

SUMTER COUNTY SCHOOLS

Special Education Procedures Manual

Revised December 1, 2019

This Special Education Policies and Procedures Manual details the procedures that the Sumter County School System will follow in complying with the state and federal regulations pertaining to educating students with special needs. The school system adopts and incorporates by reference the applicable provisions of IDEA, including those presently set forth in 20 U.S.C. S 1415 and State of Georgia Department of Education Rules.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Overview of Special Education:

The Sumter County School System offers an array of special services on and off its campuses. Our Special Education Department serves students who qualify for services in one or more of the following areas: mildly intellectual disability, moderate intellectual disability, severe intellectual disability profound, intellectual, disability, emotionally and behavior disordered, specific learning disability, hearing impairment, other health impaired, visual impairment, orthopedic impairment, speech language impairment, autism, traumatic brain injury, and significant developmental delay.

These students are served in special education programs at various sites in a variety of settings, including general education classrooms, resource, and self-contained classrooms, as well as related vocational instructional programs. These programs and curriculum prepare students for college and career readiness for work experience, and transition into the community workforce.

Services:

Related Services: Students with disabilities in Sumter County may also receive related services in the areas of transportation, occupational therapy, physical therapy, audiology, orientation and mobility training, and Interpreter services.

Preschool Special Education: Services are available through our PEECH (Partners in the Early Education of children with Handicaps) program for children ages 3 and 4 with identified disabilities. These services are delivered through facility -based community programs. The school system transfers to PEECH all state and federal allocations for preschool special education. With Chattahoochee Flint RESA serving as the fiscal agent, the Sumter County School System agrees for PEECH to budget, request, and expend those funds, and prepare the completion reports for those funds.

Special Services: Sumter County provides services to students with severe emotional /behavioral disorders through the regional Georgia Network of Educational and Therapeutic Services (GNETS) program. The Flint area Learning Center is part of this statewide network and is located in Crisp County.

Vocational Rehabilitation Counseling Service: Through a cooperative agreement with the Department of Human Resources Program of Rehabilitation Services. The counselor serving Sumter County Schools provides part-time services to students within the Sumter County School System.

Transition Planning: Transition planning services is the bridge for special education students toward college and career readiness. Transition planning focuses on individual student interests, a diploma track, education, and postsecondary employment goals. Independent living may also be a focus for low -functioning special needs students, if applicable.

Personnel: Each year adhering to local Board policy, an attempt is made by the Sumter County School System to employ and maintain highly-qualified teachers to provide services to students with disabilities. Paraprofessionals are employed to support instruction in special education classrooms and general education classrooms. Additionally speech and language pathologists provide services to all school sites, as well as physical therapists, and occupational therapists.

Psychological Services: School Psychology is a profession dedicated to promoting healthy learning and adjustment among all school-aged children. In Sumter County psychological services are contracted through Chattahoochee -Flint RESA. The school psychologist provides support to students, parents, and district personnel in a variety of ways:

- Administer and interpret formal and informal psychological tests with individual students.
- Participate in the eligibility determination.
- Consult with school staff to assist behavioral interventions and to help others deal more effectively with Children.

Personal Goals and Objectives

The Board's specific personal goals are:

1. To employ the best available personnel to staff the school system;
2. To provide attractive compensation and benefits for staff welfare;
3. To develop and implement personnel evaluation processes which will contribute to the improvement of staff capabilities and the learning program;
4. To provide an in-service training program for all employees to improve the educational program and aid each staff member's career aspirations;
5. To assign personnel to ensure they are utilized as effectively as possible;
6. To develop a climate which will produce the highest staff performance morale and satisfaction

Policy:

Equal Opportunity Employment

It is the policy of the Sumter County Board of Education not to discriminate on the basis of sex, age, race, color, creed, national origin, native language, religion, physical handicap/disability, marital status or political affiliation in the educational programs and activities of or admissions to facilities operated by the Board or in the employment practices of the Sumter County Board of Education.

Policy:

Annual Contract: Disqualifying Acts, Job Description

- a. All teachers, principals, other certificated professional personnel, and other personnel of a local unit of administration shall be employed and assigned by its governing board on the recommendation of its executive officer. Minimum qualifications for employment of all personnel may be prescribed by the State Board of Education unless otherwise provided by law. Employment contracts of teachers, principals, and other certified professional personnel shall be in writing, and such contracts shall be signed in duplicate by such personnel on their own behalf and by the executive officer of the local unit of administration on behalf of its governing board.
- b. Any other provisions of this article or any other laws to the contrary notwithstanding, the LEA local governing board shall, by not later than April 15 of

to allow for the receipt of the results of the criminal record check. Teachers, principals, and other certificated personnel whose employment in a local unit of administration is renewed pursuant to this subpart after July 1, 2000, shall have a criminal record check made as required by this subsection upon any certificate renewal application to the Professional Standards Commission. The local unit of administration shall adopt policies to provide for the subsequent criminal record checks of non-certified personnel continued in employment in the local unit of administration.

1. Fingerprints shall be in such form and of such quality as shall be acceptable for submission to the National Crime Information Center under standards adopted by the Federal Bureau of Investigation or the United States Department of Justice. It shall be the duty of each law enforcement agency in this state to fingerprint those persons required to be fingerprinted by this subsection.

At the discretion of local units of administration, fees required for a criminal record check by the Georgia Crime Information Center, the National Crime Information Center, the Federal Bureau of Investigation, or the United States Department of Justice shall be paid by the local unit of administration or by the individual seeking employment or making application to the Professional Standards Commission.

2. It shall be the duty of the LEA to submit this subsection to the Georgia Bureau of Investigation for submission to the Federal Bureau of Investigation and the United States Department of Justice for their consent to conduct criminal record checks through the National Crime Information Center as required by federal law, rules, or regulations. No criminal record

3. Checks through the National Crime Information Center shall be required by this subsection unless and until such consent is given.

4. Information provided by the Georgia Crime Information Center or the National Crime Information Center shall be used only for the purposes allowed by Code Section 35-3-35 or by applicable federal laws, rules, or regulations.

5. The LEA is authorized to adopt rules and regulations necessary to carry out the provisions of this subsection.

Job Responsibilities-Special Education Teacher

The role of the Special Education Teacher encompasses a broad range of responsibilities, extending from the individual student, to the classroom, to the school as a faculty member, to the central office, and into the community at large. The responsibilities of the Special Education Teacher include:

1. **Developing and Maintaining IEPs**
 - Follow procedures in the GoIEP handbook for writing IEPs and SMART goals
 - Review IEPs on an ongoing basis
 - Report progress on annual goals at the end of each grading period Maintain a current IEP for each child on teacher's caseload

2. **Maintaining Student Records/Reporting Student Data**
 - Maintain student records in a uniform order (review the guidelines for organization of Individual Student Files.
 - Report student data as requested by the School Coordinator or Special Education Director.
 - Provide a Caseload Report as directed to the school's SpEd team leader or district's SpEd Coordinator.
 - Provide an FTE Service Entry Form on all students Listed on the teacher's Caseload Report.
 - Provide a written schedule
 - Completing portions of all Eligibilities

3. **Documenting Parent/Guardian/Surrogate Contacts**
 - Contacts with parent(s) guardian(s)/surrogate(s) for due process meetings should be documented in the IEP (document phone calls, home or work site visits, written notice, email, etc.)
 - Other contacts with parent(s)/guardian(s)/surrogate(s) should be recorded and scanned and uploaded into GoIEP.

4. **Evaluating Student Progress**
 - Uses progress monitoring and GoIEP Progress Reports to report progress on the student's IEP Goals.

- For all personnel in the school system, breaching confidentiality is a violation of Ethics and may result in a reprimand or dismissal. Georgia State Rules http://public.doe.k12.ga.us/_documentsjdoe/legalservices/160-4-7-.08.pdf

Job Responsibilities-Special Education School Lead Teacher

The School Lead Teacher for special education within the school. In this role, the school team leader involves parents, general education teachers, and special education personnel in providing the most appropriate educational options for Students with disabilities.

The SpEd Team Leader:

- Attends all SpEd Team Leader Meetings and redelivers this information to SpEd Staff in a timely manner.
- Parents (act as liaison for administration)
- Discipline
- Tracking number of OSS Days
- Scheduling and conducting Manifestation Determination Reviews as needed as the SpEd Coordinator's designee.
- Coordinating provision of FAPE when student's OSS results in excess of 10 days
- Instruction (scheduling/coordinating co-teaching)
- Work with Instructional Coaches to ensure that the teachers are following the standards-based teaching format.
- Peer reviews IEPs
- Supervises all aspects of writing legally defensible IEPs that comply with state and federal laws and regulations by reviewing IEPs for:
 - amendments
 - matching goals to needs in PLAAPP
 - measurable annual goals
 - progress monitoring goals
- Ensures accurate and timely completion of all SpEd paperwork of all special education teachers:
 - Annual reviews

- The Office for Civil Rights; and
- Officials within the Department of Human Resources, Department of Corrections, Department of Juvenile Justice, and Department of Labor for the purposes of making appropriate educational decision regarding the student's placement.

SAFEGUARDS

1. The Sumter County Special Education Services personnel will maintain confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction states.
2. Unauthorized persons are not permitted to receive personally identifiable information without parent consent. The Sumter County Special Education Services personnel will ensure that parent consent is received before releasing personally identifiable information to any third party, unless the third party serves as an exclusionary member Listed under the Consent section on page 5 of this manual.
3. To ensure compliance with the collection or use of personally identifiable information, the district superintendent will assign a designee to provide annual training on the district's policies and procedures.

DESTRUCTION OF INFORMATION

1. The Sumter County Special Education Services Program will maintain student records, pursuant to a records retention schedule utilized by the Sumter County Board of Education.
2. If an outstanding request to inspect records has been issued by a parent or eligible student, the Sumter County Special Education Services Program will refrain from destroying an educational record.
3. Prior to the destruction of any student record, the Sumter County Special Education Services Program will notify parents that the records are no longer needed to provide education services to the student. In the notification process, the district will provide a definition of a student's permanent record, which includes the student's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed. A student's permanent record may be maintained indefinitely

Under 34 C.F.R. § 300.152(c)(2)(i), if a hearing officer has previously ruled on an issue at a due process hearing involving the same parties, the decision is binding on that issue. If a formal complaint involving the same parties is filed on the same issue that was previously decided by the hearing officer, the GaDOE must inform the complainant that the hearing decision is binding on that issue. 34 CFR §300.152(c)(2)(ii). However, the GaDOE must use its formal complaint resolution procedures to resolve any issue in the complaint that was not decided in the due process hearing. In determining that it will not resolve an issue in a formal complaint because that issue was previously decided in a due process hearing, the GaDOE must ensure that the legal and factual issues are identical. If a due process hearing was dismissed strictly on procedural grounds and the administrative law judge does not make findings or reach a decision on the merits of the issues, the GaDOE is not relieved of its responsibility to resolve those issues if raised in a formal complaint.

17. Is the SUMTER COUNTY SCHOOLS required to provide a copy of its response to a formal complaint to a third-party complainant?

The SUMTER COUNTY SCHOOLS is not required to provide a copy of its response and subsequent communications to a third-party complainant. If a complaint is filed by an organization or individual other than the parent, parental consent must be obtained before an SUMTER COUNTY SCHOOLS or SEA may provide personally identifiable information about a child to a non-parent complainant as part of the complaint decision. See 34 C.F.R. § 99.30 and 300.622

18. May the 60-day timeline for findings of compliance or noncompliance by the GaDOE be extended?

Yes. An extension of the 60 calendar-day time limit for resolution may be made by the GaDOE only when exceptional circumstances exist with respect to a particular complaint or if the complainant and the SUMTER COUNTY SCHOOLS involved agree to extend the time to engage in mediation, or to engage in other alternative means of dispute resolution. 34 C.F.R. § 300.152(b).

19. May the filing party withdraw the formal complaint?

Yes. The filing party may submit a request to withdraw the formal complaint to the GaDOE at any time during the 60-day timeline.

20. If the complainant is a party other than the parent, may parties use the mediation process to attempt to resolve the issue(s) in the formal complaint?

The regulations and rules require the GaDOE to offer the parent and the public agency the opportunity to engage in mediation voluntarily to resolve the issues in a GaDOE complaint. The regulations do not require GaDOE to provide mediation when an organization or individual other than the child's parent files a GaDOE complaint.

21. Can I appeal the written decision from the GaDOE that addresses each allegation in the complaint?

All decisions arising from the formal complaint process are final, and there is no appeal or reconsideration process. However, parties may request a due process hearing to address the same allegations that were raised and decided in the formal complaint process if those allegations are related to the identification, evaluation, educational placement or provision of free appropriate public education.

Due Process Hearings

22. What happens if a parent files a due process complaint with the SUMTER COUNTY SCHOOLS but does not forward a copy of the due process complaint to the GaDOE? When does the timeline for convening a resolution meeting begin?

The filing party is responsible for sending a copy of the due process hearing request to the GaDOE. However, the timeline for convening a resolution meeting begins on the day the SUMTER COUNTY SCHOOLS receives the request.

23. If a due process complaint is amended and the 15-day timeline to conduct a resolution meeting starts over, must the LEA conduct another resolution meeting?

Yes. The complaint can be amended only if the parties mutually agree in writing to the amendment and are given the opportunity for a resolution meeting, or the hearing officer grants permission to amend the complaint at any time not later than five days before the due process hearing begins. This process ensures that the parties involved understand and agree on the nature of the complaint before the hearing begins. When a due process complaint is amended, the timelines for the resolution meeting and the time period for resolving the complaint begin again with the filing of the amended due process complaint.

EVALUATION & REEVALUATION (34 C.F.R. §§ 300.301-300.311; GEORGIA RULE 160-4-7-.04)

Initial Evaluation

The IDEA requires that before a child can receive special education services, the SUMTER COUNTY SCHOOLS must determine whether the child requires specialized instruction and meets eligibility requirements for special education. The SUMTER COUNTY SCHOOLS must conduct (or arrange for) a comprehensive evaluation that:

- provides sufficient data to determine whether the child is a child with a disability;
- documents how the disability affects the child's academic, developmental, social/emotional, and/or behavioral performance in school; and
- provides appropriate information for the development of an Individualized Education Program (IEP), if eligible.

Parent Rights

Whenever the parent requests an evaluation or when a child has been referred for an initial comprehensive evaluation, the SUMTER COUNTY SCHOOLS must give the parent a copy of "Your Rights as Parents - Special Education" document and provide an explanation to ensure that the parent understands these rights. If a parent's primary language is not English, a translated copy in his or her language must be given to the parent whenever feasible. Translations may be accessed online at the [Parents' Rights](#) link on the Special Education web page of the GaDOE website.

Parental Consent for Initial Evaluations

Before an evaluation can begin, the SUMTER COUNTY SCHOOLS must obtain a signed, informed parental consent for evaluation. The SUMTER COUNTY SCHOOLS has 60 calendar days after receiving parental consent to complete the initial evaluation. Completion of the initial evaluation is defined as completion of the evaluation report(s). LEAs are not required to make the eligibility determination during the 60-day initial evaluation timeline. See Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, Question and Answer B-1, U.S. Dep't of Educ., Office of Special Education and Rehabilitative Services (OSERS), September 2011. However, the eligibility decision should be made within a reasonable period of

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time following the completion of the evaluation. See 71 Fed. Reg. 46637 (2006). As a matter of best practice, within 10 calendar days of the completion of the evaluation report(s), an eligibility meeting should be held. Development of the Individualized Education Program (IEP) can take up to 30 additional days. See 34 C.F.R. § 300.323(c)(1). The 60-calendar-day time period begins when an SUMTER COUNTY SCHOOLS employee receives the signed consent but excludes school holidays and other times when children are not in attendance for five or more consecutive school days, including the weekend days before and after the holiday period. Any summer vacation period when the majority of the SUMTER COUNTY SCHOOLS's teachers are not under contract does not count toward the 60-day time period. If consent is received 30 days or more before the end of the school year (defined as the teachers' last day under contract), the evaluation process must be completed within the 60-day time period. An exception to the 60day time period occurs if the parent fails or refuses to produce the child for the evaluation, if extenuating circumstances exist (e.g., illness, unusual evaluation needs, or revocation of parental consent), and if the child moves to another SUMTER COUNTY SCHOOLS after the 60-day time period has begun. Refer to the **Frequently Asked Questions** at the end of this section for further discussion of the 60-day time period for children who move to another SUMTER COUNTY SCHOOLS.

If the parent refuses to give consent for the evaluation, the district may, but is not required to, pursue the evaluation through mediation or a due process hearing. See 34 C.F.R. § 300.300(a). If the child is home schooled or placed by the parents in a private school at their expense, the SUMTER COUNTY SCHOOLS cannot use the mediation or due process hearing procedures to override the parents' refusal for evaluation. See 34 C.F.R. § 300.300(c)(4).

Parental consent is not needed for the SUMto perform these routine duties:

1. Review existing evaluation information.
2. Screen a child to determine appropriate instructional strategies for curriculum implementation.
3. Administer a test or evaluation that is given to all children without consent for that test or evaluation.

Multidisciplinary Evaluation Team

When a referral for special education evaluation is made due to a concern that the child may have a disability and be in need of special education and related services, the comprehensive evaluation will be conducted by a multidisciplinary team. This team may consist of the SUMTER COUNTY SCHOOLS's psychologist, educational diagnostician, speech-language pathologist,

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occupational therapist, physical therapist, the child's teacher(s), and others as appropriate to the evaluation. The child's parents are considered members of this team. The child should be evaluated in any area which committee members have determined to be an area of weakness. The team is responsible for formally or informally assessing the child in all areas related to a suspected disability. Formal assessments may include standardized, criterion-referenced tests, and norm-referenced tests, while informal assessments may include teacher-made assessments, naturalistic observations, and interviews. The child's parents will be asked to provide input during the evaluation process. Their information is valuable in developing the total picture of the child.

Comprehensive Evaluation

An initial evaluation needs to look at the needs of the whole child, regardless of the reason for the referral.

In a comprehensive evaluation, the SUMTER COUNTY SCHOOLS will:

- informally and formally assess all areas related to any suspected disability, including, if appropriate, vision and hearing, health, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
- use a variety of evaluation tools and strategies to gather relevant academic, functional, and developmental information about the child, including information provided by the parents;
- not use any single procedure as the only criterion for determining whether a child is a child with a disability or for determining an appropriate educational program for the child;
- use assessment techniques that may assess developmental, physical, intellectual, academic, communication, and social/emotional skills;
- use evaluation tools and strategies to provide relevant information that will directly assist the eligibility team in determining the educational needs of the child;
- use assessments and other evaluation materials to assess specific areas of educational need and not only those that are designed to provide a single general intelligence quotient (IQ) score; and
- select assessment methods that, when administered to a child with impaired sensory, manual, or communication skills (to include English Learner (EL) barriers), the results accurately reflect the child's aptitude or achievement level and are not culturally biased.

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Information Sources: Evaluations often use many of the following:

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

Steps in the Evaluation Process

1. Appropriate SUMTER COUNTY SCHOOLS staff or the parent make a referral for an evaluation. A parental consent for evaluation is received from the parent. Once SUMTER COUNTY SCHOOLS staff receives the signed consent, the 60calendar-day timeline begins.
2. Review all other data about a child, which include the permanent record, current classroom assessment and progress, results of any provided interventions, previous results of statewide assessments, attendance data, and disciplinary history.
3. Classroom observations in a setting in which the concern has been noted are conducted to determine current performance and to look for specific causes or reasons why the child is not learning or behaving at the expected levels. The observations are usually conducted by a diagnostician or other professional with expertise.
4. The current and previous teachers of the child are interviewed. The focus of the interviews is to determine whether the concerns cited as the reason for the evaluation are new issues

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or recurring issues. In addition, the interviews will provide information on any interventions or strategies that may have been tried previously.

5. The parents are interviewed as part of the evaluation process. If the parents have any independent evaluations or medical information they have not provided to the SUMTER COUNTY SCHOOLS, they should provide this information now. Information the parents have about learning at home, such as how long it takes the child to complete his or her homework and how much help the child requires, assists in the evaluation. Often the behavior of the child at home is also discussed to determine whether the parents see the same behaviors as the school sees, what kind of interventions work at home, and how frequently certain behaviors occur. In addition, many times the SUMTER COUNTY SCHOOLS needs to screen for adaptive behavior, and it may ask questions about household chores or tasks, about money management, and about other things that do not always *feel educational* to the parent. This information contributes to the whole picture of the child.
6. All previous information and data on the child is reviewed (e.g., previous evaluations, medical reports, psychological evaluations, and independent evaluations). This helps the team determine which evaluations to administer for the current evaluation.
7. Many evaluations include the administration of surveys or questionnaires. These are usually published forms of surveys or questionnaires that gather information about the typical day-to-day behavior of the child. The surveys or questionnaires are often completed by multiple people who know the child in order to provide a comprehensive view that encompasses school, home, and the community.
8. As all this information is received, the multidisciplinary evaluation team begins to review the information and determine what individual assessments are needed, and by whom, to provide more in-depth information. The needed assessments are then conducted and may include a variety of instruments that look at learning, listening, speaking, behavior, sensory, motor, and/or academics.
9. As these assessments are administered, other areas of concern may arise that need to be evaluated and additional assessments will be conducted as necessary. For example, fine motor skills may not have been a concern when the evaluation was requested; but, information from the assessments and observations may indicate a concern that warrants an evaluation of the fine motor skills as a component of the comprehensive evaluation.
10. All instruments are scored, and the results are analyzed and interpreted by the professionals who administered the instruments.

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11. The person coordinating the evaluation discusses the results of the evaluation with the parent and educators, with accompanying evaluation report(s) at this time. This discussion could occur at the completion of the 60-day initial evaluation period or at the eligibility meeting, which as a matter of best practice, should occur within 10 calendar days of the completion of the initial evaluation.
12. An eligibility meeting is conducted. The eligibility meeting determines whether a disability exists and what the impact is on the education of the child. If there is an adverse impact, the team may determine that the child is a child who needs special education and related services. Evaluation report(s) and an eligibility report are created regardless of whether the child is determined eligible or ineligible.

Reevaluation Process

Reevaluations are consistent with initial evaluations in terms of “what” you should be able to do with them when they are complete. Specifically, the purpose of the reevaluation process is to review current evaluation information and to consider what additional information might be needed to determine, among other things, whether the child continues to have a disability and the educational needs of the child. Reevaluations are considered just as important as the initial evaluation for special education. Throughout the child’s educational career, their educational needs may change constantly, and the reevaluation assesses the child’s evolving needs.

A reevaluation of a child with a disability, which can include only a review of existing evaluation data, must be conducted at least once every three years unless the parent and the SUMTER COUNTY SCHOOLS agree that a reevaluation is unnecessary. The reevaluation may be conducted at any time if the SUMTER COUNTY SCHOOLS feels the needs of the child should be reevaluated or if the child’s teacher or parent requests a reevaluation. However, a reevaluation may not occur more than once a year unless the parent and the SUMTER COUNTY SCHOOLS agree to more than one a year.

Reevaluation Process: Review of Existing Evaluation Data

As part of the reevaluation process, the IEP Team, including the parent and other qualified professionals must review evaluation data, including but not limited to the current full eligibility on the child that is already available. This review may include evaluations and information provided by the parent, current classroom-based local or state assessments, classroom-based observations, and observations by the teacher and related service providers. This review may be conducted without a meeting if the parent and SUMTER COUNTY SCHOOLS agree not to convene a meeting for this purpose. The team will, on the basis of that review, and considering how long

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it has been since a comprehensive evaluation of the child last occurred, identify additional data needed, if any, to determine the following:

- the present levels of academic achievement and related developmental needs of the child;
- whether the child continues to have a disability or additional areas of need due to a disability;
- whether the child continues to need special education and related services;
- whether the child needs any additions or modifications to the special education and related services to meet the measurable annual goals set in the IEP; and
- whether the child needs any additions or modifications to special education and related services to enable participation, as appropriate, in the general education curriculum.

After reviewing the existing data on the child, if the IEP Team determines that no additional information is needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, then the SUMTER COUNTY SCHOOLS must notify the child's parent of that determination, the reasons for the determination, and the parent's right to request assessments for the determination of eligibility and the child's educational needs. If no additional information is needed, this completes the reevaluation process and the date of this determination is the child's reevaluation date. In no more than three years from that date, the need for a reevaluation must be considered again.

Reevaluation Process: Determination of Eligibility and Educational Needs

After reviewing the existing data on the child, if additional information is needed to determine:

- (1) the present levels of academic achievement and related developmental needs of the child;
- (2) whether the child continues to have a disability or additional areas of need due to a disability;
- (3) whether the child continues to need special education and related services; (4) whether the child needs any additions or modifications to the special education and related services to meet the measurable annual goals set in the IEP; and/or (5) whether the child needs any additions or modifications to the special education and related services to enable participation, as appropriate, in the general education curriculum, then the Team will determine which assessments are needed to provide the additional information. If a decision is made to conduct additional assessments, then after the assessments are complete, the Team reviews those assessments and determines the child's continued eligibility and educational needs. Once this determination is made, this completes the reevaluation process

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and the date of this determination is the child's reevaluation date. In no more than three years from that date, the need for reevaluation must be considered again.

The SUMTER COUNTY SCHOOLS must provide written notice to the parent and must receive written informed parental consent before conducting any additional assessments as part of a reevaluation of a child with a disability. If the SUMTER COUNTY SCHOOLS makes multiple reasonable attempts to contact the parent for written consent to conduct additional assessments as part of a reevaluation and the parent does not respond after several attempts, the SUMTER COUNTY SCHOOLS must keep documentation of those attempts and lack

of responses, and then the SUMTER COUNTY SCHOOLS may move forward with the reevaluation. See 34 C.F.R. § 300.300(c)(2). In circumstances where the parent refuses to provide consent to administer additional assessments as part of a reevaluation, the SUMTER COUNTY SCHOOLS may, but is not required to, pursue the reevaluation by using mediation or due process hearing procedures. See 34 C.F.R. § 300.300(c)(1)(ii). If the SUMTER COUNTY SCHOOLS does not pursue the reevaluation by using mediation or due process hearing procedures when a parent refuses consent, the district has not violated its obligations under Child Find. See 34 C.F.R. § 300.300(c)(1)(iii). In addition, if a parent refuses to provide consent to administer additional assessments as part of the reevaluation process, the SUMTER COUNTY SCHOOLS may decide to discontinue the provision of special education services and supports to the child, if the SUMTER COUNTY SCHOOLS believes based on a review of existing evaluation data, that the child does not continue to have a disability or does not continue to need special education and related services. If the SUMTER COUNTY SCHOOLS discontinues the provision of special education services, it must provide the parent with prior written notice of its proposal to discontinue the provision of a free appropriate public education (FAPE) to the child consistent with 34 C.F.R. § 300.503(a)(2), including the right of the parent to use the mediation procedures in 34 C.F.R. § 300.506 or the due process procedures in 34 C.F.R. §§ 300.507-300.516 if the parent disagrees with the SUMTER COUNTY SCHOOLS's decision to discontinue the provision of FAPE to the child. See Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, Question and Answer D-4, U.S. Dep't of Educ., Office of Special Education and Rehabilitative Services (OSERS), September 2011.

Evaluation before Termination of Eligibility

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

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1. when the child graduates from high school with a regular education diploma, or
2. when the child has exceeded the age of eligibility (22nd birthday) for a FAPE.

The SUMTER COUNTY SCHOOLS must, however, provide the child with a summary of academic and functional performance that includes recommendations for meeting postsecondary goals when the child is graduating with a regular diploma or aging out of school. Best practice would also include providing the summary of performance for the child who receives a special education diploma or other exit document. It is up to the SUMTER COUNTY SCHOOLS's policy as to whether services cease exactly on the child's 22nd birthday or continue until the end of the semester or school year in which the child turns 22 years of age. Refer to the FAPE Chapter of this manual for additional information.

Independent Educational Evaluation

If a parent ***disagrees with*** the results of a completed evaluation completed by the SUMTER COUNTY SCHOOLS, the parent may request that the SUMTER COUNTY SCHOOLS pay for an outside independent educational evaluation (IEE). The SUMTER COUNTY SCHOOLS

must agree to pay for the IEE or begin the due process hearing procedures to show that the SUMTER COUNTY SCHOOLS's evaluation is adequate. If there is a due process hearing and the SUMTER COUNTY SCHOOLS's evaluation is judged to be sufficient, then the SUMTER COUNTY SCHOOLS will not have to pay for an IEE. A parent is entitled to only one IEE at public expense each time the SUMTER COUNTY SCHOOLS conducts an evaluation with which the parent disagrees. The list of criteria of the independent evaluator must be the same as those required of the SUMTER COUNTY SCHOOLS's evaluators. The SUMTER COUNTY SCHOOLS may set a reasonable limit on the cost of the IEE. However, the SUMTER COUNTY SCHOOLS must also allow parents the opportunity to prove extraordinary circumstances warranting an IEE at public expense that does not meet the SUMTER COUNTY SCHOOLS's criteria. See [34 C.F.R. § 300.502](#) for a complete explanation of IEEs.

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

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Frequently Asked Questions

Initial Evaluation

1. What part does “Response to Intervention” (RtI) play in evaluation?

Data collected regarding the child’s response to interventions can support the evaluation process. Intervention data should be reviewed to determine whether there was a response to intervention with reasonable progress.

2. Can parents request an evaluation at any time?

Yes. If the SUMTER COUNTY SCHOOLS agrees to conduct the evaluation, then the SUMTER COUNTY SCHOOLS must provide the parent with a consent for evaluation form, and upon receipt of signed, informed consent, the SUMTER COUNTY SCHOOLS must conduct the evaluation. If evidence of prior interventions has not been obtained, the evidence can be collected during the evaluation period. However, absence of evidence of prior interventions is not a reason to delay or deny the evaluation. If the SUMTER COUNTY SCHOOLS decides not to conduct the evaluation, it must provide the parents with prior written notice and advise them of their parental rights to seek mediation or a due process hearing.

3. When are hearing and vision to be screened?

Federal regulations list vision and hearing as areas that may be evaluated in a special education evaluation, “as appropriate.” See 34 C.F.R. § 300.304(c)(4). However, professional ethics require that a diagnostic evaluation not proceed until it is documented that the child has acceptable levels of vision and hearing. Failure to do this would render test results invalid and might prevent discovery of vision and/or hearing problems as the primary or contributing source of the child’s problem(s). Therefore, if the hearing and vision screening was not conducted prior to receiving parental consent for evaluation, then the child should be screened at the beginning of the 60-day comprehensive evaluation. If the comprehensive evaluation will rely on prior hearing and vision screening (such as screening completed during the Student Support Team (SST) process), such screening should have been completed within one calendar year. If problems with the child’s hearing or vision need medical diagnosis or require the purchase of hearing aids or eyeglasses and the parents are unable to accomplish this, then the SUMTER COUNTY SCHOOLS must make sure that these devices and services are made available to the child.

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4. **If during the course of an evaluation, the child is found to need glasses and the parents do not get the necessary glasses, is the SUMTER COUNTY SCHOOLS responsible for getting them?**

If the eyeglasses would be needed for the SUMTER COUNTY SCHOOLS to provide FAPE and for the child to avail himself/herself of the right to an evaluation, then the SUMTER COUNTY SCHOOLS must provide them. Schools and parents can work with public and private agencies to obtain funding for the glasses.

5. **Does the 60-day timeline end with the evaluation or with eligibility determination?** The 60-day timeline ends with the completion of the initial evaluation. Completion of the initial evaluation is defined as completion of the evaluation report(s). The latest date of the evaluation report(s) will serve as the end of the initial evaluation. As a matter of best practice, within 10 calendar days after the 60-day initial evaluation, a determination of eligibility should be made.

6. **After a determination of eligibility is made, when must an individualized education program (IEP) be developed?**

Within 30 calendar days of a determination of eligibility for special education and related services, a meeting to develop an IEP must be held. This 30-day time period does not contain any exceptions for holidays or summer vacations.

7. **How long does Parental Consent to Evaluate last?**

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

8. **If a parent refuses consent for an initial evaluation, is the SUMTER COUNTY SCHOOLS required to go through either mediation or a due process hearing to override parental consent?**

No. When the SUMTER COUNTY SCHOOLS decides that an initial evaluation is needed but the parent refuses, the SUMTER COUNTY SCHOOLS may choose to, but is not required to, pursue the initial evaluation through mediation or a due process hearing. 34 C.F.R. § 300.300(a)(3)(i).

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If the child is a home-schooled or a private school child, this parental consent override does not apply. 34 C.F.R. § 300.300(d)(4)(i).

9. What happens to the 60-day evaluation time period when a child moves to another SUMTER COUNTY SCHOOLS before the evaluation is complete?

When a child has been referred for an evaluation and the child enrolls in a new SUMTER COUNTY SCHOOLS prior to the first SUMTER COUNTY SCHOOLS making a determination as to whether this is a child with a disability, the new SUMTER COUNTY SCHOOLS is required to move forward in completing the evaluation within a timely manner but may not be required to meet the original 60-day timeline. Specifically, the new SUMTER COUNTY SCHOOLS must make sufficient progress to ensure a prompt completion of the evaluation and work with the parent to mutually agree to a specific time when the evaluation will be completed. See 34 C.F.R. § 300.301(d)(2).

10. Are there best practices regarding choice and use of evaluation tests and other measures?

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

Further, it is expected that the instruments used will be recent editions so that their scoring tables are based on contemporary children and thus give a realistic picture of a child's relative performance. Whoever administers an evaluation instrument must be properly trained to administer it according to the publisher's instructions. Whoever interprets such results in light of all other results must have proper professional credentials in order to do so. When an evaluator departs from the publisher's instructions or commonly accepted use of an instrument, as is sometimes necessary, the report of the evaluation must contain an explanation of the deviation.

11. Can parents have a copy of a test protocol?

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“Both [Family Educational Rights and Privacy Act (FERPA)] and Part B [of the IDEA] provide that an educational agency or institution (under FERPA) and a participating agency (under Part B) must respond to reasonable requests for explanations and interpretations of education records. 34 CFR 99.10(c); 34 CFR 300.562(b)(1). Accordingly, if an educational agency or institution or participating agency maintains a copy of a student’s test answer sheet, then it must provide the parent with an explanation and interpretation of the record, *which could involve showing the parent the test question booklet, reading the questions to the parent, or providing an interpretation for the responses in some other manner adequate to inform the parent.*” Letter from LeRoy S. Rooker, Director, U.S. Dep’t of Educ., Family Policy Compliance Office, September 13, 2005 (emphasis added).

12. Do LEAs have to provide evaluations for home-schooled or private school children? Yes. An SUMTER COUNTY SCHOOLS’s Child Find responsibility under the IDEA applies to all children, not just those in public schools. Each SUMTER COUNTY SCHOOLS is responsible for locating and evaluating not only children who live within its jurisdiction but also those who attend a private school within its jurisdiction. See 34 C.F.R. § 300.111; see also Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools, U.S. Dep’t of Educ., Office of Special Education and Rehabilitative Services (OSERS), April 2011. If the parent of a home-schooled or private school child suspects a disability or the private school suspects a disability and either requests an evaluation, the SUMTER COUNTY SCHOOLS where the private school is located must provide the evaluation, meeting the same requirements as they would for an evaluation of a child enrolled in the SUMTER COUNTY SCHOOLS. In Georgia, a home-school child is treated as a private school child; and therefore, the SUMTER COUNTY SCHOOLS where the child lives would be responsible for a requested evaluation to determine if a disability is present. If the SUMTER COUNTY SCHOOLS determines that the evaluation is not necessary, the SUMTER COUNTY SCHOOLS must follow the same procedures as well, including providing prior written notice of why the SUMTER COUNTY SCHOOLS is refusing to conduct the evaluation. This refusal can then be challenged by the parent through a due process hearing or a written formal complaint.

13. Can a parent request evaluations from the SUMTER COUNTY SCHOOLS where the private school is located as well as the SUMTER COUNTY SCHOOLS where the child resides?

Yes. A parent could request that different LEAs evaluate their parentally placed private school child if the child is attending a private school that is not in the SUMTER COUNTY SCHOOLS in which the child resides. The SUMTER COUNTY SCHOOLS where the child resides has the responsibility to provide FAPE to the child, while the SUMTER COUNTY SCHOOLS where the private school is located has the responsibility to ensure equitable participation (also called

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proportionate share services or equitable services). Parents are not encouraged to ask two different LEAs to evaluate their child for different purposes at the same time. The OSEP states that “[s]ubjecting a child to repeated testing by separate LEAs in close proximity of time may not be the most effective or desirable way to ensure that the evaluations are meaningful measures of whether a child has a disability, or of obtaining an appropriate assessment of the child’s educational needs.” See Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools, Question and Answer B-4, U.S. Dep’t of Educ., Office of Special Education and Rehabilitative Services (OSERS), April 2011.

14. A private school wants to have an evaluation of a child to determine educational need. How can the interventions, if any, done in the private school be documented?

LEAs have an obligation to consult with private schools within their jurisdiction on an annual basis for the consideration of proportionate share funds. Although Child Find activities are not conducted with proportionate share funds, LEAs can use this consultation to also educate private schools about the referral process and how to implement and collect data from interventions that can be provided to the child before or during an evaluation.

15. What about preschool age children who may be attending a preschool program in a location outside of the SUMTER COUNTY SCHOOLS in which they live?

The Child Find responsibility applies to all children residing within the SUMTER COUNTY SCHOOLS, including preschool age children. If the parent of a young child requests an evaluation to determine if the child may be a child with a disability and eligible for special education and related services, the SUMTER COUNTY SCHOOLS must respond to that request.

However, some preschool age children may be in daycare, federal programs (Headstart) or other types of programs that are outside of their SUMTER COUNTY SCHOOLS and in need of evaluation services to determine if they are a child with a disability in need of special education and related services. In these circumstances, the parent can certainly request the SUMTER COUNTY SCHOOLS of residence conduct the evaluation. In some circumstances, if the program the preschool age child is attending is part of an elementary school, public or private, the SUMTER COUNTY SCHOOLS where the school is located has an obligation to conduct the evaluation when requested by the parent or the school. In most cases, preschool programs are not part of an elementary school and therefore, the obligation for evaluation goes back to the SUMTER COUNTY SCHOOLS of residence.

It is best practice for LEAs to advertise the availability of evaluation services publicly in order to reach parents with information about the availability of evaluations for suspected

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disabilities. Pediatricians' offices, county health clinics, local newspapers, and brochures at grocery stores and other locations, where virtually all parents must occasionally go, are means of getting the information to parents of young children.

16. What type of interventions and progress monitoring can be provided for preschool children?

For preschool children, much of the data collection on the interventions provided will be informal and will likely be of a qualitative nature. In many cases, the evidence of interventions and progress monitoring will be documented through interviews. However, data from interventions provided by Babies Can't Wait, private therapists and preschool teachers can also be used during the evaluation process. The SUMTER COUNTY SCHOOLS should use this opportunity to work with early education providers to ensure that children have access to the Georgia Early Learning Development Standards (GELDS) for children ages birth through five.

17. Is there a "Speech/language only" evaluation?

No. All evaluations to determine if a child is a child with a disability (including a speech language impairment) and needs special education and related services must be comprehensive and look at the whole child to determine all the areas of need. The multidisciplinary evaluation team will decide what evaluations are necessary. Speech-Language Pathologists (SLPs) are a part of the multi-disciplinary team and will work with and evaluate children who have problems in pronouncing sounds and in using or understanding language or both. Thus, evaluation of each of these areas may require different or overlapping sets of procedures and areas of focus. It is incumbent upon the SLP to be sure to evaluate (or refer for others to evaluate) any areas beyond those of speech and language if it appears that other factors may have an effect on the production of speech, the use of language, or on other aspects of educational functioning.

18. For eligibility purposes, do all special education evaluations (e.g. speech, psychological, occupational therapy, physical therapy, etc.) require an evaluation report upon completion?

Yes. Georgia Rule 160-4-7-.04(6)(a)(2) states that, upon completion of the administration of tests and other evaluative measures, "the SUMTER COUNTY SCHOOLS provides a copy of the evaluation report *and* the documentation of determination of eligibility at no cost to the parents." *See also* 34 C.F.R. § 300.306(a)(2). For initial evaluations, the individual or combined evaluation report(s) should be completed by the end of the 60-day evaluation period.

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19. What special considerations are there for evaluation of English Learners (EL)?

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

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

An important method of obtaining pertinent language information is by interviewing key family members. All results obtained must be interpreted in relation to the child's dominant cultural influences. (See the American Speech-Language Hearing Association (ASHA) for more detailed information for children who are English Learners and suspected of having a disability).

20. What happens to children who are not found eligible for special education services? One recommendation would be for the SUMTER COUNTY SCHOOLS to provide strategies in the general education setting to assist the child in meeting age-level expectations. Another recommended practice would be to consider eligibility under Section 504 of the Rehabilitation Act of 1973 for those children who have a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. See 34 C.F.R. § 104.3(j)(1). General education classroom accommodations may be all that are needed to give equitable access to a child eligible under Section 504. Another recommendation would be for the child to continue or begin, as appropriate, receiving Student Support Team (SST) services. The SST is responsible for helping design an individual plan for success. The substantial information that comes back from the comprehensive evaluation can assist the SST in this task.

Reevaluation

21. What are the timelines for completing the reevaluation process?

The 60-day timeline only applies to the initial evaluation. Once a child is in special education, all further evaluations are considered reevaluations, regardless of whether there is any change in the disability(ies). The reevaluation must be completed within a reasonable timeframe, no later than the three-year reevaluation date. However, many factors should be considered in determining a reasonable timeframe for the completion of a reevaluation, such as the needs of the child, the date of the last comprehensive evaluation, parent input, and changes in the child's behavior, attendance, and rate of progress.

22. Does a child's eligibility for special education expire after three years?

No. A child's eligibility for special education does not expire. However, the data used in the child's last eligibility report may have expired, be outdated, and no longer valid. In such case, a comprehensive reevaluation is warranted. Additionally, a reevaluation, which can include only a review of existing evaluation data, must occur at least once every three years, unless the parent and the SUMTER COUNTY SCHOOLS agree that a reevaluation is unnecessary.

