEP at no cost to the parent and is provided an education that meets the standards that apply to education provided by the Georgia Department of Education and by the School.

iv. Placement of Children by Parents when FAPE is at Issue

If the School made a free appropriate public education (FAPE) available to a child and the child's parents elect to place the child in a private school or facility, the School is not required to pay for the cost of the education, including special education and related services, for the child at the private school or facility. Disagreements regarding the availability of a program appropriate for the child or concerning the question of fiscal responsibility are subject to the procedural safeguards provided in State Board of Education Rule 160-4-7-.09.

SECTION 2: SERVICES AND SUPPORTS

a. Least Restrictive Environment (LRE) (SBOE Rule 160-4-7-.07)

i. LRE requirements: Written policies and procedures exist

The School has written policies and procedures to ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities in Georgia shall be educated with children who are not disabled. Special classes, separate schooling or other removal of children with disabilities from the regular class environment occurs when 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.

ii. Annual IEP placement determination

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 to meet the goals and the setting in which the services will be provided (Georgia Rule 160-4-7-.07).

The IEP team 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 Standards of Excellence, 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.

iii. Full continuum of alternative placements

The School ensures that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. This continuum includes the alternative placements listed in the definition of special education (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and makes provision for supplementary services (such as a separate class or itinerant instruction) to be provided in conjunction with regular class placement.

iv. School age placements and services

School age placements include:

1. General education classroom with age-appropriate non-disabled peers, if required by the IEP, including either:
 - a. **Additional supportive services:** The child remains in regular classroom with supplementary aids and services provided to the teacher and/or child to implement the IEP. The services provided may be from personnel such as paraprofessionals, interpreters, or

others; or

- b. **Direct services:** The child remains in the regular classroom with direct services from special education personnel on a consultative, collaborative, or co-teaching basis.
2. Instruction outside the general classroom for individuals or small groups.
3. Separate day school or program.
4. Home-Based instruction may be used as a short-term placement option (6 weeks which can be extended doctor's request) on occasions when the parent and School agree at an IEP meeting with the following considerations:
 - a. A free and appropriate public education (FAPE) is provided and includes access to the general curriculum and an opportunity to make progress toward the goals and objectives included in the IEP.
 - b. Home-based services must be reviewed every six weeks by the IEP team; and
 - c. All IEPs that require home-based placements will include a reintegration plan for returning to the school setting.
5. Residential placement in-state or out-of-state.
6. Hospital/homebound instruction program (HHB) is used for students with disabilities who are placed in a special education program and have a medically diagnosed condition that will significantly interfere with their education and requires them to be restricted to their home or a hospital for a period of time. The School provides hospital/homebound instruction to students with disabilities, under the requirements found in Georgia rule 160-4-2-.31 (Hospital Homebound Services).

b. Discipline (SBOE Rule: 160-4-7-.10)

i. Relationship of General Code of Conduct to IEP

The Code of Conduct for the School applies to all children unless a child's Individualized Education Program (IEP) specifically provides otherwise. The School ensures that the parents and the child with a disability receive notice of the rules and regulations applicable to children with disabilities with respect to child management, discipline and suspension/expulsion upon the child's entry into a special education program or at the annual IEP review.

ii. Interim Alternative Settings and 10-Day Rule

The Special Education Coordinator must be notified when disciplinary action is taken for a student with a disability. The School personnel consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this Rule, is appropriate for a child with a disability who violates a code of student conduct. School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities). The 10 days can be consecutive and cumulative and can occur during the same 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.

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 of 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 with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal, the School will provide services to the extent required under applicable law.

iii. 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.

For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except the student with a disability must continue to be receive his/her free and appropriate public education.

The conduct must be determined to be a manifestation of the child's disability if the school, the parent, and relevant members of the child's IEP Team determine that the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or the conduct in question was the direct result of the LEA's failure to implement the IEP. If the student does not have a behavior intervention plan, the IEP team must conduct a functional behavior assessment and implement 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 School, the parent, and the relevant members of the child's IEP Team determine that the conduct in question was a direct result of the failure of the School to implement the IEP, the system will take immediate steps to remedy those deficiencies.

If the IEP Team makes the determination that the conduct was a manifestation of the child's disability, the IEP Team will either conduct a Functional Behavioral Assessment (unless a Functional Behavioral Assessment conducted before the behavior that resulted in the change of placement occurred is already in place and found to be effective) and implement a Behavioral Intervention Plan for the child; or if a Behavioral Intervention Plan already has been developed, review the Behavioral Intervention Plan, and modify it, as necessary, to address the behavior, and (except as provided in the Special Circumstances described below), return the child to the placement from which the child was removed, unless the parent and the School agree to a change of placement as part of the modification of the Behavioral Intervention Plan.

iv. Special Circumstances

School personnel may remove a child to **an interim alternative educational setting** (determined by the

IEP Team) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

1. Carries a weapon to or possesses a weapon at school, on school premises, or at a school function;
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance; or
3. 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 the School.

v. Provision of Notification

On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of the School Code of Conduct, the School will notify the parents of the decision and provide the parents the Procedural Safeguards Notice/Parent Rights in Special Education.

vi. Appeal Process

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination under SBOE Rule 160-4-7-.10, or if the School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing.

If the administrative law judge or hearing officer determines that the removal of the child was a violation of his rights or that the child's behavior was a manifestation of the child's disability, the administrative law judge or hearing officer can order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if it is determined that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. These appeal procedures may be repeated, if the School believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

v. Placement During Appeal

When an appeal has been made by either the parent or the School, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or hearing officer or until the expiration of the 45-school day time period provided for in SBOE Rule: 160-4-7-.10, section 5, Special Circumstances, whichever comes first, unless the parent and the School agree otherwise.

vi. Protections for Children Not Yet Eligible for Special Education and Related Services

A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in SBOE Rule 160-4-7-.10 if the School had knowledge (as determined in accordance with this Rule) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

The School is deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred, either:

1. The parent of the child expressed concern in writing to supervisory or administrative personnel

- of the appropriate educational agency or a teacher of the child, that the child needs special education and related services;
2. The parent of the child requested an evaluation of the child; or
 3. The teacher of the child or other personnel of the School expressed specific concerns about a pattern of behavior demonstrated by the child directly to supervisory personnel of the School.

The School is deemed not to have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services or the child has been evaluated and determined not to be a child with a disability based on special education eligibility rules.

If the School does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors.

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation will be conducted in an expedited manner. Until the evaluation is complete, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the School and the information provided by the parents, the School will provide special education and related services.

vii. Referral to Law Enforcement and Judicial Authorities

Nothing in the State Board of Education rules regarding discipline for a student with disabilities prohibits the School from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement or judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. When the School does report a crime committed by a child with a disability, it must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime, but only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

viii. Change of Placement due to disciplinary removal

For purposes of removals of a child with a disability from the child's current educational placement under the State Board of Education discipline rule, a change in placement occurs if:

1. The removal is for more than 10 consecutive school days, or
2. The child has been subjected to a series of removals that constitute a pattern
 - a. Because the series of removals total more than 10 school days in a school year;
 - b. Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and;
 - c. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

The school 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.

c. Individual Education Program (IEP) (State Rule: 160-4-7-.06)

i. Individual Education Program Overview

An 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. An IEP must be developed for every student with a disability who is or will be receiving special education services. This IEP becomes the important document that ensures the special education student is provided appropriate educational services based on his/her special needs. The IEP is not a binding contract, for which the School is responsible if the student does not achieve the growth projected in the goals and objectives. However, it assures that the School will provide the special education and related services as outlined in the IEP. Additionally, any changes in special education and/or related services for a student are documented in the IEP.

An Individual Education Program (IEP) is required for each student who is served in the Special Education Program and is reviewed at least annually. Procedures for initiating the Annual Review are the same as the process for creating the original IEP. The IEP is developed to meet the special needs of the student as identified by the assessments, observations, and other data collected during the referral/eligibility process. The IEP is developed after the student is determined eligible for services.

ii. Inter- and Intra-State Transfer of Students with IEPs

Every transferring student to the School will be checked through the SLDS system, parent conversation and student record to determine if he/she received special education services from the transferring school. If so, records will be requested from that school system. When a student with a disability transfers to the School, the IDEA requires that the “services are comparable to those described” in his/her previous IEP until a new IEP can be developed.

iii. Students Entering from Within a Georgia County:

Upon enrollment, the following should occur:

1. Records should be requested from previous county by the Special Education Coordinator.
2. Students transferring within State are automatically assumed eligible for services because the eligibility has already been determined to meet Georgia’s eligibility criteria.

iv. Students Entering from Out of State:

The Special Education Lead Teacher and school staff will confirm that the student was receiving special education services in previous school by consulting any of the following: parent, previous school records and other documentation. Records will be requested from the previous county by the Special Education Coordinator.

If records are insufficient after 15 calendar days from the student’s enrollment date, the Executive Director should be notified. The Executive Director will assist in obtaining additional records needed. An Eligibility Report MUST be received from previous state.

If records are still not sufficient after several requests or 30 calendar days from enrollment, or if there are questions of eligibility, a meeting will need to be scheduled with a contracted psychologist (or SLP if Speech only) attending to determine further necessary action. (In this case, the team can opt to accept the previous eligibility with the understanding that additional information is needed. A re-evaluation can be completed and the 60- day evaluation timeline will not apply.) This meeting should be scheduled within 60 school days from the student's enrollment date.

Services should be provided until all records are received. Upon receipt of paperwork, the following should occur:

1. The Special Education teacher and/or case manager makes a copy of the records for contracted psychologist (or SLP for Speech only).
2. The psychologist (or SLP for Speech only) should review records to determine that existing report meets Georgia eligibility requirements.
3. If the transfer report meets requirements the psychologist (or SLP for Speech only) will contact the Special Education Teacher and/or case manager to let them know a meeting is ready to be scheduled. It is the responsibility of the Special Education Teacher and /or the case manager to schedule the meeting. The Special Education Coordinator must be notified when a meeting is scheduled.
4. A contracted psychologist may attend meetings for special education students entering from out of state.

v. FERPA and transmittal of records

The Special Education Coordinator will work diligently to promptly obtain the child's records, including the IEP, eligibility report, psychological evaluation report, supporting documents, and any other records relating to the provision of special education or related services to the child, from the previous school system in which the child was enrolled, pursuant to the Family Educational Rights and Privacy Act. School administrators, counselors, special education teachers, general education teachers, and a psychologist, if appropriate, will be notified when paperwork has been received. Once received, the records will be reviewed by the lead special teacher to determine the presence of all required information and documentation. These records will be scanned into the Georgia On-Line IEP Program.

vi. Definition of IEP Team

The IEP Team Meeting provides an opportunity for all stakeholders involved in the education of the student to meet to determine eligibility as well as discuss appropriate options to meet the individual educational needs of that student. Required members of the IEP Team include:

1. the parents of the child;
2. Not less than one regular education teacher of the child (if the child is, or may be, participating in regular education environment);
3. Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
4. A representative from the School who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the School;

and

5. Other people may be invited to the team meeting at the request of the school and/or parents (such as related services providers, counselors, psychologists, etc.) The student, as appropriate is invited to his/her IEP meeting at any time; however, students at age 14 and above attend their IEP meetings.

vii. Parent Participation in IEP: Notification and Invitation

The student's case manager will send a Written Notice of IEP Meeting to the parents appropriately ten days prior to the projected review date. IEPs should always be current, even if student is a senior.

A minimum of three attempts must be made to involve a parent. One attempt must be a written notice. Documented attempts may include:

1. Telephone conversations
2. E-mail
3. Notice sent in mail
4. Notice sent with student
5. Certified Mail
6. Home visit
7. Social worker

After three of the above attempts have been made, the meeting may proceed without parental attendance. If a response is given stating that parent will attend, you may proceed with the meeting with or without the parents in attendance. (If the parent requests to reschedule, you may not proceed without them.)

The projected review date must occur before the end date of the current IEP, so case managers are encouraged to begin working with parents to arrange a mutually agreed upon date well before the ending date. The parent may request the IEP meeting to be rescheduled or to participate by telephone or videoconference if they are not able to attend. A copy of the notification (for documentation purposes) is automatically saved in the **Georgia On-Line IEP program**, along with the parent's response to the invitation. All required attendees are invited, along with other stakeholders invited by the parent or the school. The parents will be given the names in writing of all members invited to the Annual Review. Should the parent require a translator or interpreter, it is the responsibility of the School and the Special Education Department to ensure that an appropriate adult is available to serve in that capacity.

Under IDEA, charter schools must ensure that parents are afforded the opportunity to participate in making decisions about their child's placement. Predetermination occurs when an individualized education program team unilaterally decides a child's placement before an IEP meeting without the parents' participation or input. However, this does preclude the IEP team from discussing potential placement options for a student in advance of the meeting. The difference between "preparation and predetermination" is the team's willingness to listen to the parents' concerns. Nothing in IDEA prohibits schools from developing and presenting a draft IEP to parents providing the draft is used only for the purposes of discussion and development of the student's IEP and may not be represented to the parents as a completed IEP.

Note: The GOIEP application allows for the development of a draft IEP prior to the meeting date. When

the IEP is printed prior to the date of the meeting, the word “DRAFT” is superimposed on each page. When using a draft IEP, parents must be assured that this is not the final IEP and their input, as well as that of other team members, will be considered. As the team goes through the IEP process, the IEP draft must be changed to reflect the decisions of the IEP team. A finalized copy of the IEP should be given to the parent at the conclusion of the meeting along with a copy of their Procedural Safeguards.

viii. Excusal of IEP Team Member

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

1. When an IEP team member’s area of curriculum or related services are not be changed or discussed at the IEP meeting, the parent and school personnel may agree to excuse an IEP team member from all or part of a meeting if the parent consents, in writing to this excusal.
2. When the IEP team member’s area of curriculum or related services is being discussed at the meeting, the parent or school personnel may excuse an IEP team member from all or part of the meeting if the parent consents, in writing, to the excusal and the excused person submits relevant, written input to the IEP team prior to the meeting.

At the Annual Review meeting, the current IEP, including mastery/progress toward goals/objectives is reviewed by the committee and a new IEP is developed based on the student’s Present Level of Performance. A copy of the new IEP is sent home with the parents if they are in attendance or mailed if they are not present. A copy of the new IEP is saved through the on-line IEP program for “read only” access for school personnel given the rights to that student’s IEP. (NOTE: The Parental Consent for Placement is required to be signed only once, at the time of the initial placement, even though the program or location of program may change.)

ix. Required sections of the IEP

Please be sure to complete the following information located on the front page of the IEP: Type of Meeting (Annual Review, Amendment, etc.)

1. Meeting Date
2. Implementation Date
3. IEP End Date
4. Most Recent Eligibility Date
5. Home/Service School
6. Primary Exceptionality
7. Eligibility Date
8. Re-Evaluation Date
9. ALL Demographic Information for student/parent

x. 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:

1. **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. A best practice is to include information from most recent psychological including processing strengths and weaknesses.
2. **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.
3. **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. This area should describe specific needs that impact achievement and must be addressed through the IEP goals and/or objectives or through accommodations.
4. **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.
5. **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.

xi. 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 for 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 involves the steps that are taken to support the child's purposeful and organized move from one program to another.

xii. Secondary Transition

For special education purposes, transition is the change from secondary education to postsecondary programs, work, and independent living. Transition services aid students in this process through a coordinated set of activities that are designed within a results-oriented process, which promotes movement from school to post-school activities including: measurable post-secondary goals in:

1. postsecondary education/training
2. employment
3. independent or supported living
4. community involvement
5. based upon the individual student's strengths, preferences, and interests
6. includes instruction, related services, community experiences, employment and/or adult living objectives and, when appropriate, daily living skills
7. objectives and functional vocational evaluation
8. The IDEA requires that students be offered an opportunity to be a part of the IEP Team when secondary transition services are initiated, at age 16, or younger if determined appropriate by the IEP Team. It is critical to remember that unless the student's ideas and interests are captured and included, transition plans may not be as valued by the student.

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:

1. appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and
2. 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, 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, you should document other actions for agency linkages.)