23. What is the starting date of the three-year period for a reevaluation?

The date of the completion of the reevaluation process begins the next three-year reevaluation cycle. If, after reviewing the existing data on the child, a child's IEP Team decides no additional data is needed to determine: (1) whether the child continues to have a disability and the educational needs of the child; (2) the present levels of academic achievement and related developmental needs of the child; (3) whether the child continues to need special education and related services; (4) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals in the IEP; and (5) whether any additions or modifications to the special education and related services are needed to enable the child to participate in the general education curriculum, the date of this decision completes the reevaluation process and the last eligibility date does not change. In no more than three years from that date, the need for reevaluation must be considered again. The decision not to conduct any assessments of the child as part of a reevaluation must be documented. Please note that the "burden of proof" for a decision that no additional data is needed at the three-year mark lies with the SUMTER COUNTY SCHOOLS.

If, after reviewing the existing data on the child, a child's IEP Team decides additional information is needed to determine: (1) the present levels of academic achievement and related developmental needs of the child; (2) whether the child continues to have a disability or additional areas of need due to a disability; (3) whether the child continues to need special education and related services; (4) whether the child needs any additions or modifications to the special education and related services to meet the measurable annual goals set in the IEP; and/or (5) whether the child needs any additions or modifications to the special education and related services to enable participation, as appropriate, in the general education curriculum, then after additional assessments are complete, the Team reviews those assessments and determines the child's continued eligibility and educational needs. Once this determination is made, this completes the reevaluation process and the date of this

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determination is the child's reevaluation date and current eligibility date. In no more than three years from that date, the need for reevaluation must be considered again.

24. When would it be appropriate for a Team to comprehensively review the current data available for a child?

At any time, including during the annual review IEP Team meetings. Similar to the review of existing data that takes place during the reevaluation process, during the annual review of a child's IEP, the Team's review of existing data includes, in part, determining the child's present levels of academic achievement and related developmental needs; whether the child needs any additions or modifications to the special education and related services to meet the measurable annual goals set forth in the IEP; and whether the child needs any additions or modifications to the special education and related services to enable participation, as appropriate, in the general education curriculum.

25. What happens if the parent refuses consent to administer additional assessments as part of a reevaluation?

The SUMTER COUNTY SCHOOLS may, but is not required to, pursue the reevaluation through mediation or a due process hearing. If the SUMTER COUNTY SCHOOLS believes based on a review of existing evaluation data, that the child does not continue to have a disability or does not continue to need special education and related services, then the SUMTER COUNTY SCHOOLS can decide to discontinue the provision of special education services and supports. If the SUMTER COUNTY SCHOOLS discontinues the provision of special education services, it must provide prior written notice to the parent of its proposal to discontinue the provision of FAPE to the child, including the right of the parent to request mediation or a due process hearing if the parent disagrees with the SUMTER COUNTY SCHOOLS's decision to discontinue the provision of FAPE to the child. Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, Question and Answer D-4, U.S. Dep't of Educ., Office of Special Education and Rehabilitative Services (OSERS), September 2011.

26. If the IEP Team determines that the child continues to be eligible for special education services and it understands the child's current educational needs without additional information, but also determines that an assessment is required for a specific purpose (e.g., educational planning purposes, vocational rehabilitation purposes, social security purposes, etc.), what happens if the information obtained in that assessment suggests that a change in the child's disability category might be appropriate?

As an initial matter, if the Team determines that formal assessments are needed for "educational planning purposes," then this purpose is part of the educational needs of the

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child, and formal assessments should be conducted as part of the reevaluation process. If the Team determines that a formal assessment is needed for a non-IDEA related purpose, then this decision is not part of the reevaluation process. Therefore, such determination and additional steps related to that determination are within the discretion of the SUMTER COUNTY SCHOOLS. However, it is worth noting that IDEA funds should not be used for non-IDEA related assessments.

Regardless of whether a formal assessment is conducted as part of a reevaluation, the IEP Team must consider all information. Test scores alone do not determine whether the SUMTER COUNTY SCHOOLS should reconsider eligibility. On a case-by-case basis, this information should be reviewed and the determination that the child continues to meet eligibility may need to be revised based on the additional information. Eligibility is always a two-prong consideration: (1) Does the child meet the definition of disability in one or more of the IDEA categories; and (2) Does the child's disability adversely impact his/her education so that he/she needs special education and related services? The SUMTER COUNTY SCHOOLS certainly does not have to wait three years to consider eligibility again. The IEP Team should meet to determine if a comprehensive evaluation is appropriate.

27. How do we address the issue of children not being formally evaluated at multiple successive reevaluation milestones?

Occasionally, children have been evaluated at a young age and found eligible for special education but are never or seldom evaluated again. While this is not prohibited, this is not a best practice. The overriding consideration is that the child's school experience continues to be appropriate every year. This highlights the importance of annual IEP reviews, which include a thorough review of current information about the child. A child whose eligibility and needs were determined at a young age undergo substantial changes during maturation that may call for a new appraisal of needs and appropriateness of placement. Reevaluation can identify and document any changes that have occurred and determine whether the disability is still impacting the child's education and current educational needs.

28. What data are used for progress monitoring for a child who is being reevaluated? Children currently receiving special education services have progress monitoring data collected from their established IEP goals. These children may also be receiving tiered interventions in areas not currently addressed in their IEP. Depending on the area(s) being evaluated, all this information can be used as needed.

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29. What must an SUMTER COUNTY SCHOOLS do if a request for an evaluation is made during the time period when a child is subject to a disciplinary change in placement that exceeds 10 school days?

The SUMTER COUNTY SCHOOLS must conduct the evaluation in an expedited manner, and until the evaluation is completed, 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, the SUMTER COUNTY SCHOOLS must consider information from the evaluation and from the parents and provide special education and related services. See 34 C.F.R. § 300.534(d)(2)(i)-(iii).

30. Is the SUMTER COUNTY SCHOOLS required to use the state recommended forms?

No; however, it is expected that all of the required components specified in the IDEA will be included in any special education related forms if LEAs choose to develop and utilize different forms.

31. Are school psychologists, speech-language pathologists, occupational therapists, physical therapists, and any other Team members who conduct any portion of the comprehensive evaluation required to write an evaluation report?

Yes. All evaluators must complete individual or combined evaluation reports. The eligibility team must consider the comprehensive evaluation report(s) when determining eligibility.

Student Support Team

DEFINITION

Student Support Team (SST) is an interdisciplinary group that uses a systematic process to address learning and/or behavior problems of students, K-12, in a school.

Requirements

The Sumter County School personnel shall follow the support team procedures, as outlined in the Sumter County Response to Intervention/Student Support Team Manual.

Before submitting a referral for supplemental or support services, the Sumter County School personnel shall ensure that an evaluation and/or assessment any prior evaluation and/or assessment, conducted for a state or federal program, shall be considered as having met the evaluation and/or assessment requirement.

The Student Support Team shall include, at a minimum, the referring teacher and at least two of the following participants:

- A. Principal,
- B. General education teacher,
- C. Counselor, lead teacher,
- D. School psychologist,
- E. Subjects area specialist,
- F. ESO L instructor,
- G. Special education teacher,
- H. School social worker. Central office personnel,
- I. Section 504 coordinator, and
- J. Any other appropriate personnel.

Documentation of SST activities shall include, at a minimum, the following:

- Student's name,
- Names of team members,
- Meeting dates,

- Initial referral to SST,
- Identification of student learning and/or behavior problems,
- Student Background Information
- Any records and results of assessments (in-school screenings), completed within a 12-month period,
- SST minutes,
- Education plan and implementation results (SST strategies and interventions for Tiers I-III depending on the student's progression in the Response to Intervention process), SST final recommendation, and A Notice of Referral (SE-13-2).

EXCEPTIONS TO THE USE OF THE SST PROCESS

1. If school personnel and parents/guardians determine that a reasonable cause exists to bypass the SST process, the school personnel, in conjunction with the parents/guardians, shall issue justification statement explaining the reasons for bypassing the SST process. The document must contain a statement which indicates the parents/guardians agreement with the decision to bypass SST, as well as-signatures of all parties involved in the decision-making process. The student's record must, also, identify interim strategies, interventions, and modifications that will be used to aid the student.
2. Students who transfer into the district with a current Individualized Education Program or Section 504 Protection or Accommodation Plan are not required to enter the Student Support Team process.

INTERVENTIONS PRIOR TO REFERRAL

Sumter County School System personnel will utilize a variety of in-school screenings to identify instructional interventions or strategies to assist with the academic or behavioral concerns, exhibited by students. The in-school screenings will not be utilized to determine eligibility for special education and/or related services. District staff will utilize the Response to Intervention/Student Support Team Manual to initiate the appropriate procedures before referring a student for a psychological evaluation.

After completing the procedures for Tiers I-II of the Response to Intervention/Student Support Team Manual, the following documentation will be forwarded to the Sumter County Special Education Services Program:

- A. **Student's name,**
- A. Names of team members,
- B. Meeting dates,
- C. Initial referral to SST,
- D. Identification of student learning and/or behavior problems,
- F. Student Background Information

- A. Any records and results of assessments (in-school screenings), completed within a 12-month period,
- B. SST minutes,
- C. Education plan and implementation results (SST strategies and interventions for Tiers I-III),
- J. SST final recommendation

- K. A Notice of Referral (SE-13-2)

If immediate evaluation and/or placement are required due to a significant disability, a student may transition immediately to Tier IV of the RTI/SST process. The eligibility team will provide clear and concise evidence, supporting the need to bypass the RTI/SST process.

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CHILD FIND (34 C.F.R. § 300.111; GEORGIA RULE 160-4-7-.03)

Each State must have policies and procedures to ensure that all children with disabilities, birth through age 21, residing in the State and who are in need of special education and related services or early intervention services are identified, located, and evaluated. 34 C.F.R. § 300.111; 34 C.F.R. § 303.302. In Georgia, the Child Find Process for infants and toddlers with disabilities, birth to age 3, is coordinated through the Georgia Department of Public Health Early Intervention Program, Babies Can't Wait. For children, ages 3 through 21, the local education agencies (Sumter County Schools)¹ in Georgia are responsible for identifying, locating, and evaluating all children within the jurisdiction of the SUMTER COUNTY SCHOOLS who are suspected of having disabilities that may result in a need for special education and related services. Sumter County Schools must have policies and procedures in place to ensure the identification, location, and evaluation of these children. Public notification must be given before any significant Child Find activities are implemented.

Populations of Children

Sumter County Schools have Child Find responsibility for all children within its jurisdiction suspected of having disabilities, regardless of the severity of its disabilities. This includes:

- preschool children, ages 3 through 5, who may not be enrolled in a Georgia-funded prekindergarten and kindergarten, including children who are parentally placed in private preschools or daycare centers outside the SUMTER COUNTY SCHOOLS;
- children who are enrolled in a public school within the SUMTER COUNTY SCHOOLS, including public charter schools;
- children who are parentally placed in private and home schools located within the SUMTER COUNTY SCHOOLS's jurisdiction (refer to the Private Schools Chapter of this manual for additional information on private school Child Find responsibilities);

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school Sumter County Schools, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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- highly mobile children, including migrant, homeless, and children who are wards of the state;
- children served in community programs, such as rehabilitation centers, daycare centers, etc.;
- children who are incarcerated in facilities operated by the local sheriff's office or other municipalities;
- with regard to Georgia Department of Juvenile Justice and Georgia Department of Corrections, children incarcerated in state juvenile or correctional facilities; and
- any other children suspected of having disabilities, even when those children may be progressing from grade to grade.

Child Find Procedures

Sumter County Schools may employ a variety of strategies to ensure that children who may need special education and related services are identified and evaluated. Some frequently used Child Find procedures include public announcements through local media (newspaper, television, radio), meetings with private and home school representatives, community service fairs, parent mentors, and collaboration with other public agencies such as the Georgia Department of Behavioral Health and Developmental Disabilities, Georgia Department of Family and Children's Services, and Georgia Department of Public Health and its local partners or offices. Sumter County Schools may also utilize its websites as a means for disseminating Child Find information. Regardless of the methods employed, Sumter County Schools must conduct comprehensive Child Find activities. In addition, during the annual timely and meaningful consultation with representatives from private and home schools, Sumter County Schools are required to inform them of the SUMTER COUNTY SCHOOLS's Child Find procedures. See 34 C.F.R. § 300.134(a).

For children transitioning from the Babies Can't Wait program, the identification and evaluation of those children must follow the 60-day timeline for initial evaluations, and the IEPs must be implemented by the third birthday. Early identification and timely evaluation of children with disabilities facilitate a smooth transition into the public SUMTER COUNTY SCHOOLS for these children. For children not transitioning from the Babies Can't Wait program, Sumter County Schools must follow the 60-day timeline for initial evaluations; however, the IEPs are not required to be implemented by the child's third birthday. For more information, see the Young Children Chapter of this manual.

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Interventions Prior to Referral

Child Find is a critical part of the special education process for all children suspected of having disabilities. IDEA requires that children who are suspected of being a child with a disability and in need of special education are identified, located, and evaluated. 34 C.F.R. § 300.111. IDEA does not require that a child receive scientific, research, or evidence-based interventions before being referred for consideration for eligibility for special education and related services. See 34 C.F.R. § 300.111. However, per our State Child Find Rule, the implementation of a multitiered system of supports, including the use of scientific, research, or evidence-based interventions are required before referring a child for an initial evaluation for special education. See Georgia Rule 160-4-7-.03(2)(b). The use of interventions before referring a child for an initial evaluation for special education can have a positive impact on reducing the disproportionate representation of racial and ethnic groups in special education and related services. In addition, if a parent or teacher requests an evaluation and interventions have not been provided prior to the referral, interventions may be provided while the child is being evaluated (within the 60-day timeline requirement). Although a child's receipt of interventions can provide a critical piece of information in helping to determine eligibility for special education, the lack of interventions must not be a reason for determining that a child is not eligible for special education services.

Frequently Asked Questions

1. Does Child Find apply to home-schooled children?

Yes. If the child is a resident within the jurisdiction of the SUMTER COUNTY SCHOOLS, then the Child Find responsibility rests with the SUMTER COUNTY SCHOOLS in which the child resides. In addition, as a home-schooled child, a child who is determined eligible for special education and related services must also be considered in a proportionate share of federal funds for private school children. In Georgia, home-schooled children are treated as private school children in regard to special education. See Georgia Rule 160-4-7-.13(3)(a)(1).

2. If a SUMTER COUNTY SCHOOLS charter school and a traditional SUMTER COUNTY SCHOOLS serve the same demographic area, who has the Child Find responsibility?

Both of them. The SUMTER COUNTY SCHOOLS charter school's Child Find responsibility extends only to children enrolled in the SUMTER COUNTY SCHOOLS charter school. The traditional SUMTER COUNTY SCHOOLS's Child Find responsibility extends to all other children within its jurisdiction.

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3. **If a SUMTER COUNTY SCHOOLS charter school only serves a designated population, such as grades six through eight, *should* the SUMTER COUNTY SCHOOLS charter school's Child Find procedures address children outside of the designated population, such as children in grades kindergarten through fifth grade?**

Yes. As a matter of best practice, an SUMTER COUNTY SCHOOLS charter school's Child Find procedures *should* include children age 3-21. However, an SUMTER COUNTY SCHOOLS charter school's Child Find procedures *must* address the currently designated population of the SUMTER COUNTY SCHOOLS charter school. Since SUMTER COUNTY SCHOOLS charter schools may decide to expand its designated population, SUMTER COUNTY SCHOOLS charter schools should consider developing Child Find procedures to include children ages 3-21 or update its Child Find procedures as the SUMTER COUNTY SCHOOLS charter school expands its designated population.

4. **Considering the above guidance for SUMTER COUNTY SCHOOLS charter schools, what are the Child Find responsibilities for Georgia Department of Juvenile Justice (DJJ) and Georgia Department of Corrections (DOC)?**

Georgia DJJ and Georgia DOC must implement Child Find duties for the youth enrolled in its respective facilities.

5. **Who has the Child Find responsibility for youth incarcerated in facilities operated by the local sheriffs or other municipalities?**

The SUMTER COUNTY SCHOOLS where the facility is located must implement Child Find duties for youth incarcerated in jails or other correctional facilities operated by local municipalities.

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

No. There is no requirement under IDEA for any child suspected of having a disability and being in need of special education services to have instructional interventions before being referred for an initial evaluation for special education. SUMTER COUNTY SCHOOLS personnel can work with referring individuals to document prior interventions, if conducted, and the results of those interventions. Interventions may also be implemented as part of any evaluation process.

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

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Yes. Parents maintain its right under the IDEA to request an evaluation. See 34 C.F.R. § 300.301(b). Sumter County Schools 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 may be developed during the evaluation period to support the other information the evaluation is gathering. If a SUMTER COUNTY SCHOOLS does not suspect that the child has a disability, and denies the request for an initial evaluation, the SUMTER COUNTY SCHOOLS must provide written notice to the parent explaining why the SUMTER COUNTY SCHOOLS refuses to conduct an initial evaluation and the information that was used as the basis for the decision, in accordance with 34 C.F.R. § 300.503(a) and (b). The parent can challenge this decision by filing a formal complaint or requesting a due process hearing to resolve the dispute regarding the child's need for an evaluation. See Memorandum from the U.S. Dep't of Educ., Office of Special Education Programs (OSEP), Memo 11-07, January 21, 2011.

8. Would a child's participation in a response to interventions process be considered a "basis of knowledge" that the child may be a "child with a disability"?

Participation in a response to interventions process, in and of itself, would not appear to meet the "basis of knowledge" standards. The standards for whether a public agency has a "basis of knowledge" include (1) written concern from the parent to the child's teacher or other supervisory or administrative personnel of the SUMTER COUNTY SCHOOLS that the child is in need of special education and related services, (2) a parent request for an evaluation to determine if the child is a child with a disability or (3) the child's teacher or other personnel expressing specific concern about a pattern of behavior of the child directly to the special education director of the SUMTER COUNTY SCHOOLS or other supervisory personnel of the SUMTER COUNTY SCHOOLS. See 34 C.F.R. § 300.534(b).

Evaluations and Reevaluations

DEFINITION

For purposes of the Sumter County Special Education Policies and Procedures, an evaluation is defined as a comprehensive set of diagnostic assessment tools, administered by a licensed psychologist or licensed speech pathologist, to assist in determining a student's eligibility for receiving special education services.

A reevaluation is a comprehensive set of diagnostic assessment tools, which may be administered once every three years and not more than once a year, unless the parent and district personnel decide otherwise. A reevaluation must be administered by a licensed psychologist to determine changes in a student's academic achievement and functional performance. A speech reevaluation must be administered by a licensed speech pathologist.

INITIAL EVALUATIONS

- ❖ The Sumter County Special Education Services Program personnel will ensure that a comprehensive
- ❖ Psychological evaluation has been completed on a student before the student receives special education or related services.
- ❖ **Students requiring Comprehensive Speech and Language Evaluations will be referred to the attending**
- ❖ Speech and Language Pathologists to complete the eligibility process.
- ❖ When psychological testing is required, the special education office staff will log receipt of the folder and check contents for due process compliance. The special education office staff will send, via US Mail, Consent for Evaluation (S E-13-3) and Description of Types of Evaluations (S E-13-3a) to the parent(s), guardian(s), or surrogate(s).
- ❖ Upon receipt of signed Consent for Evaluation (SE-13-3) in the Special Education Department, the special education office staff will notify, via e-mail, the SST Coordinator of the final date (sixty-Days) to conduct an eligibility meeting.
- ❖ At the completion of the psychological battery, the psychologist will provide the system with a psychological report. If further diagnostic work is required to determine special education eligibility, the psychologist will notify the Special Education Department of recommended areas to be assessed. Special Education office staff will notify school personnel of pending evaluations.
- ❖ With evaluation procedures completed, the student's eligibility is ready for consideration by the School's Eligibility Team.
- ❖ An Eligibility Report (SE-13-7) must be completed in the eligibility meeting. See Guidance for Eligibility Report (Appendix A) & Eligibility Report Quick Reference Guide (Appendix B) for additional information.

PARENTAL CONSENT FOR EVALUATION

Before submitting a request for an evaluation to the school psychologist or licensed speech pathologist, the Sumter County Special Education Services Program will issue a consent form to the parent/guardian, requesting permission to conduct a comprehensive evaluation.

The Program staff will utilize communication methods, in the following order, for obtaining signed, parental consent forms:

- U.S. mail (two attempts),
- Telephone calls (two attempts), and
- Home or employment visit (two attempts). [The Sumter County Special Education Services Program staff will contact the parent mentor for respective schools to provide assistance in obtaining parental consent during home or employment visits.]

The Sumter County Special Education Services Program staff will maintain contact logs, identifying the date and type of communication, as well as the results.

- If a parent refuses to sign consent for an evaluation or fails to respond to a consent request, the district may pursue the initial evaluation by utilizing the mediation and impartial due process hearing procedures provided in the procedural safeguards.
- For students who are home schooled or parentally-placed in private schools and whose parents refuse consent or fail to respond to consent requests, the Sumter County Special Education Services Program shall maintain documentation of contact attempts. Personnel will document the date and type of attempts and will indicate that no services will be provided.

When a student is a ward of the State and is not residing with his or her parents, parental consent is not required for an initial evaluation to determine if the child is eligible for special education or related services. The following stipulations shall apply:

- A. District personnel are unable to discover the whereabouts of the parents;
- B. The parents' rights have been terminated in accordance with State law; or
- C. A judge has appointed a surrogate parent to make educational decisions for the child.

Staff members are not required to obtain parental consent during the following circumstances:

- the review of existing data on a student as a part of an evaluation or reevaluation;
- the administration of group tests or evaluations, unless parental consent is required for all students;
- The administration of screening tools to assist with determining intervention strategies.

(Screening devices are not to be considered as a form of evaluation to determine eligibility for special education or related services.)

Conduct of Evaluation

After receiving a parental consent for evaluation, the Sumter County Special Education Services Program will forward all RTI/SST documentation and other pertinent information to the school psychologist or speech pathologist. The school psychologist in turn, will conduct a full psychological evaluation which will:

Utilize a variety of evaluation tools and strategies to gather relevant academic, functional and developmental information about the child, including information provided by the parents that may assist in determining:

- whether the child is a child with a disability;
- content of the child's individualized education program including information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities);
- not use any single procedure as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors other Evaluation Procedures.

The Sumter County Special Education Services department shall ensure that:

Assessments and other evaluation materials used to assess a child under this section:

- Are selected and administered so as not to be discriminatory on a racial or cultural basis;
- Are provided and administered in the child's native language or other mode of communication and in the form 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;
- Are used for the purposes in which the evaluations or measures are valid and reliable;
- Are administered by trained and knowledgeable personnel; and
- Are administered in accordance with any instructions provided by the producer of the assessments.
- The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- Evaluation tools and strategies are used which provide relevant information that directly assists persons-in determining the educational needs of the child.

ADDITIONAL REQUIREMENTS

Review of Existing Evaluation Data.

1. As part of an initial evaluation (if appropriate) and as part of any re-evaluation, the parent and other qualified professionals, as appropriate, must review existing evaluation data on the child, including:
 - A. Evaluations and information provided by the parents of the child;
 - B. Current classroom-based, local, or State assessments and classroom-based observations; and
 - C. Observations by teachers and related services providers.
2. On the basis of the review and input from the child's parents, identify what additional data, if any, are needed to determine:
 - A. Whether the child is a child with a disability and the educational needs of the child, or in case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child;
 - B. The present levels of academic achievement and related developmental needs of the child;
 - C. Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
 - D. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.
 - E. The parent and other qualified professionals may conduct its review without a meeting.

Sumter County School System staff in conjunction with CF-RESA psychologists must administer such assessments and other evaluation measures as may be needed to produce the data identified.

Requirements If Additional Data Are Not Needed

1. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the Sumter County School System:
 - a. Must notify the child's parents of that determination and the reasons for it and notify the parents of the right to request an evaluation to determine whether the child continues to be a child with a disability and to determine the child's educational needs;
 - b. Is not required to conduct such an evaluation to determine whether the child continues to be a child with a disability unless requested by the child's parents.

- f) For students who are determined not eligible for special education and related services by the Eligibility Team, the eligibility report shall clearly explain the determination. A copy of the eligibility report shall be present to the parent at no cost.

- Behavioral evaluations to include assessment of social interaction and participation, peer and adult interactions, capacity to relate to others, stereotypical behaviors, resistance to change, atypical responses to sensory stimuli, persistent preoccupation with or attachment to objects and other behaviors often associated with autism spectrum disorder. (Please refer to page 16 of this manual and adhere to evaluation procedures.)

Developmental history to include developmental differences and delays and age of onset, which is typically before the age of three. A child may be diagnosed as a child with autism spectrum disorder after age three if the characteristics of autism spectrum disorder are met. The Sumter County Special Education Services Program will ensure that the district receives all pertinent records from PEECH Pre- K.

Eligibility shall be based on assessment of the five characteristic areas associated with autism spectrum disorder. The assessments shall minimally document that each of the characteristic areas of (1) developmental rates and sequences, (2) social interaction and participation and (3) verbal and non-verbal communication are affected. The adverse effect on a child's educational performance shall be documented and based on the following criteria:

Developmental rates and sequences. A child exhibits delays, arrests, and/or inconsistencies in the acquisition of motor, sensory, social, cognitive, or communication skills. Areas of precocious or advanced skill development may also be present, while other skills may develop at typical or extremely depressed rates. The order of skills acquisition frequently differs from typical developmental patterns.

- **Social interaction and participation.** A child displays difficulties and/or idiosyncratic differences in interacting with people and participating in events. Often a child is unable to establish and maintain reciprocal relationships with people. A child may seek consistency in environmental events to the point of exhibiting rigidity in routines.
- **Communication (verbal and/or nonverbal).** A child displays a basic deficit in the capacity to use verbal language for social communication, both receptively and expressively. Characteristics may involve both deviance and delay. Verbal language may be absent or if present, may lack usual communicative form, or the child may have nonverbal communication impairment. Some children with autism may have good verbal language but have significant problems in the effective social or pragmatic use of communication.

Children who are deaf/blind may receive educational services in classes with other disabled children; however, the class-size ratio for deaf/blind shall be maintained.

Additional Requirements

For each child who has been diagnosed as deaf/blind, the Sumter County Special Education Program staff will complete the Georgia Deaf/blind Census report.

3. DEAF/HARD OF HEARING (D/HH)

Definitions

A child who is deaf or hard of hearing is one who exhibits a hearing loss that, whether permanent or fluctuating, interferes with the acquisition or maintenance of auditory skills necessary for the normal development of speech, language, and academic achievement and, therefore, adversely affects a child's educational performance.

1. A child who is deaf can be characterized by the absence of enough measurable hearing (usually a pure tone average of 66-90+ decibels American National Standards Institute without amplification) such that the primary sensory input for communication may be other than the auditory channel.

2. A child who is hard of hearing can be characterized by the absence of enough measurable hearing (usually a pure tone average range of 30-65 decibels American National Standards Institute without amplification) that the ability to communicate is adversely affected; however, the child who is hard of hearing typically relies upon the auditory channel as the primary sensory input for communication.

Eligibility and Placement

The eligibility report shall include audio logical, ontological and educational evaluation reports.

- A. Audiological evaluations shall be provided with initial referral. Children who are deaf or hard of hearing shall have an audio logical evaluation administered by a certified/licensed audiologist annually, or more often if needed. The annual audio logical evaluation shall include, but is not limited

To an orthoscopic inspection, unaided and aided pure tone and speech audiometry (as applicable), admittance testing, word recognition, hearing aid check and electro-acoustic analysis of the hearing aid (if amplified), an analysis of a frequency modulated (FM) system check (if utilized). A comprehensive written report shall be included in the audio logical evaluation. This written report shall include, but is not limited to: the date of the audio logical evaluation, description of the results of the audio logical testing, an amplification evaluation including the child's ability to understand spoken language with and without amplification, as well an interpretation of the results as they apply to the child in his or her classroom setting.

techniques required to ensure proper functioning of assistive amplification devices.

B. The special education instructor and/or paraprofessional, if assigned, will test the assistive amplification devices used by children who are deaf or hard of hearing each morning before class begins.\

C. The special education staff will maintain a daily log, indicating the time and date of the test and the responsible person. Logs will remain in the classroom, until the last working DAYS of the month. On the last working DAYS of the month, the special education teacher will forward a copy of the log to the Sumter County Special Services Division.

D. The special education teacher will advise parents to submit, in writing, verification of device checks by audiologist and will include the documentation in the submission of the monthly logs to the Sumter County Special Education Services Program. During the summer, the Sumter County Special Program will ensure that equipment purchased by the Sumter County Board of Education receives annual testing by CF-RESA.

4. EMOTIONAL AND BEHAVIORAL DISORDER (EBD)

Definition

An emotional and behavioral disorder is an emotional disability characterized by the following:

1. An inability to build or maintain satisfactory interpersonal relationships with peers and/or teachers. For
Preschool-age children, this would include other care providers.
2. An inability to learn which cannot be adequately explained by intellectual, sensory or health factors.
3. A consistent or chronic inappropriate type of behavior or feelings under normal conditions.
4. A displayed pervasive mood of unhappiness or depression.
5. A displayed tendency to develop physical symptoms, pains or unreasonable fears associated with personal or school problems.

A child with EBD is a child who exhibits one or more of the above emotionally based characteristics of sufficient duration, frequency and intensity that interferes significantly with educational performance to the degree that provision of special educational service is necessary. EBD is an emotional disorder characterized by excesses, deficits or disturbances of behavior. The child is difficulty is emotionally based and cannot be adequately explained by intellectual, cultural, sensory general health factors, or other additional exclusionary factors.

5. INTELLECTUAL DISABILITY (I D)

Definition

Intellectual disabilities refer to significantly sub average general intellectual functioning which exists

Concurrently with deficits in adaptive behavior that adversely affects educational performance and originates before age 18. Intellectual disability does not include conditions primarily due to a sensory or physical impairment, traumatic brain injury, autism spectrum disorders, severe multiple impairments,

Cultural influences or a history of inconsistent and/or inadequate educational programming.

1. Significantly sub average general intellectual functioning is defined as approximately 70 IQ or below as measured by a qualified psychological examiner on individually administered, nationally normed standardized measures of intelligence.
2. All IQ scores defining eligibility for children with intellectual disabilities shall be interpreted as a range of scores encompassed by not more than one standard error of measurement below and above the obtained score. The standard error of measurement for a test may be found in the technical data section of the test manual.
3. Any final determination of the level of intellectual functioning shall be based on multiple sources of information and shall include more than one formal measure of intelligence administered qualified psychological examiner. There may be children with IQ scores below 70 who do not need special education. Interpretation of results should take into account factors that may affect test performance such as socioeconomic status, native language, and cultural background and associated disabilities in communication, sensory or motor areas.
4. Significantly sub average intellectual functioning must be verified through a written summary of at least one structured observation that demonstrates the child's inability to progress in a typical, age appropriate manner and with consideration for culturally relevant information, medical and education history.
5. Deficits in adaptive behavior are defined as significant limitations in a child's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age-level and cultural group, as determined by clinical judgment.
6. The child demonstrates significantly sub average adaptive behavior in school and home, and, if appropriate, community environments. These limitations in adaptive behavior shall be established through the use of standardized adaptive behavior measures normed on the general population, including people with disabilities and people without disabilities. On these standardized measures, significant limitations in adaptive behavior are operationally defined as performance that is at least two standard deviations below the mean of either
(a) one of the following three types of adaptive behavior: conceptual, social, or

A child may be classified as having an intellectual disability at one of the levels listed below:

1. Mild intellectual disability (MID) Intellectual functioning ranging between an upper limit of approximately 70 to a lower limit of approximately 55 and deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age level and cultural group, as determined by clinical judgment.

2. Moderate intellectual disability (MOID) - Intellectual functioning ranging from an upper limit of approximately 55 to a lower limit of approximately 40 and deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age-level and cultural group as determined by clinical judgment.

3. Severe intellectual disability (SID)- Intellectual functioning ranging from an upper limit of approximately 40 to a lower limit of approximately 25 and deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility and especially school performance that is expected of the individual's age-level and cultural group as determined by clinical judgment.

4. Profound intellectual disability (PID) - Intellectual functioning below approximately 25; and deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility and especially school performance that is expected of the child's age-level and culture group, as determined by clinical judgement.

ORTHOPEDIC IMPAIRMENT (01)

Definition

Orthopedic impairment refers to a child whose severe orthopedic impairments adversely their educational performance to the degree that the child requires special education. This term may include

1. Impairment caused by congenital anomalies, e.g., deformity or absence of some limb;
2. Impairment caused by disease (poliomyelitis, osteogenesis imperfecta, muscular dystrophy, bone tuberculosis, etc.); and/or
3. Impairment from other causes, e.g., cerebral palsy, amputations, and fractures or burns that cause contractures.

Secondary disabilities may be present, including, but not limited to, visual impairment, hearing impairment, communication impairment and/or intellectual disability.

Eligibility

- a. Evaluation for initial eligibility shall include the following:
 - A. The medical evaluation from a licensed doctor of medicine, or in the case of ADD and ADHD an evaluation by a licensed doctor of medicine or licensed clinical psychologist, should be considered by the child's Eligibility Team as part of the process of determining eligibility. The evaluation report shall indicate the diagnosis/prognosis of the child's health impairment, along with information as applicable regarding medications, special health care procedures and special diet or activity restrictions. The evaluation report used for initial eligibility shall be current within one year and must document the impact of the physical condition on the vitality, alertness or strength of the child. In cases of illness where the child's physical health and well-being are subject to deterioration or change, this report shall be updated as frequently as determined by the IEP Committee. A medical diagnosis does not automatically include or exclude a child from determination of eligibility.
 - B. A comprehensive developmental or educational assessment to indicate the effects of the health impairment on the child's educational performance. Assessments shall document deficits in pre-academic or academic functioning, adaptive behavior, social/emotional development, and motor or communication skills resulting from the health impairment. When assessment information indicates significant deficits in cognitive/academic functioning, a psychological evaluation shall be given.
 - C. A child must not be determined to be a child with Other Health Impairment if the determinant factor for that determination is:
 - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction;
 - (ii) Lack of appropriate instruction in math;
 - (iii) Lack of appropriate instruction in writing;
 - (iv) Limited English proficiency;
 - (v) Visual, hearing or motor disability;
 - (vi) Intellectual disabilities;
 - (vii) Emotional disturbances;
 - (viii) Cultural factors;
 - (ix) Environmental or economic disadvantage; or
 - (x) Atypical educational history (attendance at multiple schools, lack of attendance).

3. The application of professional judgment is a critical element at every stage of eligibility determination: as test instruments are selected, during the evaluation process, in the analysis of evaluation results, as well as the analysis of error patterns on standardized, teacher made or other tests.

4. All five skill areas shall be assessed using at least one formal assessment. In those areas in which a significant delay is suspected, at least one additional formal assessment must be utilized to determine the extent of the delay. All formal assessments must be age appropriate, and all scores must be given in standard deviations.

5. For children eligible under SOD with hearing; visual; communication; or orthopedic impairments, a complete evaluation must be obtained to determine if the child also meets eligibility criteria for deaf/hard of hearing, visual impairments, speech and language impairments, or orthopedic impairments. Students with sensory, physical or communication disabilities must receive services appropriate for their needs, whether or not specific eligibility is determined.

Placement and Service Delivery

1. Preschool-aged (3-5) children meeting eligibility criteria as SOD and needing special education services may receive those services in a variety of placement options, as determined by the child's IEP

Team and participation by other agencies, such as, but not limited to:

- A. Regular Early Childhood Setting; Head Start Programs; Georgia Pre-K Classes; Community day Scares; Private Preschools
- B. Separate Early Childhood Special Education Setting;
- C. days School;
- D. Residential Facility;
- E. Service Provider Location; or
- F. Home.

2. School-aged children with SOD shall be served by any appropriately certified teacher in any education program designed to meet the needs of the child, as specified by the child's IEP team.

SPECIFIC LEARNING DISABILITIES (SLD).

Definition

1. Specific learning disability is defined as a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not apply to children who have learning problems that are primarily the result of

- (i) At least two current (within twelve months) assessments such as the results of the CRCT or other state-required assessment, norm-referenced achievement tests or benchmarks indicating performance that does not meet expectations for State-approved grade-level standards;
- (ii) Information from the teacher related to routine classroom instruction and monitoring of the child's performance. The report must document the child's academic performance and behavior in the areas of difficulty.
- (iii) Results from supplementary instruction that has been or is being provided:

(a) that uses scientific, research or evidence based interventions selected to correct or reduce the problem(s) the student is having and was in the identified areas of concern; such instruction has been implemented as designed for the period of time the strategies should be implemented for a minimum of 12 weeks to show the instructional strategies effect or lack of effect that demonstrates the child is not making sufficient progress to meet age or state- approved grade level standards within a reasonable time frame.

(iv) The interventions used and the data based progress monitoring results are presented to the parents at regular intervals throughout the interventions.

2. Any educationally relevant medical findings that would impact achievement must also be included.
3. After consent is received from the parents for a comprehensive evaluation for special education determination the following must occur:
 - A. An observation by a required group member;
 - B. Documentation that the determination is not primarily due to any of the exclusionary factors;
 - C. Current analyzed classroom work samples indicating below level performance as compared to the classroom normative sample; and
 - D. Documentation of a pattern of strength and weaknesses in performance and/or achievement in relation to age and grade level standards must include:

Eligibility Determination

The child who is eligible for services under the category of specific learning disability must exhibit the following characteristics: a primary deficit in basic psychological processes and secondary underachievement in one or more of the eight areas along with documentation of the lack of response to instructional intervention as supported by on-going progress monitoring.

1. Deficits in basic psychological processes typically include problems in attending, discrimination/perception, organization, short term memory, long term memory, conceptualization/reasoning, executive functioning, processing speed, and phonological deficits. Once a deficit in basic psychological processes is documented, there shall be evidence that the processing deficit has impaired the child's mastery of the academic tasks required in the regular curriculum. Though there may exist a pattern of strengths and weaknesses, evidence must be included documenting that the processing deficits are relevant to the child's academic underachievement as determined by appropriate assessments that are provided to the child in his/her native language. Though a child may be performing below age or State-approved grade level standards, the results of progress monitoring must indicate that the child is not making the expected progress toward established benchmarks. This is indicated by comparing the child's rate of progress toward attainment of grade level standards.
2. Underachievement exists when the child exhibits a pattern of strengths and weakness in performance, achievement, or both, relative to age, State-approved grade level standards and intellectual development and when a child does not achieve adequately toward attainment of grade level standards in one or more of the following areas:
 - A. Oral expression- use of spoken language to communicate ideas;
 - B. Listening comprehension ability to understand spoken language at a level commensurate with the child's age and ability levels;

4. Progress monitoring includes the data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting child progress during instruction. When reviewing progress monitoring data, those students that exhibit a positive response to the research validated instruction being provided by general education cannot be considered as having a specific learning disability even though they may show deficits on achievement tests in the specified areas. In addition, children whose achievement in classroom academics indicates performance that is commensurate with pervasive weaknesses that are not indicative of a pattern of strengths and weaknesses may not be considered as having a specific learning disability.

5. One group member responsible for determining specific learning disability must conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent for special education evaluation is obtained. The observation of the child is conducted in the learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty. The observation must include information from the routine classroom instruction and monitoring of the child's performance.

The SLD Eligibility Group

1. The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the child's parents and a team of qualified professionals that must include:
 - A. The child's regular teacher; or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age;
 - B. A highly qualified certified special education teacher; and
 - C. A minimum of one other professional qualified to conduct individual diagnostic assessments in the areas of speech and language, academic achievement, intellectual development, or social-emotional development and interpret assessment and intervention data (such as school psychologist, reading teacher, or educational therapist). Determination of the required group member should be based on the data being reviewed and the child's individual needs.

Communication problems primarily from regional, dialectic, and/or cultural differences;

A. Speech sound errors at or above age level according to established research-based developmental norms, speech that is intelligible and without documented evidence of adverse effect on educational performance;

B. Physical structures (e.g., missing teeth, unrepaired cleft lip and/or palate) are the primary cause of

C. Children who exhibit tongue thrust behavior without an associated speech sound impairment.

(1) Language Impairment is impaired comprehension and/or use of spoken language which may also impair written and/or other symbol systems and is negatively impacting the child's ability to participate in the classroom environment. The impairment may involve, in any combination, the form of language (phonology, morphology, and syntax), the content of language (semantics) and/or the use of language in communication (pragmatics) that is adversely affecting the child's educational performance. The term language impairment does not include:

A. Children who are in the normal stages of second language acquisition/learning and whose communication problems result from English being a secondary language unless it is also determined that they have a speech language impairment in their native/primary language.

B. Children who have regional, dialectic, and/or cultural differences

C. Children who have auditory processing disorders not accompanied by language impairment.

D. Children who have anxiety disorders (e.g. selective mutism) unless it is also determined that they have a speech language impairment. There must be a documented speech-language impairment that adversely affects the educational performance for these children to qualify for special education

1. A full and individual initial evaluation for each area suspected of being a disability must be provided and considered prior to the child's eligibility for speech-language services. This may include assessments in the areas of health (e.g. ENT, otolaryngologist, ophthalmologist, and optometrist), vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.
2. The evaluation is sufficient to identify all of the child's special education and related service's needs, whether or not commonly linked to the disability category in which the child has been referred or classified.
3. Children with voice/resonance impairment must have a medical evaluation to rule out physical structure etiology by a medical specialist either prior to a comprehensive evaluation or as part of a comprehensive evaluation. The presence of a medical condition (e.g., vocal nodules, polyps) does not necessitate the provision of voice therapy as special education or related service nor does a prescription for voice therapy from a medical doctor. A written order from a medical practitioner is a medical opinion regarding the medical evaluation or treatment that a patient should receive. When directed to a school, these medical orders should be-considered-by,-the-team-as part of the eligibility process. The team, not a medical practitioner, determines the need for an evaluation for special education services based on documented adverse effect of the voice impairment on the child's educational performance.
4. A variety of assessment tools and strategies must be used to gather relevant functional, developmental and academic information about the child, including information provided by the parent. Information from the evaluation is used to determine whether the child is a child with a disability and the content of the child's IEP including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities).

Eligibility

1. Determining eligibility for speech-language impaired special education services includes three components:
 - A. Presence or absence of speech-language impairment based on Georgia rules and regulations for special education, as determined by the Speech and Language Pathologist,
 - B. Documentation of an adverse effect of the impairment on the child's educational performance, and
 - C. Eligibility team decision indicating that the student is eligible for special education and needs appropriate specialized instruction to access the student's curriculum.

needs. For this reason, all children who are suspected of having communication problems shall be the subject of a Student Support Team (SST) to problem solve and implement strategies to determine and limit the adverse affect on the child's educational performance.

3. For nonverbal or verbally limited children and those with autism and/or significant intellectual, sensory, or physical disabilities, a multidisciplinary team of professionals shall provide a functional communication assessment of the child to determine eligibility for speech-language services. The multidisciplinary team shall consist of professionals appropriately related to the child's area of disability.

4. A child is eligible for placement in a speech-language program if, following a comprehensive evaluation; the child demonstrates impairment in one or more of the following areas: speech sound, fluency, voice or language that negatively impacts the child's ability to participate in the classroom environment. The present adverse effect of the speech-language impairment on the child's progress in the curriculum, including social and/or emotional growth, must be documented in writing and used to assist in

1. Placement in the speech-language program shall be based on the results of the comprehensive assessment, and eligibility, along with all other pertinent information.
2. Children shall not be excluded from a speech-language program based solely on the severity of the disability-(i e., comparing-language scores to IQ scores) is not permissible as the only criteria for determining eligibility for speech-language impaired services.

Communication Paraprofessionals- A communication paraprofessional is an adjunct to the Speech Language Pathologist (SLP) and assists with certain duties and tasks within the speech-language program. The communication paraprofessional is under the supervision of a certified or licensed SLP. The communication paraprofessional cannot carry their own caseload, nor do they increase the certified SLP's case load outside of a self-contained classroom. The primary responsibility for the delivery of services, as indicated on the IEP, remains with the certified or licensed SLP. Children who receive services from the communication paraprofessional shall also receive services from the supervising SLP and/or licensed or certified SLP a percentage of the time designated in the IEP for speech-language services, but no less than one hour per month.

Procedures for Supervision of Communication Paraprofessionals

1. The SLP will provide specific training to the communication paraprofessional, during pre-planning.

1. The SLP will observe the communication paraprofessional providing instruction or interventions to students receiving services, at a minimum of two (2) sessions per nine-week period.
2. The SLP will provide instruction/therapy to the student receiving speech and language services after receiving a minimum of one (1), initial hour of direct contact with the communication paraprofessional, after receiving training.
3. The SLP will consult directly with the communication paraprofessional at a minimum of one (1) hour per week. During the conference time, the SLP will review written logs and data maintained by the communication paraprofessional.
4. After the initial training and monitoring session, the SLP will conduct at least one (1) therapy/instructional session with the student receiving speech and language services in every five (5) consecutive sessions.
5. After ten (10) hours of intense, direct supervision, the amount of supervision may be adjusted depending on the competency of the communication paraprofessional, the needs of the student receiving services, and the nature of the assigned task. The SLP, however, will complete instructional/therapy sessions with students receiving services at a minimum of one (1) per ten (10) consecutive sessions.
6. The SLP, communication paraprofessional, and the Director of Federal Programs will collaborate on the development of a professional learning plan to assist the communication paraprofessional in obtaining the necessary skills to boost instructional effectiveness. The plan may include the review of audio or videotaped sessions, attendance at supervisory conferences, and participation in specific webinars, sponsored by the Georgia Department of Education or selected in the online professional development software purchased by the Sumter County School System.
7. The communication paraprofessional will remain under the supervision of a speech and language pathologist, at all times. If a speech and language pathologist is not available to provide supervisory assistance, the communication paraprofessional will cease instructional/intervention session, until a fully qualified speech and language pathologist is assigned.



(ii) Documentation of TB I from another appropriate source, such as health department or social services reports, or parents' medical bills/records.

C. A neuropsychological, psychological or psychoeducational evaluation that addresses the impact of the TBI on the following areas of functioning:

Eligibility and Placement

- A. A current (within one year) eye examination report shall be completed and signed by the ophthalmologist or optometrist who examined the child. A report from a neurologist in lieu of the optometrist/ophthalmologist report is acceptable for students who have blindness due to cortical vision impairment.
- 2.A clinical low vision evaluation shall be completed by a low vision optometrist for children who are not totally blind.

C. In some cases, comprehensive psychological evaluations may be indicated and must be completed by appropriately certified personnel.

1. Braille instruction is always considered critical to appropriate education for a child who is blind.

Children identified with visual impairments shall be evaluated to determine the need for Braille skills. The evaluation will include the present and future needs for Braille instruction or the use of Braille. For children in which Braille instruction and use is indicated, the individualized education program (IEP) shall include the following:

A. Results obtained from the evaluation conducted for the purpose of determining the need for Braille skills; how instruction in Braille will be implemented as the primary mode for learning through integration with other classroom activities;

c. Date on which Braille instruction will commence; the length of the period of instruction and the frequency and duration of each instructional session; and

A. The level of competency in Braille reading and writing to be achieved by the end of the period and the subjective assessment measures to be used. I

B. For those children in which Braille instruction is not indicated, the IEP shall include statement with supporting documentation that indicate the absence of Braille instruction will not impair the child's ability to read and write effectively.

PRIVATE SCHOOLS (GEORGIA RULE 160-4-7-.13)

Children with Disabilities Placed in Private Schools by the SUMTER COUNTY SCHOOLS (SCS)

When the Individualized Education Program (IEP) Team decides that the most appropriate placement for a child is in a private school, the local educational agency (SUMTER COUNTY SCHOOLS)¹ that places the child in the private school continues to be responsible for making sure that the child receives the special education and related services included in the child's IEP and that those services are provided at no cost to the parent.

The SUMTER COUNTY SCHOOLS should make sure that the education provided at the private school meets the standards that apply to other children with disabilities and that the child and parent continue to have all the same rights that other children with disabilities and their parents have. LEAs should monitor compliance with the Individuals with Disabilities Education Act (IDEA) for these children through procedures such as written reports, on-site visits, and parent surveys. Ultimately, the SUMTER COUNTY SCHOOLS remains responsible for ensuring a free appropriate public education (FAPE) is provided when a child is placed in a private school by the SUMTER COUNTY SCHOOLS.

LEAs may apply for reimbursement grants if specific criteria are met. LEAs may apply for the state Residential and Reintegration Grant if the child is placed in a private residential facility that is approved by the Georgia Department of Education (GaDOE) or if the child is reintegrating from a private residential facility. If the private residential facility is out of the state, the facility must be on the approved list of the state where the facility is located. LEAs may also apply for the High Cost Grant to receive federal funds for exceptionally costly students. If the SUMTER COUNTY SCHOOLS does not receive grant funding, the SUMTER COUNTY SCHOOLS still has the obligation to provide the necessary education in a private setting at no cost to the parent. See the Special Education Budgets and Grant Application Process Chapter for more information.

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ). Georgia Department of Education

Children with Disabilities Placed in Private Schools by the Parent

Parents have the right to enroll their child in a private school of their choice; however, they are not guaranteed the same rights as when eligible children are enrolled in public school or when placed in private school by the SUMTER COUNTY SCHOOLS. Children who are home-schooled within the boundaries of the traditional SUMTER COUNTY SCHOOLS² are considered parentally-placed private school children for the purposes of special education.

Child Find

The traditional SUMTER COUNTY SCHOOLS is required to carry out child find activities to locate, identify, and evaluate children attending the private schools **within the jurisdiction of the traditional SUMTER COUNTY SCHOOLS**. The traditional SUMTER COUNTY SCHOOLS must consult with representatives of the private school to complete child find activities. These child find activities must be similar to activities undertaken for the children in the traditional SUMTER COUNTY SCHOOLS and must be completed in a time period comparable to that for other children enrolled in the traditional SUMTER COUNTY SCHOOLS. Child find activities include any parentally-placed private school children who attend a private school within the jurisdiction of the traditional SUMTER COUNTY SCHOOLS, even if the child resides in a different SUMTER COUNTY SCHOOLS or in a state other than Georgia. See 34 C.F.R. § 300.131(a).

Consultation Process

Traditional LEAs are required to consult with the representatives of private schools, parents of private school children, and parents of home-schooled children regarding the design and development of special education and related services for parentally-placed private school and home-schooled children. This consultation process must be timely and meaningful. More than one timely and meaningful consultation may be needed to fully meet the requirement. Consultation requirements must include a description of the following:

- how parentally-placed private school children suspected of having a disability can participate equitably in the Child Find process;

² Traditional local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, excluding state charter schools and Georgia Department of Juvenile Justice (DJJ).

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- how the parents, teachers, and private school officials will be informed of the Child Find process;
- how the determination of the proportionate share of federal funds available to serve the children with disabilities was calculated;
- how the process will operate throughout the school year;
- how, where, and by whom the special education and related services will be provided;
- how funds will be apportioned if funds are insufficient;
- how and when those decisions will be made; and
- how the traditional SUMTER COUNTY SCHOOLS will provide to the private school officials a written explanation of the reason why it chose not to provide services directly or through a contract.

The traditional SUMTER COUNTY SCHOOLS must obtain a written Private/Home School Participation and Private School Affirmation signed by the representatives of the participating private schools as documentation of the consultation process and must be prepared to submit this documentation to the GaDOE upon request. See 34 C.F.R. § 300.135. If the private school officials believe that the traditional SUMTER COUNTY SCHOOLS did not engage in the consultation in a meaningful or timely manner or did not consider the views of the private school officials, it may submit a complaint through the Formal Complaint Process to the GaDOE. See the chapter on Dispute Resolution for more information. If the private school is not satisfied with the decision of the GaDOE, they may submit the complaint to the United States Department of Education.

Determination of Equitable Services

No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in the SUMTER COUNTY SCHOOLS. See 34 C.F.R. § 300.137(a). However, the traditional SUMTER COUNTY SCHOOLS has an obligation to provide parentally-placed private school children an opportunity for equitable participation to receive services funded with Federal IDEA Part B dollars that the traditional SUMTER COUNTY SCHOOLS has determined, after consultation, to make available to its population of parentally-placed private school children with disabilities. These children with disabilities may receive a different amount of services than children in public schools. Some children will not receive any services. The traditional SUMTER COUNTY SCHOOLS will make the final decisions regarding services to be provided prior to the start of the school year.

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Services Plans

A services plan will be developed and implemented for each private school child with disabilities who will receive special education and related services from the traditional SUMTER COUNTY SCHOOLS. The services plan must:

- (1) contain a statement of the special education and related services, and supplementary aids and services, to be provided to the child;
- (2) be in effect at the beginning of each school year; and
- (3) be developed, reviewed, and revised periodically, but not less than annually, in accordance with IEP requirements in IDEA and Georgia Rules.

The traditional SUMTER COUNTY SCHOOLS will initiate and conduct the meetings to develop, review, and revise a services plan and ensure that a representative of the private school attends each meeting. As with IEPs,

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in-person participation in the meeting is encouraged, but participation may be through conference call or other means. Services provided to private school children must be provided by personnel who meet the same standards as personnel providing the services in the traditional SUMTER COUNTY SCHOOLS, except private school teachers do not have to meet the special education teacher qualifications in 34 C.F.R. § 300.156(c). See 34 C.F.R. § 300.138(a)(1).

Services may be provided at the private school, or children may be transported to the public school or community setting to receive services. If necessary for the child to benefit from or participate in services, transportation must be provided by the traditional SUMTER COUNTY SCHOOLS, but the traditional SUMTER COUNTY SCHOOLS is not required to transport the child from their home to the private school. Transportation costs will be included in calculating whether the traditional SUMTER COUNTY SCHOOLS has met the requirements of proportionate funding.

The traditional SUMTER COUNTY SCHOOLS may provide materials, equipment, and property purchased to implement the services to children with disabilities in the private school. These must be used only for those purposes and must be returned when no longer needed. It is also permissible to use funds for indirect services such as consultation and private school staff training. No funds may be used for repairs, minor remodeling, or construction of private school facilities. The SUMTER COUNTY SCHOOLS may not use the IDEA Part B flow-through or federal preschool funds to finance the existing level of instruction in a private school, the needs of the private school, or the general needs of the children in the private school.

Expenditures

To meet the requirements for provision of services to parentally-placed private school children, the SUMTER COUNTY SCHOOLS must follow these guidelines:

- For children ages 3-21, the SUMTER COUNTY SCHOOLS must expend an amount that is the same proportion of the SUMTER COUNTY SCHOOLS's total Part B of the IDEA flow-through funding as the number of private school children with disabilities, ages 3-21, attending private and home schools in its jurisdiction is to the total number of children with disabilities in its jurisdiction.
- For children ages 3-5, the SUMTER COUNTY SCHOOLS must expend an amount that is the same proportion of the SUMTER COUNTY SCHOOLS's preschool funding as the number of private school children and home-schooled children with disabilities, ages 3-5, attending private and home schools in its jurisdiction is to the total number of children with disabilities, ages 3-5, in its jurisdiction.

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- Once an SUMTER COUNTY SCHOOLS expends all of the proportionate share funds for a fiscal year, there is no requirement for the SUMTER COUNTY SCHOOLS to provide additional funds or continue services.

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- If the SUMTER COUNTY SCHOOLS has not expended all of the funds required by the end of the fiscal year, the SUMTER COUNTY SCHOOLS must carry over funds for a period of one additional year to be used for proportionate share.
- The SUMTER COUNTY SCHOOLS must consult with representatives of the private school in deciding how to conduct the annual count of the number of private school children with disabilities who reside in its jurisdiction.
- The SUMTER COUNTY SCHOOLS must ensure that the child count is done on October FTE-1 of each year since this count is used to determine the amount the SUMTER COUNTY SCHOOLS must spend in the following fiscal year. This count is also reported in the Consolidated Application with IDEA grant application submission. If the original submitted IDEA grant application and budget detail in the Consolidated Application does not accurately reflect the count reported in October FTE1, a budget amendment must be submitted to revise the count and accurately reflect services and expenditures for proportionate share.

Each SUMTER COUNTY SCHOOLS must maintain records and report to the GaDOE the following information related to parentally-placed private school children:

- the number of children evaluated
- the number of children determined to be children with disabilities
- the number of children served

Placement of Children by Parent When FAPE is at Issue

Sometimes an SUMTER COUNTY SCHOOLS will make a FAPE available to a child but the child's parent decides to place the child in a private school or facility. The SUMTER COUNTY SCHOOLS is not required to pay for the cost of the education for this child at the private school. When the SUMTER COUNTY SCHOOLS and the parent disagree regarding the availability of an appropriate program for the child in the SUMTER COUNTY SCHOOLS, due process hearing procedures may be initiated by the parent. Through a due process hearing, an administrative law judge (ALJ) may find that the SUMTER COUNTY SCHOOLS had not made a FAPE available to the child in a timely

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manner prior to the child's enrollment in the private school and that the private placement is appropriate, resulting in reimbursement to the parent of the cost of the private school placement. A parental placement may be found to be appropriate by an ALJ even if it does not meet Georgia's standards that apply to education provided by Georgia or the SUMTER COUNTY SCHOOLS.

When a FAPE is at issue between the parent and the SUMTER COUNTY SCHOOLS, and the parent determines that he or she is going to place the child in a private school at public expense, the parent must notify the SUMTER COUNTY SCHOOLS in writing at least 10 business days prior to the removal of the child or at an IEP Team meeting

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Mr. Richard Woods, Georgia's School Superintendent
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prior to the removal. If the parent does not provide the notice, then the cost of reimbursement for private school services may be reduced or denied by the ALJ. The cost of reimbursement will not be reduced or denied for the parent's failure to give the above described notices if the SUMTER COUNTY SCHOOLS prevented the parent from providing the notice, the parent had not received the information regarding the notice requirement, the parent is not literate or cannot write in English, or the notice requirement would result in serious emotional or physical harm to the child. See 34 C.F.R.

§ 300.148(e).

Frequently Asked Questions

1. What are equitable services?

The regulations state that children with disabilities enrolled in private schools by a parent do not have an individual right to receive some or all of the special education and related services they would receive if enrolled in the public schools. The SUMTER COUNTY SCHOOLS only has an obligation to provide parentally-placed private school children with disabilities an opportunity for equitable participation in the services funded with Federal Part B dollars that the SUMTER COUNTY SCHOOLS has determined, after consultation, to make available to its population of parentally-placed private school children with disabilities. The consultation process is important to ensure the provision of equitable services, which must be provided in accordance with a services plan.

2. Are SUMTER COUNTY SCHOOLS charter schools required to provide timely consultation and equitable services for parentally-placed private school children?

No. Traditional LEAs have the responsibility to provide timely consultation and equitable services for parentally-placed private school children residing within their jurisdiction. SUMTER COUNTY SCHOOLS charter schools have the responsibility to provide special

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education and related services to children enrolled in their SUMTER COUNTY SCHOOLS charter schools.

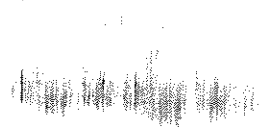
3. How often must a services plan be written?

A services plan must be in effect for eligible children when the school year begins. The services plan must be reviewed periodically, not less than annually, to determine whether the annual goals for a child are being achieved, and must be revised as appropriate.

4. Does the SUMTER COUNTY SCHOOLS where the private school is located have an obligation to make an offer of a FAPE?

The SUMTER COUNTY SCHOOLS where a child attends private school is responsible for ensuring Child Find and equitable participation. If a parentally placed private school child also resides within the jurisdiction of that SUMTER COUNTY SCHOOLS, then the SUMTER COUNTY SCHOOLS is responsible for making a FAPE available to the child. If the child resides within the jurisdiction of a different SUMTER COUNTY SCHOOLS, the SUMTER COUNTY SCHOOLS where the private school is located is not responsible for offering a FAPE to that child.

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5. **Can the SUMTER COUNTY SCHOOLS where the private school is located require another SUMTER COUNTY SCHOOLS to pay for the services of a parentally-placed private school child with a disability from another state?**

No. Out-of-state children with disabilities enrolled in a private school within the SUMTER COUNTY SCHOOLS must be included in the group of parentally-placed children with disabilities whose needs are considered in determining who will be served and the types and amounts of services to be provided through a services plan.

6. **Can a parent request evaluations from the SUMTER COUNTY SCHOOLS where the private school is located as well as the SUMTER COUNTY SCHOOLS where the child resides?**

Yes. A parent could request that different LEAs evaluate his or her parentally placed private school child if the child is attending a private school that is not in the jurisdiction of the SUMTER COUNTY SCHOOLS in which the child resides. The SUMTER COUNTY SCHOOLS where the child resides has the responsibility to provide a FAPE to the child, while the SUMTER COUNTY SCHOOLS where the private school is located has the responsibility to ensure equitable participation (also called proportionate share services or equitable services). Parents are not encouraged to ask two different LEAs to evaluate their child for different purposes at the same time. The United States Department of Education, Office of Special Education Programs (OSEP) states that “[s]ubjecting a child to repeated testing by separate LEAs in close proximity of time may not be the most effective or desirable way to ensure that the evaluations are meaningful measures of whether a child has a disability, or of obtaining an appropriate assessment of the child’s educational needs.” See Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools, Question and Answer B-4, U.S. Dep’t of Educ., Office of Special Education and Rehabilitative Services (OSERS), April 2011.

7. **What are the SUMTER COUNTY SCHOOLS’s responsibilities for reevaluations of parentally placed private school children?**

The SUMTER COUNTY SCHOOLS where the private school is located is responsible for conducting reevaluations of children with disabilities enrolled by their parents in private schools located within the jurisdiction of the SUMTER COUNTY SCHOOLS. Reevaluations must be conducted in accordance with IDEA and Georgia Rules. See Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools, Question and Answer B-8, U.S. Dep’t of Educ., Office of Special Education and Rehabilitative Services (OSERS), April 2011.

8. **What is the Georgia Special Needs Scholarship (GSNS) Program? What are the SUMTER COUNTY SCHOOLS’s responsibilities for children receiving the GSNS?**

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The GSNS Program is a parental choice program for special needs children attending Georgia public schools who are served under an IEP. If a child meets the eligibility criteria for the GSNS Program, parents have the right to request a transfer from a child's current public

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school to: (1) another public school within their school system; (2) another public school outside of their school system; (3) one of the three state schools for the blind or deaf; or (4) a private school authorized to participate in the GSNS program. More Information about the GSNS Program can be found at: <http://www.gadoe.org/External-Affairs-andPolicy/Policy/Pages/Special-Needs-Scholarship-Program.aspx>

9. If a student accepts the Georgia Special Needs Scholarship (GSNS) to attend a private school, does the private school have to follow the student's IEP?

No. A parent's acceptance of the scholarship has the same effect as a parental refusal to consent to special education and related services under the IDEA. A participating private school is not required to follow a child's IEP nor is it required to provide special education services to a child. However, the SUMTER COUNTY SCHOOLS in which a private school is located must consider a student participating in the GSNS Program for receipt of proportionate share if the child enrolls in a private school within the SUMTER COUNTY SCHOOLS's jurisdiction.

10. If a parent unilaterally places a student in private school, including through the use of the Georgia Special Needs Scholarship, how do their rights under IDEA differ from a student in public school or placed in private school by the SUMTER COUNTY SCHOOLS?

IDEA	Rights of Special Needs Children in Public Schools (or Special Needs Children placed in private schools by the school district)	Rights of Special Needs Children Parentally Placed in Approved Private Schools (Ga Special Needs Scholarship Children)
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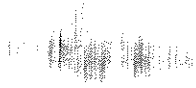
<p>Free Appropriate Public Education (FAPE)</p>	<p>A FAPE must be made available to eligible children with disabilities. This includes special education services provided in conformity with an individualized education program (IEP) that meets IDEA requirements.</p> <p>Special Education is specially designed instruction to meet the unique needs of the child with a disability.</p> <p>Special Education and related services are provided at no cost to the parent.</p>	<p>No individual entitlement to FAPE or to receive special education and related services that the child would receive if enrolled in public school.</p> <p>A child may receive equitable services. Each SUMTER COUNTY SCHOOLS determines the equitable services it will provide to its population of parentally placed private school children, through consultation with private schools and parents.</p> <p>If a child is designated to receive equitable services, they are provided in conformity with a services plan at no cost to parents.</p>
<p>Special Education Teacher</p>	<p>Public Elementary, middle, and secondary school special education teachers must meet the special education teacher certifications requirements in the law and regulations.</p>	<p>Not Applicable</p>

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<p>Certification Requirements</p>		
<p>Least Restrictive Environment Requirements</p>	<p>Children with disabilities must be educated with their non-disabled peers, to the maximum extent appropriate.</p>	<p>Not applicable</p>
<p>Discipline Procedures</p>	<p>Children with disabilities are entitled to certain protections related to IDEA's disciplinary procedures.</p>	<p>Not applicable</p>
<p>Due Process Rights</p>	<p>Parents may request a due process hearing if they have a dispute related to the identification, evaluation, educational placement of a child with a disability, the provision of FAPE, or the implementation of IDEA's disciplinary procedures. This could include disputes regarding the development or implementation of an IEP and the location where services will be.</p>	<p>Due process rights of parentally placed private school children and their parents are limited to a SUMTER COUNTY SCHOOLS's failure to comply with the child find requirements, including the evaluation requirements.</p>

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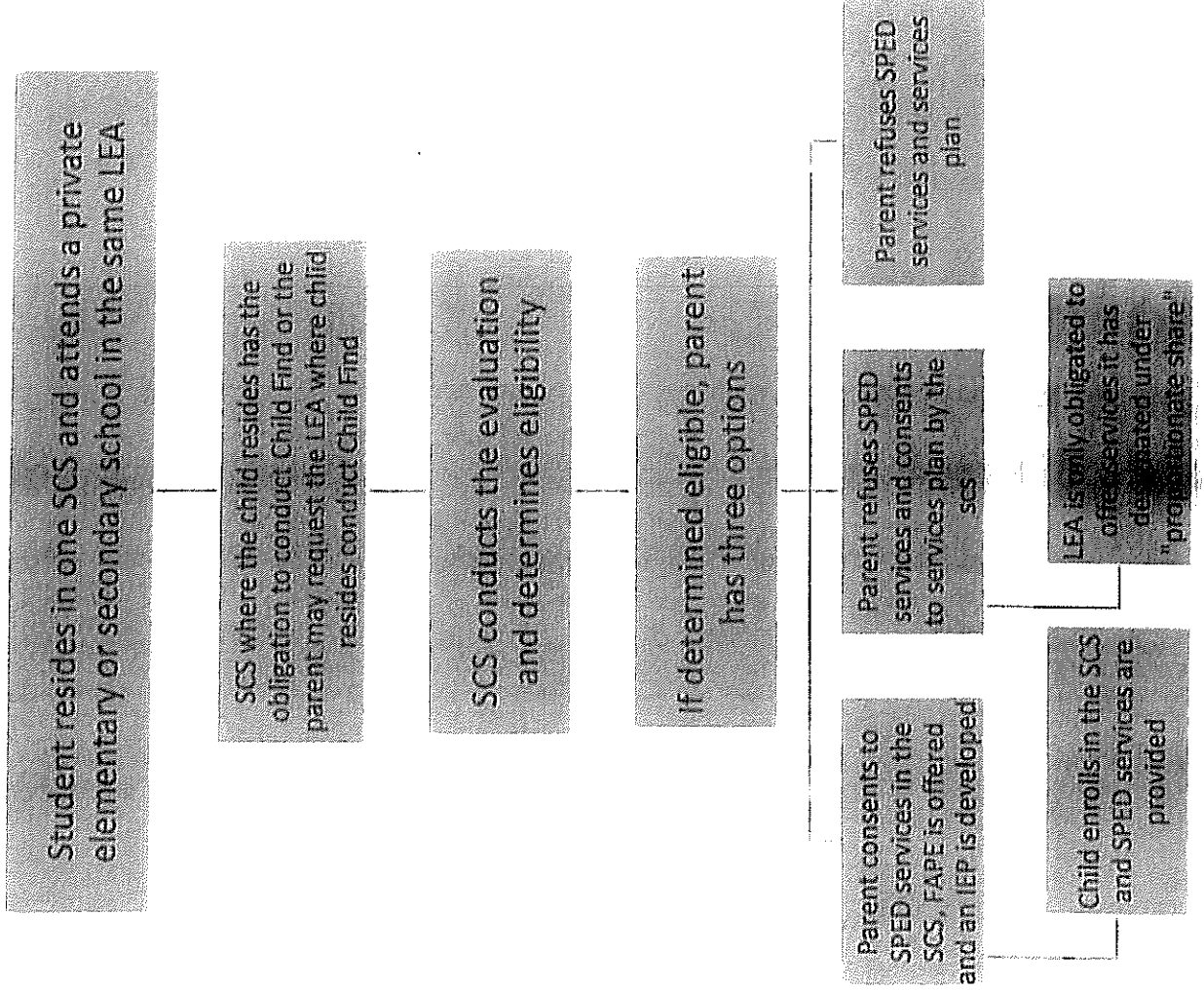
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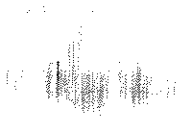


Flowchart 1: K-12 Child attending a Private School that is within the jurisdiction of the SUMNER COUNTY SCHOOLS of residence



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Flowchart 2: K-12 Child attending a Private School that is not within the jurisdiction of the SUMTER COUNTY SCHOOLS of residence



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Student resides in one LEA but attends a private elementary or secondary school in another LEA

LEA where the private school is located is obligated to conduct Child Find

Parent may request LEA where child resides conduct Child Find

LEA where the private school is located conducts the evaluation and determines eligibility

LEA where child resides conducts the evaluation and determines eligibility

If determined eligible, parent has three options

If determined eligible, parent has three options

Parent consents to services plan by the LEA where the private school is located

Parent consents to SPED services in LEA where the child resides, FAPE is offered and accepted and an IEP is developed

Parent refuses SPED services and services plan

Parent consents to SPED services in the LEA where the child resides, FAPE is offered and an IEP is developed

Parent refuses SPED services and consents to services plan by the LEA where the private school is located

Parent refuses SPED services and services plan

LEA where the private school is located is only obligated to offer services it has designated under "proportionate share"

Child enrolls in the LEA where the child resides and SPED services are provided

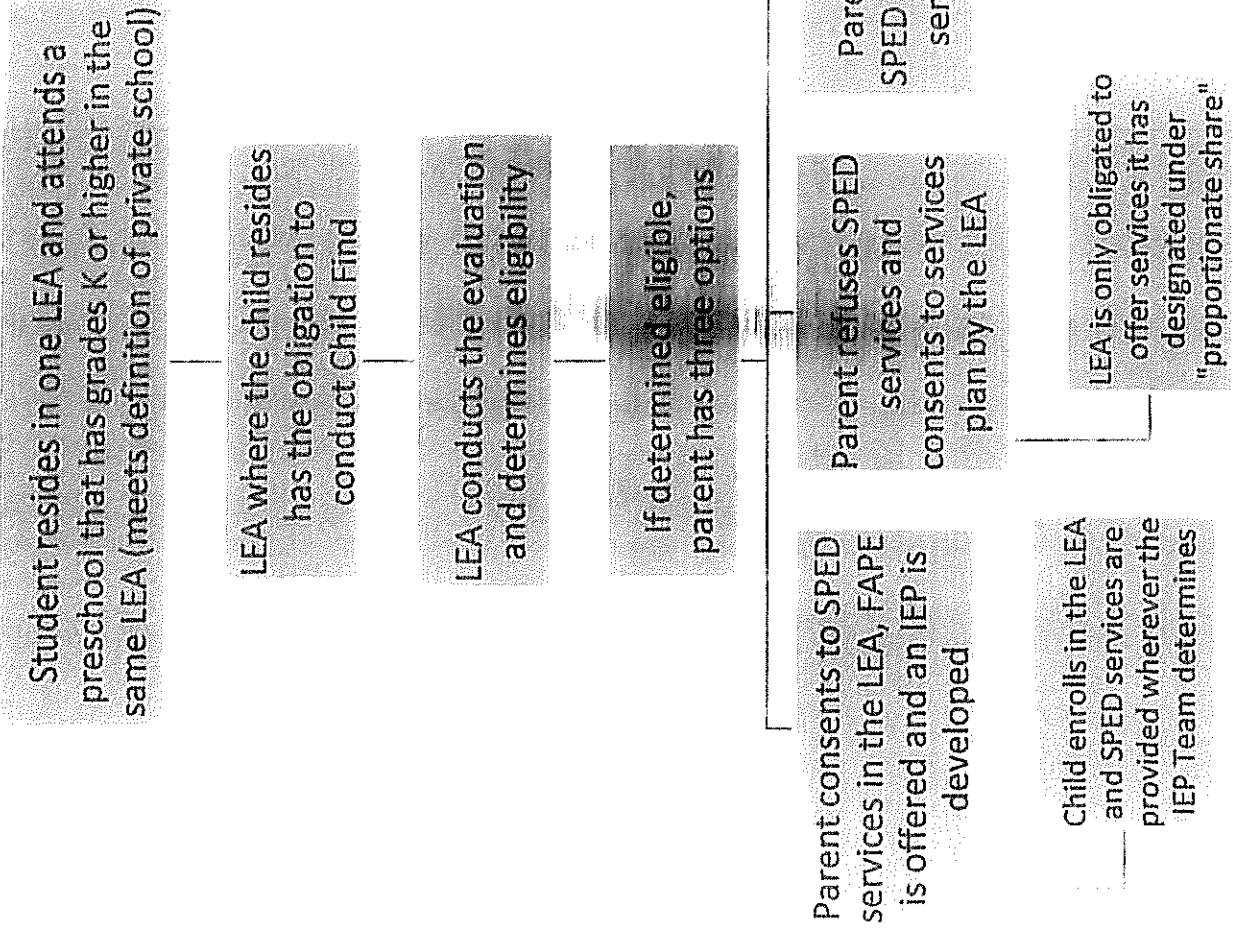
Child enrolls in the LEA where the child resides and SPED services are provided

LEA where the private school is located is only obligated to offer services it has designated under "proportionate share"

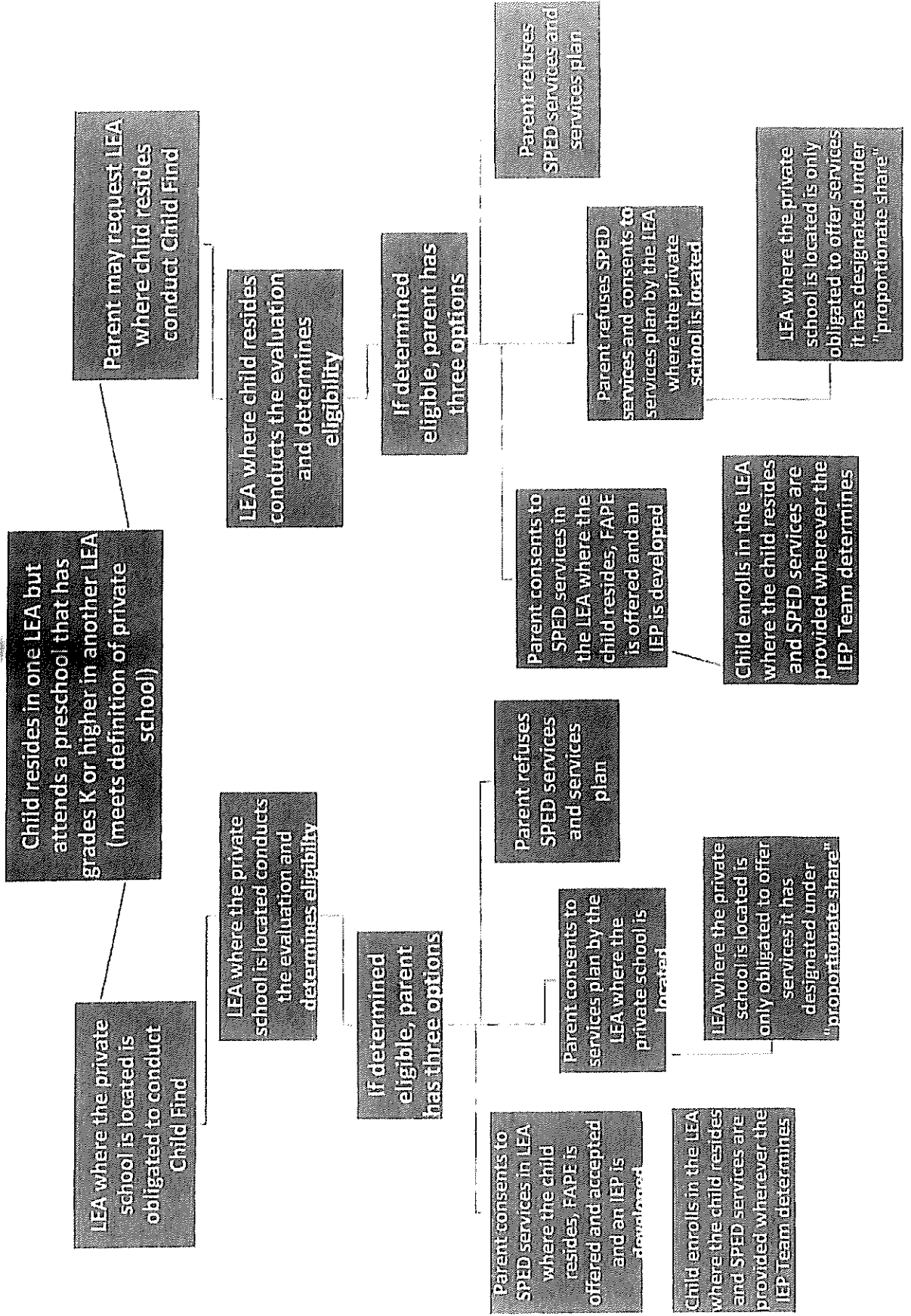
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Flowchart 3: Preschool Child attending a Private School that is within the jurisdiction of the SUMNER COUNTY SCHOOLS of residence

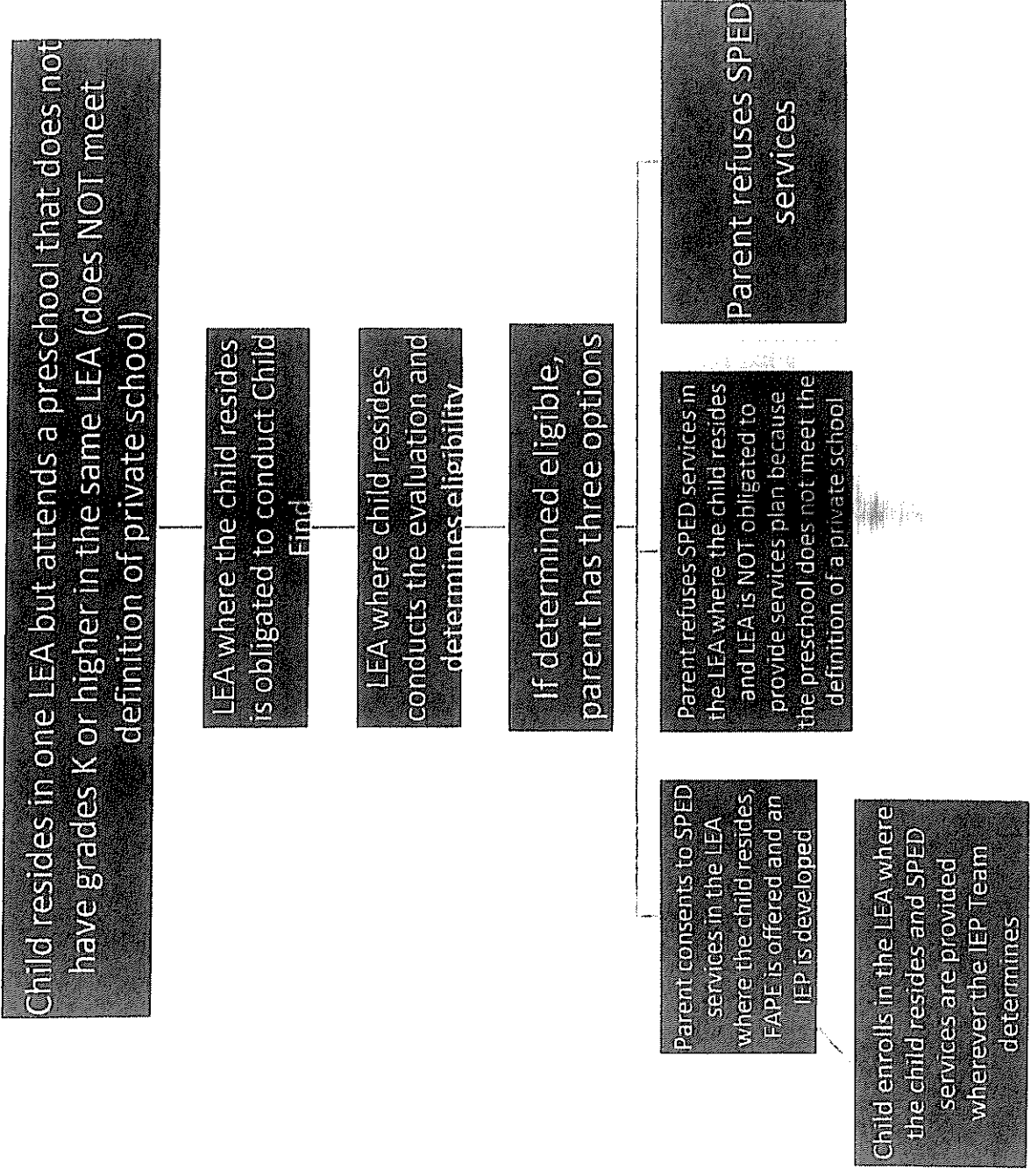
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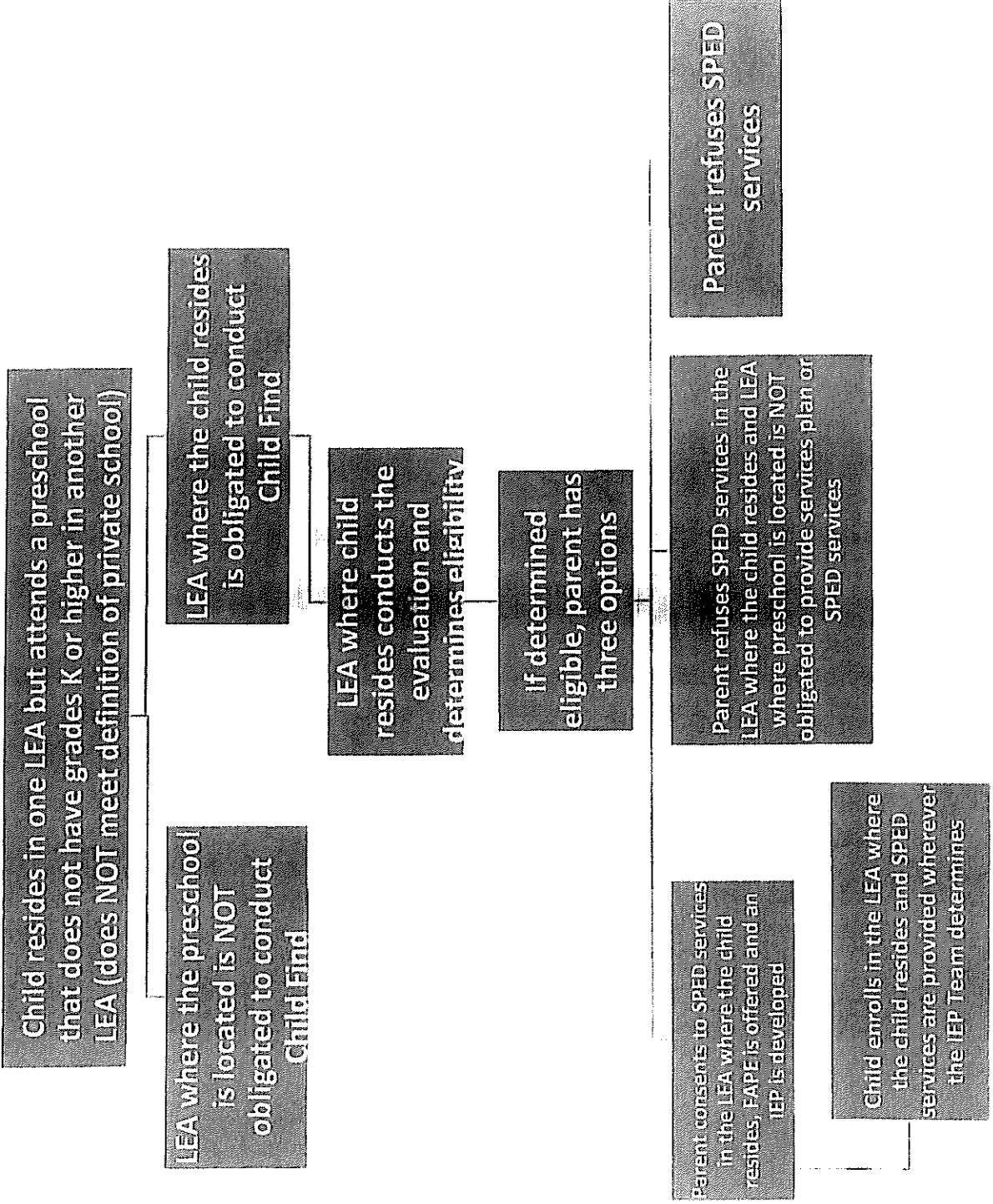
Flowchart 4: Preschool Child attending a Private School that is not within the jurisdiction of the SUMTER COUNTY SCHOOLS of residence



Flowchart 5: Preschool Child attending a Preschool that does not meet the definition of a private school that is within the jurisdiction of the SUMTER COUNTY SCHOOLS of residence



Flowchart 6: Preschool Child attending a Preschool that does not meet the definition of a private school that is not within the jurisdiction of the SCS of residence



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SERVICE DELIVERY & LEAST RESTRICTIVE ENVIRONMENT

(34 C.F.R. §§ 300.114-300.117; GEORGIA RULE 160.4-7-.07)

One of the most significant requirements of the Individuals with Disabilities Education Act (IDEA) is that children with disabilities be educated in the least restrictive environment (LRE) to the maximum extent appropriate. Special education and related services are designed to help meet the unique needs of children with disabilities in the LRE.