Note: It is the responsibility of the School to ensure that the transition services as outlined in a student's IEP are implemented. These strategies will be followed:

1. Designate a specific staff to keep track of services
2. Keep records of services provided
3. Ensure outside agencies provide agreed-upon services
4. Compensate for missed services
5. Follow proper procedures to change, substitute transition services
6. Train staff, encourage open communication

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.

xiii. 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 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.

xiv. The Summary of Performance (SOP) & Exit for Age 21

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 a 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. If a student is receiving special education services upon reaching age 22, the School will serve the student until the end of the school year (June 30) in which the student turns 22. It is the goal of the School to secure the successful transition of students to their desired post-school outcomes. The School will collaborate with parents, teachers, and students to complete that transition by age 22. The adult student and parents will be notified that no individual entitlement to FAPE or other rights under IDEA are afforded the adult student after age 22.

xv. Measurable Annual Goals/Short Term Objectives

IEP goals are written to address an individual student's deficits 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 objectives. However, it is recommended that short term objectives or benchmarks for all students be considered.

At times, a parent may request short term objectives for a particular area of the IEP even though they may not be required. Therefore, school personnel and the parent should work together to reach an agreement about short term objectives as appropriate.

xvi. Student Supports; Accommodations; Aids

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 textbooks, 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, "time and a half." 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.

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. Some accommodations used for instruction may also be considered a supplemental aid and service.

xvii. Assistive Technology

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. Assistive technology (AT) is a component of the educational programs of students with disabilities. Assistive Technology Devices are any items, equipment, products, or system whether acquired commercially, teacher-made, modified, or customized, that are used to increase, maintain, or improve the functional capabilities of children with disabilities/

Assistive Technology Services are services needed to support effective use of AT devices. AT services may include training or technical assistance for the child and/or the child's family, and training or technical assistance for professionals, employers, or other individuals who are substantially involved in the major life functions of an individual with a disability. Services also include selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices.

xviii. Participation of Student with Disabilities in Assessments

Georgia requires all students to participate in statewide assessment programs. For any grade where all students are assessed, students with disabilities must participate in the regular assessment or the Georgia Alternate Assessment (GAA). The GAA is designed for students with the most significant cognitive disabilities, approximately one percent of all students enrolled in assessed grades. All students must be included to the fullest extent possible in all statewide assessments and have their assessment results included with Georgia's accountability system. The GaDOE participation requirement is supported by federal legislation requiring the participation of students with disabilities in standards-based instruction and assessment initiatives.

The section of the IEP regarding district and statewide assessments should be as specific as possible and should only identify testing accommodations the student must have 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 Special Education Coordinator and Director of Instruction who will contact the GaDOE Testing Division to discuss the ramifications of the potential accommodations. Each assessment should be listed individually and by content area so that accommodations can be individualized.

xix. Formal Assessments

The Georgia Milestones Assessment System (Georgia Milestones) is a comprehensive summative assessment program spanning grades 3 through high school. Georgia Milestones measures how well students have learned the knowledge and skills outlined in the state adopted content standards in language arts, mathematics, science, and social studies. Students in grades 3 through 8 will take an end-of-grade assessment in each content area, while high school students will take an end-of-course assessment for each of the eight courses designated by the State Board of Education.

xx. Georgia Alternate Assessment (GAA)

The Georgia Alternate Assessment (GAA) is a key component of the Georgia Student Assessment Program. An essential tenet of both the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA), is the fact that states must ensure that all students, including students with significant cognitive disabilities, have access to a general curriculum that encompasses challenging academic standards. States must also ensure that all students are assessed for their progress toward meeting academic standards. To accomplish this, states must have curricular standards that include all students and then must assess those students with statewide tests of achievement or develop an alternate assessment. Students with significant cognitive disabilities may be assessed via an alternate assessment based on alternate achievement standards. The US Department of Education (USDOE) defines an alternate achievement standard as one that "sets an expectation of performance that differs in complexity from a grade-level achievement standard." Alternate achievement standards must be aligned to state academic content standards, although they may reflect prerequisite or entry-level skills.

The GAA 2.0 is designed to ensure that students with significant cognitive disabilities are provided access to the state academic content standards and given the opportunity to demonstrate achievement of the knowledge, concepts, and skills inherent in the Georgia Standards of Excellence. This assessment will provide meaningful information about classroom instruction and help identify students' areas of strength and improvement through standardized tests. Unlike the original GAA, GAA 2.0 is not a portfolio-based

assessment. Thus, it will measure students' achievement and not progress. The GAA 2.0 will be administered to all eligible students in K and grades 3-5 in English language arts and mathematics. Grade 5 will also be assessed in science and social studies.

xxi. Functional Behavior Assessments (FBA) and Behavior Intervention Plans (BIP)

Any student identified with an emotional behavior disorder must have a completed functional behavioral assessment (FBA) and a behavior intervention plan (BIP).

A functional behavior assessment involves gathering information to determine the cause or function of a behavior. In most circumstances, an FBA should be conducted before developing a behavior intervention plan. There are many different tools that could be used for an FBA. Tools should be selected on a case-by-case basis for each individual student. The information that is collected in an FBA is used to help understand why and in what conditions problem behaviors occur. The information will help the Individualized Education Program (IEP) team develop a behavior intervention plan.

xxii. Components of the FBA:

A definition of the behavior that you want to change: What is the student doing that is interfering with learning or causing harm to the student or others? What is the behavior we want to change? This behavior must be observable and measurable.

1. **Measurement of the behavior:** When does it happen? Where does it happen? How often does it happen? How long does the behavior last? Who is present when it happens? What happens before the behavior is exhibited (antecedent)? What happens after the behavior is exhibited (consequence)? Does it happen only at certain times of the day?
2. **Data collection and assessment:** This can include parent, student and teacher interviews whenever possible. It may include record reviews. It could include completing checklists or questionnaires. It may include observations of the student in different settings.
3. **A summary (hypothesis):** This means that the team uses the information collected to try to understand the function or purpose of the behavior (why the student is exhibiting the behavior).

xxiii. Components of a BIP:

1. Information from the FBA: This includes the target behavior, the data that was collected, and the best ideas about the purpose or function of the behavior.
2. Positive strategies to avoid or prevent the behavior: These can include changes in routines, changes in classroom instruction, opportunities for choice, etc.
3. New skills to replace the target behavior: These can include communication skills, social skills, self-management skills, choice-making, etc.
4. Ways to teach the new behaviors: These may include modeling, practice, social stories, prompts, direct instruction, etc.
5. Consequences: These include what happens if the target behavior is exhibited and what happens when the desired behavior is exhibited.
6. Dates when the plan will be implemented.
7. Names of people who will implement the plan.

8. Materials, training and support for persons implementing the plan.
9. Collecting and reviewing data.

xxiv. 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 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.

xxv. Consult Services

Consult services should be offered to students who are able to function with few, if any, accommodations and have met previous goals/objectives. To maintain contact with a consultative student and accurately monitor his/her progress, a minimum of paraprofessional services can be provided in at least one content class.

xxvi. Extended School Year (ESY)

Extended school year (ESY) refers to special education and/or related services provided beyond the normal school year for the purpose of providing FAPE to a student with a disability. These services are distinct from enrichment programs, summer school programs, and compensatory services and are not simply an extension of time. These services, at no cost to the parent, will vary in type, intensity, location, inclusion of related services, and length of time, depending on the individual needs of the student. The consideration of ESY services is a part of the IEP process. The IEP must address the provision of ESY services, if required, for the student to receive FAPE.

xxvii. Determining the need for Extended School Year Services

Please use the following guidelines when making a decision relative to ESY. Because ESY services are uniquely designed to provide FAPE to students with disabilities, it is necessary to emphasize that these services are:

1. not based on the category of student's disability but are based on the student's unique educational needs;
2. not mandated twelve-month services for all students with disabilities;
3. not a childcare service;
4. not necessarily a continuation of the total IEP provided to a student with a disability during the regular school year;
5. not required to be provided all day, every day, or each day;
6. not an automatic program provision from year to year;
7. not summer school, compensatory services, or enrichment programs;
8. not required to be provided in a traditional classroom setting;
9. not a service to be provided to maximize each student's potential

The IEP team should consider the need for these services at least annually. The request to consider ESY services may be initiated by the parent, the student, the student's teacher(s), related service providers, or administrators. It is important that the decision regarding whether ESY services are provided not be delayed. The IEP Team should make the decision early enough to ensure that parents can meaningfully exercise their due process rights if they wish to challenge an ESY decision. As with all other programming needs, it is recommended that the need for ESY be documented via data gathered about the student's performance in relation to the IEP goals and objectives as well as the individual needs of the child. This 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.