To effectively meet the standards of instruction, children with disabilities in Georgia must be exposed to and held accountable for the Georgia Standards of Excellence (GSE). Ultimately, the Individualized Education Program (IEP) Team's goal is for children with disabilities to be educated in regular education settings with supplementary aids and services to the maximum extent possible. Children with disabilities, including those placed by the local educational agency (SUMTER COUNTY SCHOOLS)¹ in public or private institutions or other care facilities in Georgia, are to be educated with children who are nondisabled to the maximum extent possible.

Education of children with disabilities can be made more effective by:

- teaching the GSE effectively, holding the same challenging expectations that have been established for all children;
- preparing children with disabilities to lead productive and independent adult lives, to the maximum extent possible;
- providing opportunities for parents to participate meaningfully in the education of their children at school and at home;
- providing effective special education and related services;

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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- providing supplementary aids and services so children with disabilities can learn in regular education settings whenever appropriate; and

-
- providing regular education teachers with professional learning to ensure that children with disabilities receive appropriate accommodations or modifications and are not removed from regular education settings because accommodations or modifications are not being provided.

When the IEP Team has reviewed the child'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 child will need in order to meet the goals and the setting in which the services will be provided.

The IEP Team always begins by considering how the goals can be met in the regular education setting. The Team should determine the education services, related services, supplementary aids and services, and assistive technology that are necessary for the child to stay in the regular education setting, continue to have access to the GSE, 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 child with an orthopedic impairment. The IEP Team determines the child's needs, services, supports, and/or accommodations that are required to make progress in regular education settings.

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

LRE Decision Process

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Update Present Levels of Academic Achievement and Functional Performance (PLAAFP)		
Develop IEP goals (and objectives, if needed) using deficits identified in the PLAAFP		
Determine whether the goal or objective can be taught in a regular education setting		
Accommodations and Modifications	Personnel Supports	Settings
Determine the alternative placement or community setting where those goals and objectives that cannot be taught in a regular education setting can be taught		
Determine additional settings or activities that will provide opportunities for interaction with nondisabled peers		
Review progress monitoring data specific to goals and objectives		

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Service Option	Personnel	Description of Service
Regular Education	Regular Education Teacher, No Special Education Support	Child with a disability is served in the regular education class with no additional personnel support from special education.
Additional Supportive Services	Para, Interpreter, Job Coach, Other Assistive Personnel, or other teacher (not special education)	Child with a disability receives service from personnel other than a certified special education teacher in the regular education classroom. (i.e. para, interpreter, or job coach) *
Direct Service: Consultative	Regular Education Teacher and Special Education Teacher who provides Direct Service according to the Consultative Delivery Model	Child with a disability receives direct service from the special education teacher in the regular education classroom, the amount of time determined by the IEP team.

<p>Direct Service: Collaborative</p>	<p>Regular Education Teacher and Special Education Teacher who provides Direct Service according to the Collaborative Delivery Model</p>	<p>Child with a disability receives direct service from the special education teacher in the regular education for less than 100% of the segment.</p>
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Service Option	Personnel	Description of Service
<p>Direct Service: Co-teaching</p>	<p>Regular Education Teacher and Special Education Teacher who provides Direct Service according to the Coteaching Delivery Model</p>	<p>Child with a disability receives direct service from the special education teacher in the regular education for 100% of the segment each time this class meets.</p>
<p>Instruction for Individuals or Small Groups Outside the Regular Education Classroom</p>	<p>Special Education Teacher</p>	<p>Child with a disability receives direct service from the special education teacher in a special education classroom.</p>

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Separate Day School or Program	Special Education Teacher	Child with a disability receives direct service from the special education teacher in a special education classroom in a separate school or program. An example would be a GNETS Center-based Program.
Home-based Instruction	Special Education Teacher	Child with a disability receives direct service from the special education teacher at the child's home. Homebased Instruction may be used as a short-term placement option on occasions when the parent and SUMTER COUNTY SCHOOLS agree at an IEP meeting.
Residential Placement In-State or Out-of-State	Special Education Teacher	Child with a disability receives direct service from the special education teacher in a residential setting as determined by the IEP team.
Hospital/Homebound Instruction	Special Education Teacher	Child with a disability and a medically diagnosed condition restricting them to hospital or home receives direct service from a special education teacher

Frequently Asked Questions

1. What is the Least Restrictive Environment?

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

2. Who decides what placement is the least restrictive environment for a child with a disability?

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

The IEP Team may not make placement decisions based only on the category of the child's disability, the severity of the disability, the placement options currently available, the availability of educational or related services, space availability, or administrative convenience. The law is also clear that children with disabilities have a right to an equal opportunity to participate in nonacademic and extracurricular services and activities. See 34 C.F.R. §§ 300.107, 300.117; Georgia Rule 160-4-7-.07(4). LEAs must provide these activities in such a way that children with disabilities have an opportunity to participate in general school activities such as lunch, counseling services, athletics, transportation, health services, recreation activities, clubs, or employment opportunities.

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3. What types of support must be considered by the IEP Team for a child with a disability to stay regular classroom?

The IEP Team, which includes the parent and the SUMTER COUNTY SCHOOLS personnel, must carefully consider accommodations, modifications, personnel supports, and possible changes to the physical environment that will enable the child with a disability to be educated in regular education settings.

4. In a co-taught classroom, who is responsible for providing special education services? In a co-classroom, the special education teacher is responsible for providing special education services. should be listed as the service provider on the IEP. In addition, the regular education and special education teachers provide instruction for the whole segment(s) to all children in the classroom

5. What are accommodations?

Accommodations are changes in how instruction is provided, how the child is expected to respond, how the child participates in classroom activities, and in the kinds of instructional materials and how they are used. For example, a child might listen to portions by using text-to-speech rather than reading it, answer questions orally or use a computer keyboard instead of writing with a pencil, use large print text books, watch video with captions, participate in a discussion in a biology class with a sign language interpreter, or have a peer take notes so a copy of the notes can be easily shared. Accommodations provide children with disabilities a variety of ways to access the Georgia Standards of Excellence (GSE) so that their disabilities are not barriers to achievement. Children receiving accommodations are still expected to meet the same grade level GSE as their peers without disabilities. Accommodations provide access to the standards and support students in their least restrictive environment.

Accommodations must be appropriate and specific to the child's needs. Too many accommodations or unnecessary accommodations can hinder achievement or lower expectations. On the other hand, a lack of needed accommodations in the classroom can prevent a child from meeting the standards that may have been possible with the right accommodations implemented well. Accommodations offer the opportunity for success but they cannot guarantee that the child will be successful.

6. What are program modifications?

Program modifications are alterations that change, lower, or reduce learning expectations. Modifications can increase the gap between the achievement of children with disabilities and the expectations for proficiency at a particular grade level.

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Consistent use of certain modifications could adversely affect children throughout their educational career.

7. What is an assistive technology device?

The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. 34 C.F.R. § 300.5.

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

The term “assistive technology service” means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

This may include:

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

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services to, employ, or are otherwise substantially involved in the major life functions of that child. 31 C.F.R. § 300.6.

8. What is the continuum of alternative placements?

The continuum of alternative placements includes options that must be available such as instruction in regular classes, special classes (small group), special schools, home instruction, and instruction in hospitals and institutions. Supplementary services and supports can be provided in any setting to children whose IEP requires such supports. For instance, children may receive small group in conjunction with regular class placement for the same subject area.

9. What are the placement options for school-aged students with disabilities?

A continuum of placements will be considered by the IEP Team for school-aged students with disabilities:

- Support in regular education settings with age appropriate

- non-disabled peers
 - Additional supportive services

- Supportive Instruction examples: paraprofessional and job coach

- Direct special education services

- Consultative services

- Collaborative services

- Co-teaching services

- Other placement options, including

- Special education small group classes
 - Special schools
 - Private schools

- Home-based instruction
 - Hospital/homebound

- Residential services

10. What are the placement options for preschool age children with disabilities?

The same placement options for school-aged students extends to preschool children with disabilities. The IEP Team should consider the full continuum of options when making the placement decision for a preschool child with a disability. Some specific preschool options may include:

1. participation in regular education early childhood programs in the public school or in the community, Head Start, Bright from the Start Pre-Kindergarten, public or private child care/day care, and preschool programs;
2. placement in a separate special education program housed in the public school or in a community-based setting; and/or
3. services in the home as the natural environment for a young child.

11. Does the full continuum of placements apply to all areas of disabilities? Yes. The full continuum of placements applies to all areas of disabilities.

12. How is the need for hospital/homebound (HHB) instruction determined?

Hospital/homebound instruction may be used for students who have a medically diagnosed condition that will significantly interfere with their education and requires them to be restricted to home or a hospital for a period of time. The SUMTER COUNTY SCHOOLS provides hospital/homebound instruction only when the SUMTER COUNTY SCHOOLS has received a completed medical referral form signed by a physician. The form must state that it is anticipated that the child is unable to participate in instruction and will be absent for at least ten consecutive school days or has a chronic health condition that will cause absences over an intermittent time period. When that situation occurs, the IEP Team meets to review the IEP, consider the medical referral, and make necessary changes to the IEP as appropriate.

Once the SUMTER COUNTY SCHOOLS determines the child meets the eligibility requirements for HHB instruction, the request will be forwarded to the IEP Team to assist in the development of an Educational Service Plan (ESP) to deliver the appropriate HHB instruction. When the IEP Team considers hospital/homebound instruction, it is important to note that the final determination of services, the setting, and delivery method rests with the IEP Team. The medical referral provides a medical opinion on the child's treatment. The medical opinion must be considered by the IEP Team as part of determining the services and setting(s) for the child. If a child with a disability is hospitalized outside of his or her SUMTER COUNTY SCHOOLS, the responsibility for the

child's hospital/homebound instruction remains with the SUMTER COUNTY SCHOOLS in which the child attends. The SUMTER COUNTY SCHOOLS where the child attends may contract with the hospital to provide instructional services, contract with the SUMTER COUNTY SCHOOLS where the hospital is located, or contract directly with appropriately certified teachers in that geographic area.

Many times, it is very helpful to the team to have the practitioner who provided the hospital/homebound referral participate via a conference call in the IEP Team meeting. See the HHB Instruction State Board Rule [160-4-2.31](#) for additional information.

13. What is home-based instruction?

Home-based instruction is a short-term placement option used when the parent and SUMTER COUNTY SCHOOLS agree at an IEP Team meeting. When deciding on home-based instruction as a placement option, the IEP Team should write an appropriate reinstatement plan to incorporate the child back into the school setting. During the time the child is being served in the homebased setting, provision to a FAPE including access to the general education curriculum, as well as IEP services, must be provided.

14. How are home-based instruction different from hospital/homebound instruction? The basis for hospital/homebound instruction is a medical condition that significantly interfere with the child education and requires them to be restricted to their home or a hospital for a period of time. Home based instruction are provided for reasons other than medical concerns, and the IEP Team determine that the home is the most appropriate setting. Both are viewed as temporary placements with expectation that the child will be transitioned back into the school setting as quickly as possible with a reintegration plan that specifies the support necessary to enable the child's reintegration into the school-based setting.

15. How does LRE apply in nonacademic settings?

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

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The IEP Team decides what supplementary aids and services are appropriate and necessary for the child to participate in these activities.

16. What administrative issues impact the provision of LRE?

In the Georgia Rules, information is provided for LEAs on certain requirements for recruiting, hiring, training, and retaining an adequate supply of appropriately prepared and trained (certified or licensed) speech/language pathologists, special education teachers, related service providers, occupational and physical therapists, and educational interpreters. The State rules also specify the requirements for appropriate classroom space and list the maximum class sizes for preschool and school-aged students with disabilities. See Georgia Rule 160-4-7-.14. LEAs may have flexibility options for class size; however, a FAPE must be provided.

DISCIPLINE (GEORGIA RULE 160-4-7-.10)

SUMTER COUNTY SCHOOLS personnel must follow specific procedures when they discipline children with disabilities. Removals of children by SUMTER COUNTY SCHOOLS officials refer to out-of-school suspensions (OSS), expulsions, or other disciplinary actions resulting in children not receiving a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA).

All SUMTER COUNTY SCHOOLS have a code of student conduct and school rules. This information is usually shared in a handbook that is provided at the time of enrollment. Parents, children, educators, and administrators need to know what the code of conduct and rules are, and all children are expected to follow them, INCLUDING children with disabilities. Disciplinary procedures outlined in this chapter pertain to all children with disabilities in any category of eligibility who violate the code of student conduct.

Alternative Behavioral Education (ABE)

In order for schools to address problem behaviors successfully, best practice dictates placing an increased emphasis on proactive approaches rather than reactive behavior management. Proactive approaches to discipline for all children include expectations of more socially acceptable behaviors that are directly taught, skills that are regularly practiced in the school environment by staff and children, and frequent recognition of everyone in the school environment in the performance of these behaviors.

To shift from a reactive and aversive approach for managing problem behavior and discipline issues, to a positive and prevention-oriented approach, schools must:

- work for and with all children, since every child entering school needs behavior support;
- give priority to evidence-based practices;
- integrate academic and behavioral success for all children utilizing high leverage practices;
- emphasize prevention in establishing and maintaining safe and supportive school climates;
- expand the use of effective practices to SUMTER COUNTY SCHOOLS, regional, and state levels;

-
- increase collaboration among multiple community support systems, (i.e., education, juvenile justice, community mental health, family, and medical); and
 - build a school environment where team-building and problem-solving skills are expected, taught, and reinforced.

Schools that integrate positive and prevention-oriented school wide discipline programs in the current student code of conduct will experience:

- a decrease in office discipline referrals;
- a safe and healthy school climate;
- a climate where teachers can teach and children can learn; and
- a climate where Sumter County Schools teaching and learning are valued.

Disciplinary Actions resulting in removals of 10 School Days or Less

Children with disabilities are expected to follow the code of conduct. A child with a disability, who has an Individualized Education Program (IEP) in effect, can be removed to OSS, another setting, or an appropriate interim alternative educational setting (IAES), just as any other child without a disability can, for up to a total 10 school days, for violations of the code of conduct or school rules. The 10 days can be consecutive or cumulative within one school year. If a child is accumulating repeated offenses and nearing 10 days of removals that constitute a change of placement, an IEP Team should be proactive and convene to discuss the child's behavior and develop a plan to address the behavior. To ensure that removals do not result in a change of placement, the following must occur:

- The child is afforded the opportunity to continue to appropriately participate in the general curriculum;
- The child continues to receive the services specified in his or her IEP; and
- The child continues to participate with nondisabled children to the extent he or she would have in his or her current placement. 71 Fed. Reg. 46715 (2006)

The criteria above also applies to in-school suspension (ISS).

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The IEP Team is not required to hold a manifestation determination review meeting for removals that constitute a change of placement that total 10 days or less.

Disciplinary Actions resulting in removals beyond 10 Days

When frequent removals add up to more than 10 school days in a school year, or when frequent removals result in a change in placement, the IEP Team must determine appropriate services that allow the child to continue to participate in the general education curriculum **and** progress toward meeting the goals outlined in the child's IEP, although in another setting. See 34 C.F.R. § 300.530(d)(5). A change of placement occurs when the removal is for more than 10 consecutive days or the child has been subjected to a series of short-term removals that constitute a pattern because: (1) the series of removals totals more than 10 school days in a school year; (2) the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and (3) additional factors such 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. 34 C.F.R. § 300.536(a).

After a child has been removed for 10 school days in the same school year, and a subsequent removal is not for more than 10 consecutive days and is not a change in placement (as defined above), SUMTER COUNTY SCHOOLS personnel and at Sumter County Schools st one of the child's teachers must determine the extent of services needed so the child can continue to participate in the general education curriculum **and** progress toward meeting the goals outlined in the child's IEP, although in another setting. See 34 C.F.R. § 300.530(d)(4).

If school personnel want to suspend a child from school for more than 10 consecutive school days or for more than 10 school days that constitute a change in placement, or if school personnel have a child's educational setting changed to an interim alternative educational setting for up to 45 school days for weapon or drug possession or for infliction of serious bodily injury on another person, school personnel must notify the parent immediately of this decision and provide the parent with their procedural safeguards notice. See 34 C.F.R. § 300.530(h).

School personnel may consider unique circumstances when determining whether a change in placement is appropriate for a child with a disability. These circumstances are best determined at the local level by school personnel who know the child and the facts and factors related to the behavioral violation. School personnel may consider various forms of information such as the child's disciplinary history, ability to understand the consequences, and expression of remorse,

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as well as the supports that were provided to the child prior to the behavioral violation. See 71 Fed. Reg. 46714.

Manifestation Determination

Within 10 school days from the beginning of a removal that either exceeds 10 school days in a row or that constitutes a pattern of removals (a change in placement), the child's IEP Team must meet to determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability or whether the conduct was a result of SUMTER COUNTY SCHOOLS's failure to implement the child's IEP, including any behavioral intervention plan (BIP) that may be in place. These steps are referred to as a "manifestation determination."

In making this determination, SUMTER COUNTY SCHOOLS, the parent, and relevant members of the IEP Team (as determined by the parent and the SUMTER COUNTY SCHOOLS), will review all relevant information in the child's file, including:

- the child's IEP,
- the child's BIP,
- any relevant teacher observations, and
- any other information provided by the parents.

If the IEP TEAM finds that the child's behavior was caused by or had a direct and substantial relationship to the child's disability, or that the behavior was a direct result of the SUMTER COUNTY SCHOOLS's failure to implement the IEP, then the behavior is a manifestation of the child's disability. In this case, if the child does not have a BIP, the IEP Team must conduct a functional behavioral assessment (FBA) and implement a BIP to address the behavioral violation. If the child already has a BIP that addresses the conduct in question, the IEP Team must review and modify it as necessary to address the behavior. The child will be returned to the placement from which he or she was removed unless the parent and SUMTER COUNTY SCHOOLS agree to a change of placement as part of the modification of the BIP.

If the IEP Team finds that the child's behavior was not a manifestation of the child's disability, the same disciplinary actions can be imposed on the child with a disability as those imposed on any child. The IEP Team must determine how the child will continue to receive educational services that allow him or her to continue to participate in the general education curriculum and progress

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toward meeting the goals in the IEP, although in a different location (this includes expulsion and alternative settings). In addition, the IEP Team, if appropriate, will conduct a FBA and develop a BIP to address the behavior violation so that it does not recur. ***Special Offenses***

Certain serious behavior problems can lead to a child being moved to an interim alternative educational setting (IAES) for up to 45 school days, even if the conduct is determined to be a manifestation of the child's disability. Removing the child for these offenses does not require parent consent or agreement, nor does it require a tribunal hearing. These offenses involve:

Weapons—If a child carries or possesses a weapon as defined in 18 U.S.C. § 930(g)(2) – (a device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that the term does not include a pocket knife with a blade of less than 2 ½ inches in length);

Drugs—If the child knowingly possesses or uses illegal drugs or sells or solicits the sale of controlled substances (illegal drugs are a controlled substance not legally possessed or used under the supervision of a licensed health care professional, or legally possessed or used under any other authority under the Controlled Substances Act (21 U.S.C. § 1812) or under any other provision of federal law. A controlled substance is a drug or other substance identified under Schedule I, II, III, IV, or V in the Controlled Substances Act); and

Serious bodily injury—If a child has inflicted serious bodily injury upon another person (injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (18 U.S.C. § 1365(3)(h)).

This authority can be exercised if a child commits any of the offenses described above at school, on school premises, or at a school function under the jurisdiction of the State or SUMTER COUNTY SCHOOLS. 34 C.F.R. § 300.530(g), (i).

Frequently Asked Questions

1. What is meant by consecutive school days?

Consecutive refers to the number of school days of suspension in a row.

2. How are cumulative days of suspension in a school year addressed?

The Discipline Rule addresses cumulative or non-consecutive days by referring to school days in the same school year. SUMTER COUNTY SCHOOLSs may suspend a child with disabilities for up to 10 (cumulative) school days total in a school year without providing special

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education and related services, unless SUMTER COUNTY SCHOOLS would provide services to a child without disabilities who has been similarly removed.

3. Does in-school suspension (ISS) constitute a removal from school?

If a child is afforded the opportunity to continue to appropriately participate in the general curriculum, continues to receive the services specified in his or her IEP and continues to participate with nondisabled children to the extent he or she would have in his or her current placement while in ISS, then it is not counted as a removal toward a change of placement under 34 C.F.R. § 300.536(a).

4. What is free appropriate public education (FAPE) for a child who has been removed for more than 10 school days in a school year for disciplinary reasons?

FAPE applies in those circumstances and consists of services that enable the child to continue to participate in the general education curriculum and services that enable the child to progress toward meeting the goals set out in his or her IEP. See 34 C.F.R. § 300.530(d)(1)(i).

5. What is the definition of behavioral intervention plan?

A behavioral intervention plan (BIP) is a plan for a child with disabilities, included in the IEP when appropriate, which uses positive behavior interventions, supports and other strategies to address challenging behaviors and enables the child to learn socially appropriate and responsible behavior in school and/or educational settings. Georgia Rule 160-4-7-.21(7).

6. At what point in the disciplinary process is a child required to have a behavioral intervention plan?

Within 10 days of any decision to change the placement of a child with a disability because of a violation of the student code of conduct, the relevant members of the IEP Team must make the determination as to whether the conduct was a manifestation of the child's disability. If it is determined to be a manifestation of the child's disability, a functional behavioral assessment (FBA) and a behavioral intervention plan (BIP) must be developed, reviewed, and/or modified. If it is determined not to be a manifestation of the child's disability, a FBA and behavior intervention services and modifications should be provided, as appropriate, to address the behavior violation and so that it does not recur.

7. What is a functional behavioral assessment?

A functional behavioral assessment (FBA) is a systematic process for defining a child's specific behavior and determining the reason why (function or purpose) the behavior is occurring.

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The FBA process includes examination of the contextual variables (antecedents and consequences) of the behavior, environmental components, and other information related to the behavior. The purpose of conducting an FBA is to determine whether a Behavioral Intervention Plan should be developed. Georgia Rule 160-4-7 .21(20).

8. Does a Behavioral Intervention Plan (BIP) have to be based on a Functional Behavior Assessment (FBA)? Is an FBA required before a BIP can be done?

If the IEP Team has adequate information to develop a Behavior Intervention Plan, a Functional Behavior Assessment may not be required. Although not required, best practice is to conduct an FBA prior to the development of a BIP. In the case of a required FBA and BIP due to discipline procedures and the determination that the behavior in question was a manifestation of the child's disability, both a FBA and a BIP must be developed. If already completed, the FBA and BIP must be reviewed and revised as necessary.

9. Do removals from the school bus count as days of out-of-school suspension?

Yes, if special transportation is listed in the child's IEP and a child is suspended from the bus. Since IEP services have been interrupted, the bus suspension/removal will be counted as out-of-school suspension unless the SUMTER COUNTY SCHOOLS makes provisions for alternative transportation.

10. Who makes the manifestation determination?

The determination is made by the parent, relevant members of the IEP Team (as determined by the SUMTER COUNTY SCHOOLS and the parent); and the SUMTER COUNTY SCHOOLS.

11. SUMTER COUNTY SCHOOLSs conduct a tribunal to determine guilt or innocence when a child is accused of a serious or repeated violation of the code of conduct. Is the manifestation determination conducted before or after the tribunal?

The manifestation determination may be conducted before or after the tribunal based on the SUMTER COUNTY SCHOOLS's policies/procedures.

12. What must occur if the determination is made that the behavior in question was a manifestation of the child's disability?

The child must be returned to the placement from which the child was removed, except in cases involving weapons, serious bodily injury, or illegal drugs or controlled substances, unless the parent and SUMTER COUNTY SCHOOLS agree to a change in placement. If a BIP is not in place, the IEP Team must conduct a functional behavioral assessment (FBA), unless the

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SUMTER COUNTY SCHOOLS had conducted one prior to the behavior, and a behavioral intervention plan (BIP) should be implemented. If a BIP is already in place, the IEP Team must review the existing BIP; and the IEP Team must make changes needed in the BIP to address the behavior.

13. What occurs if the determination is made that the behavior in question was not a manifestation of the child's disability?

For disciplinary removals that would exceed 10 consecutive school days, SUMTER COUNTY SCHOOLS personnel may apply the relevant disciplinary procedures in the same manner and for the same duration as the procedures would be applied to children without disabilities, except that the child must:

- continue to receive educational services so as to enable the child to participate in the general education setting and to progress toward meeting IEP goals, although in another setting; **and**
- receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

14. If the Manifestation Determination decides that the child's behavior was not a manifestation of the disability, and the tribunal decides that the child is to be served in an alternative educational setting, must SUMTER COUNTY SCHOOLS provide transportation?

First, the tribunal does not determine the special education services, the IEP Team determines the special education services of the child so that he or she may continue to progress toward meeting the IEP goals and to have access to the general education curriculum. Whether or not transportation must be required will depend on whether specialized transportation was required in the IEP. If it was in the IEP, then it must be provided for the alternative education setting. In other circumstances, the Team must consider whether not having transportation results in removing the child from services. If so, the IEP Team should consider an alternative.

15. When are the provisions about weapons, illegal drugs, controlled substances, and serious bodily injury in effect?

These provisions are in effect when children are at school, on school premises, and at school functions.

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16. When should a parent be notified of a change of placement due to a removal because of a violation of the code of student conduct?

The SUMTER COUNTY SCHOOLS is responsible for notifying the parent and providing procedural safeguards on the date on which the decision is reached to make such a removal that constitutes a change of placement.

17. What decisions about discipline can a parent appeal?

A parent may appeal the manifestation determination and the selection of an interim alternative educational setting regarding the issues of weapons, illegal drugs or controlled substances, or serious bodily injury.

18. Can the SUMTER COUNTY SCHOOLS appeal any decisions related to discipline?

Yes, the SUMTER COUNTY SCHOOLS may appeal if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others.

19. How does the parent or the SUMTER COUNTY SCHOOLS file an appeal?

The parent or the SUMTER COUNTY SCHOOLS must request a due process hearing, and an expedited due process hearing will occur within 20 school days of the date the hearing is requested. A determination must be made by the administrative law judge (ALJ) within 10 school days after the hearing. For more information on due process hearings, see the Dispute Resolution Chapter.

20. May the hearing officer's decision on an expedited due process hearing be appealed? Yes.

The parent or the SUMTER COUNTY SCHOOLS may appeal the administrative law judge's opinion consistent with Georgia Rule 160-4-7-.12 Dispute Resolution.

21. What happens to the child's placement when an appeal under the Discipline Rule is made?

When the parent disagrees and appeals, the child will remain in the interim alternative educational setting (IAES) pending the hearing decision or until the expiration of the 45 school-day time period if the infraction involved illegal drugs, controlled substances, weapons, or serious bodily injury, unless the parent and the district agree otherwise. The child does not stay put in his or her special education placement that was in place prior to the IAES.

22. What protections are in place for a child who has not been determined to be eligible for special education and related services and who has violated the code of student conduct?

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A child may assert protections under the Discipline Rule if the SUMTER COUNTY SCHOOLS is deemed to have knowledge that the child was a child with a disability before the behavior occurred.

23. How is it determined that the SUMTER COUNTY SCHOOLS had knowledge that the child was a child with a disability? An SUMTER COUNTY SCHOOLS is deemed to have knowledge that a child was a child with a disability if any of the following occurred prior to the behavior that precipitated the disciplinary action:

- The parent expressed concern that the child was in need of special education and related services. (This concern must have been expressed in writing to supervisory or administrative personnel in the SUMTER COUNTY SCHOOLS, or to a teacher of the child.);
- The parent requested an evaluation of the child (consistent with Georgia Rule 160-47-.04 Evaluation and Reevaluation); or
- The teacher of the child, or other SUMTER COUNTY SCHOOLS personnel, expressed specific concerns about a pattern of behavior of the child. (These concerns must have been expressed directly to the local special education director or other SUMTER COUNTY SCHOOLS supervisory personnel.)

24. If a child becomes involved in a disciplinary action and has been previously evaluated and determined ineligible for services, what is the SUMTER COUNTY SCHOOLS's responsibility? In addition, if a parent requests an additional evaluation, what is the SUMTER COUNTY SCHOOLS's responsibility?

The district is not deemed to have knowledge that a child is a child with a disability if the parent has refused services or the child has been evaluated and found ineligible for services. However, if a child was found ineligible for services, and subsequently the parent expressed concern that the child was in need of special education services; or the parent requested an evaluation for special education services; or SUMTER COUNTY SCHOOLS personnel expressed specific concerns about a pattern of behavior to the special education director or other SUMTER COUNTY SCHOOLS supervisory personnel, before the disciplinary action, the SUMTER COUNTY SCHOOLS is deemed to have knowledge that the child is a child with a disability and the child is entitled to protections under Discipline Procedures.

If a parent requests an evaluation of a child during the time in which a child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the

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evaluation is completed, the child remains in the educational placement determined by SUMTER COUNTY SCHOOLS authorities, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, the SUMTER COUNTY SCHOOLS must provide special education and related services.

25. Can law enforcement officials be informed of suspected criminal activity of a child with a disability?

Yes. SUMTER COUNTY SCHOOLS may report criminal acts committed by a child with a disability. Nothing in the Discipline Rule prohibits the SUMTER COUNTY SCHOOLS from reporting criminal activity allegedly committed by a child with a disability.

26. When does a change of placement occur?

A change of placement occurs:

- if the disciplinary removal is for more than 10 consecutive days; or
- if the removal is part of a series of removals that constitutes a pattern.

27. What constitutes a pattern of removals?

A pattern of removals occurs when:

- a series of removals totals more than 10 school days in a school year;
- the behavior is substantially similar to previous incidents that required removal; and
- the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another have been considered.

28. How is it determined that a series of removals constitutes a change of placement? SUMTER COUNTY SCHOOLS determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process hearings and judicial proceedings.

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Flowchart 1: Student with a Disability: Violates Code of Conduct (not including infractions involving weapons, drugs, or inflicting serious bodily injury)

<p>School personnel may remove a child with a disability who violates the code of conduct to an appropriate IAES, another setting, or suspension for not more than 10 school days.</p>	<p>School personnel may consider unique circumstances on a case-by case basis when determining whether to order a change in days (that constitutes a change of placement), SUMTER COUNTY SCHOOLS provides notice to the parents of the decision to take disciplinary action and of all procedural safeguards</p>
<p>Child returns to placement from which he or she was removed after not more than 10 school days.</p>	<p>Within 10 school days of the decision to change the placement of the child, the SUMTER COUNTY SCHOOLS, parent and relevant members of the IEP Team review all relevant information in the child's file including the IEP, teacher observations, and parent-provided information to make a manifestation determination.</p>
<p>If the answer to BOTH questions is NO, the conduct was not a manifestation</p>	<p>They answer the following: (1) Was the conduct in question caused by or had a direct and substantial relationship to the child's disability? and (2) Was the conduct in question a direct result of SUMTER COUNTY SCHOOLS's failure to implement the IEP?</p>
<p>Relevant disciplinary procedures may be applied to the child with a disability in the same manner and duration as applicable to children without disabilities</p>	<p>If the answer to EITHER question is YES, the behavior IS a manifestation</p>
<p>EXCEPT the child with a disability must be provided FAPE, although it may be provided in an IAES placement.</p>	<p>If a functional behavioral plan, these should be behavioral intervention plan (BIP) are in place, these by the IEP Team should be reviewed and modified as necessary</p>
<p>Not later than the date on which the decision is made to remove a student for more than 10 school</p>	<p>if a FBA and a BIP are not in assessment (FBA) and a place, these should be behavioral intervention plan (BIP) are in place, these by the IEP Team should be reviewed and modified as necessary</p> <p>Child returns to original placement unless the parent placement unless the parent placement unless the parent and SUMTER COUNTY SCHOOLS agree to a change</p> <p>Child returns to original placement unless the parent placement unless the parent and SUMTER COUNTY SCHOOLS agree to a change</p>

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and the SUMTER COUNTY SCHOOLS agree to a change in placement as part of the

in placement as part of the modification to the BIP
BIP

An expedited due process hearing may be requested by:

1. The parent, if in disagreement with the placement or manifestation determination.
2. SUMTER COUNTY SCHOOLS, if it believes that maintaining the current placement is substantially likely to result in injury to the student or to others.

Flowchart 2: Student with a Disability: Violates Code of Conduct – Special Circumstances

School personnel may remove a child with a disability who violated the code of conduct to an appropriate interim alternative educational setting (IAES) for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where the child carries or possesses a weapon, knowingly possesses or uses illegal drugs, sells or solicits the sale of a controlled substance, or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or district. The child's IEP Team determines the interim alternative educational setting for services.

An agency may report a crime committed by a child with a disability to the authorities.

Not later than the date on which the decision to take disciplinary action is made, the SUMTER COUNTY SCHOOLS provides notice to parents of the decision to take disciplinary action and of all procedural safeguards.

Within 10 school days, the IEP Team must convene so that the following can take place: (1) Manifestation can be determined; and (2) Services can be determined. The child must receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

In the IAES, the child must continue to receive FAPE so as to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting IEP goals.

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expedited due process hearing may be requested by: (1) the parent, if in disagreement with the placement or manifestation determination; or (2) SUMTER COUNTY SCHOOLS, if it believes maintaining the current placement is substantially likely to result in injury to the child or to others. Depending on whether the behavior was a manifestation of the child's behavior or the result of SUMTER COUNTY SCHOOLS's failure to implement the IEP, on the 46th school day, the child will return to the placement Stay put is in the IAES, unless the from which he or she was removed or remain in an parent and SUMTER COUNTY SCHOOLS agree otherwise. IAES

The administrative law judge may return the child to the placement from which he or she was removed or order a change in placement to an IAES for not more than 45 days if maintaining the current placement is substantially likely to result in injury to the child or others.

Flowchart 3: Protections for Children Not Yet Eligible for Special Education

The child may assert protections under the Discipline Rule, if SUMTER COUNTY SCHOOLS had prior knowledge the child is a child with a disability. Is there a basis for the SUMTER COUNTY SCHOOLS having prior knowledge?

NO, if prior to the incident: (1) the parent has not expressed in writing a need for special education and

YES, if any of the following occurred prior to the incident:

- (1) The parent expressed concern in writing to the teacher related services for the student; (2) the parent has not or administrator that the child was in need of special requested a special education evaluation; (3) the teacher education and related services; (2) A parent requested a has not expressed concerns about the pattern of behavior special education evaluation of the student; or (3) The of the student; (4) the parent REFUSED a special education teacher or other personnel expressed specific concerns evaluation of the student; or (5) the student has been about the student's behavior patterns to an administrator. evaluated and been found NOT ELIGIBLE.

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An expedited evaluation must be conducted. The child remains in SUMTER COUNTY SCHOOLS- Regular disciplinary determined placement, which can include actions may be imposed. suspension or expulsion, until evaluation is completed.

The child is determined **ELIGIBLE**. The child is determined **NOT** for special education. **ELIGIBLE** for special education.

IEP is developed. SUMTER COUNTY SCHOOLS provides special education and related services for the child.

Manifestation Determination Review (MDR) Checklist

One of the following must be true in order for the school to be required to do an MDR:

- Total (cumulative) for the year of out of school suspensions, removals from the regular education setting and in-school suspensions (duration longer than 2.5 hours and special services are not delivered) is 10 days or more, constituting a change of placement; or
- There is a proposed change of placement *or potential for a change of placement (i.e., Superintendent's Discipline Tribunal Hearing)* for the student based on student behavior (this includes long-term suspension, expulsion and/ or consideration of possible alternate / alternative placement) or
- Student is involved in a behavioral incident that results in disciplinary action including short term suspension (Sumter in –district “best practice” process).

PREPARATION

- Student is involved in an incident that results in disciplinary action.
- Administration considers the action of the student and the school rules of conduct, and then makes the decision regarding appropriate disciplinary action.
- Administrator imposes disciplinary action. Administration notifies the parent of disciplinary action.
- ON THAT SAME DAY, Administration mails written notification of disciplinary action with a copy of the Procedural Safeguards (SpEd Parental Rights).
- Administration notifies the special education team leader and case manager of the disciplinary action.
- SpEd Team Leader notifies the SpEd Office (Accountability Specialists, and SpEd Director)

TEAM LEADER / CASE MANAGER RESPONSIBILITIES

- SpEd team leader coordinates MDR meeting with administration, parents, case manager, regular education teachers, and other individuals, if needed (This is an IEP meeting: all core IEP Team members are required to attend. *Make certain that the school work folder contains current and relevant information such as the most recent psychological, letters from outside physicians, and any other information relating to the disability or suspected disability. Check the Central Office folder.*
- Review all information which relates to the student's disability
- Case Manager and/or SpEd Team Leader sends written IEP meeting notification for the purpose of the MDR to the parent within 10 days to ensure receipt of notice (*prior to the MDR meeting*).
- Case Manager and/or SpEd Team Leader places a copy of the written IEP meeting notification of the MDR in the student's work folder and forward copy to Central Office.

Pause Point – VERIFY PREVIOUS STEPS FOR COMPLETION BEFORE
MOVING ON

MDR PROCEDURES

- School administration / designee (LEA) determines which member of the IEP Team will facilitate the MDR meeting. If characteristics of the disability is questionable, invite the school psychologist or someone who is able to speak to those behaviors which may be manifested by the disability
- MDR meeting facilitator reviews purpose of meeting and facilitates introductions.
- MDR meeting facilitator documents the review utilizing the district's MDR form, available.
- IEP Team participates in the Manifestation Determination Review meeting; addresses each section of the MDR form; and determines if the behavior is a manifestation of the student's disability.
- IEP Team determines if a Functional Behavioral Assessment/Behavioral Intervention Plan (FBA/BIP) is required (if causal) or desired (optional if not causal) to be completed.
- MDR meeting facilitator secures parent consent on MDR document that indicates agreement / disagreement. MDR meeting facilitator copies of all documents presented at IEP Meeting provided to the parent.
- MDR meeting facilitator places originals of all documents presented in the student's educational record. MDR meeting facilitator communicates any parental disagreement with the Special Education Director and Accountability Specialists.

PLACEMENT / EDUCATIONAL SERVICES

- Case Manager and/or SpEd Team Leader facilitates the IEP Team in determining progress toward meeting IEP goals and objectives.
- Case Manager and/or SpEd Team Leader reads educational services in an IEP Addendum and parent consent secured.
- Case Manager and/or SpEd Team Leader copies all documents for parent and forwards all originals to Central Office for approval.
- Copies of all approved documents should be maintained in the student's work folder.

Pause Point – Any change of placement must be documented. You MUST note the student's change of placement in GOTEIP to reflect placement and service changes. This means the current IEP will need to be amended.

DISPUTE RESOLUTION (GEORGIA RULE 60-4-7-.12)

A resolution in a dispute with Sumter County Schools¹ over the rights and services afforded to children with disabilities and their families can be accomplished several different ways. The quickest and most efficient method is to contact the special education administration in SUMTER COUNTY SCHOOLS. The special education director can often assist a family in working out the differences with minimal time and conflict. Parents or SUMTER COUNTY SCHOOLS (SCS) personnel may also initiate a Facilitated IEP (FIEP) Team meeting with the Georgia Department of Education (GaDOE).

When a resolution cannot be worked out locally, other processes are guaranteed to children with disabilities under the Individuals with Disabilities Education Act (IDEA). These include (1) mediation, (2) formal complaints, and (3) a due process hearing.

DISPUTE PREVENTION/RESOLUTION COMPARISON CHART

Question	Facilitated IEP (FIEP) Team Meeting	Complaint	Mediation	Due Process Hearing	Resolution Session (only upon request for a due process hearing)
Who can initiate the process?	Parent or SCS , but must be voluntary for both parties	Any individual or organization	Parent or SCS, but must be voluntary for both parties	Parent or SCS	SCS schedules the resolution session upon receipt of a due process hearing request unless the parties agree to waive or use mediation

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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<p>What is the time limit for filing?</p>	<p>At least 7-10 days before scheduled IEP Team Meeting (some exceptions)</p>	<p>One year from the date of the alleged violation</p>	<p>None specified</p>	<p>Two years from when the party knew or should have known of the problem, with limited exceptions</p>	<p>Triggered by a parent's due process hearing request</p>
<p>What issues can be resolved?</p>	<p>Any issues that may arise related to the IEP</p>	<p>Alleged violations of IDEA federal regulations and Georgia Department of Education Rules for Special Education</p>	<p>Any matter under the IDEA federal regulations and Georgia Department of Education Rules for Special Education, including matters arising prior to the filing of a due process hearing request (some exceptions)</p>	<p>Any matter relating to the identification, evaluation, educational placement, or provision of free appropriate public education (some exceptions)</p>	<p>Same issues as the due process hearing request</p>
<p>What is the timeline for resolving the issues?</p>	<p>None specified</p>	<p>60 days from receipt of the complaint unless extended for exceptional circumstances</p>	<p>None specified</p>	<p>45 days after the 30-day resolution period (some exceptions)</p>	<p>LEA must convene a resolution session within 15 days of receipt of the due process hearing request unless both parties agree in writing to waive the session or agree to use mediation. The resolution period lasts for not more than 30 days. (some exceptions)</p>

Who resolves the issues?	The IEP Team with the help of an impartial facilitator	Georgia Department of Education/ Division for Special Education	Parent and SCS with a mediator; both parties must agree to the solution in writing; decisions are legally binding	Administrative Law Judge	Parent and the SCS; both parties must agree to the solution in writing; decisions are legally binding
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IEP TEAM MEETING FACILITATION

Individualized Education Program (IEP) Team meeting facilitation is all about the student and helping the IEP Team overcome the pressure and anxiety often associated with a contentious meeting. IEP Team Meeting Facilitation is an optional process, not required by the IDEA, that the Georgia Department of Education or SUMTER COUNTY SCHOOLS may provide to parents and schools. A facilitated IEP (FIEP) Team meeting is the same as any other IEP Team meeting, except that a facilitator joins the meeting.