xxviii. Documentation of Extended School Year Services

If a student is determined eligible for extended school year services by the IEP team, the team must:

1. Indicate which goals and objectives from the current school year are being extended or modified. Such extension is needed to develop FAPE.
2. Document the services needed
3. Document the amount of time for each service
4. Document the beginning and ending dates for the services
5. Document the service provider and location

xxix. Related Services

IEP teams may determine that services other than instruction are necessary to help students benefit from special education. The IEP team makes the determination of need for related services. In some cases, the IEP team may recommend an evaluation to determine the need for a specific related service. In all cases, related services should support the special education program outlined in the IEP with a clear correlation between the related services and IEP goals and objectives. Related Services normally include transportation and such developmental, corrective, and other supportive services as required to assist a child eligible for special education to benefit from special education. Related services may be delivered in school, home, or community settings as determined appropriate by the IEP team. Related services are required to assist a student with a disability in benefiting from and accessing educational services. The term "related services" means developmental, corrective, and other supportive services including, but not limited to the following:

1. Audiological services
2. Psychological and counseling services
3. Physical and occupational therapy
4. Social work services
5. Counseling services, including rehabilitation services
6. Speech/language pathology services
7. Orientation and mobility services
8. Interpreting services
9. School nurse or other medical services
10. Parent training
11. Transportation

To determine what special education services and/or related services will be provided to the child, the IEP team will look at the child's present levels of academic and functional performance, assessment results, the 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 the 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 education 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, and the instructional accommodations or modifications section.

xxx. Amendments

An amendment is required under any of the following circumstances:

1. Significant changes in service(s) provided
2. Scheduling changes involving change of placement/service(s)
3. Changes in accommodations
4. Adding or removing standardized test(s)

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

d. Personnel, Facilities, and Caseloads (SBOE Rule: 160-4-7-.14)

i. Maintenance of credentials for professional employees

Maintenance of current credentials is the ongoing responsibility of any professional employed by or under contract with the School. Maintenance of records of current credentials is the ongoing responsibility of the School. The School will recruit, hire, train and retain an adequate supply of certified or licensed personnel, including special education, related services and leadership personnel, to meet the needs of children with disabilities.

ii. Classroom size and appropriateness

The School provides classrooms of suitable size in a distraction- free area, as required by the type of program or services to be established with appropriate furniture, materials, supplies and equipment to meet the needs of the class or individual children to be served. The School follows this Georgia Department of Education policy as a safeguard to prevent placing children with disabilities in classrooms that are too small, have visual or auditory distractions or do not have items necessary to provide appropriate instruction.

iii. Maximum class size and caseload by eligibility category

The School follows the Georgia Department of Education policy and the policy of the State Charter School Commission.

e. **Georgia Network for Educational and Therapeutic Support (GNETS) (SBOE Rule: 160-4-7-.15)**

i. Eligibility and placement

GNETS programs support the School continuum of services by providing comprehensive special education and therapeutic support for children served. Students receiving services through a GNETS Program are referred by the School Individual Education Program (IEP) process. An IEP team may consider in-class services by a GNETS program for a child with an emotional and behavioral disorder based upon documentation of the severity of the duration, frequency and intensity of one or more of the characteristics of the disability category of emotional and behavioral disorders (EBD). This documentation includes prior extension of less restrictive services and data which indicate such services have not enabled the child to benefit educationally. For children receiving in-class services, the School is actively involved and exit criteria are developed upon entry into the GNETS program. The School continues to be actively involved in the progress of the student attending the GNETS Program throughout the child's tenure there, and exit criteria are developed upon entry into the GNETS program so that the IEP Team (and the child) will know expectations for returning to the School.

ii. Documentation of ongoing effectiveness and improvement

All GNETS programs must have an on-going system for documenting effectiveness and program improvement based on Georgia Department of Education requirements and guidance from stakeholders. Data is kept on each student to validate program effectiveness through measurement of annual goals/short-term objectives and statewide assessment results.

iii. Recommended class size by level

The recommended maximum class size for preschool, elementary and middle school classes is eight.

iv. Positive behavioral interventions and supports

GNETS programs utilize evidence-based positive behavioral interventions, supports and other strategies designed to increase children's resilience and social, emotional competence.

v. Academic curriculum

The academic curriculum for all children participating in the GNETS program is Georgia's general education curriculum.

SECTION 3: STUDENT PROGRESS

a. State Rule: 160-4-7-.02 – Free Appropriate Public Education (FAPE)

i. FAPE inclusive for students aged 3 to 21: Full Educational Opportunity

All children with disabilities between the ages of 3 through 21 are entitled to a free appropriate public education (FAPE), including children with disabilities who have been suspended or expelled from school. If a student is receiving special education services upon reaching age 22, the School will serve the student until the end of the school year in which the student turns 22. It is the goal of the School to secure the successful transition of students to their desired postschool outcomes and will collaborate to complete that transition by age 22. The adult student and parents will be notified that no individual entitlement to FAPE or other rights under IDEA are afforded the adult student after age 22.

FAPE will no longer be provided by the School upon a student graduating from school with a general education diploma. This rule will be reviewed at the annual review prior to the student graduating and/or at the Summary of Performance meeting.

ii. FAPE for incarcerated students

Incarcerated 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. 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.

iii. Delay of services not allowed

The School ensures that there will be no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

iv. Medicaid payment allowances and limitations

The School files for and receives reimbursement from Medicaid for Medicaid-eligible students receiving Medicaid-billable services performed by school staff; however, the School does not require parents to sign up for or enroll in public benefits or insurance programs for their child to receive FAPE. Furthermore, the School does not require the parents to incur any out-of-pocket expenses such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided, but may pay the cost the parents would

otherwise be required to pay; and the School will not use a child's benefits under a public benefits or insurance program if that use would:

1. Decrease available lifetime coverage or any other insured benefit;
2. Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and are required for the child outside of the time the child is in school;
3. Increase premiums or lead to the discontinuation of benefits or insurance; or
4. Risk loss of eligibility for home and community-based waivers, based on aggregate health related expenses.

The School obtains parental consent prior to accessing a child's or parent's public benefits or insurance for the first time and after providing notification to the child's parents. The parental consent to access a child's or parent's public benefits or insurance:

1. Specifies the personally identifiable information that may be disclosed or information about the services that may be provided to a particular child, the purpose of the disclosure (e.g., billing for services provided under IDEA), and the agency to which the disclosure may be made (e.g., the Georgia Department of Community Health); and
2. Specifies that the parent understands and agrees that the School may access the child's or parent's public benefits or insurance to pay for services provided under IDEA.

v. Notice to parents regarding use of benefits

Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the school provides written notification to the child's parents that includes:

1. A statement of parental consent provisions
2. A statement of the "no cost" provisions
3. A statement that the parents have the right to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of Georgia's public benefits or insurance program at any time; and
4. A statement that the withdrawal of consent or refusal to provide consent to disclose personally identifiable information to the agency responsible for the administration of Georgia's public benefits or insurance program does not relieve the School of its responsibility to ensure that all required services are provided at no cost to the parents.

vi. Residential placement

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including nonmedical care and room and board, must be at no cost to the parents of the child.

5. Provision of accessible instructional materials

The School will provide print instructional materials in an accessible format to student who are blind or other print disabled. These materials will be provided in a timely manner.

vii. Provision of assistive technology

The School will 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.

viii. Assistive technology evaluations

An assistive technology evaluation may be required if appropriate assistive technology solutions are not known to the child's IEP Team through the consideration process. This evaluation is conducted by a multidisciplinary team of professionals knowledgeable about assistive technology devices in the technology areas being assessed. The child and family are also included in this evaluation process. The evaluation results in recommendations for assistive technology devices and services, if required. If the child's IEP Team determines that assistive technology devices or services are required for the child to receive a FAPE, a statement to that effect is included in the child's IEP.

ix. Home use of assistive technology

If the IEP Team determines that the child with a disability requires school-purchased assistive technology at home or in other settings to receive a FAPE, the assistive technology will be provided to the child at no cost to the parent. The need for assistive technology in the non-school settings will also be documented in the child's IEP.

x. FAPE and Extended School Year

If a child's IEP Team determines, on an individual basis, that the extended school year services are necessary for the provision of FAPE for the child, the School will make available extended school year services that are:

1. Beyond the normal school year of the School;
2. In accordance with the child's IEP;
3. Available at no cost to the parents of the child; and
4. Meet the standards of the State of Georgia.

xi. Extracurricular activities accessibility

The School will take steps to provide nonacademic and extracurricular services and activities necessary to afford children with disabilities equal opportunity for participation in those services and activities.

xii. Access to physical education and specially designed physical education

Each child at the School with a disability will be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless:

1. The child is enrolled full time in a separate facility; or
2. The child needs specially designed physical education, as prescribed in the child's IEP.

xiii. Services to public charter schools

The School will ensure that children with disabilities attending the School will retain all rights to a FAPE. The School will ensure that a FAPE is provided to all such students.

xiv. Programming options and equal access

The School ensures that children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the School's attendance zone.

xv. Hearing equipment checks

The School ensures that hearing aids worn in school by students with hearing impairment, including deafness, are functioning properly.

xvi. External Components of Surgically Implanted Medical Devices

The School ensures that the external components of surgically implanted medical devices are functioning properly. The School is not responsible for the post-surgical maintenance, programming or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

xvii. Prohibition of mandatory medication

The School prohibits personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation or receiving services.

Nothing in the paragraph above shall be construed to create a prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a child's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services as it relates to Child Find.

SECTION 4: PARENT ENGAGEMENT

a. Procedural Safeguards and Parent Rights (SBOE: 160-4-7-.09)

i. When Parent Rights must be provided to parents

The Parent Rights in Special Education (Parent Rights) notice provides the foundation for ensuring that a child with a disability has access to a free and appropriate public education (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 will also help to facilitate communication between parents and system personnel. The Parent Rights brochure is given to parents at a minimum of once per year. This brochure should be given to parents when they are asked to sign a Consent for Evaluation form, a Consent for Placement form, and at the initial IEP meeting and each IEP annual review meeting.

The Georgia Parental Rights document can be accessed in English and other supporting translations on the Georgia Department of Education Website.

The term “Procedural Safeguards Notice” also refers to the document commonly identified as “Parent Rights” which are given to parents at least one time per school year. A copy is also given to parents in the following circumstances:

1. Upon initial referral or parent request for evaluation;
2. Upon receipt of the first state complaint in a school year;
3. Upon receipt of the first request for a due process hearing in a school year;
4. Upon notification by the local educational agency to the parent of the decision to remove the child from his or her current placement and the removal constitutes a change of placement under the discipline provisions of IDEA and state rules because of a violation of a code of student conduct;
5. Prior to accessing a child’s or parent’s public benefits or insurance for the first time; and
6. Upon request by the parent.

ii. Content of Parent Rights

The content of the notice includes a full explanation of all the procedural safeguards available relating to individual educational evaluations; prior written notice; parental consent; access to education records; and the opportunity to present and resolve complaints through the State complaint procedures and due process hearing which includes:

1. The time period in which to file a complaint or due process hearing;
2. The opportunity for the agency to resolve the complaint; and
3. The difference between the due process hearing and the state complaint process, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

Contents also include the availability of mediation, the child’s placement during the pendency of any due process hearing; procedures for children who are subject to placement in an interim alternative education setting; requirements for unilateral placement by parents of children in private school at public expense; due process hearings, including requirements for disclosure of evaluation results and recommendations; appeals of due process hearings, including the time period in which to file those actions; attorneys’ fees; and notice provided in language understandable to the parents.

iii. Prior Written Notice

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

1. Identification (process to determine eligibility)
2. Evaluation (nature and scope of assessment procedures)
3. Educational placement (educational placement of children, including graduation)
4. FAPE (the provision of the free appropriate public education to children)

Prior Written Notice is often contained within the IEP document if the discussion occurred during an IEP

meeting. At other times, the School will respond in writing to a parent request with the following information:

1. A description of the action refused or proposed by the School.
2. An explanation of why the School refuses or proposes to take the action.
3. A description of the evaluation procedure, assessment, records, or report used as a basis for the proposed or refused action.
4. A statement that the parents have the protections of the procedural safeguards.
5. The sources for the parents to contact to understand the procedure safeguards.
6. A description of other options the IEP team considered and the reasons why those options were rejected.
7. A description of other factors that are relevant to the district's proposal or refusal.

iv. Parent opportunity to review records

The School provides an opportunity for the parents of a child with a disability to inspect and review all education records relating to the identification, evaluation, educational placement and provision of FAPE to the child. These rights include the right to a response from the local education agency to reasonable requests for explanations and interpretations of the records, the right to request the local education agency to provide copies of the records and the right to have a representative of the parent to inspect and review the records. The local education agency may presume that the parent has these rights unless the School has been advised that the parent does not have the authority due to State law governing, guardianship, separation and divorce. All rights of parents to examine education records shall transfer to the child at age 18. Participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education (FAPE) to such child. Parents may also obtain an independent educational evaluation of the child.

v. Parental participation in meetings

The parents of a child with a disability are afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and the provision of a FAPE to the child. A meeting does not include informal or unscheduled conversations involving local education agency personnel and does not include conversations on issues such as teaching methodology, lesson plans or coordination of service provision. A meeting also does not include preparatory activities that local education agency personnel engage in to develop a proposal or to respond to the parent's proposal that will be discussed at a later meeting. Each local education agency shall ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

If the parents cannot participate in a meeting in which a decision is to be made relating to the educational placement of their child, the local education agency shall use other methods to ensure their participation, including individual or conference telephone calls or video conferencing. A placement decision may be made by a group without the involvement of the parent(s) if the local education agency is unable to obtain their participation in the decision. In this case, the local education agency must have a record of its attempts to ensure their involvement, including information that is consistent with State Board of Education Rule 160-4-7-.06 Individualized Education Program. The local education agency makes reasonable efforts to ensure that the parents understand and can participate in any group discussions relating to the educational

placement of their child, including arranging for an interpreter for parents with deafness or whose native language is other than English.

The School provides notice consistent with Rule 160-4-7-.06(11)(a) to ensure that parents of children with disabilities have the opportunity to participate in meetings described above.

vi. Independent Educational Evaluations

When a parent of a student with a disability disagrees with an evaluation conducted by the School, the parent has the right to request that the School fund an independent educational evaluation. An Independent Educational Evaluation is an evaluation conducted by a qualified examiner who is not an employee of the School. Any results obtained through this independent evaluation must be considered by the School in any eligibility or placement decision. School administrators and teachers are asked to notify the Special Education Coordinator immediately upon receipt of this request. The School is under strict time constraints once a parent makes this request.

As used in this section, “independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the local education agency responsible for the education of the child with a disability in question. As used in this section, “public expense” means that the local education agency pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parents.

The parent(s) has/have the right to an independent educational evaluation at public expense if the parent(s) disagree(s) with an evaluation conducted/obtained by the local education agency, subject to the conditions in paragraphs described below:

1. If a parent requests an independent educational evaluation at public expense, the local education agency must, without unnecessary delay either, initiate an impartial due process hearing to show that its evaluation is appropriate, or ensure that an independent educational evaluation is provided at public expense, unless the local education agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria. If the final decision is that the local education agency’s evaluation is appropriate, the parent(s) still has/have the right to an independent educational evaluation but not at public expense.
2. If a parent requests an independent educational evaluation, the local education agency may ask for the parent’s reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the local education agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating an impartial due process hearing to defend the local education agency’s evaluation.
3. The School will provide to the parents, upon request, information about where an independent educational evaluation may be obtained and the local education agency’s criteria applicable for independent educational evaluations.
4. If the parent obtains an independent educational evaluation at public or private expense, the results of the evaluation shall be considered by the local education agency, if it meets state and local education agency criteria, in any decision made with respect to the provision of a FAPE to the child; and may be presented by either party as evidence at an impartial due process hearing under these Rules regarding that child.