The IEP facilitator makes sure that the focus of the TEAM remains on the best interests of the child. The facilitator is a skilled individual who has received specialized training in the area of conflict prevention and resolution through the IEP Team Meeting Facilitation process. The facilitator’s primary goal is to assist team members in the thoughtful, productive construction of a quality IEP. This is achieved by encouraging and directing communication specific to the IEP and assuring that the members of the IEP Team are empowered in their participation and invested in the IEP. The facilitator is not a member of the IEP Team and cannot provide legal advice to any Team member. Rather, the facilitator will help the IEP Team create an agenda, ground rules, and desired outcomes, and address issues during the IEP Team meeting that produce tension within the Team so that the Team is able to find their own solutions. The facilitator will also guide the discussions during the IEP Team meeting by asking student focused questions.

An FIEP Team Meeting:

- is voluntary, but must be agreed to by the parent and LEA
- is informal
- is helpful to guide communication among the IEP Team

- is free to both the family and the LEA
- is useful to prevent disputes
- has a high success rate
- can be used as often as needed

Procedures for Requesting a Facilitated IEP Team Meeting

Parents or SUMTER COUNTY SCHOOLS personnel may initiate the Facilitated IEP (FIEP) Team meeting process by completing the IEP Team Meeting Facilitation Request form located on the GaDOE's website.

- Both the parties (LEA and parents or student if 18 years or older) must agree to participate.
- A complete and signed FIEP request form and notice of meeting must be submitted to the GaDOE at least 7-10 days before the scheduled IEP Team meeting.
- Upon approval, a facilitator will be provided at no cost to the parent or LEA.
- Access to the FIEP Request form and other information regarding facilitated IEP Team meetings is located on the GaDOE's website: <http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/IEP-Facilitation.aspx>.

PREPARATION FOR A FACILITATED IEP TEAM MEETING

Making decisions by consensus can take a long time. One of the most important aspects of a successful facilitated IEP Team meeting is the preparation prior to the meeting. The appointed facilitator will call both parties to gather information, issues/concerns, and desired outcomes from each party.

Both parties should gather all documentation needed for the IEP Team meeting and bring it to the meeting. School staff should bring all forms that will or may be needed. Preparation will help expedite the meeting process.

Preparation prior to the meeting includes, but is not limited to:

- The parent sending suggestions for the goal sheets to the school before the meeting;
- The school sending any current evaluation reports to the parent; and

- The parent sending the school any private evaluation reports he or she may have obtained.

As with all IEP Team meetings, the location should provide ample space for the number of adults attending the meeting. IEP facilitators use charts during the meeting and wall space will be needed for the charts.

MEDIATION (SEE 34 C.F.R § 300.506 AND GEORGIA RULE 160-4-7-.12)

When the parent and SUMTER COUNTY SCHOOLS disagree about the education of a child with a disability, either may request mediation. An impartial or neutral person, called a mediator, assists SUMTER COUNTY SCHOOLS and the parent in clarifying the problem, exploring interests, discussing options, and reaching a mutually agreeable solution. The mediator does not tell either party how to resolve the dispute, but he or she works with both in the development of their solution. If an agreement is reached, it is documented in writing and signed by all parties. The written agreement is a legally binding agreement and is enforceable in any Georgia court of competent jurisdiction, in a District Court of the United States, or through the formal complaint process. This informal and collaborative approach to problem solving can often foster a positive working relationship between the SUMTER COUNTY SCHOOLS and the family.

Mediators are trained in conflict resolution, collaborative problem solving, and effective communication. In addition, mediators for special education are required to have knowledge and experience in the laws impacting the education of children with disabilities. The GaDOE has a set of qualified mediators under contract. When mediation is requested, a mediator will be assigned from that list.

MEDIATION:

- is confidential
- is voluntary
- is informal
- occurs in a short period of time
- is free to both the family and the SUMTER COUNTY SCHOOLS

- is less burdensome than a due process hearing or a formal complaint
- has a high success rate
- Can result in a legally binding agreement

Procedures for Mediation

- Either the parent and the student or the SUMTER COUNTY SCHOOLS may request mediation.
- The first step is to ask the other party if they are willing to mediate the disputed issues.
- If a family member is requesting mediation, you may contact the SUMTER COUNTY SCHOOLS's special education office, and SUMTER COUNTY SCHOOLS personnel will complete and/or forward the request for mediation and submit it to the GaDOE. A mediation request form is located on the [Mediation Requests](#) web page on the GaDOE website.
- Upon receipt, the GaDOE assigns the request to a mediator.
- The mediator will contact both parties to develop the timeline, set up the meeting location, and begin preparation.
- Mediation will occur at a location, date, and time convenient to both parties.
- Once parties have agreed to a date, time, and location, participants should be prepared to spend most of the day in mediation.
- If a resolution is reached, the mediator will facilitate the agreement, and all parties will sign the mediation agreement.
- After mediation, both parties are expected to carry out the activities they agreed to during the mediation as outlined in the agreement, which is a legally binding document.
- If mediation is being requested as part of a due process hearing or formal complaint, the mediation will not delay nor deny the right to a due process hearing or the complaint investigation. However, discussions during mediation are confidential and they cannot be used as evidence in any due process hearing or civil proceeding.

Preparing for Mediation

- Be prepared to define the problem and explain any concerns.
- Be prepared to state preferred resolutions.
- Be prepared to share information that will help clarify and resolve the problem.
- Be prepared to listen to the information and the points of view shared by others.
- Be prepared to keep an open mind. (Multiple solutions to a problem are often possible.)
- Be prepared to brainstorm with the other parties involved and to develop a creative solution to the problem.

FORMAL COMPLAINTS (SEE 34 C.F.R. §§ 300.151-300.153 AND GEORGIA RULE 160-4-7-.12)

A formal complaint is a written, signed complaint alleging a violation(s) of the IDEA or of Georgia Special Education Rules.

Any organization or individual may file a signed written complaint. The complaint must include:

- A statement that a public agency has violated a requirement of the IDEA or Georgia Special Education Rules;
- 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, include 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, include 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 of the problem to the extent known and available to the party the time the complaint is filed;

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- The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received;
- The party filing the complaint must forward a copy of the complaint to the SUMTER COUNTY SCHOOLS or public agency serving the child at the same time the party files the complaint with the GaDOE.

Procedures for Filing a Complaint

1. Formal complaints are filed in writing and sent to the SUMTER COUNTY SCHOOLS and the GaDOE, Division for Special Education Services and Supports (DSESS). A formal complaint form, which may be used to submit a formal complaint, is located on the [Formal Complaint](#) web page on the GaDOE website.
2. In addition to the SUMTER COUNTY SCHOOLS having the opportunity to present a proposal, the mediation process is also available. Mediation is available at no cost. Mediation is a non-adversarial process conducted by a qualified and impartial mediator who is trained in effective mediation techniques to resolve disputes. If both parties choose to participate in the mediation process, the complaint investigation may still proceed. The timeline for the complaint may be extended if both parties agree to extend the timeline while they participate in mediation. If both parties agree to mediation, a written agreement will be developed and implemented. Mediation is legally binding in a State or District court. If an agreement is reached and the complainant withdraws their complaint, the complaint will be closed. If agreement is not reached or if the complainant does not withdraw their complaint, the complaint investigation will continue, and a decision of compliance will be made by the GaDOE.
3. Upon receipt of the first written complaint, the SUMTER COUNTY SCHOOLS will provide a copy of procedural safeguards to the parent of a child with a disability.
4. If both parties indicate on the complaint form or through other means that they are interested in mediation, then the GaDOE will assign a mediator.
5. The SUMTER COUNTY SCHOOLS must provide a written response to the GaDOE DSESS and also send a copy to the person filing the complaint (with some exceptions). The DSESS requests that the SUMTER COUNTY SCHOOLS send this response within 10 days of receiving the formal complaint initiation letter. The DSESS will conduct an investigation to confirm details and to get clarification of the issues. The investigation may include interviews with the

parties, observations, on-site visits, and other activities as indicated by the nature of the allegation.

6. The DSESS will give the complainant the opportunity to submit additional information in writing about the allegations of the complaint once it has seen the response from the SUMTER COUNTY SCHOOLS. If both parties reach an agreement and resolve the complaint before the GaDOE investigation is complete, the complainant may withdraw the complaint and the complaint will be closed without making a determination regarding compliance. If both parties go to mediation and reach an agreement and the complainant withdraws the complaint, then the complaint will be closed without a decision regarding compliance. If mediation is used and an agreement is not reached or if the complainant does not withdraw the complaint, then the complaint investigation will continue.
7. Within 60 days of the receipt of the complaint, the DSESS will issue a written decision that addresses each allegation in the complaint and contains findings of fact and determinations of compliance or noncompliance. The timeline may be extended to accommodate for mediation (if both parties agree) or other exceptional circumstances with respect to a particular complaint. When a violation of the law or regulations has occurred, a resolution will be required. The resolution may include technical assistance activities, compensatory services, reimbursement, and other corrective actions to achieve compliance.
8. Complaints that a SUMTER COUNTY SCHOOLS has failed to meet the requirements regarding children who are parentally-placed in private schools must be filed under the complaint procedures outlined above.

Why File a Complaint?

Filing a formal complaint provides an opportunity for anyone to express concerns regarding possible IDEA and state special education rule violations. The process is simple and user friendly. Most individuals who file a complaint are not represented by legal counsel.

DUE PROCESS HEARING (SEE 34 C.F.R §§ 300.507-300.518 AND SBOE RULE 160-4-7-.12)

When the parent and SUMTER COUNTY SCHOOLS disagree over the identification, evaluation, placement, or provision of a FAPE, either party may request a due process hearing. An impartial due process hearing is designed to provide an opportunity to resolve differences between concerned parties in the identification, evaluation, placement, or provision of a free appropriate

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public education for a child with a disability in a court setting. A hearing may be requested by either the SUMTER COUNTY SCHOOLS or the family.

A due process hearing request must allege a violation that occurred not more than two years before the date the parent or SUMTER COUNTY SCHOOLS knew or should have known about the alleged action that forms the basis of the request, with some exceptions. The two-year timeline does not apply if the parent was prevented from filing a due process complaint due to specific misrepresentations by the SUMTER COUNTY SCHOOLS indicating that it had resolved the problem forming the basis of the complaint, or if the SUMTER COUNTY SCHOOLS withheld information from the parent that was required to be provided to the parent.

Due process hearings are provided at no cost to either party; however, each party is responsible for their costs associated with hiring legal counsel or expert witnesses, if they choose to do so, unless a court awards the recovery of these costs to a prevailing party. The SUMTER COUNTY SCHOOLS must inform the parents of low cost legal and other relevant services available if the parent requests the information or whenever a due process hearing request is received by the SUMTER COUNTY SCHOOLS.

Due process hearings are conducted by the Office of State Administrative Hearings (OSAH). Once a request is received by the GaDOE, the GaDOE forwards the request to OSAH and an administrative law judge (ALJ) will be assigned to conduct the due process hearing. OSAH will contact both parties and begin to set up the arrangements for the impartial due process hearing.

A due process hearing must be conducted and the decision issued within 45 days after the ALJ has been informed of one of the following events: (1) both parties agree in writing to waive the resolution meeting; (2) after either the mediation or resolution meeting starts, but before the 30-day resolution period ends, the parties agree in writing that no agreement is possible; or (3) if both parties agree in writing to continue the mediation at the end of the resolution period, but later, the parent or district withdraws from mediation. Extensions to the 45 days for a decision may be granted by the hearing officer at the request of either party.

Requesting an Impartial Due Process Hearing

- The initiating party should inform the other party and the GaDOE of the request for a due process hearing.
- The filing party is responsible for relaying the hearing request to the GaDOE.
- The request is required to contain the name of the student, the residential address of the student, and the name of the school. It is also helpful to include the SUMTER COUNTY

SCHOOLS in which the student is enrolled with contact information as well as contact information for the family. The request must also contain a description of the problem and a proposed resolution. **The form provided by GaDOE should be used but is not required.** This form is located on the [Due Process Hearing Requests](#) web page of the GaDOE website. A hearing may not occur until the party or the attorney representing the party files a request that meets all of the requirements.

- An SUMTER COUNTY SCHOOLS may, but is not required to, assist the parent in completing the form as necessary to get a sufficient complaint notice.
- Once received by the GaDOE, immediate contact will be made with the OSAH to assign the case to an ALJ.
- The ALJ will contact the parties and begin to set up the logistics of the hearing.
- An expedited due process hearing may be requested if the request is related to a manifestation determination or placement in an alternative educational setting.

Timeline

A due process hearing must be conducted and the decision issued within 45 days of the request for a hearing. If a resolution meeting or mediation is used, the timeline of 45 days begins at the conclusion of a 30-day resolution period, or earlier if the resolution meeting or mediation does not result in a settlement. Other extensions may be granted by the hearing officer at the request of either party.

An expedited due process hearing must be conducted within 20 school days of the request for a hearing and a decision issued within 10 school days after the hearing. If a resolution session or mediation is used, the timeline of 20 school days begins at the conclusion of the 15-day resolution period.

Responsibilities of SUMTER COUNTY SCHOOLS Upon Receipt of a Request for a Due Process Hearing

- If the SUMTER COUNTY SCHOOLS has not provided prior written notice to the requestor regarding the issues in the request, it must, within 10 days, provide such prior written notice.
- If the SUMTER COUNTY SCHOOLS has provided prior written notice, it must respond to the due process request within 10 days.

- If the SUMTER COUNTY SCHOOLS feels that the due process request is insufficient, the SUMTER COUNTY SCHOOLS must notify the ALJ within 15 days of receiving the request. (The ALJ has 5 days to determine whether the request is sufficient. If sufficient, the timeline moves forward. If not sufficient, the parent must re-file the request.)
- The SUMTER COUNTY SCHOOLS must convene a resolution meeting within 15 days of receiving a parent's due process hearing request and prior to the initiation of a due process hearing. If the due process hearing request is filed as an expedited request, the SUMTER COUNTY SCHOOLS must convene a resolution meeting within 7 days of receiving the due process request. The LEA must convene a meeting with the parent and relevant members of the IEP Team who have knowledge of the facts identified in the due process request. This meeting must include a representative of the LEA who has decision making authority on behalf of the SUMTER COUNTY SCHOOLS. The resolution meeting may not include an attorney for the SUMTER COUNTY SCHOOLS unless the parent is accompanied by an attorney. The parent and the SUMTER COUNTY SCHOOLS determine the relevant members of the IEP Team who will attend the meeting. The resolution meeting need not be held if the parent and the SUMTER COUNTY SCHOOLS agree in writing to waive the meeting, or the parent and the SUMTER COUNTY SCHOOLS agree to use mediation instead of a resolution meeting to attempt to resolve the due process hearing request.

Responsibilities of the Parent Upon Requesting or Receiving a Request for a Due Process Hearing

- If the parent is the receiving party (not the party making the request), he or she must respond to the SUMTER COUNTY SCHOOLS within 10 days of receiving notice of a due process request.
- If the parent is the initiating party, he or she must provide sufficient information with the request to allow the SUMTER COUNTY SCHOOLS to understand why the request is being made. **The form provided by GaDOE should be used but is not required.** This form is located on the [Due Process Hearing Requests](#) web page of the GaDOE website.
- The parent should consider using the resolution meeting or mediation to resolve the differences.

Resolution Meeting

The SUMTER COUNTY SCHOOLS must offer the option of a resolution meeting within 15 days of receiving a parent's due process hearing request and prior to the initiation of a due process

hearing. If the due process hearing request is filed as an expedited request, the SUMTER COUNTY SCHOOLS must offer the option of a resolution meeting within 7 days of receiving the due process request. The SUMTER COUNTY SCHOOLS must convene a resolution meeting with the parent and relevant members of the IEP Team who have knowledge of the facts identified in the due process request. This meeting must include a representative of the SUMTER COUNTY SCHOOLS who has decision-making authority on behalf of the SUMTER COUNTY SCHOOLS. The resolution meeting may not include an attorney for the SUMTER COUNTY SCHOOLS unless the parent is accompanied by an attorney. The parent and the SUMTER COUNTY SCHOOLS determine the relevant members of the IEP Team who will attend the meeting. The resolution meeting need not be held if the parent and the SUMTER COUNTY SCHOOLS agree in writing to waive the meeting, or the parent and the SUMTER COUNTY SCHOOLS agree to use mediation instead of a resolution meeting to attempt to resolve the due process hearing request.

- If agreement is reached, a written settlement agreement will be developed and signed by the SUMTER COUNTY SCHOOLS and the family.
- An agreement is binding after a 3-day review period in State or District Court or through the formal complaint process.
- The agreement must be executed by the end of the 30-day resolution period or the due process hearing will proceed.
- If no agreement is reached and the parties do not agree to mediate, the timeline for due process hearings (45 days) begins upon notice to the ALJ.

Procedures/Rights for a Hearing

- The hearing will be conducted at a time and place convenient to the parent and the SUMTER COUNTY SCHOOLS involved and at an impartial location.
- The SUMTER COUNTY SCHOOLS shall provide the parent information about low cost or no cost legal services.
- Parents have the right to request and obtain copies of all records concerning the child from the SUMTER COUNTY SCHOOLS five or more business days prior to a hearing.
- Either party may be accompanied and advised by legal counsel or another individual with knowledge or training related to the student about whom the hearing is being conducted.

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- Either party may present evidence at the hearing if disclosed to the other party at Sumter County Schools five business days prior to the hearing.
- Either party may compel the attendance of witnesses. One party must provide a list of witnesses to the other party at least five business days prior to the hearing.
- Parents have the right to have the child present at the hearing.
- Confidentiality of information shall be maintained even when in a hearing.
- Parents in a hearing have a right to obtain relief that the ALJ determines appropriate, which may include payment for an independent evaluation, reimbursement for services, amendment of the IEP, change of the placement, or other relief as determined by the ALJ.
- Both parties will receive a copy of the written ALJ decision from the hearing.
- An appeal to a due process hearing must be filed within 90 days in a State or District Court.

Child's Status During the Hearing

- When a hearing has been requested by either party, the child shall remain in his or her current educational placement unless the parent and the SUMTER COUNTY SCHOOLS agree to an alternate placement. This is commonly referred to as "stay put."
- If the hearing request is filed as an expedited hearing request, the child shall remain in the interim alternative educational setting pending the decision of the ALJ unless the parent and SUMTER COUNTY SCHOOLS agree otherwise.
- If the hearing is the result of an initial admission to public school, the child shall be placed, with the consent of the parent, in the school program until completion of the hearing proceedings.
- The current educational placement includes the services provided in the IEP and all related services.
- Other special circumstances may apply, and the Georgia Rule (160-4-7-.18) should be reviewed to determine the student's status pending a due process hearing.

Frequently Asked Questions

Facilitated IEP Team Meetings

1. Who attends a facilitated IEP meeting?

Members of the IEP Team and the facilitator attend the facilitated IEP meeting.

2. Where and when is a facilitated IEP meeting held?

The facilitated IEP Team meeting is scheduled by the SUMTER COUNTY SCHOOLS, in cooperation with the parent, and held at a time and place that is mutually agreed upon.

3. What happens if we don't reach a consensus at the first meeting?

If a consensus is not reached at the first meeting, another IEP Team meeting may be scheduled by completing another IEP Team Meeting Facilitation Request form. A complete and signed FIEP request form and notice of meeting must be submitted to the GaDOE at least 7-10 days before the next scheduled IEP Team meeting.

4. What if we require additional time?

The time for Facilitated IEP Team meetings is limited. If a meeting is scheduled and cannot be finalized, the meeting may be reconvened on another day, with or without a facilitator. There may be rare cases when a second session is needed. Prior to scheduling a second session, the facilitator must contact the GaDOE to explain why a second session is needed and to seek approval. If the parties did not schedule ample time (3 or more hours) for the first meeting, a second session will not be approved.

5. Does the facilitator make decisions?

No. Facilitators are trained in effective communication and ways to address and resolve conflicts. The role of the facilitator is to help IEP Team members develop group norms, an agenda, and desired outcomes for the meeting, guide discussions by asking student-focused questions, and keep the IEP Team on task and the meeting on schedule.

6. Does it cost the school or the parent to participate?

No, IEP facilitation is provided at no cost to parents or SUMTER COUNTY SCHOOLSs.

7. What are some benefits of IEP Team meeting facilitation?

- May build and improve relationships among IEP Team members
- Team members may feel better heard when a facilitator is involved

- Allows all members of the IEP Team the chance to participate fully
- The IEP Team may work together more effectively and efficiently to create an IEP that benefits the child and is supported by all IEP Team members
- Keeps decision-making with the IEP Team members who know the child best
- Helps resolve disagreements more quickly than other dispute resolution processes

8. If the facilitated IEP Team meeting does not resolve my issues, can I pursue other remedies?

Yes. You have not forfeited your rights to other forms of dispute resolution such as seeking mediation, filing a formal complaint, or requesting a due process hearing. At times, the issues, disagreements, or problems may not be resolved through a facilitated IEP Team meeting.

Mediation

9. Are discussions that occur in mediation confidential?

Yes. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal or District Court. Whether the mediation agreement should include a statement setting out this confidentiality requirement is not specifically addressed by the regulations.

10. Can attorneys participate in special education mediations?

Attorneys are allowed to participate in special education mediations. Most of the time, the presence of attorneys is discussed prior to the actual mediation, so neither party should be surprised. Because mediation is a voluntary process, any party that objects to the presence of an attorney may withdraw from the mediation.

11. What is the role of the mediator?

Once the mediator is assigned, the mediator makes the mediation session arrangements, conducts and facilitates the mediation, writes or assists in writing the agreement reached, assures that all copies are signed and given to both parties, and informs parties of their options if an agreement is not reached. If issues cannot be resolved, the mediator will declare that an impasse has been reached, and the mediation will be terminated. Mediators use a variety of techniques to structure the mediation. The mediator helps the parent and SUMTER COUNTY SCHOOLS representative(s) clarify the issues in disagreement and find solutions that are satisfactory to both parties.

12. How long does mediation take?

Many mediation sessions have been successfully completed in half a day. The mediator will determine whether progress is being made or whether additional time is needed to reach a resolution.

Formal Complaints

13. May the GaDOE complaint procedures, including the remedies, address the problems of a group of children?

Yes. The GaDOE is required to resolve any legitimate complaint, including a systemic complaint alleging an IDEA violation or state special education rule violation with regard to a group of children with disabilities. If the SUMTER COUNTY SCHOOLS is not in compliance, it will be required to correct the noncompliance, and the GaDOE will verify correction.

14. May a complaint be filed with the GaDOE over an alleged violation that occurred more than one year prior to the date of the complaint?

No, the regulations at 34 C.F.R. § 300.153(c) and Georgia Rule 160-4-7-.12 Dispute Resolution stipulate that a complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.

15. Can an issue that is the subject of a formal complaint also be the subject of a due process complaint requesting a due process hearing?

Yes. An issue in a formal complaint can also be the subject of a due process complaint requesting a due process hearing, as long as the issue relates to a matter regarding the identification, evaluation, or educational placement of a child with a disability, or the provision of a FAPE to the child, as described in 34 CFR §300.507(a)(1) or to a disciplinary matter as described in 34 CFR §§300.530-300.532. If a due process complaint is filed on an issue that is also the subject of a pending State complaint, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing officer issues a final decision. However, any issue in the State complaint that is not part of the due process action must be resolved using the 60-day time limit and procedures described in 34 C.F.R. § 300.152(a) and (b). 34 C.F.R. § 300.152(c)(1).

16. May a formal complaint be filed on an issue that was previously decided in a due process hearing?

INDIVIDUALIZED EDUCATION PROGRAM (IEP) (34 C.F.R. §§ 300.320-300.328; GEORGIA RULE 160.4-7-.06)

The Individualized Education Program (IEP) serves as the framework for determining the meaning of the term a free appropriate public education (FAPE) in the least restrictive environment (LRE), a term frequently referenced in the Individuals with Disabilities Education Act (IDEA). IEPs must be developed and reviewed annually and must be in effect at the beginning of each school year. The IEP may be reviewed more than once a year if the parent or the local educational agency (SUMTER COUNTY SCHOOLS)¹ requests a review.

Notice of IEP Team Meeting

The parent must be notified of the proposed date, time, and location of an IEP Team meeting to give him or her sufficient time to make arrangements to attend or to contact the school to schedule an alternative date for the meeting. This notice should include the purpose of the meeting; the proposed date, time, and location of the meeting; as well as who will be in attendance.

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

Changes to the IEP

After the annual IEP Team meeting, the child's IEP may need to be changed. This can be done either by reconvening the IEP Team to amend the IEP or by mutual agreement between the parent and SUMTER COUNTY SCHOOLS to make changes to the IEP without a meeting. The parent always retains the right to request a meeting to discuss any and all changes or amendments to the IEP. Regardless of the method of amending the IEP, the SUMTER COUNTY SCHOOLS must ensure the child's IEP Team is informed of any changes, and upon request, provide the parent with the amended IEP in a timely manner.

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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IEP Team Members

At a minimum, the IEP Team must include:

- the parent (or the person acting as the parent under the IDEA);
not less than one of the child's regular education teachers, if the child is or may be participating in the regular education environment (for preschool children, this representative is someone who is currently providing preschool services to nondisabled preschool children);
- not less than one of the child's special education teachers or special education providers; and
- a SUMTER COUNTY SCHOOLS representative who meets the following requirements:
 - is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the child;
 - is knowledgeable of the general education curriculum; and ○ is knowledgeable about the availability of resources in the SUMTER COUNTY SCHOOLS; and
- someone who can interpret evaluation results related to classroom instruction and settings (this person may be one of the persons already listed above with the exception of the parent).

Other members required under certain circumstances:

- other individuals who have knowledge or special expertise regarding the child, including related services personnel (based on the discretion of the parent or SUMTER COUNTY SCHOOLS);
- the child with a disability, when the transition services plan is being discussed, or earlier as appropriate; or

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- a representative of any agency that is likely to provide or pay for any transition services, if appropriate, and with consent of the parent or student (if he or she has reached the age of 18).

The Role of Parents

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

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

- a description of the child's academic, developmental, and functional performance;
- a description of how the child will be included in the general education curriculum;
- the annual goals for the child along with a description of how those goals will be measured;
- a statement of what special education and related services the child needs;
- a discussion of how the child will participate in district and statewide assessments or why an alternate assessment is appropriate;
- the accommodations and/or modifications that are appropriate for instruction and assessment; and
- a discussion of the transition services, when appropriate.

Special Parent Requirements

The SUMTER COUNTY SCHOOLS must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. See 34 C.F.R. §300.322(e). In the event that a parent requires a translator or interpreter, it is the responsibility of the SUMTER COUNTY SCHOOLS to ensure that an appropriate and qualified adult is available to serve in that capacity.

The Role of the Regular Education Teacher

A regular education teacher of the child must be invited and should attend the meeting if the child is currently or may be participating in regular education environment unless the parent agrees, in writing, to excuse the teacher. At the IEP Team meeting, the regular education teacher is present to participate in the development, review, and revision of the IEP. The regular education teacher supports the determination of appropriate accommodations, supplemental aids and services, program modifications, and support for SUMTER COUNTY SCHOOLS personnel that will be provided to assist the student. The regular education teacher also supports the development of a Behavior Intervention Plan, if appropriate, and positive behavioral interventions, supports, and other strategies that the child needs. See 34 C.F.R. §300.324(a)(3). The regular education teacher is also critical in determining the least restrictive environment and access to the general education curriculum.

Excusal from the Meeting

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

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

- When the IEP Team member's area of curriculum or related services is being discussed at the meeting, the parent and the SUMTER COUNTY SCHOOLS may excuse an IEP Team member from all or part of a meeting if the parent consents, in writing, to the excusal and the excused person submits relevant, written input into the development of the IEP prior to the meeting.

Present Levels of Academic Achievement and Functional Performance

The present levels of academic achievement and functional performance section establishes the starting point or baseline that is used to develop the entire IEP. It includes a description of the child's current academic, developmental, and/or functional strengths and needs; results of the initial or most recent evaluation; the results of district or statewide assessments; an explanation of how the disability affects the child's participation in the regular 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

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• information contained in the present levels of academic achievement and functional performance, which include the following:

- The results of the initial or most recent evaluation of the child: This should include a summary of the relevant information from the child's evaluation (not just a listing of scores). This section does not have to include only the results and recommendations of formal evaluation measures performed on a child. It should also include additional formative and summative assessments used for instructional purposes that are often more recent than the formal evaluation measures.
- The results of district or statewide assessments: This information must include the results of statewide assessments including test scores and must indicate the achievement level, whether the child achieved as a beginning learner, developing learner, proficient learner, or distinguished learner. This should also include an individual analysis that provides a frame of reference for how the child is performing in comparison to same age peers. In addition, IEPs should include the strengths and weaknesses as indicated by the domains of the subtests.
- A description of academic, developmental, and/or functional strengths and needs:

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- 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, executive functioning, etc.
- This area should describe **specific** needs that impact performance and achievement in academic, developmental, and functional areas and must be addressed through the IEP goals and/or objectives or through accommodations.
- Parental concerns regarding the child's education: What is written in this section should be the result of ongoing communication with the parent regarding the child's academics, behavior, performance on goals, and/or future plans. The parent should be provided an opportunity for specific input. Even if the parent does not attend the meeting or does not provide input at the time of the meeting, the information entered should be drawn from communication that has occurred over the previous school year with the parent.
- 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 child'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 children.

Consideration of Special Factors

Consideration of special factors must be documented in the IEP. The factors to consider are: behavior, limited English proficiency, visual impairments, communication needs, assistive technology, and alternative format instructional materials. Needs should be clearly described in

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an individualized manner. If needs are determined in any of these areas, the IEP must include a description of the supports and/or services that will be provided to the child.

Transition Service Plan

The successful transition of children 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 children in building the skills and supports they need to reach their post-school goals.

Transition requires support from multiple sources so the child 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 child begins ninth grade or turns 16 (or younger if determined appropriate by the IEP Team), and updated annually thereafter, the IEP must include:

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

Desired Measurable Postsecondary Outcome/Completion Goals Goals should be measurable and related to what the child wants to achieve *after* graduation. Postsecondary outcomes should reflect "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 be practical and relevant to transition needs. Postsecondary outcome/completion goals can change and become more refined as the child 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 Age-appropriate transition assessments should be conducted to 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

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prior to the eighth grade and may occur when a reevaluation consideration is conducted. As a best practice, transition assessments should also be ongoing and fluid. Assessment tools that clearly describe a child's strengths and weaknesses and document a child's interests and perceptions about their skills should be utilized. Surveys and interviews work well for this type of assessment.

Measurable Transition IEP Goals Transition goals are based on age-appropriate transition assessment(s) and include transition activities and services appropriate to attain the desired 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 achieve the desired postsecondary outcomes. Goals must be meaningful. This section is divided into the following areas: education/training, development of employment, community participation, adult living skills, 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 when appropriate.

Transition Activities and Services This section 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 The individuals, agencies, and groups identified should include those who will help the child achieve the goals stated. They may be individuals who will likely provide or pay for transition services. Documentation that these persons were invited to the Transition IEP Team meeting and that the parent and student (if over 18) were notified of their possible attendance must be kept. When a participating agency does not attend, the IEP Team should document actions to assist the child and his/her family to support contact and communication with the agency. If the child does not attend the IEP Team meeting, the SUMTER COUNTY SCHOOLS must take other steps, including verbal and written input, to ensure that the child's preferences and interests are considered before developing the transition goals of the IEP.

Transfer of Rights at 18 Years of Age

At least one year **before** the student turns 18, a statement that the student has been informed of his or her rights under IDEA and that the IDEA rights will transfer to the student upon reaching the age of 18 must be included in the IEP. The IEP must document at age 18 that the rights have been transferred. Once the rights have transferred to the student at age 18, the SUMTER

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COUNTY SCHOOLS must provide any IDEA required notices to both the student and the parent. All rights given to the parent transfer to the student.

The Summary of Performance (SOP)

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

Annual Goals

IEP annual goals are written to address an individual child's needs/deficits in order to enable that child to be involved in and make progress in grade level standards. All children are expected to be working toward grade level standards, so it is not necessary to list those standards in the IEP.

The annual 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 and meet the child's other educational needs that result from the identified disability. The goals should be written in measurable form and should describe what the child can be reasonably expected to accomplish within twelve months.

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

Goal: When given oral directions by the teacher, the child will comply after the first time by listening, clarifying, and verbally agreeing to do as asked four out of five times for three consecutive weeks by December 20, 2019.

Short-term objectives are not required for all children. Only those children who participate in the Georgia Alternate Assessment (GAA) are required to have either benchmarks or short-term objectives. However, nothing prohibits a SUMTER COUNTY SCHOOLS from recommending short-term objectives for all children.

At times, a parent or Team member may request short-term objectives for a particular area of the IEP even though they may not be required, this is an IEP Team decision.

Supports, Services, and Placement

The IDEA requires each IEP to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:

- to advance appropriately toward attaining the annual goals;
- to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
- to be educated and participate with other children with disabilities and nondisabled children in the academic, nonacademic, and extracurricular activities.

Student Supports

Student supports must be documented in the IEP and consist of accommodations for instruction and testing, supplemental aids and services, and/or supports for SUMTER COUNTY SCHOOLS personnel. These may be provided to assist children 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 children in academic, nonacademic, or extracurricular activities. The special education and related services and supplementary aids and services must be based on peer-reviewed research to the extent practicable. Peer-reviewed research is “research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published.” 71 Fed. Reg. 46,664 (2006).

The Every Student Succeeds Act (ESSA) uses the term evidence-based rather than peer-reviewed research and defines “evidence-based” as an activity, strategy, or intervention that: (1) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on: (a) strong evidence from at least one well-designed and well-implemented experimental study; (b) moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or (c) promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; (2)(a) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and (b) includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

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- 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 Standards of Excellence so their disabilities are not barriers to achievement. Children receiving accommodations are still expected to meet the same grade level standards as their peers without disabilities. For example, a child might listen to portions of a text on tape rather than reading it, answer questions orally or use a computer keyboard instead of writing with a pencil, use large print text books, watch video with captions, or participate in a discussion in a biology class with a sign language interpreter. Accommodations should provide access to or promote skill growth and some accommodations may be used instructionally that **will not necessarily** be used for assessment. Appropriateness and efficacy of accommodations should be evaluated on an ongoing basis. Accommodations should not be confused with differentiated instruction.
- Classroom testing accommodations should be individualized, determined by subject area, and be as specific as possible. For example, if a child requires additional time to complete tests, it is recommended that the amount of time is specified such as, “50% more time.” Other examples of testing accommodations are the use of a text reader or calculator, special seating, etc. Testing accommodations should only be recommended if they are also the child’s instructional accommodations and some instructional accommodations may not be appropriate for testing. Research shows that providing a child with an accommodation for testing that he/she is not familiar with during instruction will impair his or her performance and not allow the child to demonstrate what he or she actually knows.
- Supplemental aids and services should include supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate as well as participate in nonacademic and extracurricular activities as determined by the IEP Team. Examples include: tutoring, adult assistance, note-taking, peer helper, pre-teaching/reteaching or reinforcing concepts, behavior intervention plan, point sheet, assigned seating, etc. Some accommodations used for instruction may also be considered a supplemental aid and service.
- Supports for school personnel should be included when training or other supports are being provided **to school staff** regarding a specific child’s need. Examples may include:

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training on an assistive technology device, a workshop on a content area or disability area, crisis prevention training, etc.

Assessment

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

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

Georgia Rule [160-3-1-.07](#) requires that consistency exist between accommodations utilized in the classroom and those used for state administered tests. Children with disabilities must have access to and practice with accommodations utilized on state administered tests before the time of test administration. However, certain accommodations may be appropriate for use in classroom instruction that are not appropriate or allowable on state administered tests. IEP Team members **must** understand the difference between allowable accommodations for state administered tests and those for classroom instruction and assessments.

Even if an accommodation needed by a specific child is available to all children in a particular setting, the accommodation should still be documented in the IEP. This includes accommodations for both instruction and assessment. The IEP Team should remember that although many classrooms have technology or software that is routinely available to all children (such as computers), if a child **must** have that technology or other accommodation to access either instruction or assessment, it should be documented in the child's IEP.

For more information, please see Accommodations Manual and Accommodations FAQ on the [GaDOE Assessment and Accountability webpage for Educators](#).

The district and statewide assessments section of the IEP should be as specific as possible and only identify testing accommodations the child must have in order to participate in the assessment. The IEP Team may not identify any accommodations that are not on the allowable accommodations list. If a child must have an accommodation that is not on the list, the IEP Team should work with the district testing coordinator who will contact the GaDOE Assessment and Accountability Division to discuss the ramifications of the potential accommodations. Each assessment should be listed by content area so that accommodations can be individualized.

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Placement Options

Special education is a service and not a place. After the IEP Team has reviewed all required information and developed an IEP, it must make the decision as to where services need to be delivered in order to enable the child to receive a FAPE in the LRE. Placement decisions should start with the expectation that services will be provided in the regular 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 child requires to access the general education curriculum.

Extended School Year (ESY)

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

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

If the need for ESY is determined, the IEP Team must identify which goals in the current IEP are being extended or modified. ESY is not the same thing as summer school; however, ESY services may be provided during the school year as well as during the summer. See also description of ESY in the FAPE Chapter.

Related Services

Related services are required to assist a child 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:

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- speech-language pathology;
- audiological services;
- psychological services;
- physical and occupational therapy;
- social work services;
- counseling services, including rehabilitation services;
- orientation and mobility services;
- interpreting services;
- school health or school nurse services;
- medical services;
- parent training;
- recreation, including therapeutic recreation; and
- transportation.

To determine what special education services and 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 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 peerreviewed 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.

Frequently Asked Questions

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

After a student is determined eligible for special education services, the district has 30 calendar days to develop and implement the IEP.

2. Who has access to the child's special education file?

Parents of the child and SUMTER COUNTY SCHOOLS personnel who are employed by the SUMTER COUNTY SCHOOLS directly or through contract and who have legitimate educational interests can have access to a child's special education file. Under Family Educational Rights and Privacy Act (FERPA), each SUMTER COUNTY SCHOOLS "must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests." 34 C.F.R. § 99.31(a)(1)(ii). Under IDEA, each regular and special education teacher of the child, related service provider and other service providers responsible for implementation of the IEP should have access to the child's IEP. 34 C.F.R. § 300.323(d).

3. Do we have to include the name and position of the invited participants of an IEP Team meeting?

Under IDEA, the SUMTER COUNTY SCHOOLS must inform the parent who will be in attendance at the IEP Team meeting. 34 C.F.R. § 300.322(b)(1)(i). The SUMTER COUNTY SCHOOLS's notice to parents is not required to identify individuals who will be attending the IEP Team meeting by name, as long as the notice identifies the individuals by position. See Letter to Livingston, 21 IDELR 1060, OSEP (August 29, 1994).

4. What happens when the parent doesn't show up for an agreed upon IEP Team meeting? If a parent has indicated that he or she will attend the IEP Team meeting at the date and time

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on the notice and does not arrive, efforts to contact the parent should be made and documented. If no contact can be made, the IEP Team should then determine what action is in the best interest of the child and either postpone or proceed with the meeting accordingly.

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

Under the IDEA, an SUMTER COUNTY SCHOOLS may conduct an IEP Team meeting without a parent in attendance when the SUMTER COUNTY SCHOOLS is “unable to convince the parent to attend.” 34 C.F.R. § 300.322(d). The school should make and document all attempts to schedule the meeting using multiple formats (e.g., written notice, phone calls, home visits, etc.). If the parent does not respond, the school may have the meeting without the parent present and then send the parent a copy of the IEP. If a parent responds and indicates that he or she wishes to participate in the development of the IEP, but cannot meet, the SUMTER COUNTY SCHOOLS must document the multiple good faith attempts to involve the parent, considering various participation options such as virtual meetings or alternative locations before conducting the IEP Team meeting without the parent.

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

If, after multiple attempts to contact the parent using multiple formats, the SUMTER COUNTY SCHOOLS is unable to convince the parent to attend, the SUMTER COUNTY SCHOOLS should keep detailed records of any letters, telephone calls, and/or visits to the parent. If attempts to ensure parental participation do not result in parent attendance, the SUMTER COUNTY SCHOOLS may conduct the IEP Team meeting without the parent. A copy of the IEP will be sent to the parent in a timely manner.

7. **What can be done prior to the IEP Team meeting?**

IEP Team members sometimes prepare a draft of the present levels of academic achievement and functional performance and proposed annual goals prior to the meeting and share this draft with the parent to provide focus for the IEP Team meeting. It should be understood that no decisions will be made until the actual IEP Team meeting is held and that all draft documents can be changed based on the decisions of the Team.

8. **What other persons may attend an IEP Team meeting?**

The parent or the child may invite other persons with knowledge or expertise of the child to the IEP Team meeting if either wishes. This can include relatives, advocates, attorneys, tutors, etc. in the spirit of cooperation and working together as partners in the child’s

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education, parents should let the district know who is coming before the meeting. However, there is no requirement under IDEA to do so. See [Letter to Andel, U.S. Dep't of Educ., Office of Special Education Programs \(OSEP\), February 17, 2016](#). If the parent invites other persons who charge a fee for attending the meeting, the SUMTER COUNTY SCHOOLS is not responsible for paying those costs.

9. How do we document attendance in the IEP?

Some LEAs have attendees initial by their names if the documents have a signature/name section. Others have them sign their names under the section for members in attendance. Members should not be listed if they are not in attendance (physical or virtually) in the meeting.

10. If a child has never been in a regular education setting, do we need to have a regular education teacher present at the IEP Team meeting?

Yes. A regular education teacher of the child is required to participate in the meeting, if the child is or may be participating in the regular education environment. Federal regulations and State Special Education Rules require that the IEP Team consider the full continuum of services, which includes instruction in the regular education environment.

11. For State schools and GNETS programs, who should be responsible for ensuring the participation of the regular education teacher?

In most circumstances, it is the SUMTER COUNTY SCHOOLS's responsibility to provide a regular education teacher for the IEP Team meeting. Participation can be in person or via conference call or other means of participation.