5. If the administrative law judge or hearing officer conducting the impartial due process hearing requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense. Whenever the state or local education agency pays for an independent educational evaluation, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the state or local education agency uses when it initiates an evaluation. Except for the criteria described in this Rule, a local education agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.
6. A parent is entitled to only one independent education evaluation at public expense each time the local education agency conducts an evaluation with which the parent disagrees. Public expense is defined as the School pays for the full cost of the evaluation with cost not to exceed \$350.00 or ensures that the evaluation is otherwise provided at no cost to the parent.

vii. Parental Consent

At a minimum, informed parental consent is obtained before conducting an initial evaluation to determine if the child qualifies as a child with a disability; conducting any re-evaluation of a child with a disability; and providing initial special education and related services to a child with a disability. Consent to provide special education and related services is the consent for any special education and related services described in the IEP to provide FAPE. Annual decisions about what services are to be provided are made through the IEP process and are not part of this consent requirement.

Informed parental consent is obtained before disclosing personally identifiable information under conditions, accessing a child's or parent's public benefits or insurance for the first time as described in State Board of Education Rule 160-4-7-.02. The School makes reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the School is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

1. Despite reasonable efforts to do so, the local education agency cannot discover the whereabouts of the parent of the child;
2. The rights of the parents of the child have been terminated in accordance with state law;
3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
4. If the parent of a child does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the local education agency may, but is not required to pursue, the initial evaluation by utilizing the procedural safeguards of mediation or due process hearings. The local education agency does not violate its obligations under Child Find if it declines to pursue the evaluation.

The School (responsible for making FAPE available to a child with a disability) will obtain informed consent from the parent of the child before the initial provision of special education and related services to the child. If the parents of a child fail to respond or refuse to consent to services, the local education agency

may not utilize the procedural safeguards of mediation or a due process hearing to obtain agreement so that service may be provided.

If the parents of the child do not provide consent for the initial provision of special education and related services, or the parents fail to respond to a request to provide consent for the initial provision of special education and related services, the LEA will not be considered in violation of the requirement to make FAPE available to the child for which the local education agency sought consent. The local education agency is not required to convene an IEP Team meeting or develop an IEP for the child for whom the local education agency requests consent.

The School obtains informed parental consent prior to conducting a re-evaluation of a child with a disability. If the parent refuses to consent to the re-evaluation, the School may, but is not required to, pursue the re-evaluation by using the consent override procedures by accessing the mediation or due process hearing procedures. The School does not violate its obligation if it declines to pursue the re-evaluation.

viii. Parent Refusal for consent/revocation

Parents have the right to request to revoke the consent for placement of their child with disabilities. If a parent requests to revoke consent, then the Special Education Coordinator must be notified and all of Prior Written Notice steps must be followed. The IEP Team will meet with the parent to discuss this request. Often the parent may not understand all ramifications of this choice, so the process should be explained to the parents so that they understand the rights that they would be giving up when revoking consent. The following information is given to the parent of the child requesting revocation of special education services:

1. Upon parent request, all Special Education services would be eliminated for this student. These services include special transportation, other related services such as Occupational Therapy and Physical Therapy, benefits from other public and private programs, testing accommodations, and provision of assistive technology.
2. This revocation may impact the student's high school graduation requirements and diploma options.
3. The Individual Education Program (IEP) developed for this student and his/her eligibility/re determination report has deemed him or her eligible for Special Education and in need of services.
4. By revoking Consent for Placement, the parent would be giving up the procedural safeguards available under the Individuals with Disabilities Education Act (IDEA).
5. The revocation of parental Consent for Placement means that the School is not deemed to have "knowledge of disability" under IDEA and that all rules and timelines for student discipline (including suspension, expulsion, and manifestation) that apply to general education students would apply to this student.

The parent is not allowed to revoke "partial" consent for only some of the services provided by the IEP. If the parent and the School disagree about whether a Free and Appropriate Public Education (FAPE) would be provided with or without the provision of a service, the parent may use the due process procedures outlined in Special Education Parental Rights to obtain a ruling regarding the services. Consent for services is for consent for special education.

ix. Parent Consent not required

Parental consent is not required before:

1. Reviewing existing data as a part of an evaluation or re-evaluation; or
2. Administering a test or other evaluation that is administered to all children unless consent is required of parents of all children.

The School may not use a parent's refusal to consent to one service or activity under subparagraph (d) – (f) of paragraph 6 of this Rule to deny the parent or child any other service, benefit, or activity of the local education agency.

If the parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or reevaluation, or the parent fails to respond to a request to provide consent, the local education agency may not use the consent override procedures described in this rule. To meet the reasonable efforts requirement in the consent section of this Rule, the local education agency must document its attempts to obtain parental consent

x. Parent training

Assistance may be provided to parents to understand the special needs of their child and information about child development; and to acquire the necessary skills to support the implementation of their child's IEP if determined by the IEP Team as a related service.

b. Surrogate Parent (SBOE Rule: 160-4-7-.11)

In order to provide every student eligible for public education with the protection of procedural due process, under circumstances where a student's parents or guardians are not known or are unavailable, or a student is a ward of the State, that student will be assigned a surrogate parent. (Refer to Federal Regulations 300.519.) The person who is selected to be a surrogate parent may not be an employee of the State Education Agency, Local Education Agency or any agency that is involved in the education or care of the child; has no personal or professional interest that conflicts with the interest of the child s/he represents; and has knowledge and skills that ensure adequate representation of the child (attends a Surrogate Parent Training Session.) In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents.

Children who are in the custody of the Department of Family and Children's Services (DFCS) and the Department of Juvenile Justice (DJJ) are considered "wards of the state" or in Georgia the term most often used "in state custody". Children in the custody of DJJ or DFCS that are residing in group homes, residential facilities, or emergency shelters may all qualify as wards of the state that need a surrogate parent. Children in the custody of DFCS who reside with a foster parent are also wards of the state; however, the foster parent can fit the definition of parent under the 2004 Individuals with Disabilities Educational Act (IDEA). Therefore, a foster parent can sign Consent to Evaluate and to Place in Special Education without getting a surrogate parent or requiring that the foster parent attend training prior to signing.

If the child is in the custody of a State agency (DFCS), then the child is a ward of the state. If the child is a ward of the state, then the following question must be asked to determine whether a surrogate is needed or

not. If the child is in the custody of DFCS, then ask the person enrolling the child if the child resides with a foster parent. If the answer is YES, then the foster parent may sign the legal forms. If the answer is NO, then the School will assign a surrogate parent to the case. The Special Education Coordinator is responsible for assigning surrogate parents to specific cases.

c. Dispute Resolution (SBOE Rule: 160-4-7-.12)

i. Complaint Process

An organization or individual, including an organization or individual from another state, may file a signed, written complaint regarding allegations of substance. The complaint shall include a statement that the School has violated requirements of the Individuals with Disabilities Education Act (IDEA) and the facts on which the statement is based, the signature and contact information for the complainant, and, if alleging violations with respect to a specific child, the name and address of the residence of the child, the name of the school the child is attending, in the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending, a description of the nature of the problem, including facts relating to the problem, and a proposed resolution to the problem to the extent known and available to the party at the time the complaint is filed.

1. The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.
2. The party filing the complaint must forward a copy of the complaint to the local education agency at the same time the party files the complaint with the Georgia Department of Education (GaDOE).
3. The complaint shall be reviewed and investigated as necessary and appropriate action taken within 60 calendar days of its receipt by the Georgia Department of Education (GaDOE).
4. If a written complaint is received that is also the subject of an impartial due process hearing or contains multiple issues, some of which are a part of an impartial due process hearing, the portions of the complaint that are not a part of that hearing shall be resolved, following the time limits and procedures described in this rule. The portions of the complaint which are also the subject of an impartial due process hearing shall be set aside pending the conclusion of the hearing.
5. If a written complaint is received which contains issues previously decided in an impartial due process hearing involving the same parties, the hearing decision is binding on that issue, and the complainant shall be so informed by the Georgia Department of Education (GaDOE). However, a complaint alleging the School's failure to implement an impartial due process hearing decision shall be resolved, following the time limit and procedures described in this rule.
6. Through activities of the Georgia Department of Education (GaDOE) and School, the state complaint procedures will be widely disseminated to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.
7. The complaint procedure is as follows:
 - a. Complaints from any organization or individual shall be signed and addressed in writing to:

Director, Division for Special Education Services
Georgia Department of Education