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

The SUMTER COUNTY SCHOOLS should secure a regular education teacher professionally qualified to teach preschool students to serve as a member of the IEP Team.

13. If a teacher is dually certified both in special education and regular education, can he or she serve dual roles in the IEP Team meeting?

No. Under the IDEA, the IEP Team must include not less than one regular education teacher of the child and not less than one special education teacher of the child. The determination of who can serve as the regular education teacher and the special education teacher in the IEP Team meeting is not based on that individual's certification alone, but their relation to the child.

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14. Can the regular education teacher also fill the role of the SUMTER COUNTY SCHOOLS representative?

Yes, as long as one of the child's regular education teachers meets the requirements of the SUMTER COUNTY SCHOOLS representative (someone 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 SUMTER COUNTY SCHOOLS resources), he or she can serve these dual roles.

15. Does the SUMTER COUNTY SCHOOLS representative have to be able to COMMIT to services or just be knowledgeable of the resources of the district?

Both. For IEP Team meetings, the SUMTER COUNTY SCHOOLS representative must be knowledgeable about availability of resources, "have the authority to commit agency resources and be able to ensure that whatever services are described in the IEP will actually be provided." See 71 Fed. Reg 46,670 (2006).

16. During the course of an IEP Team meeting, if an emergency comes up and a person has to leave unexpectedly, what is required?

If a required team member needs to leave, stop and ask the parent whether he or she wants to continue the meeting without that person present. If the parent wants to excuse the team member, the parent must do so in writing and the meeting can proceed. If the parent does not want to proceed without the required team member, the meeting can be rescheduled.

17. Do additional IEP Team members need an excusal?

No, only the required members of the Team need proper excusals.

18. Can the regular education teacher be excused from an IEP Team meeting if the parent agrees?

Yes, but the SUMTER COUNTY SCHOOLS must be sure the parent understands that they can refuse to permit the excusal and reschedule the meeting if they prefer. If there are multiple regular education teachers at the IEP Team meeting, a written excusal is not required to excuse the regular education teachers as long as there is at least one regular education teacher remaining.

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

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

20. Do we need to do an excusal if the teacher does not stay the whole time?

Yes, an excusal would be needed if any of the required members leave before the meeting is over. LEAs should discourage the practice of having any required IEP Team member leave in the middle of the meeting. His or her role is important for the entire meeting, including the portion where placement and supports are discussed, which is often near the end of the meeting.

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

The receiving school has an obligation to provide comparable services described in the IEP of the child in consultation with the parent until such time as the SUMTER COUNTY SCHOOLS either adopts the previous IEP or develops its own.

22. What are the requirements if a child transfers within Georgia?

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

23. What are the requirements for children who transfer from other states?

When a child transfers from another State with a current or expired IEP, the new SUMTER COUNTY SCHOOLS (in consultation with the parent) must provide services comparable to those in the out-of-state IEP until the new SUMTER COUNTY SCHOOLS can collect any necessary additional information necessary to complete the evaluation/eligibility determination and can develop, adopt, and implement a new IEP, if appropriate. If an evaluation is required, it is treated as an initial evaluation in Georgia.

24. How would an IEP Team work through what seems to be unrealistic transition expectations of children and or/parents during the development of the transition plan?

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

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

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

25. Considering the required measurable goals for transition services, can the SUMTER COUNTY SCHOOLS be responsible for measuring how other agencies follow through on what they say they will do?

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

26. When a goal on the transition plan contains a final goal of "will attend college" or "will attend a technical school," what is the SUMTER COUNTY SCHOOLS's role in actually having the child attend college? Is the SUMTER COUNTY SCHOOLS responsible for paying for college or a technical school since this was a goal on the transition plan?

No, the SUMTER COUNTY SCHOOLS would not be responsible for paying for college or technical school. The purpose of the transition plan is to show the steps the child and SUMTER COUNTY SCHOOLS will take to work toward that final goal.

27. What is the difference between annual goals and short-term objectives?

Annual goals describe what the child can be reasonably expected to accomplish within twelve months. Short-term objectives are measurable, intermediate steps or targeted sub-skills to assist in accomplishing the annual goal.

28. If a child is taking the Georgia Alternate Assessment (GAA), are goals and short-term objectives required?

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

29. Can children not assessed on the GAA have short-term objectives?

Yes. The IEP Team may decide to write short-term objectives to support annual goals for any children, as appropriate. Some children who are not assessed on the GAA may have a combination of measurable annual goals and goals with short-term objectives.

30. Do IEP Team members vote on IEP decisions?

No. There is no "majority vote" rule for IEP Team meetings. Decisions should be reached by consensus. If the Team cannot reach consensus, the SUMTER COUNTY SCHOOLS must provide the parent with prior written notice of the SUMTER COUNTY SCHOOLS's proposals or refusals, or both, regarding the child's educational program. Parents are equal participants in the IEP process, but they do not have veto power over the IEP. If the parent disagrees with the Team's decision, he or she can utilize the dispute resolution options.

31. What if the parent refuses to sign the IEP?

A parent is not required to sign the IEP in order for it to be implemented. The IDEA provides the parent the opportunity to participate in and be a part of the Team that makes the decision about the child's educational program. If the parent disagrees with the IEP, he or she should inform the SUMTER COUNTY SCHOOLS. The SUMTER COUNTY SCHOOLS may set up another IEP Team meeting to determine whether an agreement can be reached. However, the SUMTER COUNTY SCHOOLS may implement the IEP unless the parent files a due process hearing. If a parent files a due process hearing, then "stay put" goes into place, and the child will receive the services from the previous IEP that is not being contested.

32. How should annual goals be written?

Annual goals should be directly related to the present levels of performance and to needs/deficits described in the present levels of academic achievement and functional

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performance due to the child's disability. These goals should also be based upon assuring the child's access to the grade level content standards.

33. How should special education transportation be documented in an IEP?

Special education transportation should be considered under related services.

34. What should the IEP Team consider when deciding on the appropriate accommodations for a child?

The IEP Team should consider data for a variety of sources in determining accommodations. Data on the efficacy of a proposed accommodation should be considered, along with input from the parent and student. For an extensive discussion on determining appropriate accommodations, see Accommodations Manual and Accommodations FAQ on the [GaDOE Assessment and Accountability webpage for Educators](#).

35. If all children in our SUMTER COUNTY SCHOOLS have routine access to technology and software, does that have to be written into the IEP?

It is important to remember, that although many classrooms have technology or software that is routinely available to all children (such as computers), **if a child must** have that technology or other accommodation to access either instruction or assessment, it should be documented in the IEP. Not all schools have the same resources widely available and the IEP is intended to assure that children with disabilities have access to instruction regardless of location.

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

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

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

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Children may require accommodations for classroom instruction that are not used in statewide testing. However, an accommodation used in statewide testing should be consistent with the accommodations used in classroom instruction. In other words, an accommodation should not be used in statewide testing if it is not used for classroom instruction or testing. Additionally, all accommodations used for state testing must be documented on the IEP and provided as documented.

38. If an IEP Team wants to use a special accommodation not specified/approved for a state assessment, what is the process?

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

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

No. Putting the parent's concerns under the Parental Concern section does not mean that it is an IEP Team decision. Parental concerns must be documented and considered by the IEP Team.

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

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

41. Does the GaDOE require that the standards being assessed on the Georgia Alternate Assessment (GAA) be listed on the IEP?

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

42. Are minutes of the IEP Team meeting required?

Formal minutes are not required for IEPs. However, all required information must be documented in the IEP form. In some cases, LEAs may want to record some minutes to document prior written notice as necessary. LEAs should develop their own guidelines on the development and use of minutes.

43. What is prior written notice?

Prior written notice is a response to parents from the SUMTER COUNTY SCHOOLS that includes a description of an action either proposed or refused by the SUMTER COUNTY SCHOOLS and an explanation of why the SUMTER COUNTY SCHOOLS proposes or refuses to take action. The explanation must include a description of each evaluation, assessment, record, or report that the SUMTER COUNTY SCHOOLS used as a basis for the proposed or refused action. Any other relevant facts should be included as well as other actions considered. The notice must include a statement that the parent has the protections of IDEA and must provide sources of assistance for parents to help them understand the procedural safeguards. For more information, see 34 C.F.R. § 300.503; Georgia Rule 160-4-7-.09.

44. How can minutes be used for prior notice?

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

45. IEPs must include a statement describing the anticipated frequency, location, and duration of all special education and related services and modifications contained in the IEP. Can the duration be documented by using segments or time?

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

46. Is it appropriate for a teacher to recommend an actual IEP Team meeting when a parent is calling frequently to request changes without having a meeting?

Yes, if frequent changes are needed, it is probably important to have a meeting. Any member of the IEP Team may request a meeting rather than amending the IEP outside of a meeting.

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

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

48. Are interim IEPs required?

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

49. How do we document student progress in extended school year (ESY) on the IEP? Do we have to have a new document or can space be added on the current IEP?

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

50. What are the requirements for reporting progress on the IEP goals?

The parent must be informed of when they will receive progress or lack thereof on goals and objectives, but this does not have to be as frequently as all children receive academic progress reports. LEAs have flexibility in determining how often progress on IEP goals will be provided to parents. Progress on post-secondary goals must also be included in IEP progress reports. See [Letter to Pugh, OSEP, January 18, 2017.](#)

51. Should an SUMTER COUNTY SCHOOLS establish a medical services team?

LEAs would be wise to establish interdisciplinary teams to address the needs of children with disabilities. These teams should establish policies and procedures associated with serving children with medical problems, including development and implementation of individual health care plans and IEPs, training of school personnel, and development of emergency procedures.

Special Education Rules Implementation Manual

52. Are feeding and swallowing disorders related to a child's access to and participation in the curriculum?

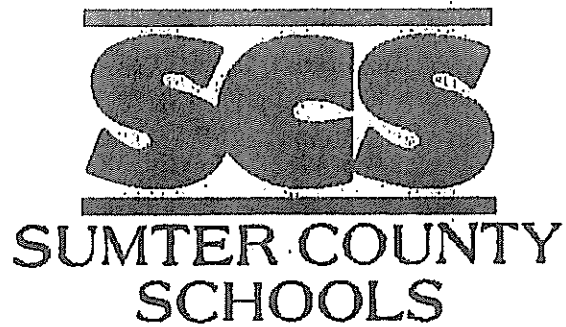
A child's swallowing and feeding needs is a health issue that, if not attended to, can result in a child's absence from school, denying the child a FAPE. The aspiration of food or liquids into the airway (trachea) that leads to the lungs is a major concern and could lead to other major medical issues that could increase time out of school for illness. Feeding and swallowing disorders can be complex and involve multidisciplinary expertise. For a more extensive discussion of feeding and swallowing disorders, see Guidelines for Speech-Language Pathologists Providing Swallowing and Feeding Services in Schools, American Speech-Language-Hearing Association (ASHA), 2007.

53. What rule or guidance is in place for school food preparation and dietary modifications?

LEAs are required to make accommodations specified by IDEA and Section 504. Dietary accommodations for children whose disabilities restrict their diet can only be made when documented in a statement signed by a licensed physician. The U.S. Department of Agriculture (USDA) defines a licensed physician as a Doctor of Medicine or Osteopathy. For additional information, see Accommodating Children with Special Dietary Needs in the School Nutrition Programs, USDA, Fall 2001.

54. Can the child be charged additional fees to recoup the extra cost related to modifying the menu?

No. Schools may not charge IDEA or Section 504 eligible children with feeding and swallowing disorders who require food substitutions/modifications more than they charge other children for program meals or snacks.



GNETS

**Georgia Network For Education &
Therapeutic Support**

(e) Thirty-eight square feet shall be provided for each child in the class with a variance of 10 percent depending upon the total number of personnel in the class at any time, the type of children and class, the kind and amount of furniture and equipment required and the necessity for storage capabilities. Special circumstances shall be reviewed by the Facilities Department of the GaDOE and shall be addressed in the approved local facility plan.

(2) Information about caseloads for children with disabilities is contained in Appendix A below.

(a) The following are maximum class sizes and caseloads for personnel providing services for children, ages 3 through 5, in Community (C), Full Day, and Part Day classes. All numbers shown for Maximum Class Size are with a Paraprofessional.

	Maximum Class Size	Caseload
full day	8	16
part day	12	32
C	-	32

This rule shall become effective July 1, 2007.

Authority O.C.G.A. § 20-2-152; 20-2-240; 20-2-182.

Adopted: June 14, 2007

Effective: July 1, 2007

Note: The placement of children with autism, traumatic brain injury, or other health impairments, and significant developmental delays (grades K and above) in the above program areas will not change class sizes.

Note: Children, with an IEP designating the service location for the delivery of goals and objectives to be the regular classroom environment, shall be reported in their special education program category if instruction is provided in a:

- A. Team/Collaborative Model; or
- B. Consultative Model.

(2) GNETS PURPOSE AND SERVICES.

(a) The Georgia Network for Educational and Therapeutic Support (GNETS) is a service available within the continuum of supports for LEAs to consider when determining the least restrictive environment for students with disabilities, ages 5-21. GNETS services is an option in the continuum of supports that prevents children from requiring residential or more restrictive placement. Specifically, GNETS provides comprehensive educational and therapeutic support services to students who exhibit intense social, emotional and/or behavioral challenges with a severity, frequency or duration such that the provision of education and related services in the general education environment has not enabled him or her to benefit educationally based on the IEP.

(b) GNETS services aim to support students with social, emotional and/or behavioral challenges. These students' behaviors may include but are not limited to, significant, aggressive, self-destructive, atypical, and withdrawal behaviors. Children receiving GNETS services are taught coping skills, behavior regulation, and adaptive behaviors, with a keen focus on developing positive interpersonal relationships with others.

(c) GNETS services are implemented with greater intensity and frequency than what is typically delivered in a general education school environment. The supplemental aids and services available at GNETS must be appropriate and necessary in order for the child's IEP team to consider GNETS services.

(d) GNETS will be staffed to meet the needs of a unique population of students requiring intensive individualized supports, including providing appropriate therapeutic services identified in the IEP. The staff receive specialized training in skills designed to deescalate major disruptive behaviors and assist students with meeting their IEP goals.

(e) GNETS staff will collaborate with professionals from a variety of agencies to enhance students' social, emotional, behavioral and academic development based on their IEPs.

(f) The IEP team will assess at least annually whether the student with disabilities is ready to transition to a less restrictive setting. Progress monitoring data aligned with IEP goals should be reviewed to determine if the student is ready to receive a free appropriate education (FAPE) in the lesser restrictive environment.

2. Services provided in the student's Zoned School or other public school setting by way of a "pull out" from the general education setting for part of the school day.

3. Services provided in the student's Zoned School or other public school for part of the school day in a setting dedicated to GNETS.

4. Services provided in the student's Zoned School or other public school for the full school day, in a setting dedicated to GNETS.

5. Services provided in a facility dedicated to GNETS for part of the school day.

6. Services provided in a facility dedicated to GNETS for the full school day.

(5) DUTIES AND RESPONSIBILITIES.

(a) The SEA shall:

1. Receive and disburse funds appropriated by the Georgia General Assembly to support GNETS services.

2. Administer the grant funds by performing the following in collaboration with the GaDOE:

(i) Develop rules and procedures regulating the operation of the GNETS grant, including the application process;

(ii) Notify the fiscal agents regarding each fiscal year's allocation and approve GNETS services budgets; and

(iii) Monitor GNETS to ensure compliance with Federal and state policies, procedures, rules, and the delivery of appropriate instructional and therapeutic services.

(b) The LEA shall:

1. Ensure that FAPE is delivered to students recommended for GNETS services in the least restrictive environment (LRE).

2. Convene IEP team meetings as required by State Board of Education Rule 160-4-7-.06.

3. Conduct FBAs/BIPs for any student considered for GNETS services in accordance with (3)(c)(2) of this rule.

16. Collaborate with LEAs in the service area to determine a calendar that is best suited to provide GNETS services for students.

17. Provide valid teacher identification to LEAs to ensure teachers can access longitudinal records for students included on their rosters.

18. Monitor facilities for safety and accessibility for students served by GNETS and report identified concerns to all key stakeholders including, LEAs, fiscal agents and any other appropriate parties.

(d) The Fiscal Agent shall:

1. Be either the respective LEA(s) and/or Regional Educational Service Agency affiliated with the GNETS Services.

2. Account for and disburse grant funds in accordance with general accepted accounting and financial reporting principles to restricted GNETS accounts, including, but not limited to, maintenance and operation, instructional materials, media, and sick leave. (For information concerning procedures, see the *Financial Management for Georgia Local Units of Administration*.)

3. Submit financial reports as required by the SEA and the GaDOE.

4. Monitor facilities for safety and accessibility for students served by GNETS and report identified concerns to all key stakeholders including, LEAs, GNETS directors and any other appropriate parties.

5. Report requested data to the SEA or the GaDOE.

6. Submit grant applications and budgets through the consolidated application. The fiscal agent will calculate indirect cost using one percent. Indirect cost may be used for providing such services as accounting, data processing and purchasing.

7. Serve in this capacity for the respective unit, for a minimum of three fiscal years in accordance with O.C.G.A. §20-2-270.

8. Ensure that GNETS services are provided for all local school systems within the GNETS service area.

(e) Any fiscal agent who decides to no longer serve as fiscal agent for GNETS shall meet with school superintendents of the local school systems within a service area to take a vote no later than April 1 to be effective for the ensuing fiscal year.

Guiding Questions for Consideration of GNETS Services

Page 2

- Has staff tried other preventative measures such as moving the child's desk in the classroom (nearer or away from the teacher or others, the door, etc.), adjusting his/her schedule, or making contact with the parent, etc? YES NO
- Are there medication issues for this child? (ie. Is he/she supposed to be taking medication but is not or are there concerns with consistency of it being administered? Are there concerns about dosages, etc? (If there are concerns in this area, school staff may want to consider having the school nurse involved to complete a behavior checklist, contact the parent, or contact the doctor's office). YES NO
- Are there skill deficits in academics that might lead to avoidance behaviors? YES NO
- If there are known skill deficits, has related remediation been provided the student? YES NO
- ~~Is the student receiving a higher rate of positive versus negative feedback from his/her teachers on a consistent basis?~~ YES NO
- Does the student receive a higher rate of positive versus negative feedback from his/her teachers on a consistent basis? YES NO
- Are there changes or concerns in the home setting or has the student experienced any recent losses or trauma in their life? YES NO

Once all of these questions have been answered, the team needs to determine whether or not there are some areas that need to be addressed prior to moving forward with a request for GNETS services. Responses to the guiding questions above, should help guide the development of an action plan to address any data collection, school-based supports, or placement options that have not been used before requesting GNETS services.

5. Is there documentation that indicates evidence of :

- Annual IEP Reviews? YES NO
 - IEP goals that address the behavior(s) that necessitate GNETS services have been developed and included in the IEP. YES NO
 - Progress monitoring data aligned with IEP goals? YES NO
 - Progress monitoring data aligned with BIP target behavior(s) and replacement skills? YES NO
 - Documentation indicating prior services were delivered in a less restrictive environment and the student's inability to receive FAPE in that environment? YES NO
 - Data that supports the need for GNETS services is included in the IEP. YES NO
 - GNETS services are provided in the least restrictive educational placement. YES NO
- *The information related to the guiding questions above should be clearly documented within the present level of performance section of the student's IEP. (This may require an amendment of the IEP.)*
 - *IEP goals should be developed and/or revised to include the behaviors that necessitate placement in the GNETS Program and the data that supports the placement decision as well as the criteria that will be considered to insure that the student is served in the least restrictive educational placement.*

160-4-7-.19 SERVICES FOR AGENCY-PLACED STUDENTS

(1) PURPOSE.

(a) This Rule is designed to provide access for students who are placed by the Department of Human Services (DHS), Department of Behavioral Health and Developmental Disabilities (DBHDD) or the Department of Juvenile Justice (DJJ) in one of the DBHDD-operated facilities or in contracted facilities and any child who is a patient in a facility licensed by the State of Georgia to deliver intermediate care services, to an appropriate educational program designed to meet the needs of the student.

(2) DEFINITIONS.

(a) DHS or DBHDD contracted facility – a facility that is contracted by DHS or DBHDD to serve clients placed by DHS or DBHDD. This includes public and private facilities for which DHS or DBHDD contracts on a client-by-client basis for a residential placement for an individual client.

(b) DJJ contracted facility – a facility that is contracted by DJJ to serve clients placed by DJJ. This includes public and private facilities for which DJJ contracts on a client-by-client basis for a residential placement for an individual client.

(c) DHS or DBHDD operated facility – a facility that is operated by DHS or DBHDD to serve clients placed by DHS or DBHDD. This includes the regional hospital and outdoor therapeutic programs.

(d) For purposes of these rules, students placed by DHS or DBHDD in DHS or DBHDD-operated or contracted facilities and students placed by DJJ in DJJ-contracted facilities are eligible for education services in the LEA in which the facility is located.

1. A child is considered to be in the physical or legal custody of DHS, DBHDD or DJJ or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement and the child has been admitted or placed according to an individualized treatment or service plan of DHS or DBHDD.

(e) For purposes of these rules, the following students shall NOT be subject to these rules:

1. Students in a Department of Juvenile Justice (DJJ) Youth Development Center, regardless of custody status.
2. Students in Department of Corrections (DOC) facilities, regardless of custody status.

(3) REQUIREMENTS.

(a) Notice.

the parents/guardian although the parents/guardians have been unresponsive or unavailable.

(iii) The LEA shall assume the responsibility for scheduling and conducting the IEP meeting. The meeting shall follow all State Board of Education rules for special education.

(iv) The LEA shall provide a free appropriate public education, including services comparable to those described in the previously held IEP, until such time as the LEA adopts the previously held IEP or develops, adopts, and implements a new IEP. Based on needs addressed in the IEP, determination shall be made as to where service shall be provided.

(v) In the event that a student is placed for a limited, specified time that is considered short-term (under 60 calendar days), the responsible LEA shall provide a free appropriate public education, including services comparable to those described in the previously held IEP, until such time as the LEA adopts the previously held IEP or develops, adopts, and implements a new IEP.

(vi) When the IEP Committee determines that the least restrictive environment (LRE) for a student is the DHS or DBHDD facility, the LEA shall continue to have oversight responsibility for the educational program.

(4) This rule shall become effective March 31, 2010.

Authority O.C.G.A. § 20-2-133; 20-2-150; 20-2-152; 20-2-168.

Adopted: March 11, 2010

Effective: March 31, 2010

160-4-7-.20 MANDATORY PRE-DETERMINATION OF LOCAL EDUCATIONAL AGENCY'S INABILITY TO PROVIDE SERVICES TO A STUDENT(S) WITH A DISABILITY.

(1) REQUIREMENTS.

(a) Prior to any LEA determining it is unable to serve an eligible child with disabilities, the local school superintendent shall contact the state school superintendent to explore possible alternatives for services. GaDOE shall provide assistance to the local school superintendent in locating needed services, where appropriate.

(b) The State Board of Education may determine that an LEA is unable to establish and maintain programs of free appropriate public education. Should the state board make such determination, the following procedures shall apply: Notice shall be given to the LEA of the proposed determination; the LEA shall be given the opportunity to respond to the proposed determination by presenting oral testimony and documentary evidence to the state board; evidence and notice of such testimony shall be sent to the state school superintendent 10 days before it is to be presented to the state board; and the members of the state board shall have the opportunity to ask questions of the state school superintendent or staff and the LEA.

(c) When an LEA determines that it is unable to provide a free appropriate public education to an eligible child with disabilities after an individualized education program (IEP) has been developed by its IEP Team, the LEA shall notify in writing the state school superintendent. However, prior to sending such notice, the LEA shall exhaust all avenues for providing services for the child. The unavailability of a teacher or other necessary employees shall not be sufficient cause for the LEA to be deemed unable to provide a free appropriate public education to the student in question.

1. The LEA's written notice shall include:

(i) A resolution of the local board of education stating that it is unable to serve the student;

(ii) A copy of the child's past and current complete special education record, including at a minimum the IEP, placement minutes and comprehensive evaluation information.

(iii) An explanation of the LEA's inability to provide a free appropriate education to the student, including efforts made by the LEA to provide special education services in accordance with the child's IEP, and efforts to develop and/or locate services.

2. The state school superintendent and any necessary GaDOE staff shall review the notice and may request additional information.

[See 34 C.F.R. § 300.175; § 300.221; § 300.227]

(2) This rule shall become effective July 1, 2007.

Authority O.C.G.A. § 20-2-152; 20-2-240.

Adopted: June 14, 2007

Effective: July 1, 2007

160-4-7-21 DEFINITIONS.

(1) **A ccommodation** — Changes in instruction that enable children to demonstrate their abilities in the classroom or assessment/test setting. A ccommodations are designed to provide equity, not advantage, for children with disabilities. A ccommodations include assistive technology as well as alterations to presentation, response, scheduling, or settings. When used appropriately, they reduce or even eliminate the effects of a child's disability; but do not reduce or lower the standards or expectations for content. A ccommodations, that are appropriate for assessments do not invalidate assessment results.

(2) **A dult student** - A student with a disability, age 18 or older, to whom rights have transferred under the ID EA 2004 and Georgia Rule.

(3) **A ge of majority** - The age at which, by law, a child assumes the responsibilities of an adult. In Georgia, the age of majority is 18.

(4) **A lternate assessment** - A n assessment aligned with alternate achievement standards for children with the most significant cognitive disabilities designed by the State and required in lieu of regular Statewide assessments, when determined necessary by the child's IEP team. .

(5) **A ssistive technology device** - A ssistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device. [34 C.F.R. § 300.5]

(6) **A ssistive technology service** - A ssistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(11) Consent means that –

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). [34 C.F.R. § 300.9]

(12) Core academic subjects - Refers to English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. [34 C.F.R. § 300.10]

(13) Day; business day; school day -

(a) Day is calendar day unless otherwise indicated as business day or school day.

(b) Business day refers to Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day).

(c) School day equates to any day, including a partial day that children are in attendance at school for instructional purposes. School day has the same meaning for all children in school, including children with and without disabilities. [34 C.F.R. § 300.11]

(14) Elementary school - A nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education and contains any grade below four and does not contain any grade above grade eight. O.C.G.A. § 20-2-291(c) [34 C.F.R. § 300.13]

(15) Eligibility Team - A group of qualified professionals and the parent of the child, which determines whether the child is a child with a disability and determines the educational needs of the child. [34 C.F.R. § 300.306(a)(1)]

(16) Evaluation - Procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. [34 C.F.R. § 300.15]

(17) Evaluation report - A summary of evaluation results obtained in the process of collecting information to determine if a child is a child with a disability and the educational needs of the child. The evaluation reports will vary from child to child,

developing, reviewing, or revising an IEP for a child with a disability. [34 C.F.R. § 300.23]

(25) Individualized family service plan (IFSP) - A written plan for services to an infant or toddler in the Part C Babies Can't Wait early intervention program that may be used in the Part B preschool program until an IEP is written, if the IFSP meets all the requirements of the IEP. [34 C.F.R. § 300.24]

(26) Infant or toddler with a disability - (a) An individual under three years of age who needs early intervention services because the individual -

1. Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

2. Has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay. [34 C.F.R. § 300.25]

(27) Limited English proficient - Has the meaning given the term in section 9101(25) of the ESEA. [34 C.F.R. § 300.27]

(28) Local educational agency (LEA) - A public board of education or other public authority legally constituted within Georgia for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in the State as an administrative agency for its public elementary schools or secondary schools. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public nonprofit charter school that is established as a LEA under State law. [34 C.F.R. § 300.28]

(29) Modifications - Alterations that change, lower, or reduce learning expectations. Modifications can increase the gap between the achievement of students with disabilities and expectations for proficiency at a particular grade level. Consistent use of modifications could adversely affect students throughout their educational career. Modifications in Statewide assessments may invalidate the results.

(30) Native language - (a) When used with respect to an individual who is limited English proficient, means the following:

1. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in (a) 2.

- (a) The name of the child, the child's parent, or other family member;
- (b) The address of the child;
- (c) A personal identifier, such as the child's social security number or student number; or
- (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. [34 C.F.R. § 300.32]

(36) Related services -

(a) **General.** Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

1. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

2. Nothing in paragraph ((b)(1)) -

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE;

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly, as required.

(c) Individual related services terms defined. The terms used in this definition are defined as follows:

activities of daily living, feeding, positioning, and sensory processing and regulation for alertness/attention.

(ii) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(iii) Preventing, through skilled intervention, initial or further impairment or loss of function.

(iv) Providing education and training of school personnel to support and monitor occupational therapy programs such as sensory diet, positioning, and feeding.

7. Orientation and mobility services —

(i) Services provided to blind or visually impaired children by qualified personnel to enable those children to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) Includes teaching children the following, as appropriate:

(I) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(II) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(III) To understand and use remaining vision and distance low vision aids; and

(IV) Other concepts, techniques, and tools.

8. Parent counseling and training means:

(i) Assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

9. Physical therapy means services provided by a qualified physical therapist to include:

(i) Improving, developing, or restoring function and participation that have been impaired related to the student's ability to perform educational and related tasks as independently as possible;

(ii) Physical therapy in school settings supports the purpose of IDEA

- (ii) Therapeutic recreation services;
- (iii) Recreation programs in schools and community agencies; and
- (iv) Leisure education.

12. Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a child with a disability. The term also includes vocational rehabilitation services provided to a child with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

13. School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

14. Social work services in schools includes -

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

15. Speech-language pathology services includes -

- (i) Identification of children with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(ii) Travel training; and

(iii) Vocational education.

(b) Individual special education terms defined. The terms in this definition are defined as follows:

1. At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled children or their parents as a part of the regular education program.

2. Physical education means the development of physical and motor fitness, fundamental motor skills and patterns and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). It includes special physical education, adapted physical education, movement education, and motor development.

3. Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction -

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

4. Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to -

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

5. Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

6. Vocational and technical education means organized educational activities that offer a sequence of courses that -

(i) Provides individuals with the rigorous and challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers

(43) Universal design - Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002. [34 C.F.R. § 300.44]

(44) Ward of the State - (a) A child who is a foster child; a ward of the State; or in the custody of the Department of Human Resources.

(b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent. [34 C.F.R. § 300.45]

(45) This rule shall become effective July 1, 2007.

Authority O.C.G.A. § 20-2-152; 20-2-240; 20-2-291.

Adopted: June 14, 2007

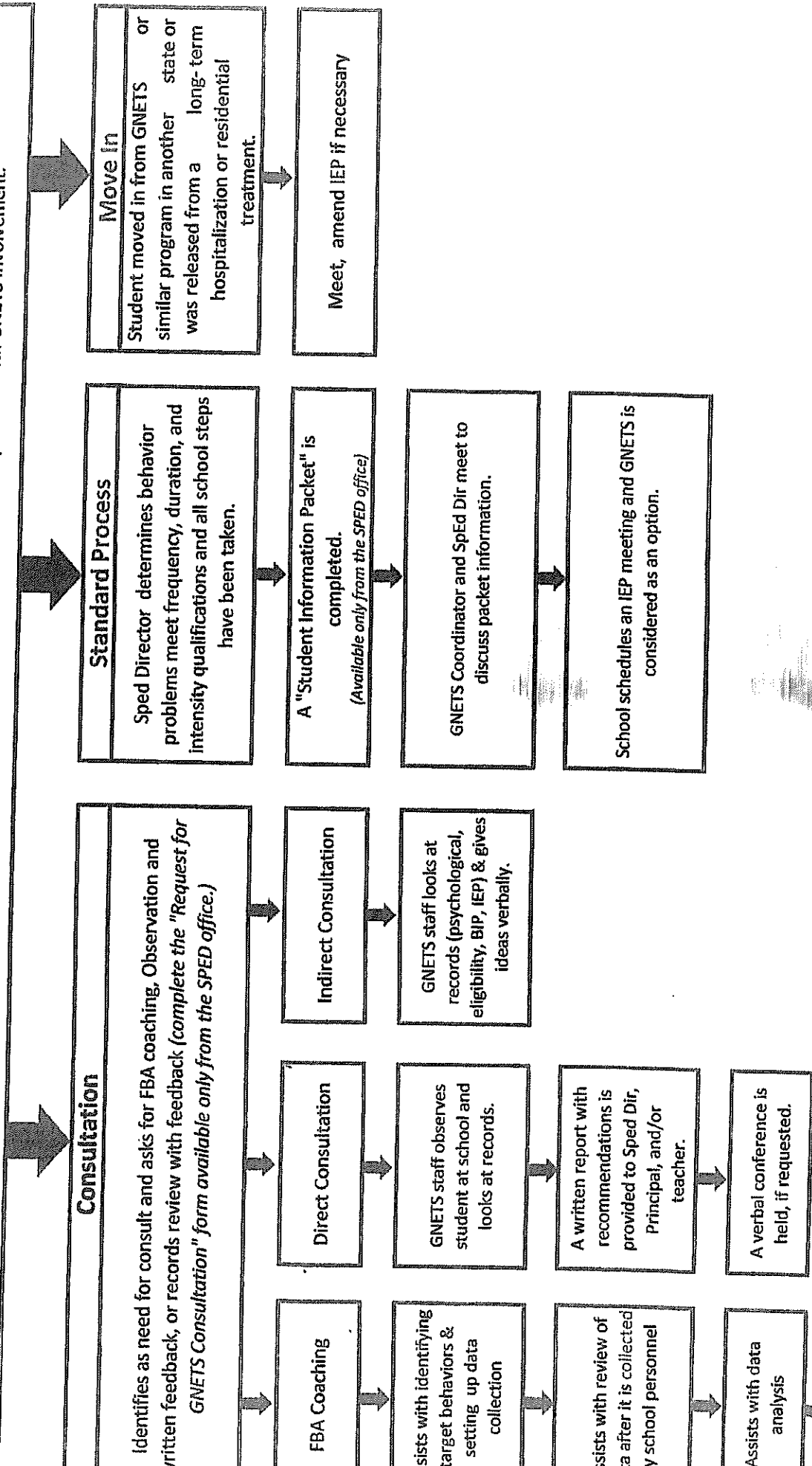
Effective: July 1, 2007



GNETS Services Flow Chart

Georgia Network for Educational and Therapeutic Support

A student currently being served in SPED has behavior problems at their school and it is believed GNETS may be an option. (GNETS services are only for students served in SPED). School personnel contacts Special Education Director or designee with concerns (outlining frequency, duration and intensity of behavior problems). A check list of "Guiding Questions" is completed to determine whether more work is needed at the school level or to proceed with GNETS involvement.



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**FREE APPROPRIATE PUBLIC EDUCATION (FAPE) (34 C.F.R.
§§ 300.101-300.113; GEORGIA RULE 160-4-7-.02)**

Definition of FAPE

All children with an **Individualized Education Program (IEP)** are entitled to a free appropriate public education (FAPE). This includes children who are eligible for special education from the ages of three (3) through twenty-one (21). The special education and related services that make up a FAPE are provided to children identified with disabilities and who have an IEP, and the services are provided at no cost to the parent.

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

While the education provided to the child with an IEP must be appropriate and must address what the individual child needs in order to make educational progress, this is neither a guarantee of achievement of each goal on the IEP nor a guarantee of promotion, passing grades, or graduation. Likewise, passing from grade-to-grade or receiving all passing grades does not mean that a child is receiving FAPE. Each child is an individual and his or her appropriate education is determined on a case-by-case basis. In addition, the term “appropriate” is not the same as “best.” “Appropriate” is a standard that assures the child has the opportunity to make educational progress. In the recent U.S. Supreme Court case, it was determined that “a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances” and the local educational agency (SUMTER COUNTY SCHOOLS)¹ should be able to provide “a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of [the child’s] circumstances.” See Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 580 U.S. _____, 137 S. Ct. 988 (2017).

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

Children Entitled to a FAPE

Children are entitled to a FAPE when they are determined eligible for special education and related services. This can be as early as three years of age. If a child is receiving services prior to age three through the Babies Can't Wait (BCW) program, then both the BCW program and traditional SUMTER COUNTY SCHOOLS have an obligation to work together to transition the child to the public school program by the child's third birthday. Children who have previously received services through BCW must be determined eligible for special education services and have an IEP in place by age three. This means that the IEP Team meeting must be held by the third birthday and services should be implemented within a reasonable time period. Services are not required to begin when school is not normally in session.

Children are entitled to continue to receive special education and related services through their 21st year (or until they turn 22), if they remain eligible for special education and they have not graduated with a regular high school diploma. Entitlement to a FAPE ends upon reaching age 22 or graduating with a regular high school diploma, whichever comes first.

According to Georgia Rules, LEAs are required to develop a written procedure that identifies a process for completing services when a student reaches the age of 22. See Georgia Rule 160-47-.02(1)(b). The SUMTER COUNTY SCHOOLS must state in writing whether services for the student, who is still attending school on his or her 22nd birthday, will cease on the birthday, cease at the end of that semester, or cease at the end of that school year. Students who remain in school after their 22nd birthday are not entitled to a FAPE or other IDEA rights for the remainder of their time in school. Although each SUMTER COUNTY SCHOOLS can develop its own procedures, those procedures must be in writing in order to be clear and fair to all students. The ultimate goal is to transition students to the desired activity in collaboration with other agencies or supports so that, by the 22nd birthday, transition has occurred and the student can continue in appropriate adult activities.

When a student with an IEP graduates with a regular high school diploma or ages out of school (i.e., turns 22 years of age), he or she must be provided with a summary of his or her academic and functional needs. The Summary of Performance (SOP) also includes strategies to assist the student in achieving his or her desired postsecondary goals. Although not required for students who receive a special education diploma or other exit document, such as a high school certificate of attendance, best practice is to provide the SOP to ALL students with IEPs who are exiting public school. Those students who do not earn a regular high school diploma or transition to a specific

job are those who will most likely need all the assistance available to develop positive postschool outcomes. The SOP is a tool that can assist with this.

Incarcerated Students

Students eligible for special education services who have an IEP and who are in a facility operated by the Georgia Department of Juvenile Justice (DJJ) or the Georgia Department of Corrections (GDC) 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 SUMTER COUNTY SCHOOLS attended by a student to obtain copies of educational records so that a FAPE can be provided. DJJ and GDC are LEAs and should be treated as other LEAs 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, were not identified as a student with a disability, did not have an IEP in effect, and graduated from high school with a regular high school diploma, are the exception. These students do not have an entitlement to a FAPE.

A student with a current IEP who is in the local jail, such as those managed by city or county agencies (i.e., the sheriff's office), is also entitled to a FAPE. In these circumstances, the SUMTER COUNTY SCHOOLS where the jail is located is responsible for providing services to students in that jail. LEAs 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 SUMTER COUNTY SCHOOLS's obligation is to provide FAPE. LEAs should work with local jails to establish a procedure in advance in order to be prepared to serve an incarcerated student when necessary. The U.S. Department of Education, Office of Special Education Programs (OSEP) makes it clear that "[r]egardless of the structure in a State, the State as the IDEA, Part B grantee, has ultimate responsibility for ensuring FAPE is made available to all eligible students with disabilities residing in State and local juvenile and adult correctional facilities." Dear Colleague Letter on the IDEA for Students with Disabilities in Correctional Facilities, U.S. Dep't of Educ., Office of Special Education Programs (OSEP), December 5, 2015.

FAPE - Methods and Payments

LEAs and states may use whatever federal, state, private, or other sources of funds that are available to provide a FAPE to eligible children. If private or public insurance will be used, this requires parental consent. LEAs must not delay the delivery of services required by an IEP until

the funding source is located or secured. Public insurance such as Medicaid or private insurance may also be used to support the services if such use is at no cost to the parents and does not decrease the lifetime coverage available, nor result in an increase in premiums.

If the SUMTER COUNTY SCHOOLS wants to access private insurance benefits for which the child is eligible, the SUMTER COUNTY SCHOOLS must obtain consent from the parent the first time they plan to access, inform parents of their right to refuse the SUMTER COUNTY SCHOOLS's access to the insurance benefits, and inform parents that such refusal does not relieve the SUMTER COUNTY SCHOOLS of its responsibility to ensure that all required services are provided at no cost to the parents.

If placement in a residential facility, either public or private, is necessary for the child to receive a FAPE, then the placement is at public expense and paid for by the SUMTER COUNTY SCHOOLS.

Accessible Instructional Materials and Assistive Technology

LEAs must provide instructional materials in an accessible format to children who are blind or other print disabled in a timely manner as part of the provision of a FAPE. Accessible formats include braille, audio, digital text, or large print, but do not include the altering or modifying of the content. Additional information on the provision of a FAPE for children who are blind or print disabled can be located in Georgia Rule [160-4-7-.02](#). Information on accessible instructional materials can be found at the [Georgia Instructional Materials Center](#) website.

LEAs must also consider each child's need for assistive technology devices and services in the development, review, and revision of the child's IEPs. This includes the purchase of technology and training for staff, the parent and child. Additional information on assistive technology is located on the [Georgia Project for Assistive Technology](#) website.

Routine Checking of Hearing Aids/Other Components

LEAs must have procedures and practices in place that ensure the proper functioning of hearing aids for children with hearing impairments, including deafness. Regular inspection of hearing aids should be documented. This also applies to external components of surgically implanted medical devices such as cochlear implants. However, LEAs are not responsible for programming such devices or for providing post-surgery maintenance.

Extended School Year

Each SUMTER COUNTY SCHOOLS must provide extended school year (ESY) services to children who need such services to receive FAPE. ESY services are those services a child requires beyond the normal school year of the SUMTER COUNTY SCHOOLS, are not limited to only the summer months or other breaks and are provided at no cost to the parent. The IEP Team makes the determination regarding whether a child needs ESY and, if so, what services will be provided. This includes determining the details of ESY, such as what services will be provided, when and where the services will take place, the frequency and the duration of the services, and the selected goals. Any services provided as ESY must meet the requirements of FAPE. A SUMTER COUNTY SCHOOLS must not state that ESY is only for certain groups of students.

Nonacademic and Extracurricular Activities

FAPE also includes nonacademic and extracurricular services. LEAs must consider supplementary aids and services determined appropriate and necessary by the child's IEP Team to provide children with disabilities the equal opportunity to participate in nonacademic and extracurricular activities. This may include, but is not limited to, participation in clubs, referral to agencies that provide services, special interest groups, employment assistance, counseling, health services, or athletics. An IEP may define the supports or services a child needs to participate in desired nonacademic and extracurricular activities but does not change the nonacademic and extracurricular eligibility requirements.