1870 Twin Towers East
Atlanta, Georgia 30334-5010

- b. The party filing the complaint must forward a copy of the complaint to the local education agency serving the child at the same time the party files the complaint with the State. The complaint should also be forwarded to the Executive Director of the School.
 - c. The complaint shall include a statement that the State or School has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) and the facts on which the statement is based, the signature and contact information for the complainant, and, if alleging violations with respect to a specific child, the name and address of the residence of the child, the name of the school the child is attending, in the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending, a description of the nature of the problem of the child, including facts relating to the problem, and a proposed resolution to the problem to the extent known and available to the party at the time the complaint is filed.
 - d. The Divisions for Special Education Services and Supports shall address the issue with the School in writing and request a response within 10 business days from the public agency directly involved.
 - e. The School shall then respond directly in writing and shall describe any explanation and/or actions relevant to the allegations.
8. Copies of all correspondence shall be sent to the parties involved that include the complainant, the Georgia Department of Education (GaDOE) and the School. In some cases, where the parent of the child is not the complainant, the parent shall also receive copies of all correspondence and the complainant may only receive copies of information that include personally identifiable information if the parent has provided consent to release such information.
 9. The parent who files the complaint and the School shall have the opportunity to voluntarily engage in mediation to resolve the issues within the complaint.
 10. Upon receipt of the first State complaint from a parent in a school year, the School shall provide the parent with a copy of procedural safeguards available to the parents of a child with a disability.
 11. The Divisions for Special Education Supports and Services shall review the School's response and a decision may then be made that no further action is required. If, however, the issue is not fully resolved, complaint investigators from the Division for Special Education Supports and Services shall be assigned to carry out an independent investigation, including an onsite visit, if necessary, to clarify the issue.
 12. The on-site complaint team shall gather information to determine whether there has been a violation of state rules and/or Part B of the Individuals with Disabilities Education Act (IDEA). The on-site review may include examination of records, interviews and classroom visits.
 13. The Division for Special Education Supports and Services shall give the complainant the opportunity to submit additional information, either orally or in writing, regarding the allegations in the complaint.
 14. The Division for Special Education Supports and Services shall review all relevant information and make an independent determination as to whether the School is violating a requirement of Part B of the Individuals with Disabilities Education Act (IDEA).
 15. The Division for Special Education Supports and Services shall issue a written decision to the School and the complainant that addresses each allegation in the complaint and includes findings of fact and conclusions and the reasons for the final decision.

16. The Division for Special Education Supports and Services shall include in the decision the steps necessary to resolve the complaint, including technical assistance activities, negotiations, and corrective actions to achieve compliance. This letter of notification shall include specific requirements and timelines that shall be met in order to continue to receive IDEA federal funds or state special education funds.
17. If the complaint findings indicate a failure to provide appropriate services, the complaint resolution process will address how the School is to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and to the future provision of services for all students with disabilities.
18. The Georgia Department of Education (GaDOE) must not make any final determination that the School is not eligible for assistance under part B of the Act without first giving the School reasonable notice and an opportunity for a hearing.
19. Complaints that the School has failed to meet the requirements regarding children who are parentally placed in private schools must be filed under the complaint procedures outlined above. Complaints regarding Child Find are to be filed with the School in which the private school is located, and a copy forwarded to the Georgia Department of Education GaDOE).

ii. Mediation Process

The School ensures that procedures are established and implemented to allow parties to dispute involving any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE) to resolve such disputes through a mediation process. The mediation process shall be available on request of either party to resolve disputes and offered upon each receipt of a complaint or a due process hearing request.

The procedures shall ensure that the mediation process:

1. Is voluntary on the part of the parties;
2. Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of IDEA; and
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

The Georgia Department of Education shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. Mediators shall be selected on a random, rotational or other impartial basis.

An individual who serves as a mediator may not be an employee of the Georgia Department of Education or the School that is involved in the education or care of the child; and Mediators must not have a personal or professional interest that conflicts with the person's objectivity.

A person who otherwise qualifies as a mediator is not an employee of the School, or a State agency solely because he or she is paid by the Georgia Department of Education to serve as a mediator.

The State shall bear the cost of the mediation process. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute. If the parties resolve a dispute through the mediation process, they shall execute a legally binding agreement

that sets forth the resolution and states that:

1. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings; and
2. Is signed by both the parent and a representative of the School with the authority to bind the School.

The written signed mediation agreement is enforceable in any state court of competent jurisdiction, in a district court of the United States or through the State Complaint Process.

iii. Impartial Due Process Hearings

The impartial due process hearing is designed to provide a parent or School an avenue for resolving differences with regard to the identification, evaluation, placement or provision of a free and appropriate public education (FAPE) to a child with a disability. The due process hearing request must allege a violation that occurred not more than two years before the date the parent or School knew or should have known about the alleged action that forms the basis of the due process hearing request. The timeline does not apply to a parent if the parent was prevented from filing a due process complaint due to specific misrepresentations by the school district that it had resolved the problem forming the basis of the complaint; or the school district's withholding of 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 such costs to the prevailing party.

The School must inform the parents of low-cost or no cost legal and other relevant services available if the parent requests the information or whenever a due process request is received by the School. Due Process Request Procedures are as follows:

1. The party filing a due process hearing request must provide a copy to the other party and the state. When the party filing a due process hearing request is not the School, the party must provide a copy to the Executive Director of the School.
2. Either party, or the attorney representing either party, may file the due process hearing request.
3. The state and the parties shall keep the content of the due process request confidential.
4. The content of the complaint must include:
 - a. The name of the child
 - b. The address of the residence of the child;
 - c. The name of the School; For a homeless child, the contact information for the child and the School;
 - d. A description of the nature of the problem of the child relating to the proposed or refused initiation or change in the identification, evaluation, placement or provision of a free appropriate public education (FAPE) including the facts relating to the problem;
 - e. A proposed resolution to the problem to the extent known and available to the party at the time.
5. A hearing may not occur until the party or the attorney representing the party files a request that meets the requirements stated above.
6. The request for the due process hearing must be deemed sufficient unless the receiving party

- notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process request that the receiving party does not believe the request meets the requirements above.
7. Within five days of receipt of notification of alleged insufficiency, the administrative law judge or hearing officer must decide on the face of the due process request of whether it meets the requirements and must immediately notify the parties in writing of that determination.
 8. A party may amend its due process request only if:
 - a. The other party consents in writing to the amendment and is given the opportunity to resolve the due process request through mediation or a resolution meeting; or
 - b. The administrative law judge or hearing officer grants permission not later than five days prior to the beginning of the hearing
 9. If an amended due process hearing request is appropriately filed, the timelines for the resolution meeting and the resolution period begin again.
 10. The School's response to a due process hearing request will be as follows:
 - a. If the School has not sent prior written notice regarding the subject matter of the due process hearing request to the parent, the School must within ten days of receiving the due process hearing request, send to the parent a response that includes an explanation of why the School proposed or refused to take action; a description of other options that the IEP team considered and the reasons why these options were rejected; a description of each evaluation procedure, assessment, record, or report the School used as the basis for the proposed or refused action; a description of the other factors that are relevant to the School's proposed or refused action.
 - b. The School's response does not preclude the system from asserting that the parent's due process request is insufficient.
 11. Unless responded to as above, any party receiving a due process hearing request must send to the other party within ten days a response that specifically addresses the issues raised in the due process hearing request.

iv. Resolution process

Within 15 days of receiving a parent's due process hearing request and prior to the initiation of a due process hearing, the School 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 that includes a representative of the School who has decision-making authority on behalf of the School and may not include an attorney for the School unless the parent is accompanied by an attorney. The parent and the School determine the relevant members of the IEP Team to attend the meeting.

The purpose of the meeting is for the parent of the child to discuss the due process hearing request, and the facts that form the basis of the request, so that the School has the opportunity to resolve the dispute that is the basis of the request for a due process hearing.

The resolution meeting need not be held if the parent and the School agree in writing to waive the meeting or the parent and the School agree to use mediation to attempt to resolve the due process hearing request.

v. The Resolution Period

If the School has not resolved the due process hearing request to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. The failure or refusal

of the parent to participate in the resolution meeting shall delay the timelines for the resolution process and the due process hearing until the meeting is held, unless the parties have agreed to waive the resolution meeting or to participate in mediation. If the School is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in the State Board of Education rule, the School may at the conclusion of the 30-day resolution period, request that an administrative law judge or hearing officer dismiss the parent's due process hearing request.