Charter Schools

Children who attend public charter schools and their parents retain all the rights given to them under the IDEA, including FAPE. In general, two types of charter schools are present in the state: (1) locally approved charter schools that operate according to the terms of a charter or contract that has been approved by a local board of education; and (2) SUMTER COUNTY SCHOOLS charter schools that operate according to the terms of a charter or contract that has been approved by the State Charter Schools Commission. The ultimate responsibility to provide FAPE to children attending locally approved charter schools resides with the SUMTER COUNTY SCHOOLS that approved the charter or contract. For SUMTER COUNTY SCHOOLS charter schools, they are their own SUMTER COUNTY SCHOOLS and each individual SUMTER COUNTY SCHOOLS charter school has the responsibility to provide FAPE to children attending the SUMTER COUNTY SCHOOLS charter school.

Medication

LEAs may not require medication as a condition of attending school, receiving an evaluation, or receiving services. Parents make the decisions regarding their children and any medication they administer or do not administer. LEAs should not make medical recommendations or decisions involving medication. Nothing prohibits a SUMTER COUNTY SCHOOLS from sharing classroom observations regarding the academic, behavioral, or functional performance of a child with the parents in order to better inform the parents of their child's behavior and academic performance. If a SUMTER COUNTY SCHOOLS believes a child is not receiving medication that is essential for his or her health or education, it may refer the family to the [Georgia Division of Family and Children Services](#) for assistance.

Frequently Asked Questions

1. Are Charter schools and Virtual schools required to provide a FAPE?

Children who attend public charter schools, and public virtual schools and their parents retain all the rights given to them under the IDEA, including FAPE. For more information, see [Office of Special Education Programs \(OSEP\) Dear Colleague Letter Regarding Children with Disabilities Attending Public Virtual Schools](#), [Office of Civil Rights \(OCR\) Dear Colleague Letter on Charter Schools](#), and [Office of Special Education and Rehabilitative Services \(OSERS\) — Frequently Asked Questions about Rights of Students with Disabilities in Public Charter Schools under the IDEA](#).

2. What are related services?

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

3. Are LEAs required to provide occupational therapy or physical therapy as a provision of FAPE?

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IDEA requires that a child be provided with special education and related services and the IEP serves as the framework. School-based occupational therapy (OT) and physical therapy (PT) are related services as defined under 34 C.F.R. § 300.34 of the IDEA and are provided to children who meet criteria for special education services under Georgia Rule 160-4-7-05. As a related service, OT and PT assist the child in achieving the IEP goals and objectives.

4. Who is responsible for providing a FAPE to eligible students in an adult correctional facility? If it is a Georgia Department of Corrections (GDC) facility, then the GDC must provide IEP services.

5. Who is responsible for providing a FAPE to eligible students in a local jail?

The SUMTER COUNTY SCHOOLS where the local jail is located is responsible for the provision of a FAPE. LEAs should develop procedures to ensure two-way communication and collaboration is established with their local jail so that the SUMTER COUNTY SCHOOLS will be notified when a student with a disability is incarcerated in the local jail.

6. How does adjudication change the rules in terms of responsibility?

Once the student has been adjudicated and moved to a GDC or DJJ facility, GDC or DJJ will assume responsibility for the implementation of IEP services.

7. How can a SUMTER COUNTY SCHOOLS ensure FAPE if a student is in a local jail or Sherriff's Detention Center, and the center will not allow the SUMTER COUNTY SCHOOLS to provide services?

A student with a current IEP who is in the local jail, such as those managed by city or county agencies (i.e., the sheriff's office), are also entitled to a FAPE. In these circumstances, the SUMTER COUNTY SCHOOLS where the jail is located is responsible for providing educational services. The SUMTER COUNTY SCHOOLS will need to work closely with the local jail in order to gain access to the student and to deliver services. The SUMTER COUNTY SCHOOLS should document all correspondence with the local jail, especially if the local jail will not permit the SUMTER COUNTY SCHOOLS to provide a FAPE to the child with a disability.

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PARENTS

Family, School, and Community Partnerships

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

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

Parent and Student Rights

Parents and children have many rights under the special education law, Individuals with Disabilities Education Act (IDEA). It is important that parents and children understand their rights to a free appropriate public education (FAPE). The term "appropriate" is based on the educational needs of the individual child that are outlined in the Individualized Education Program (IEP). The IEP is deemed a working document created by a team of educators and the family that establishes individual goals for a child to achieve and succeed. It is the responsibility of the local educational agency (SUMTER COUNTY SCHOOLS)¹ to provide parents with notice of their parental rights (also called procedural safeguards) in an understandable language.

Parents are encouraged to participate in meetings about their child to discuss with the school staff the child's evaluation and instructional needs, as well as the progress on goals and objectives within the IEP and in the general education curriculum. It is important that the National PTA Standards for Family-School Partnerships Engagement be embedded in this process.

Definition of Parent

The state of Georgia has adopted the federal definition of parent which includes explanations for "parent," "person acting as a parent," "surrogate parent," and "guardian." (See 34 C.F.R. § 300.30; Georgia Rule 160-4-7-21(31)). Throughout the rest of this document, the IDEA definition of parent is being used wherever "parent" is referenced.

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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- "Parent" means a biological parent, an adoptive parent, a person acting as a parent, a legal guardian, a surrogate parent, or a foster parent.
- "Person acting in the place of a parent" means a person such as a grandparent, a stepparent or other relative with whom the child lives, or a person other than a parent who is legally responsible for the welfare of a child.
- "Surrogate Parent" means an individual appointed by the SUMTER COUNTY SCHOOLS to make educational decisions regarding a FAPE of a child with a disability.
- "Guardian" means a person authorized to act as the child's parent and/or to make educational decisions, but it does not mean the State if the child is a ward of the State.

There are some exceptions when a biological or adoptive parent still has legal authority to make educational decisions for the child, and another person is qualified to act as the parent. (See 34 C.F.R. § 300.30(b); Georgia Rule 160-4-7-.21(31)(b)-(c)).

School personnel must determine the appropriate person(s) to make educational decisions on behalf of the child. In most instances, this person is the child's parent. The parent receives notice, gives consent, requests mediation, files formal complaints, requests due process hearings, gives or refuses to give permission for release of records, and fulfills all other requirements.

Surrogate Parents (Georgia Rule 160-4-7-.11)

All children with disabilities are entitled to a FAPE under state rules and federal special education laws and regulations. Included in these laws is a mandate that the parents of children with disabilities have the opportunity to participate actively in the educational decision-making process. However, some children with disabilities do not have parents (as defined in the previous section) who can fulfill this very important role. The IDEA and Georgia Rules require that, in certain cases, an individual must be appointed by the SUMTER COUNTY SCHOOLS or a judge as a surrogate parent to make decisions regarding the FAPE of a child with a disability.

A surrogate parent is needed when:

- no parent (as defined by the IDEA) can be identified;
- the SUMTER COUNTY SCHOOLS, after reasonable efforts, cannot locate a parent;
- the child is a ward of the State; or

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- the child is an unaccompanied, homeless youth as defined by the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

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

- protect the child's rights in the educational and decision-making processes, including the identification, evaluation, and placement of the child and the provision of a FAPE to the child;
- follow confidentiality requirements of Georgia Rules and federal law;
- participate in developing, reviewing, and revising the child's IEP;
- exercise other rights as needed given to parents under the IDEA and Georgia Rules;
- not be an employee of the GaDOE, the SUMTER COUNTY SCHOOLS, or any other agency* that is involved in the education or care of the child;
- have no personal or professional interest that conflicts with the child he or she represents; and
- have the knowledge and skills that ensure adequate representation of the child.

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

LEAs must have a method for determining whether a child needs a surrogate parent and a method for assigning surrogate parents prepared to serve in that role. (See 34 C.F.R. § 300.519 for more on surrogate parents.) LEAs must also maintain a list of eligible persons to serve as surrogate parents. It is also strongly suggested that LEAs provide annual training to surrogate parents.

Parent Participation (See Georgia Rules: 160-4-7-.04, 160-4-7-.05, 160-4-7-.06)

Parents are to be included as members of any decision-making team for their child. Parent participation includes decisions about eligibility, initial evaluation, reevaluation, development, review, and revision of the IEP, the provision of a FAPE, and educational placement. This requirement does not include informal or unscheduled meetings involving SUMTER COUNTY SCHOOLS personnel or meetings on issues such as teaching methods, lesson plans, or coordination of service provision, as long as those issues are not addressed in the child's IEP. Nor

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does it include meetings involving the preparation of a proposal or response to a parent proposal that will be discussed at a later meeting.

The SUMTER COUNTY SCHOOLS must notify the parent early enough to ensure that he/she will have the opportunity to attend any meeting with respect to the identification, evaluation, and educational placement of their child, and the provision of a FAPE to their child. The SUMTER COUNTY SCHOOLS must also schedule the meeting for a mutually agreeable time and location. If neither parent can be present in a meeting concerning educational decisions for a child, the SUMTER COUNTY SCHOOLS must use other methods to ensure parent participation. These methods could include individual/conference telephone calls or video conferencing. If the SUMTER COUNTY SCHOOLS cannot convince the parent to attend, after several documented attempts to include the parent in the meeting, the meeting can be held without the parent. The SUMTER COUNTY SCHOOLS must make and document reasonable efforts to ensure the parent's involvement. Such efforts are defined as: detailed records of phone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to a parent's home or place of employment and the results of those visits. (See 34 C.F.R. § 300.322 for more information.)

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

Procedural Safeguards/Parent Rights Document (Georgia Rule 160-4-7-.09)

The Parent Rights in Special Education (Parent Rights) notice provides the foundation for ensuring that a child with a disability has access to a FAPE. The Parent Rights notice, also called procedural safeguards notice, provides parents with the opportunity to understand their rights, the rights of their child, and the procedures for resolving differences. This document should also help facilitate communication between parents and SUMTER COUNTY SCHOOLS personnel. The Parent Rights notice outlines the rights and safeguards available to parents of children with disabilities and students who have reached the age of majority (age 18) and are decision makers. A copy of the Parent Rights notice must be given to the parents (and students 18 or older) at least once in a school year. Additionally, a copy of the Parent Rights notification must also be given upon:

- initial referral or parental request for evaluation;
- receipt of the first state complaint in a school year;

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- receipt of the first due process hearing request in a school year;
- notification by the SUMTER COUNTY SCHOOLS to the parent of a disciplinary removal of a child from school that would constitute a change of placement;
- prior to accessing a child's or parent's public benefits or insurance for the first time; and
- parental request.

The Parent Rights notice should be written in language understandable to the general public and provided in the native language of the parent or other mode of communication (e.g., braille or sign language) used by the parent, unless it is clearly not feasible to do so. If necessary, the SUMTER COUNTY SCHOOLS will translate the notice orally or by other means so that the parent understands the content of the notice. See 34 C.F.R. § 300.504(d). The Parent Rights notice may be provided by electronic mail (email) and may be posted for access on the GaDOE and/or SUMTER COUNTY SCHOOLS website(s). If parents would like a more detailed explanation of these rights, they can contact a teacher or administrator, the local special education director, and/or the Georgia Department of Education, Division for Special Education Services and Supports at 404-657-9968 or spedhelpdesk@doe.k12.ga.us. Parents may also check to see whether their SUMTER COUNTY SCHOOLS has a Parent Mentor on staff. Parent Mentors are parents of a child with a disability who work for the SUMTER COUNTY SCHOOLS as a connection between schools and families. More information may also be obtained through Georgia Parent Mentor Partnership, <http://www.parentmentors.org/>.

Confidentiality (Georgia Rule 160-4-7-.08) (see also 34 C.F.R. §§ 300.610-300.627)

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

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

- the name of the student, the student's parent, or other family member;

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

FERPA allows parents to inspect and review all educational records of their child maintained by an educational agency that receives federal funds. This includes all public schools. IDEA also specifies that each SUMTER COUNTY SCHOOLS must permit parents to inspect and review any education records that are collected, maintained, or used by the SUMTER COUNTY SCHOOLS under Part B of the IDEA. The SUMTER COUNTY SCHOOLS must comply with a request to inspect records without unnecessary delay and before any meeting regarding an IEP, a disciplinary hearing, due process hearing, or a resolution meeting. (See 34 C.F.R. § 300.613). In no case should the SUMTER COUNTY SCHOOLS delay more than 45 days after the request has been made. More information about FERPA can be found at this [website](#).

Access/Opportunity to Examine Records (See 34 C.F.R. § 300.501)

LEAs must maintain the confidentiality of information in children's educational records. The SUMTER COUNTY SCHOOLS can assume that both parents of a child have authority to inspect and review the child's records unless the SUMTER COUNTY SCHOOLS has been advised that a parent's rights to see the records have been terminated by a court order.

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

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

Prior Written Notice by the District (Georgia Rule 160-4-.09; 34 C.F.R. § 300.503)

LEAs must inform the parents in writing and within a reasonable time of any actions being proposed or actions the SUMTER COUNTY SCHOOLS refuses to initiate. These include any of the following:

- identification (process to determine eligibility),

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

Prior Written Notice is often contained within the IEP document, as outlined below, when the discussion occurred during an IEP Team meeting. At other times, the parent will request an action and the SUMTER COUNTY SCHOOLS will respond in writing. Regardless of the way the SUMTER COUNTY SCHOOLS decides to provide prior written notice, the notice must contain:

- a description of the action refused or proposed by the SUMTER COUNTY SCHOOLS;
- an explanation of why the SUMTER COUNTY SCHOOLS refuses or proposes to take the action;
- a description of the evaluation procedure, assessment, records, or report used as a basis for the proposed or refused action;
- a statement that the parents have the protections of the procedural safeguards and if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
- sources for the parents to contact to understand the procedural safeguards;
- a description of other options the IEP Team considered and the reasons why those options were rejected; and
- a description of other factors that are relevant to the SUMTER COUNTY SCHOOLS's proposal or refusal.

Parental Consent (Georgia Rule 160-4-.09; 34 C.F.R. § 300.300)

The SUMTER COUNTY SCHOOLS is required to obtain informed written consent for each action requested, as outlined below. Parental consent is voluntary and may be revoked at any time. Consent is required for each of the following actions:

- to conduct an initial evaluation;
- to conduct a reevaluation;
- for the initial provision of special education and related services; and

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- before disclosure of personally identifiable information that is subject to confidentiality.

If a parent has questions about any proposed actions or changes to the IEP, it is recommended that he or she discuss the questions with the special education teacher or administrator or request an IEP Team meeting for further discussion.

Consent for the initial evaluation does not provide consent for initial provision of special education and related services. A parent may revoke consent for the receipt of special education and related services once the child is initially provided special education and related services. This revocation of consent must be made in writing and is for all special education and related services, not for individual services. When a parent revokes consent for special education and related services, the SUMTER COUNTY SCHOOLS must provide the parent prior written notice including all required components.

Evaluations and Reevaluations (Georgia Rule 160-4-.04; 34 C.F.R. §§ 300.301-300.305)

Parents have the right to request that their child receive a full and complete evaluation to determine whether he/she has a disability and is in need of special education and related services. This includes having the child assessed in all areas of the suspected disability (including but not limited to behavior, academics, communication, social skills, and daily living skills).

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

In addition, parents have the right for their child to be given appropriate tests by qualified examiners. The initial evaluation must be completed within 60 calendar days from the date the SUMTER COUNTY SCHOOLS receives the parent's signed consent for the evaluation. When consent is given for the initial evaluation and less than 30 days of school are left in the school year, the SUMTER COUNTY SCHOOLS still has 60 days to complete the evaluation. However, the 60-day count stops when the school year ends (defined as the teachers' last day under contract) and starts again when the new school year begins (defined as the teachers' first day under contract). It is important to note that when school is closed for more than 5 consecutive school days for holidays or other breaks, those days and the weekends before and after do not count in the 60 days allowed for the initial evaluation.

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

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SUMTER COUNTY SCHOOLS agree one is needed. The 60-day timeline only applies to the initial evaluation. Once a child is in special education, all further evaluations are considered reevaluations, regardless of whether there is any change in the disability(ies). The reevaluation must be completed within a reasonable timeframe, no later than the three-year reevaluation date. However, many factors should be considered in determining a reasonable timeframe for the completion of a reevaluation, such as the needs of the child, the date of the last comprehensive evaluation, parent input, and changes in the child's behavior, attendance, and rate of progress.

Finally, parents have the right to be involved in the decision about their child's eligibility and the programs and services the child needs as part of the initial evaluation and the reevaluation. For more information, see the Evaluations and Reevaluations chapter.

Independent Educational Evaluation (IEE) (Georgia Rule 160-4-.09, 34 C.F.R. § 300.502)

The parents of a child with a disability have the right to obtain an independent educational evaluation (IEE), at their own expense and sometimes at public expense. The SUMTER COUNTY SCHOOLS must provide to the parent, upon request, information about where to obtain an IEE and the agency criteria for such evaluations. When the evaluation meets the requirements of the SUMTER COUNTY SCHOOLS, the results of the evaluation must be considered by the IEP Team in any decision related to the provision of a FAPE for the child, no matter who paid for the evaluation, and may be presented by either party as evidence in a due process hearing.

A parent may request an IEE at public expense each time the SUMTER COUNTY SCHOOLS conducts an evaluation with which the parent disagrees. Public expense means that the SUMTER COUNTY SCHOOLS either pays for the full cost of the evaluation or ensures that the evaluation is provided at no cost to the parent. The SUMTER COUNTY SCHOOLS may develop criteria for IEEs including the location of the evaluation and the qualifications of the evaluators. The qualifications of the independent evaluator must be the same as those required of the SUMTER COUNTY SCHOOLS's evaluators. The SUMTER COUNTY SCHOOLS may set a reasonable limit on the cost of the IEE. However, the SUMTER COUNTY SCHOOLS must also allow parents the opportunity to demonstrate that unique circumstances exist that warrant an IEE at public expense that does not meet SUMTER COUNTY SCHOOLS criteria. See Letter to Anonymous, 56 IDELR 175, Office of Special Education Programs, August 13, 2010. If a parent requests an IEE at public expense, the SUMTER COUNTY SCHOOLS must either agree to pay for the independent evaluation or begin due process procedures to show that the SUMTER COUNTY SCHOOLS's evaluation is appropriate. If there is a due process hearing and the SUMTER COUNTY SCHOOLS's evaluation is judged to be sufficient, then the SUMTER COUNTY SCHOOLS will not have to pay for an IEE. (See 34 C.F.R. § 300.502 for a complete explanation of IEEs.)

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Parents are not entitled to an IEE at public expense before they allow the SUMTER COUNTY SCHOOLS to conduct its own evaluation. Once the SUMTER COUNTY SCHOOLS evaluation occurs, and the parents disagree with the evaluation, they can request an IEE at public expense. The SUMTER COUNTY SCHOOLS may ask the parent why they disagree with the SUMTER COUNTY SCHOOLS evaluation, but the SUMTER COUNTY SCHOOLS cannot require an explanation. If the SUMTER COUNTY SCHOOLS agrees to provide an IEE, the SUMTER COUNTY SCHOOLS will provide the parents with a list of qualified examiners from which to choose for the IEE. LEAs should work with the parents to find a mutually agreeable evaluator.

Least Restrictive Environment (Georgia Rule 160-4-.07; 34 C.F.R. §§ 300.114-300.120)

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

- SUMTER COUNTY SCHOOLS personnel must make accommodations (supports) and modifications (changes) so the child can participate in all school programs and activities;
- the parent has the right for his or her child to participate in non-academic and extracurricular activities (such as lunch, recess, counseling, sports, and clubs) to the same extent as children without disabilities;
- the parent has the right for the IEP Team to consider a variety of different special education services to meet the needs of his or her child in the least restrictive environment;
- the parent has the right to have supplementary aides and services (extra support) provided to allow his or her child to remain in general education classes as much as appropriate before considering whether to remove the child from the general education classroom; and
- the parent has the right to have his or her child placed in the zoned school unless the IEP Team determines otherwise.

DISPUTE RESOLUTION

A resolution can be reached through several ways in a dispute with a SUMTER COUNTY SCHOOLS over the rights and services afforded to students with disabilities and their families. The quickest and most efficient method is to contact the special education administration in the SUMTER

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COUNTY SCHOOLS. The special education director can often assist a family in working out the differences with minimal time and conflict. When a resolution cannot be worked out locally, specific processes are guaranteed to families of students with disabilities under the Individuals with Disabilities Education Act (IDEA). These include: (1) mediation, (2) formal complaints, and/or (3) a due process hearing. Please refer to the Dispute Prevention and Resolution chapter for a full description of the dispute resolution processes, including some dispute prevention processes such as the Special Education Help Desk and IEP Facilitation.

Mediation (Georgia Rule 160-4-7-.12; 34 C.F.R. § 300.506)

Mediation is a way to discuss and resolve disagreements between the parent and the SUMTER COUNTY SCHOOLS with the help of a trained, impartial third person. Either the parent or the SUMTER COUNTY SCHOOLS can request mediation to resolve disputes. Since this process is voluntary for each party, both parties must agree to mediation. All discussions during the mediation process are confidential and may not be used as evidence in any due process hearings or civil proceedings. The Georgia Department of Education (GaDOE) contracts with a number of qualified mediators and will assign a mediator when mediation is requested. If an agreement is reached during mediation, the written agreement is legally binding in a State or District Court. The failure to carry out a written agreement may also be the subject of a formal complaint. For more information on mediation, refer to the Dispute Resolution chapter.

Formal Complaint Process (Georgia Rule 160-4-7-.12, 34 C.F.R. § § 300.151-300.153)

Parents (as well as any individual or organization) may file a formal complaint with the GaDOE when they believe a violation of the IDEA or state special education rules has occurred. A formal complaint investigation is a procedure to determine whether the SUMTER COUNTY SCHOOLS is complying with federal or Georgia laws and/or regulations regarding the provision of special education and related services to children with disabilities.

The formal complaint investigation is conducted by the GaDOE through the use of qualified, contracted investigators.

In addition to filing a complaint with the GaDOE, the party filing the complaint must forward a copy of the complaint to the SUMTER COUNTY SCHOOLS who serves or served the child. The SUMTER COUNTY SCHOOLS is required to respond to the complaint, and the response is requested within 10 business days. A parent who files a complaint will have an opportunity to engage voluntarily in mediation with the SUMTER COUNTY SCHOOLS to resolve the dispute. For more information on the formal complaint process, refer to the Dispute Resolution chapter.

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Impartial Due Process Hearing (Georgia Rule 160-4-7-.12; 34 C.F.R. §§
300.507-300.518)

In addition to mediation and the state complaint process, certain disagreements between the parent and the SUMTER COUNTY SCHOOLS may be resolved through a due process hearing. Parents or the SUMTER COUNTY SCHOOLS may request an impartial due process hearing regarding any matter related to the identification, evaluation, placement, or the provision of FAPE to the child.

When an impartial due process hearing request is filed, the SUMTER COUNTY SCHOOLS must offer and convene a resolution meeting with the parent and the relevant members of the IEP Team within 15 days unless the parties agree to waive the meeting or participate in mediation instead of a resolution meeting.

When the resolution meeting (or the alternate mediation) does not result in agreement, the impartial due process hearing will be held within 45 days after the 30-day resolution period. An impartial due process hearing is conducted as an administrative hearing.

For more information on impartial due process hearings, refer to the Dispute Resolution chapter.

Discipline Procedures and Rights (Georgia Rule 160-4-7-.10; 34 C.F.R. §§ 300.530 – 300.536)

Children with disabilities may be suspended out of school for less than 10 days in any school year, and no special education services are required to be provided. When a child is suspended or expelled out of school for more than 10 days, the SUMTER COUNTY SCHOOLS must continue to provide a FAPE for that child even if the child is not attending his or her regular school. The location or place where the services are provided may change.

If the children possesses or sells illegal drugs, possesses weapons, or causes serious bodily injury, the SUMTER COUNTY SCHOOLS may change the placement for up to 45 school days without regard to whether the behavior is a manifestation of the disability. Parents will receive immediate notice of the change in placement.

Once a child has been suspended for more than days in a school year, a manifestation determination must be held to decide whether the behavior was caused by or had a direct and substantial relationship to the child's disability and/or whether the conduct was a direct result of the school's failure to implement the student's IEP.

- If the team determines the behavior was caused by the disability and/or the IEP was not followed, then the child must return to the original setting unless it is a case of illegal drugs, weapons, or serious bodily injury. ○ A Functional Behavior Assessment (FBA) and

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a Behavior Intervention Plan (BIP) must either be conducted or reviewed and revised when the behavior is a manifestation.

- If the team determines that the behaviors were not caused by the disability and that the IEP was followed, then the child may be disciplined according to SUMTER COUNTY SCHOOLS policy.
 - The child must continue to receive a FAPE. The IEP Team will determine how the services must be provided. An FBA/BIP may be developed or reviewed and revised to prevent further behavior problems.
- If the parent disagrees with the decision of the manifestation determination, he or she may appeal by requesting a due process hearing. An expedited hearing must occur within 20 school days. The child will remain in the setting decided by the discipline process until the hearing occurs. See the Dispute Prevention and Resolution chapter on how to request a due process hearing.

Under special situations, if the behavior that causes a child to get into trouble and be suspended is not related to the child's previous behavior that resulted in removals from school or to the child's disability, the SUMTER COUNTY SCHOOLS may consider the factors listed below before deciding a new suspension that results in more than 10 cumulative days of suspension for this school year is or is not a change in placement. The SUMTER COUNTY SCHOOLS must consider these factors when making a determination:

- The series of removals during the current school year;
- Behavior similarity to previous behavior that resulted in a series of removals;
- The length of each previous removal;
- The total amount of time the child has been removed; and
- The proximity of the removals to one another.

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

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

- the parent expressed concern in writing to the school that the child is in need of special education and related services; or

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- the parent requested an evaluation for special education; or
- the child's teacher or other school district staff expressed concerns to supervisory personnel in the SUMTER COUNTY SCHOOLS about a pattern of behavior demonstrated by the child.

Any evaluations that have been requested for a child being disciplined must be completed in an expedited manner.

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

Change of Placement for Disciplinary Removals for Children with Disabilities
(Georgia Rule 160-4-7-.10; 34 C.F.R. §§ 300.530 – 300.536)

When a child violates a school rule, uses or sells illegal drugs or weapons, or does something that causes serious bodily injury to another person, there are provisions that clarify what action the SUMTER COUNTY SCHOOLS can take and what rights are afforded the child and the child's parent. The possible actions by the SUMTER COUNTY SCHOOLS and the parental/student rights in these matters are explained in the Discipline chapter. However, a student with an IEP, even when suspended or expelled for more than 10 days, always maintains the right to services that allow the opportunity to participate in the general curriculum and the right to receive FAPE, although in a different location.

Placement of Children by Parent in Private Schools (Georgia Rule 160-4-7-.13; 34
§§ C.F.R. 300.130-300.144)

When a parent places a child in a private school on their own initiative, the SUMTER COUNTY SCHOOLS is not required to pay for the cost of education, including special education and related services for the child as long as the SUMTER COUNTY SCHOOLS made a FAPE available to the child.

Private school placement may occur in three circumstances:

1. When the SUMTER COUNTY SCHOOLS determines that it cannot provide a FAPE, the SUMTER COUNTY SCHOOLS must identify and pay for a private school to provide services. This is at no cost to the parent.

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2. A parent may remove the child from the SUMTER COUNTY SCHOOLS at any time and enroll the child in private school. If the parent wants to be reimbursed for all the costs of private school and the SUMTER COUNTY SCHOOLS does not agree to it, the parties must go before a due process hearing officer to determine whether the SUMTER COUNTY SCHOOLS provided FAPE. The amount of reimbursement may be reduced if:
 - The parent did not tell the IEP Team that he/she disagrees with the proposed IEP and placement and wants the SUMTER COUNTY SCHOOLS to reimburse him/her; or
 - The parent did not notify the SUMTER COUNTY SCHOOLS in writing, at least 10 days prior to removing the child from the SUMTER COUNTY SCHOOLS, that he/she disagrees with the IEP and placement and wants the SUMTER COUNTY SCHOOLS to reimburse them for the private school tuition.

If the SUMTER COUNTY SCHOOLS asks to evaluate the child during the 10-day period and the parent refuses, then reimbursement may be denied.

3. The parent may agree that the SUMTER COUNTY SCHOOLS provided a FAPE and still choose to enroll their child in a private school instead of the SUMTER COUNTY SCHOOLS at the parent's expense.
 - When the child is in private school by parent choice, the child and the parent lose their individual rights to special education services.
 - When children are placed in private or home school, traditional LEAs must expend proportionate share of funds on services for children enrolled in private schools through a services plan. The chapter on Private Schools contains more details.

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

Transfer of Rights (Georgia Rule 160-4-7-.07; 34 C.F.R. § 300.520)

At age 18, students become their own educational decision makers, unless a court decides they are not able to make these decisions. On or before a student's 17th birthday, the SUMTER COUNTY SCHOOLS is to inform the parent and the student that, at age 18, the student attains the age of majority in Georgia and will become his or her own educational decision maker. LEAs may

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also inform the parent of other options or about where to get more information about power of attorney, guardianships, supported decision making, and other similar options. For example, it may be that for some students, a guardianship or a more limited form of transfer of rights would be necessary. Beginning at age 18, the SUMTER COUNTY SCHOOLS is to send all notices to both the parent and the student, but the student will provide informed written consent for any action requested by the SUMTER COUNTY SCHOOLS. When the student turns 18, he or she becomes the educational decision maker. However, while the student is eligible under the IDEA, the parent retains the rights to all notices of meetings, notices of changes in program or placement, and notices of evaluations.

Frequently Asked Questions

1. Is it necessary to retrain our surrogates?

To ensure that surrogates understand all of their educational responsibilities, retraining may be needed anytime there is a change to federal and/or state law and regulations impacting special education.

2. Do all foster parents need surrogates?

No, the definition of parent in the IDEA and Georgia Special Education Rules allows foster parents to act as a parent for special education purposes.

3. When parents are divorced, are both parties entitled to attend the IEP Team meeting? As

an initial matter, the IDEA requires that an SUMTER COUNTY SCHOOLS ensure at least one parent is present or afforded the opportunity to participate in IEP Team meetings. See 34 C.F.R. § 300.322(a). However, when parents are divorced, the parental rights under IDEA apply to both parents unless a court order or state law specifies otherwise. See Letter to Biondi, 29 IDELR 972 (OSEP 1997); Letter to Serwecki, 44 IDELR 8 (OSEP 2005). This also applies to separated parents. See Letter to Best, 30 IDELR 145 (OSEP 1998).

4. May an SUMTER COUNTY SCHOOLS conduct an IEP Team meeting without a parent in attendance?

If, after multiple attempts to contact the parent using multiple formats, the SUMTER COUNTY SCHOOLS is unable to convince the parent to attend, the SUMTER COUNTY SCHOOLS may conduct the IEP Team meeting without the parent. The SUMTER COUNTY SCHOOLS should keep detailed records of any letters, telephones calls, and/or visits to the parent. If attempts to ensure parental participation do not result in parent attendance, a copy of the IEP must be sent to the parent in a timely manner.

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5. What information must the SUMTER COUNTY SCHOOLS include in its notice to parents about the IEP Team meeting?

The notice of an upcoming IEP Team meeting must indicate the purpose, time, and location of the meeting and who will be in attendance. The notice must also inform the parents of the IDEA provisions relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child and relating to the participation of Babies Can't Wait service coordinators or other representatives of Babies Can't Wait at the initial IEP Team meeting for a child previously served under Babies Can't Wait. See 34 C.F.R. § 300.322(b)(1). The SUMTER COUNTY SCHOOLS's notice to parents is not required to identify individuals who will be attending the IEP Team meeting by name, as long as the notice identifies the individuals by position. See Letter to Livingston, 21 IDELR 1060, OSEP (August 29, 1994). If the purpose of the IEP Team meeting will be the consideration of postsecondary goals and transition services, the SUMTER COUNTY SCHOOLS must invite the student and identify any other agency that will be invited to send a representative. 34 C.F.R. § 300.322(b)(2).

6. Do IEP Team members vote on IEP decisions?

No. There is no "majority vote" rule for IEP Team meetings. Decisions should be reached by consensus. If the Team cannot reach consensus, the SUMTER COUNTY SCHOOLS must provide the parent with prior written notice of the SUMTER COUNTY SCHOOLS's proposals or refusals, or both, regarding the child's educational program. Parents are equal participants in the IEP process, but they do not have veto power over the IEP. If the parent disagrees with the Team's decision, he or she can utilize the dispute resolution options.

Resources

See the Georgia Department of Education, Division for Special Education Services and Supports [website](#) where there is a direct link to Family Engagement Information and Resources.

[Parent Rights](#) notice provides a variety of information to parents about special education and related services and provides multimedia formats of parent rights in multiple languages.

[Fact Sheets](#) provide information in multiple languages on a variety of topics:

- Assistive Technology
- Child Find
- Discipline
- Due Process
- Eligibility Determination

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- Extended School Year
- Initial Evaluation and Re-Evaluations
- Formal Complaints
- Functional Behavioral Assessments and Behavioral Intervention Plans
- Helping your Child with Disabilities with Homework
- IEPs
- Mediation
- Person Centered Planning
- Reevaluations and Independent Educational Evaluations
- Starting and Keeping your Child on a Path to Graduation
- Transitions from Early Intervention to Public School
- Transition to Life After High School

Parent Mentors website lists districts with parent mentors. For more information, call the local district special education office or a Parent Mentor if your district has one on staff.

Parent to Parent of Georgia or call 800-229-2038

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

GaDOE Special Education Questions and Support Desk or call 404-657-9968. A support line for parents and districts to answer special education related questions, explain the procedural safeguards (parent rights), provide information about the dispute prevention and resolution processes, discuss options for addressing concerns or disagreements about a student's special education program, and provide other useful resources and informational materials.



Georgia Department of Education

Richard Woods, Georgia's School Superintendent
"Educating Georgia's Future"

Special Education: A Parent's Guide to Understanding Rights and Responsibilities

This guide is designed to help you understand your rights and responsibilities regarding special education. It should not be used as substitute for the full version of the Parents' Rights outlined in the Individuals with Disabilities Education Act (IDEA) and the Rules of the Georgia State Board of Education (Ga. Bd. Of Educ. R.) pertaining to Special Education. (see Ga. Bd. Educ. R. 160-4-7-. PROCEDURAL SAFEGUARDS/PARENTS' RIGHTS.) To view the full version of the Georgia Parents' Rights please go to the Georgia Department of Education web site at www.gadoe.org and select *Offices & Divisions*, then *Curriculum & Instruction*, then *Special Education Services and Supports*. You will then look under *Dispute Resolution* or *Family Engagement Information & Resources* to find Parent Rights. The full version of these rights is available in multiple languages and is also presented in video format.

<p>RECORDS:</p> <ul style="list-style-type: none"> ☞ You have a right to look at your child's education records. ☞ You may also have the records interpreted or explained to you. ☞ You may request to have something in the record changed or removed if you feel it should not be in your child's record. ☞ You have the right to add information, comments, data or any other relevant written material to your child's record. ☞ You may ask for and receive copies of the Individualized Education Program (IEP) and/or any of your child's records. The school district may charge a fee for the copies but may not charge a fee for searching for and retrieving documents. ☞ With your written permission, you may have a person acting on your behalf inspect and review the records. 	<p>EVALUATION PROCEDURES:</p> <ul style="list-style-type: none"> ☞ Your child has the right to a full and complete evaluation to determine if he/she has a disability and is in need of special education and/or related services. ☞ You have the right to have your child assessed in all areas of the suspected disability. ☞ The school district must test your child according to procedures outlined in the IDEA and Georgia Special Education Rules. ☞ Evaluations must consist of more than one test, and those tests must be given in the language that the child normally uses, unless the parent and school agree otherwise, and at least once every three years. ☞ You will be involved in the decision about eligibility and what programs and services your child needs during the re-evaluation.
<p>CONFIDENTIALITY OF INFORMATION:</p> <ul style="list-style-type: none"> ☞ Your child's educational records are <u>private</u>. ☞ You can ask to have copies of only your child's records. ☞ School employees involved with your child may see your child's records and do not require your permission. ☞ No one else may see the results of your child's records without your permission 	<p>Least Restrictive Environment:</p> <ul style="list-style-type: none"> ☞ You have the right to have your child taught in classrooms and participate in all school programs and activities with other children without disabilities, of the same age and grade, to the greatest extent appropriate for your child. ☞ School district personnel must make accommodations and modifications so that your child can participate in all school programs and activities to the greatest extent appropriate.
<p>INDEPENDENT EVALUATION:</p> <ul style="list-style-type: none"> ☞ If you disagree with the school's evaluation, you may have your child tested by a professional evaluator not employed by the school district, at public or private expense. Contact the school system to find out the procedures for accessing this right. ☞ Upon request, the school district <u>must provide</u> you a list of <u>independent</u> evaluators so that you may choose one to test your child. ☞ The school district must consider the results of an independent evaluator. ☞ The IEP team uses the results of the test to determine if your child has a disability or needs special education. 	<p>SURROGATE PARENTS:</p> <ul style="list-style-type: none"> ☞ When the school cannot find the child's parents or the child is a ward of the state, the school system will assign a surrogate (substitute) parent who will represent the child regarding the child's rights and interests for any evaluation, meeting, or educational decisions for special education services. ☞ Surrogate parents will receive special training and will act as the parent by giving consent and participating in IEP/other meetings. ☞ The surrogate parent has the same rights and responsibilities as a parent in special education in matters relating to a student.
<p>NOTICE/PARENT PARTICIPATION:</p> <ul style="list-style-type: none"> ☞ You must be notified of your parental rights. ☞ You must be invited to attend meetings about your child such as eligibility, reevaluation, or IEP meetings. ☞ You are to receive copies of all documents about your child's education program and can have them explained to you. ☞ Copies can be in your native language, Braille, or explained in sign language. If needed, the school district will provide a translator or interpreter. 	<p>COMPLAINTS, MEDIATION, HEARINGS:</p> <ul style="list-style-type: none"> ☞ You have the right to ask for mediation or a due process hearing if you disagree with what the school has planned for your child. ☞ The school system can also ask for mediation or a due process hearing. ☞ The parent and the school system must both agree to try mediation before mediation will be scheduled. ☞ When you request a due process hearing, you have the right to participate in a resolution session that provides an opportunity



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Richard Wood, Georgia's School Superintendent
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- ⇒ You must be given opportunities to participate in any decision-making meeting regarding your child's special education.
- ⇒ You must be invited to any meeting that is held to discuss your child's disability, evaluations, re-evaluations, placement of your child, and his/her IEP and its contents.
- ⇒ You are entitled to have IEP meetings held at a time and place mutually convenient to you and other members of the IEP Team.
- ⇒ You have the right to excuse or not to excuse a member of your child's IEP Team from attending and IEP meeting. The school district cannot excuse a required member without your permission.

- for parents and school systems to resolve any issues in a due process complaint so that the parents and systems can avoid a due process hearing and provide immediate benefit to the child.
- ⇒ When you request a due process hearing, you have the right to an impartial due process hearing conducted by an administrative law judge (ALJ)/ hearing officer.
 - ⇒ You may file a formal written complaint with the Georgia Department of Education to conduct an investigation about any concerns, problems, or disagreements related to the IDEA or Georgia Special Education Rules. The complaint can be faxed to the Division for Special Education Services and Supports at 404-651-6457(fax) or mailed to the Division for Special Education Services and Supports at 1870 Twin Towers East, 205 Jesse Hill Jr. Drive SE, Atlanta, GA 30334.

- CONSENT:**
- ⇒ The school cannot test/evaluate or re-evaluate your child without your permission/consent.
 - ⇒ The school cannot place your child in special education or change your child's program placement without your permission/consent.
 - ⇒ The school district cannot release your child's records without your permission/consent except to certain individuals identified in law.
 - ⇒ You have the right to not give your permission/consent.
 - ⇒ You have the right to take away your consent to special education and related services once you have given permission; you must do it in writing. Revoking consent means your child will no longer receive any special education services.

- DISCIPLINE PROCEDURES AND RIGHTS:**
- ⇒ The school system must follow certain procedures when students with disabilities exhibit behaviors that cause the IEP Team to find other settings and/or ways to educate the child.
 - ⇒ Schools may remove students to alternative programs when there is a potential danger to the child, students, or school personnel.
 - ⇒ Regardless of the setting, the school district must continue to provide a free appropriate public education for your child.
 - ⇒ The setting must enable your child to continue to receive services that will allow him/her to meet the goals and objectives in his/her IEP.
 - ⇒ Disciplinary actions occur for violations involving drugs, alcohol, weapons, or other school rules violations.
 - ⇒ These rights protect you, your child, and the school system.

- PRIVATE SCHOOL PLACEMENT:**
- ⇒ If you decide to place your child in a private school, you must inform school officials at the last IEP meeting you attend of your intent and explain your concerns about the public program.
 - ⇒ The school system is not required to pay for the private school if the school district offered a free appropriate public education to meet a child's educational needs that have been identified through the educational evaluation and are included in the IEP.

- CONTACTS:**
- ⇒ When you have concerns about your child's education, it is important to tell the school principal or special education director.
 - ⇒ If you need further help, there are parent or advocacy groups from whom you may obtain help. Ask the school for information or a list of names. You also can contact Parent to Parent of Georgia which keeps an active list for referrals or other information. Call 1-800-229-2038 or go to www.p2p.org.
 - ⇒ You may also contact the Division for Special Education Services and Supports at 404-656-3963 or 1-800-311-3627 or go to the Georgia Department of Education website at www.gadoe.org to help find other helpful resources.

LOCAL CONTACT INFORMATION:

SPECIAL EDUCATION ANNUAL REPORTS (GEORGIA RULE 160-4-7-.17)

The Individuals with Disabilities Education Act (IDEA) has multiple data requirements for states regarding special education. Federal reporting requirements are often referred to as Section 616 and Section 618 public reporting requirements. States must collect information from local educational agencies (LEAs)¹ to create the required reports to the Federal government and publicly report the data. Each state must collect information about children with disabilities and the services they receive.

The IDEA requires states to report annually to the public on each SUMTER COUNTY SCHOOLS located in the state on the indicators in the State Performance Plan. The Georgia Department of Education (GaDOE) is required to make the State Performance Plan and accompanying Annual Performance Report available by posting the data on the state's website, distribution to the media, and distribution through public agencies. The Special Education Annual Performance Reports for each SUMTER COUNTY SCHOOLS in Georgia are located on the GaDOE website.