The 45-day timeline for the due process hearing starts the day after the administrative law judge or hearing officer 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 end of the 30-day period, the parties agree in writing that no agreement is possible;
3. If both parties agree in writing to continue the mediation at the end of the resolution period, but later, the parent or School withdraws from mediation.
4. If a resolution to the dispute is reached at the resolution meeting, the parties must execute a legally binding agreement that is signed by both the parent and a representative of the School who has the authority to bind the School. The agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States, or through the State Complaint Process. If the parties execute an agreement, a party may void the agreement within three business days of the agreement's execution.

The impartial administrative law judge or hearing officer must not be an employee of the Georgia Department of Education or the School that is involved in the education or care of the child. A person who otherwise qualifies to conduct a hearing is not an employee of the Georgia Department of Education or its representatives solely because he or she is paid by Georgia Department of Education to serve as an administrative law judge or hearing officer, must not be a person having a personal or professional interest that conflicts with the person's objectivity in the hearing, must not be previously familiar with the student or the parents/guardian/surrogate unless through previous administrative procedures, and must not be previously personally familiar with the specific program or services of the School at issue in the hearing.

Information arising solely from previous due process hearings shall not impair an administrative law judge's impartiality, but information or personal knowledge from other sources about the School or family, including the education or employment of the administrative law judge's family shall impair that particular individual's impartiality in the particular case when any factor or event may impair or appear to impair the impartiality of the administrative law judge, such factors shall be timely disclosed to all parties. The ALJ must possess knowledge of, and the ability to understand, the provisions of the IDEA, Federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by Federal and State courts, must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. The Georgia Department of Education or its representatives must keep a list of the persons who serve as administrative law judges or hearing officers. The list must include a statement of the qualifications of each of those persons.

vi. Subject matter of due process hearings

The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process hearing request unless the other party agrees otherwise.

vii. Timeline for requesting a hearing

A parent or agency must request an impartial hearing on their due process hearing request within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process request.

viii. Exceptions to the timeline

The timeline does not apply to a parent if the parent was prevented from filing a due process hearing request due to specific misrepresentations by the School that it had resolved the problem forming the basis of the due process hearing request; or the School's withholding of information from the parent that was required to be provided to the parent. Any party to a due process hearing has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
4. Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing;
5. Obtain written, or, at the option of the parents, electronic findings of fact and decisions.
6. Disclosure by each party to the other party at least five business days prior to a hearing all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. An administrative law judge or hearing officer may bar any party that fails to comply with this disclosure rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.
7. The calculation of business days under this section for the purposes of disclosure shall be calculated in accordance with the Georgia Civil Practice Act.
8. Obtain a list of all potential witnesses at least five business days before the hearing. If the witness list, due to its length or other factors, does not reasonably disclose the potential witnesses in the hearing, any party or the administrative law judge on his/her own motion may require a party to amend his/her witness list to include only the names of such persons who may testify and the general thrust of their testimony. The parties may agree to settle the matters in dispute at any time whereupon the ALJ, upon written request, shall enter an order dismissing the matter.

A party may file a motion for voluntary dismissal at any time, up until five days before the scheduled date of the hearing. No motion for voluntary dismissal shall be considered if filed after that time. Any motion for voluntary dismissal filed pursuant to this subsection shall include a statement of the reason(s) for requesting dismissal. Within five (5) days after service of the motion for voluntary dismissal pursuant to this subsection, the opposing party may file a response to the motion for voluntary dismissal. If the ALJ determines that the motion has been made for good cause, the case shall be dismissed without prejudice and the party shall be authorized to re-file the complaint within the time authorized under the applicable statute(s) of limitations. If the ALJ determines that there is a lack of good cause, and the party fails to appear at any scheduled hearing, or to otherwise prosecute their case, the party's claims will be deemed abandoned and dismissed with prejudice.

The party seeking relief shall bear the burden of persuasion with the evidence at the administrative hearing. The administrative law judge or hearing officer shall retain the discretion to modify and apply this general principle to conform with the requirements of law and justice in individual cases under unique or unusual circumstances as determined by the administrative law judge or hearing officer. Parents involved in hearings must be given the right to:

1. Have the child who is the subject of the hearing present;
2. Open the hearing to the public; and
3. Have the record of the hearing and the findings of fact and decisions provided at no cost to parents.

An administrative law judge or hearing officer's determination of whether a child received FAPE must be based on substantive grounds. In matters alleging a procedural violation, an administrative law judge or hearing officer may find that a child did not receive a free and appropriate public education (FAPE) only if the procedural inadequacies impeded the child's right to a free and appropriate public education, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a free and appropriate public education to the parent's child, or caused a deprivation of educational benefit. Nothing in this paragraph shall be construed to preclude an administrative law judge or hearing officer from ordering the School to comply with procedural requirements. Nothing in this Rule shall be construed to preclude a parent from filing a separate due process hearing request on an issue separate from a due process hearing request already filed.

The Georgia Department of Education, after deleting any personally identifiable information, must transmit the findings and decisions to the State advisory panel and make those findings and decisions available to the public. A decision made in a due process hearing is final, except that any party involved in the hearing may appeal the decision under the provisions in paragraph(s) below.

The Georgia Department of Education must ensure that not later than 45 days after the expiration of the 30-day resolution period or the adjusted resolution time periods that:

1. A final decision is reached in the hearing; and
2. A copy of the decision is mailed to each of the parties.

An administrative law judge or hearing officer may grant specific extensions of time beyond the periods set out in this rule at the request of either party. The hearing officer or administrative law judge must notify the parties in its written order granting the extension of the new date by which the decision shall be provided. Each hearing must be conducted at a time and place that is reasonably convenient to the parents and child involved

ix. Civil Action

Any party aggrieved by the findings and decision made by an administrative law judge or hearing officer has the right to bring a civil action with respect to the due process hearing request notice requesting a due process hearing. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. The party bringing the action shall have 90 days from the date of the decision of the administrative law judge or hearing officer to file a civil action.

In any civil action, the court receives the records of the administrative proceedings directly from the administrative law judge or hearing officer, hears additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate. The district courts of the United States have jurisdiction of actions brought under section 615 of the IDEA without regard to the amount in controversy.

x. Rule of construction

Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the IDEA, the procedures under IDEA must be exhausted to the same extent as would be required had the action been brought under the IDEA.

xi. Attorneys' fees

In any action or proceeding brought under the due process hearing provisions of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the prevailing party who is the parent of a child with a disability or to a prevailing party who is the Georgia Department of Education or the School against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or to a prevailing Georgia Department of Education or School against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under the due process hearing provisions of the IDEA. This does not preclude a public agency from using funds under Part B of the IDEA for conducting an action or proceeding under section 615 of the IDEA. If a court awards reasonable attorneys' fees, they must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph. Attorneys' fees may not be awarded, and related costs may not be reimbursed in any action or proceeding under the due process hearing provisions of IDEA for services performed subsequent to the time of a written offer of settlement to a parent if:

1. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;
2. The offer is not accepted within 10 days; and
3. The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. An award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer. Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for mediation. A meeting conducted pursuant to the resolution process shall not be considered a meeting convened as a result of an administrative

hearing or judicial action, or an administrative hearing or judicial action, for purposes of this section. The court may reduce the amount of the attorneys' fees awarded if the court finds that:

- a. The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- b. The amount of attorney's fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
- c. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or the attorney representing the parent did not provide to the local education agency the appropriate information in the due process hearing request notice.

The provisions of the above paragraph do not apply if the court finds that the State or local education agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of IDEA.

xii. Child's status during proceedings

Except as noted in the State Board of Education Rule 160-4-7-.10 Discipline, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, unless the State or School and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement. If the due process hearing request involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

If the due process hearing request involves an application for initial services under this part from a child who is transitioning from Part C (Babies Can't Wait) to Part B and is no longer eligible for Part C services because the child has turned three, the School is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, the School must provide those special education and related services that are not in dispute between the parent and the School. If the administrative law judge or hearing officer in a due process hearing conducted by the State agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the School and the parents.

SECTION 5: READINESS FOR COLLEGE AND CAREER

The School currently only serves elementary students, but as a school determined to prepare the next generation of Atlanta's leaders, it prioritizes college and career readiness with its elementary students.

Approval

Policy Approval Date: 3/18/2021

Policy Effective Date: 3/18/2021