The web address for the Georgia Department of Education is www.GaDOE.org. Georgia's Special Education State Performance Plan/Annual Performance Report (SPP/APR) is accessed by selecting the Special Education Services and Supports link under the Offices and Divisions dropdown. The SPP/APR is located under the heading "Budgets, Grants, Data Collection and Reporting." The SUMTER COUNTY SCHOOLS's SPP/APR, or often referred to as "public reports," are accessed by clicking on the orange 'School Finder' rectangle on the GaDOE website, clicking on SUMTER COUNTY SCHOOLS index, selecting the desired SUMTER COUNTY SCHOOLS, selecting Special Education and toggling to the correct year. Data are presented by school year. "Special Education Annual Reports (Data Sources, Rules, and Definitions)" located on the Special Education webpage provides information regarding the contents of the reports, sources of data, definitions, and rules for reporting.

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- Clearly reflects the relationship to State Performance Plan
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- Performance toward state targets is reported ▪

Demographics

- Early Childhood Settings
- Ages 6-21 Placement
- Representation in special education
- Representation in specific disability areas ▪ Student

Indicators

- Graduation
- Dropout rate
- Suspension rate
- Post-secondary Outcomes ▪ Test Results
- Math Participation
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- Early Childhood Transition Timelines
- Child Find Evaluation Timelines
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• Secondary Transition with Individualized Education
Program (IEP) Goals

State Reporting Requirements

FTE Cycles 1 and 3: Full Time Equivalent (FTE) reporting refers to the GaDOE funding mechanism based on student enrollment and educational services LEAs provide to children. Educational programs are divided into seventeen (17) GaDOE funded categories. Five (5) of the categories are special education. A specific weight is assigned to each category. The base amount of money received for each FTE is determined by the Georgia General Assembly. Refer to O.C.G.A. § 20-2-161 for information regarding the Quality Basic Education (QBE) formula.

Federal Child Count of Children with Disabilities: The Federal Child Count must be conducted between October 1st and December 1st each year. Georgia conducts the Federal Child Count simultaneously with FTE 1 in October each year. The information is collected to fulfill Federal reporting requirements and is different in population, purpose, and data elements reported. The information reported in Federal Child Count is unrelated to the state FTE weights formula and funding.

Student Record: Student Record is the largest annual student data collection conducted by the GaDOE. Data is collected for accountability reporting which provides data for the College and Career readiness Performance Index (CCRPI), the Governor's Office of Student Achievement (GOSA) and the Special Education Annual Performance Report (APR). Student Record data provide information on student program participation for an entire school year; data are used from program evaluation and to meet Federal reporting requirements. Student Record contains nine (9) record types:

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4. Enrollment
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Child Count

A count is taken of children ages 3-21, receiving special education and related services under IDEA, Part B on a specified date each year. Data are reported separately for children ages 3-5 and children ages 6-21.

Personnel

The GaDOE counts the number of special education teachers, special education paraprofessionals and related services personnel who provide special education and related services each year. Counts of personnel are reported in the Certified/Classified Personnel Information (CPI) data collection.

Environment

The GaDOE counts the number of children ages 3-21 receiving special education and related services under IDEA on a designated date between October 1 and December 1 each year according to the education environment in which these services were provided. The date must be the same as the Federal Child Count date. Georgia conducts the Federal Child Count and collects Environment data simultaneously with FTE 1 in October. These data measure the extent to which children with disabilities are educated with their non-disabled peers. Data for children ages 3-5 are collected by educational environment and disability, race/ethnicity and limited English proficiency status. Data for children ages 6-21 are collected by educational environment and age group (6-11, 12-17, 18-21), disability area and race/ethnicity. The environments for young children ages 3-5 are defined differently than for school aged children (6-21). Young children (ages 3-5) environments are based on the amount of time children are in a regular early childhood program, and where they receive services. Environments for school age children (ages 6-21) are based on the percentage of time the child is in the regular education setting.

Exiting

The GaDOE counts the number of children, ages 14-21 who exit special education during a school year. These data are collected by basis of exit and individual age, disability category, race/ethnicity, and limited English proficiency status.

Discipline

The GaDOE counts the number of children ages 3-21 receiving special education and related services who were unilaterally removed to interim alternative settings and the number of children with disabilities who were suspended or expelled. This collection was first required by the 1997 Amendment to IDEA. Disciplinary removals are collected by disability area, by race/ethnicity, by gender, and by limited English proficient status.

Assessment

The GaDOE reports the number of children with disabilities participating in the GaDOE assessments and their performance on those assessments, Grade levels and achievement levels are the same levels the state uses for reporting under the Every Student Succeeds Act (ESSA). However, the data collected by the Office of Special Education Programs (OSEP) are not the same achievement levels used for reporting under ESSA.

State Performance Plan (SPP)/ Annual performance Report (APR) Indicators

The following are the indicators of the SPP grouped according to four goals for improvement: (1) improve post-school outcomes for children with disabilities; (2) improve services for young children (ages 3-5); (3) improve the provision of a free and appropriate public education to children with disabilities; and (4) improve compliance with state and federal laws and regulations

I. Improve post-school outcomes for children with disabilities

- **Indicator 1:** Increase the percentage of children with disabilities who earn a regular high school diploma.
- **Indicator 2:** Decrease the percentage of children with disabilities who drop out of school.
- **Indicator 13:** Increase the percentage of transition aged children with disabilities who have coordinated and measurable IEP goals and transition services that will lead to attainment of post-secondary goals.
- **Indicator 14:** Increase the percentage of children with disabilities who transition to employment or post-secondary education.

II. Improve services for young children (ages 3-5) with disabilities

- **Indicator 7:** Increase the percentage of young children with disabilities who show improved positive social/emotional skills, acquisition and use of knowledge and skills, and use of appropriate behaviors.
 - A1: Positive Social Emotional Skills ○ B1: Acquisition and use of Knowledge and Skills ○ C1: Use of appropriate behaviors to meet their needs
- **Indicator 12:** Increase the percentage of young children referred by parents, or other agencies prior to age three who are determined eligible and have an IEP implemented by the third birthday.

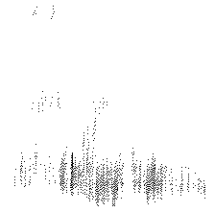
- III. **Improve the provision of a free and appropriate public education (FAPE) to children with disabilities in the least restrictive environment (LRE)**
- **Indicator 3c:** Increase the performance of children with disabilities on statewide assessments when given appropriate accommodations. ○ Reading, Elementary/Middle ○ Reading, High School ○ Math, Elementary/Middle ○ Math, High School
 - **Indicator 4:** Decrease the percentage of children with disabilities who are removed from their school or placements for disciplinary reasons.
 - **Indicator 5:** Increase the percentage of children with disabilities who receive their instruction in the regular education setting with appropriate supports and accommodations. ○ Inside regular class 80% of the day or more: 65.4% ○ Inside regular class less than 40% of the day: 14.10%
 - In separate schools, residential facilities, or hospital homebound (HHB): 1.5%
 - **Indicator 8:** Increase the percentage of parents of children receiving special education services who report that schools encouraged parent involvement to improve results for children with disabilities.
 - **Indicator 9 & 10:** Decrease the disproportionate representation of children with disabilities due to inappropriate policies, procedures and practices.
 - Indicator 9: All disabilities: 0% ○ Indicator 10:
Specific disabilities: 0%
- IV. **Improve compliance with state and federal laws and regulations**
- **Indicator 6:** Increase the percentage of time young children with disabilities spend in natural environments with typically developing peers.
 - **Indicator 11:** Increase the percentage of children who are evaluated within 60 days.
 - **Indicator 15:** Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements. SPP 15 State Target 2017-2018: 63%
 - **Indicator 16:** Percent of mediations held that resulted in mediation agreements, SPP/APR 16 State Target 2017-2018: 50.0% - 70.0%
 - **Timely and Accurate Data:** Reports are submitted in a timely manner: Preschool Exit Data (APR 7), Post-secondary Outcomes Data (APR 14), Timeline Data (APR 11, 12), Coordinating Early Intervening Services (CEIS) Student Event Data and Plan,

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Continuation of Services Data, FTE1, CPI 1, Transition Planning Survey (APR 13),
Budget, Excess Cost, Maintenance of Effort (MOE) Reconciliation, Student Record

The Office of Special Education Programs (OSEP) has required that each State Educational Agency (SEA) develop a State Systemic Improvement Plan (SSIP) that includes a comprehensive, multi-year focus on improving results for Student with Disabilities. Each state has been required to develop a plan that outlines the development of strategies to increase the state's capacity to structure and lead meaningful change in LEAs. While the primary focus of the plan is on improvement for children with disabilities, the state must also address in its SSIP how the state will use its general supervision systems to improve implementation of the requirements of IDEA. Georgia implemented a systemic plan "Student Success, Imagine the Possibilities" in FY16 to improve graduation outcomes for Children with Disabilities.



SPECIAL EDUCATION ANNUAL REPORTS (GEORGIA RULE 160-4-7-.17)

The Individuals with Disabilities Education Act (IDEA) has multiple data requirements for states regarding special education. Federal reporting requirements are often referred to as Section 616 and Section 618 public reporting requirements. States must collect information from local educational agencies (LEAs)¹ to create the required reports to the Federal government and publicly report the data. Each state must collect information about children with disabilities and the services they receive.

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The Office of Special Education Programs (OSEP) has required that each State Educational Agency (SEA) develop a State Systemic Improvement Plan (SSIP) that includes a comprehensive, multi-year focus on improving results for Student with Disabilities. Each state has been required to develop a plan that outlines the development of strategies to increase the state's capacity to structure and lead meaningful change in LEAs. While the primary focus of the plan is on improvement for children with disabilities, the state must also address in its SSIP how the state will use its general supervision systems to improve implementation of the requirements of IDEA. Georgia implemented a systemic plan "Student Success, Imagine the Possibilities" in FY16 to improve graduation outcomes for Children with Disabilities.

SPECIAL EDUCATION BUDGETS & GRANT APPLICATION PROCESS

To receive IDEA grant funds, each local educational agency (LEA)¹ must submit a Comprehensive Plan for Special Education and Related Services annually for serving all eligible children with disabilities ages 3 through 21, including parentally-placed private and home school students and those in local jails within the LEA's jurisdiction (Georgia Rule [160-4-7-.17](#)). The federal flowthrough grant funds are used to:

- ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and to prepare them for further education, employment, and independent living;
- ensure that the rights of children with disabilities and their parents are protected;
- enhance ongoing learning for parents, teachers, paraprofessionals, and instructional staff;
- provide LEAs with support services and/or technical assistance to children, parents, and staff; and
- assess and ensure the effectiveness of efforts to educate children with disabilities.

Statutes/Regulations

Federal: 20 United States Code 1400, *et seq.*, the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) - P.L. 108-446 and 34 CFR Part 300, *et seq.*, establish the authority and parameters for these procedures. Additionally, Title I regulations in 34 C.F.R. Part 200 and the Education Department General Administrative Regulations (EDGAR) in 34 C.F.R.

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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Parts 76 (Except for 76.650 – 76.662 (Participation of students enrolled in private schools)), 77, 81, 82, and 85 and the Uniform Administrative Requirements, Costs Principles and Audit Requirements for Federal Awards in 2 C.F.R. Part 200.

State: O.C.G.A. 20-2-152 *et seq.*, Georgia State Board of Education Policy IDDF and Rules 160-47-.01 *et seq.* mandate programs and services for students with disabilities enrolled in the public and private schools of Georgia. Georgia Rule 160-4-7-.17 Required Reports states that: The Consolidated Application is due annually. The Comprehensive LEA Improvement Plan (CLIP), a part of the Consolidated Application, is due every year. Annual updates of progress and activities toward meeting the IDEA performance goals and indicators are required. The application for federal funds under Part B of IDEA 2004 and state funds for preschool special education is contained in the Consolidated Application. Failure to submit all required components could result in a delay of funding approval.

Distribution of Funds

Federal Distribution of Funds

IDEA Flow-through Grant – Part B, Section 611 of IDEA 2004 requires that from FY 1999 forward, funds be distributed as follows:

The State shall first award each LEA the amount that agency would have received for FY 1999, if the State had distributed 75% of its grant for that year. After making this base allocation, the State shall allocate 85% of any remaining funds on a basis of relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction and allocate 15% of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty. Free and reduced lunch figures from the previous full-time equivalency (FTE – 1) count are utilized to define poverty for each agency (34 C.F.R. § 300.705).

IDEA Preschool Grant – Part B, Section 619 of the IDEA 2004 requires that from FY 1997 forward, funds be distributed as follows:

The State shall first award each agency the amount that agency would have received for FY 1997 if the State had distributed 75% of its grant for that year. After making the base allocation, the State shall allocate 85% of any remaining funds on a basis of relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction and allocate 15% of those remaining funds to those agencies in

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accordance with their relative numbers of children living in poverty. Free and reduced lunch figures from FTE - 1 are utilized to define poverty for each agency (34 C.F.R. § 300.816).

Distribution of GNETs, State Preschool, and Other State Grant Funds

The Georgia General Assembly annually appropriates funds for Georgia Network for Educational and Therapeutic Supports (GNETS), the state preschool program, and for other grants for children with disabilities. The Georgia Department of Education (GaDOE) calculates each grant award based on the number of students who are provided services utilizing a modified Quality Basic Education (QBE) formula.

In addition, other state grant applications are accepted, reviewed, and approved based on specific grant purposes – Residential and Reintegration, High Cost Fund Pool, and Other State Agencies Grants.

LEA Allocations

LEA allocations from federal programs, to include state charter schools and state operated programs, are based on a formula provided in the regulations (34 C.F.R. § 300.705). The United States Education Department (USED), Office of Special Education Programs (OSEP) sends the state allocation to each State Educational Agency (SEA) in the spring. The SEA applies the allocation formula, which has a restricted amount for discretionary and administration funds deducted from the total grant, with the remaining funds distributed to LEAs. This LEA formula has a base allocation of 75% of the FY 1999 allocation amount with any remaining funds for flowthrough being distributed based on each LEA's general population (85%) and poverty (15%). Poverty is defined as free and reduced lunch data from FTE-1.

GNETS federal allocations are based on a range within a regional population. All allocations are presented to the State Board of Education (SBOE) for approval at its June meeting. Official LEA allocations are posted on the GaDOE web site following SBOE approval. IDEA provides for a Section 611, Part B Flow-through award and Section 619, Part B Preschool award. The allocations can be found [here](#).

Grant Application Submission

To receive allocated funds, LEAs must submit grant applications into the GaDOE Consolidated Application Portal. All special education federal and state applications, including detailed budgets, are submitted in this location.

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All forms and resources needed for IDEA Budget Approval can be found on the GaDOE website on the Special Education Services and Supports Page > Budgets, Grants, Consolidated Application.

Prior to IDEA 611 Flow through and IDEA 619 Preschool Budget Submission, the following must be completed or attached:

- Prior year reconciliation of Maintenance of Effort (MOE), Excess Cost Calculation, and Cross Functional Monitoring Corrective Action Plans (CAPs)
- IDEA 611 Flow through Budget or Budget Amendment (all LEAs)
- IDEA 619 Preschool Budget or Budget Amendment (all LEAs)
- Prior Approval Requests for Equipment or Participant Support Costs (via email to Budget Liaison)
- Budget Attachment: Current Year MOE Eligibility Form
- The following information must be submitted in the Consolidated Application inside of the IDEA Flow through Budget for BOTH IDEA grants:
 - Program Information Tab: IDEA Fiscal Monitoring Self-Assessment Tab ○
 - Program Information Tab: Exceptional Students Tab: Proportionate Share Tab ○
 - Program Information Tab: Exceptional Students Tab: Coordinating Early Intervening Services (CEIS) Tab
- CEIS and Proportionate Share funds must be included in the budget with specific detailed information and amounts as needed
- All budgets must have detailed information in line item description

Approval Flow:

- The Budget must be approved by the LEA coordinator > LEA superintendent > IDEA budget liaison > Grants Accounting
- Budget attachments do not require sign off, but must be present on the Attachments tab or the Uploaded Forms tab within the IDEA Budget
- If revisions are necessary, the reviewing IDEA budget liaison rejects the application, giving reason(s) for rejection.

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IDEA Fiscal Requirements

IDEA provides several fiscal requirements that are applicable to IDEA funds. LEAs must maintain the state/local special education financial effort previously provided. LEAs may not use IDEA funds to supplant or replace state or local funds unless the LEA meets maintenance of effort and excess cost requirements.

Maintenance of Effort (MOE) (See 34 C.F.R. §§ 300.203-300.205)

An LEA is required to maintain effort or spend at least the same amount of state and local funds as it did in the previous year. State and local may be calculated in any of four methods: (1) State and local combined; (2) local only; (3) state and local combined per capita; and (4) local only per capita. Before receiving IDEA allocations in any fiscal year, an LEA must show evidence they have budgeted at least the same amount using one of the four methods as they did in the most recent year for which data is available. This is done using the MOE Eligibility Worksheet, which must be completed prior to budget approval. The MOE Eligibility Worksheet contains the codes needed to calculate MOE locally. No additional codes are permitted in the final calculation. Therefore, the MOE Eligibility Worksheet must not be altered.

MOE compliance is verified after the GaDOE has received all expenditures from LEAs. The Special Education MOE portal is automatically updated with finalized and approved DE046 results. The MOE compliance results will show whether the LEA met or did not meet using data from the most recent fiscal year available. The GaDOE will test aggregate and per pupil expenditures of state and local funds to determine whether the MOE standard is met.

If an LEA fails to meet the MOE standard for the aggregate and per pupil expenditures of state and local special education funds, the LEA may reduce the level of expenditures where such reduction is attributable to one or more of the following MOE exceptions:

- the voluntary departure, by retirement or otherwise, of special education personnel;
- a decrease in the enrollment of children with disabilities;
- the termination of the LEA's obligation to provide a program to a child with a disability that is an exceptionally costly program because the child has left the LEA, reached the maximum age, or no longer needs the program;
- the termination of costly expenditures for equipment; and/or,
- the assumption of the cost by a high cost fund operated by the state.

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The Exception to MOE Compliance Requirement form must be completed, approved, and uploaded as an attachment in the Consolidated Application. Substantiating evidence, such as expenditure reports, must also be uploaded. At the beginning of a fiscal year, or any other times exceptions are used because of a failure to maintain effort, this reconciliation must take place before IDEA budgets are able to be approved.

The LEA may also reduce the level of expenditures where such reduction is attributable by using the following adjustment:

- the amount of the 50% reduction in local effort if the LEA's initial allocation was greater than the previous year's allocation.

The LEA Adjustment form must be completed, approved, and uploaded as an attachment in the Consolidated Application. LEAs may request this adjustment at any time during the year, but prior to the reconciliation deadline if MOE compliance is not met.

If the LEA does not meet the MOE compliance requirement with exceptions or adjustments, the SEA determines the amount required to meet the LEA MOE compliance standard for each of the four calculation methods (34 C.F.R. §§ 300.203(b)(2)). For each LEA that fails to meet the LEA MOE compliance standard, the SEA subtracts the amount the LEA expended from the amount required to meet the LEA MOE compliance standard to determine the LEA MOE shortfall, for each of the four methods for which amounts are available. The SEA then sums the Section 611 and Section 619 subgrants to arrive at the total IDEA Part B subgrant amount received by the LEA in the state fiscal year in which the failure occurred. The lowest of five amounts will be the total repayment the SEA will collect from the LEA using non-federal funds. The SEA will then return the funds to the USED for that LEA.

Note: Exceptions and adjustments may be taken at any time even to reduce effort, even if an LEA meets MOE Eligibility and Compliance Standards. All reconciliation must be completed by March 1st following the most recent compliance data available.

Excess Cost (See 34 C.F.R. § 300.16 and § 300.202)

IDEA funds provided to LEAs may be used only to pay the excess costs of providing special education and related services to children with disabilities. Excess costs are those costs for the education of an elementary or secondary school child with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year for an elementary or secondary school child. An LEA must spend at least the average annual per student expenditure on the education of an elementary or secondary school child with a disability **before** IDEA funds can be used to pay the excess costs of providing special education and related

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services. The LEA is required to compute the minimum average amount separately for children with disabilities in its elementary and secondary schools (34 C.F.R. § 300.16). This amount is calculated in the Excess Cost portal based on expenditures entered by the LEA. The combined enrollments may not be used to compute this average. The method for calculation of excess cost is available in the regulations at Appendix A of part 300.

Supplement NOT Supplant

An LEA may use IDEA funds only to supplement and not supplant federal, state, and local funds. If the LEA meets or exceeds its level of state/local expenditures for special education and related services from year to year, either in total or per pupil through the Maintenance of Effort Calculation; and meets the Excess Cost Calculation, then IDEA funds are, in fact, supplementing state/local expenditures.

Commingling of Funds

Federal funds paid to the state cannot be commingled with state funds (34 C.F.R. § 300.162(b)). This is satisfied by using a separate accounting system for each of the different grant awards to prevent the commingling of funds.

Other Fiscal Requirements

1. Coordinated Early Intervening Services (CEIS) (34 C.F.R. § 300.226 and § 300.646)

- A. The LEA may not use more than 15% of the IDEA funds to develop CEIS for regular education children in grades K-12 (with emphasis on K-3 children) who are not identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.
- B. If a determination of significant disproportionality based on race or ethnicity is occurring in the LEA with respect to the identification of children as children with disabilities, the placement in particular educational settings of these children and/or the incidence, duration, and type of disciplinary actions, including suspensions and expulsions, the LEA must reserve the maximum 15% of IDEA funds for CEIS to serve at-risk regular education students, particularly, but not exclusively, in those groups significantly over identified.

2. Treatment of Charter Schools and Their Students (34 C.F.R. § 300.209)

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- A. Children with disabilities who attend public charter schools and their parents retain all their rights.
- B. LEAs must serve the children with disabilities in charter schools in the same manner as the LEA serves the other public schools, including supplementary and related services on site at the charter school to the same extent as the other public schools.
- C. LEAs must provide funds under the IDEA to those charter schools on the same basis as the LEA provides funds to the other public schools including proportional distribution based on relative enrollment of children with disabilities and at the same time as the LEA distributes other federal funds to the other public schools.

3. Children with Disabilities Enrolled by Their Parent in Private Schools - Expenditures (34 C.F.R. § 300.133)

To meet the requirement of 34 C.F.R. § 300.132, each district must spend the following on providing special education and related services to parentally-placed private/home-school children with disabilities:

- For children aged 3-5 and 3-21, an amount that is the same proportion of the district's total subgrants under Section 619(g) and 611(f) of the Act as the number of private school children with disabilities aged 3-5 and 3-21 who are enrolled by their parent in private schools, including religious, elementary, and secondary schools located in the school district served by the district, is to the total number of children with disabilities in its jurisdiction aged 3-5 and 3-21.

IDEA Fiscal Assurances and Carryover

- IDEA 611 and 619 Part B approves budgets for up to 15 months between July 1 of one year, and September 30 of the following year. Funds may be encumbered for expenditures for any time in the 15 month period, once the budget is approved for the new grant period. Unspent funds may be carried over to the next fiscal year after the completion report is approved.
- Completion reports are due 30 days after the end of the grant period. The grant period ends September 30. Completion reports are due October 30.
- LEAs must seek budget prior approval to amend carryover funds into the current fiscal year budget and complete budget amendments when changes in any function codes

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exceed 25 percent. Amendments must be approved by the LEA's IDEA Education Program Specialist.

- LEAs must establish internal control policies and procedures to procure, record and maintain custody of equipment and real property purchased with IDEA funds. The policies and procedures must include how the LEA will account for and maintain control of equipment and real property used at private schools.
- LEAs must conduct and reconcile physical inventories of equipment purchased with IDEA funds at the central office, local schools, and private schools once every two years. The LEA must use, manage, and dispose of equipment acquired under IDEA in accordance with federal and state laws and procedures. Carryover Funds:
- After approving an LEA's application and budget for IDEA funds, the GaDOE awards a subgrant to the LEA/consortium to support the excess cost of educating children with disabilities during the 15-month period between July 1 and September 30 of the current fiscal year. Funds that are not obligated in the 15-month period but that remain available for obligation in the succeeding fiscal year are known as carryover funds.
- Upon the expiration of the initial 15-month grant period on September 30, subgrantees submit a completion report to Grants Accounting. Once the completion report is approved, but no sooner than October 1, subgrantees will receive 100% of unspent funds from the prior fiscal year. All IDEA funds are allocated to LEAs for a total 27-month period. In summary, IDEA funds have an initial 15-month period of availability for an original budget allocation, followed by an additional 12-month period of availability for carryover funds.

Schoolwide Program Consolidation of IDEA Funds

The IDEA provides a straightforward formula for LEAs and their schools that wish to consolidate a portion of their IDEA Part B funds in any fiscal year to carry out a schoolwide program:

First, the LEA determines the amount of funds it received under the IDEA section 611 and 619 programs. Secondly, the LEA must divide the total amount of its IDEA grants by the number of children with disabilities in the jurisdiction of the LEA. Finally, the LEA then multiplies this figure by the number of children with disabilities who will be participating in the schoolwide program.

The GaDOE Special Education Services and Supports Division has created a formula worksheet that must be completed, in order for the consolidation of IDEA funds to be approved. This form must also be submitted with the IDEA budget in the Consolidated Application. When calculating

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the number of students within the jurisdiction, the latest reported student count may be used at the LEA's discretion. This means that LEAs may use October or March FTE as long as the count used is clearly indicated. The count used must be consistent for the period of one year and may not be altered mid-year to reflect a different funding formula.

The IDEA places the following conditions on LEAs and schools that consolidate IDEA funds in a schoolwide program:

1. The IDEA funds must still be counted as Federal funds for IDEA's excess cost and supplement not supplant calculations.
2. Regardless of how the IDEA funds are expended, children with disabilities in a schoolwide program school must:
 - a. receive services in accordance with a properly developed individualized education program (IEP); and
 - b. be afforded all of the rights and services guaranteed to children with disabilities and their parents under the IDEA.

All schools choosing to consolidate IDEA funds will be monitored based on the intent and purpose of the funds, and student services based on IEPs. ***High Cost Grant Applications***

Federal Regulation

The IDEA gives States an option to set aside funding for the creation of a "Risk Pool" designated to assist local school districts in meeting the high cost of providing special education services to children with disabilities meeting predetermined criteria.

The High Needs Risk Pool is established in 34 C.F.R. § 300.704(c) of the IDEA. The act allows the State to develop a State plan that establishes the following: a definition of a high needs child with a disability, the criteria for participation by school districts in the program, a plan to ensure that placements supported by the funds are consistent with requirements in 34 C.F.R. § 300.114 – 300.118, the funding mechanism for the distribution of funds under this program and an annual distribution schedule in accordance the appropriation of other funds in that fiscal year.

The High Cost Grant is a reimbursement grant to assist LEAs with instructional costs of students who meet specific criteria of a High Needs Student.

The High Cost Grant Application Requirements and Submission Process can be found on the GaDOE Special Education Services and Supports website [here](#).

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The funds will be made available to LEAs through the Grants Accounting Online Reporting System (GAORS) and Consolidated Application. Once the State Board of Education approves the grant, the system's Consolidated Application Coordinator will need to add the IDEA High Cost Fund so the LEA may begin the budget process. When the budget is completed, the Consolidated Application Coordinator will sign off and then it will be sent to the Superintendent for signing off. In the event that grant requests exceed the amount available, the grant awards will be prorated.

Grant Applications should be submitted online at www.gahcf.org

Residential and Reintegration Reimbursement Grant

The Grant for Residential and Reintegration Services (GRRS) can assist an LEA with full/partial funding for a high cost placement of a child with disabilities to a private residential program or reintegration back from a residential program.

This grant is allocated to LEAs using state funding. Application information and specific criteria can be found on the GaDOE Special Education Services and Supports website [here](#).

This grant application **must be downloaded and submitted to the Special Education Services and Supports Budget Unit**. The applications may be mailed or emailed using the GaDOE portal system only.

Calendar for Special Education Reports and Data

- July
 - Submit Timelines Report
 - Budget Completion Reports Deadline for all State Grants
 - Annual Public Notification for Child Find/Record Destruction in media CEIS Plan and Budget due
- August
 - Submit Discipline Report
 - Notification to attend Data Collection Workshop
- September
 - Report preschool outcomes data on portal
 - Federal funds grant period ends
- October
 - FTE 1 begins

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- Budget Submission Deadlines for all budgets
- Budget Completion Reports Deadline for Federal Grants
- November
 - Suggested district stakeholders meeting to review/revise targets/goals
- December
 - Check with Testing Coordinator about GAA 1% exceptions for March
 - Amend IDEA Budgets for CEIS Carryover and Proportionate Share Carryover
- January
 - Data verification of demographic data for April district profile release
 - High Cost Grant Application Opens
 - Residential and Reimbursement Grant Application Opens
 - GAA participation form with 1% exceptions for testing
 - Excess Cost Calculation Submission due
- February
 - Parent Mentor participation letter for next FY
 - Required district stakeholder meeting to review goals/targets for Consolidated Application/updates for next FY
 - Check QBE report for mid-term adjustment and estimated local budget
 - Prepare local estimated budgets for submission to include the three grants from DSESS
 - Postsecondary Transition survey begins
- March
 - Application for Grants for Residential and Reintegration Services (GRRS) due
 - Application for High Cost Grants due
 - All MOE Reconciliation due
 - FTE 3 begins
- April
 - Postsecondary Transition survey closes
 - CEIS end of the year report
 - Student record submittal
 - Begin Consolidated Application/update for initial submission
- May
 - Low Incidence Grant application if <60% of salary of teacher earned
 - Last month to do budget amendments for this FY

- June
 - Postsecondary Transition survey closes
 - CEIS end of the year report
 - Student record submittal

Useful Links

State Specific

- Georgia Department of Education – <http://www.gadoe.org/>
- Georgia State Board Rules - <http://www.gadoe.org/External-Affairs-and-Policy/StateBoard-of-Education/Pages/PEABoardRules.aspx>
- Data Collections - <http://www.gadoe.org/technology-services/datacollections/Pages/Home.aspx>
- FTE Documentation, Preschool Environment Calculator, Ages 6-21 Environment Calculator - [http://www.gadoe.org/Technology-Services/Data-Collections/Pages/FullTime-Equivalent-\(FTE\)-Resources.aspx](http://www.gadoe.org/Technology-Services/Data-Collections/Pages/FullTime-Equivalent-(FTE)-Resources.aspx)
- Student Record Documentation - <http://www.gadoe.org/Technology-Services/DataCollections/Pages/Student-Record.aspx>
- Enrollment Data - http://app.doe.k12.ga.us/owsbin/owa/fte_pack_ethnicsex.entry_form
- Division for Special Education Services and Supports - <http://www.gadoe.org/curriculum-instruction-and-assessment/special-educationservices/Pages/default.aspx>
- Special Education Annual Reports - <http://archives.gadoe.org/ReportingFW.aspx?PageReq=211&PID=61&PTID=67&CTID=216&StatId=ALL&T=0&RID=105>
- Governor's Office of Student Achievement Report Cards - <http://www.gaosa.org/reportinfo.aspx> and <http://www.gaosa.org/FindASchool.aspx?PageReq=106&StatId=ALL&SY=2009>
- Graduation Rate Calendar - <http://www.gaosa.org/reportinfo.aspx#D9A>
- QBE Reports - http://app3.doe.k12.ga.us/owsbin/owa/qbe_reports.public_menu?p_fy=2000
- Georgia Alternate Assessment - <http://www.gadoe.org/Curriculum-Instruction-andAssessment/Assessment/Pages/GAA.aspx>

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- Accommodations Manual (for Testing) - <http://archives.gadoe.org/DMGetDocument.aspx/Accommodation%20Manual%20August%2008.pdf?p=6CC6799F8C1371E6D1C69D60E4029F1085A5BB31C1B556F24ADBA65C89A3BD77&Type=D>
- Georgia Learning Resources System - <http://www.glr.org/>
- Georgia School Boards Association - <http://www.gsba.com/>
- Georgia Professional Standards Commission - <http://www.gapsc.com/>
- Records Retention Schedules - [http://www.sos.State.ga.us/archives/who are we/rims/retention schedules/retsched/default.htm](http://www.sos.State.ga.us/archives/who%20are%20we/rims/retention%20schedules/retsched/default.htm)

Nation Specific

- Southeast Regional Resource Center - <http://www.rrfcnetwork.org/serrc>
- State Ranks - [http://www.monitoringcenter.lsuhs.edu/Stateranks B%20ReleasedFeb2007.htm](http://www.monitoringcenter.lsuhs.edu/Stateranks_B%20ReleasedFeb2007.htm)
- IDEA Data - <https://www.ideadata.org/index.html> and <http://idea.ed.gov/>
- National Center for Educational Statistics - <http://nces.ed.gov/>; <http://nces.ed.gov/help/sitemap.asp>; and <http://nces.ed.gov/datatools/>
- OSEP Sponsored - <http://www.ed.gov/parents/needs/speced/resources.html>; <http://www.osepideasthatwork.org/toolkit/index.asp> and <http://idea.ed.gov/explore/home>

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SPECIAL EDUCATION ELIGIBILITY REQUIREMENTS (34 C.F.R.
§ 300.306; GEORGIA RULE 160-4-7-.05)

Special Education Eligibility Decision Making

SUMTER COUNTY SCHOOLS (LEAs¹) must recognize the direct and relevant relationship between a multi-tiered system of supports, Student Support Team (SST), and the individual evaluation requirements of the IDEA. Once problem-solving teams determine that a child is suspected of having a disability, a comprehensive evaluation shall be provided to the child being considered for special education eligibility. However, an eligibility determination cannot occur until the existing data are reviewed to determine whether one or more of the exclusionary factors is the determinant factor(s) for the determination that the child is a child with a disability and the child does not otherwise meet the specific eligibility criteria.

All eligibility categories include the following exclusionary factors:

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

**Additional exclusionary factors exist for Specific Learning Disability (SLD)*

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

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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- achievement tests
- aptitude/cognitive functioning
- parent input
- teacher recommendations
- physical condition (medical, motor, vision, hearing)
- social/cultural background
- adaptive behavior
- communication/language
- observations by teachers and related service providers

Eligibility Determination Process

The IDEA governs eligibility decisions with requirements regarding multi-factored assessments and the consideration of a variety of domains in placement decision making. In the federal and state rules and regulations regarding evaluations, it states that, “the child is assessed in all areas related to the suspected disability.” 34 C.F.R. § 300.304(b)(4); Georgia Rule 160-4-7-.04. Eligibility teams should consider multiple data sources that include quantitative and qualitative data from classroom work samples, observations, and teacher and parent reports.

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

Frequently Asked Questions

What are the procedures for determining eligibility for children who transfer from another state?

After the receiving SUMTER COUNTY SCHOOLS reviews the out-of-state eligibility and data, the SUMTER COUNTY SCHOOLS may determine that the eligibility meets Georgia Rules for eligibility and accept the eligibility determination. If the SUMTER COUNTY SCHOOLS needs additional data prior to making an eligibility determination, FAPE must be provided to the child while this

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determination is being made. In the meantime, if the child is referred for an evaluation to determine eligibility, the 60-day timeline applies.

When a child transfers into the SUMTER COUNTY SCHOOLS from another state, is the determination of eligibility up to one individual who is reviewing the records or is it a team decision?

Eligibility is always a team determination. However, if the child was determined eligible in another state, the team determination was already made and the receiving SUMTER COUNTY SCHOOLS can review the information and accept the eligibility determination. If the SUMTER COUNTY SCHOOLS chooses not to accept the eligibility determination, the team must refer the child for a comprehensive evaluation (subject to the 60-day timeline) to determine eligibility under Georgia Special Education Rules.

When a child transfers into a new SUMTER COUNTY SCHOOLS, and parents report that their child received special education services in the previous SUMTER COUNTY SCHOOLS, is the receiving SUMTER COUNTY SCHOOLS obligated to go on the statement of the parents when no records have been received? Can the child be placed in the general education classroom and receive needed additional supports while the records from the previous school are obtained?

If a child with a disability has an IEP or eligibility report developed in another state or SUMTER COUNTY SCHOOLS and transfers to a new SUMTER COUNTY SCHOOLS, the new SUMTER COUNTY SCHOOLS, in consultation with the parent, must provide the child with FAPE. This should include services comparable to those described in the child's IEP from the previous SUMTER COUNTY SCHOOLS. Such services should be provided even if the child's annual review IEP or triennial reevaluation is overdue. During this time, the new SUMTER COUNTY SCHOOLS may choose to adopt the child's prior IEP in its entirety, including annual review date, if timely, or develop a new IEP using information from the IEP or eligibility report developed by the prior SUMTER COUNTY SCHOOLS and establish a new annual review date.

After taking reasonable steps to obtain the child's records from the previous LEA, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, if SUMTER COUNTY SCHOOLS is not able to obtain the IEP from the previous LEA or the parent, the SUMTER COUNTY SCHOOLS is not required to provide special education and related services to the child. However, if SUMTER COUNTY SCHOOLS decides that an evaluation is necessary because it has reason to suspect that the child has a disability, nothing in the IDEA or Georgia Rules would prevent SUMTER COUNTY SCHOOLS

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from providing special education services to the child while the evaluation is pending, subject to an agreement between the parent and SUMTER COUNTY SCHOOLS. See Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, Question and Answer A-2, U.S. Dep't of Educ., Office of Special Education and Rehabilitative Services (OSERS), September 2011.

If in the absence of complete or appropriate documentation, including an eligibility and timely triennial reevaluations, the SUMTER COUNTY SCHOOLS decides to complete an evaluation, such evaluation is subject to the 60-day timeline.

The least restrictive placement for children with disabilities should be the general education classroom with appropriate accommodations and supports. If a child's IEP services cannot be provided in a general education classroom, placement in other environments is also appropriate if needed for the child to receive FAPE.

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

If the SUMTER COUNTY SCHOOLS feels that the child's eligibility is incomplete and additional information is needed to establish Georgia eligibility for special education, then the SUMTER COUNTY SCHOOLS should not accept the eligibility. The SUMTER COUNTY SCHOOLS should provide FAPE to the child while conducting a comprehensive evaluation subject to the 60-day timeline.

Can a child have a primary disability and a secondary disability? Yes.

A child may present with more than one disability.

Is Intellectual Disability an exclusionary factor for determining Emotional Behavior Disorder?

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

Can a child with an articulation impairment be eligible for special education?

Yes, as long as the articulation or other communication impairment adversely affects the child's educational performance.

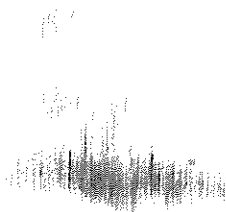
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Can a gifted child be considered a child with a specific learning disability?

Yes, a child may be gifted and also eligible for special education if the child meets the specific criteria for eligibility. See Letter to Delisle, U.S. Dep't of Educ., Office of Special Education Programs (OSEP), December 20, 2013.

If a child is being considered to be dismissed from special education, must an evaluation and eligibility form be completed?

Yes. SUMTER COUNTY SCHOOLS must conduct a comprehensive evaluation of a child before determining that the child is no longer a child with a disability. See 34 C.F.R. § 300.305(e)(1). This does not apply to children whose eligibility is terminating due to graduation with a regular diploma or due to exceeding the age eligibility for FAPE.



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YOUNG CHILDREN, AGES 3-5

Early identification and intervention for young children with disabilities is critical for their future academic success. The Individuals with Disabilities Education Improvement Act 2004 (IDEA) requires that services be offered for any child with disabilities beginning at birth through age 21. Babies Can't Wait (BCW), a program of the Georgia Department of Community Health (DCH), is the program that provides early intervention services to infants and toddlers with disabilities from birth to age 3. Local educational agencies (LEAs)¹ are the providers of special education and related services to eligible children beginning by age 3.

IDEA requires Sumter County Schools to locate, identify, and evaluate young children with suspected disabilities or developmental delays. These delays may occur in the areas of self-help/adaptive behavior, cognitive development, communication, physical development, and/or social-emotional development.

In Georgia, children suspected of having a disability, including those who are ages 3-5 (plus 2-year-olds who will turn 3 during the school year) must receive a comprehensive evaluation to determine eligibility for special education and related services. The comprehensive evaluation for children ages 3-5 includes assessing the following areas of development:

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

¹ Local educational agencies include public boards of education or other public authorities legally constituted within Georgia for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, including state charter schools and Georgia Department of Juvenile Justice (DJJ).

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After the comprehensive evaluation is completed, the Eligibility Team meets to review all of the information about the child in order to determine eligibility.

Eligibility Determination

Although preschool-aged students may be determined to be eligible in any disability categories, the most common is *Significantly Developmentally Delayed (SDD)* [See 31 C.F.R. § 300.8(b)]. A young child is eligible for special education and related services in the SDD category when team members agree that the evaluation information indicates the child meets the eligibility criteria in one or more areas of development mentioned in the eligibility criteria section. Additionally, the team must agree that special education and related services are required for the child to learn and be part of an appropriate educational setting.

The SDD eligibility may be used for children from ages 3-9. However, the initial eligibility must be established and an IEP in place on or before the child's 7th birthday. Eligibility can continue to the end of the school year in which the child turns 9, if the child is not reevaluated and found eligible in another disability category prior to the end of the school year.

As with all children eligible under the IDEA, the IEP Team shall reevaluate the child no later than 3 years from the date of initial eligibility.

Referrals from Babies Can't Wait (BCW)

BCW coordinates and facilitates the referral process to the SUMTER COUNTY SCHOOLS through a ***transition conference***. A parent must consent to allow BCW to contact the SUMTER COUNTY SCHOOLS. Children being referred from BCW are children with disabilities who:

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

Transition Conferences

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

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- SUMTER COUNTY SCHOOLS preschool contacts and BCW service coordinators must develop procedures to facilitate participation of the SUMTER COUNTY SCHOOLS in the transition conference. Transition conferences held without notification to the SUMTER COUNTY SCHOOLS are not compliant.
- The parent, BCW coordinator, SUMTER COUNTY SCHOOLS representative, and other persons as appropriate attend the conference and serve as the transition team.
- The transition team reviews the IFSP and other documents that pertain to the child's disability.
- The SUMTER COUNTY SCHOOLS representative obtains the parent's written consent to conduct a comprehensive evaluation.
- The SUMTER COUNTY SCHOOLS conducts a comprehensive evaluation.
- The parent, BCW coordinator, regular early childhood provider (as appropriate), special education early childhood provider, and SUMTER COUNTY SCHOOLS representative participate in the eligibility determination and IEP development for eligible children.
- The SUMTER COUNTY SCHOOLS implements the IEP on or before the child's 3rd birthday.

Referrals from Parents or Early Regular Childhood Provider

(This section addresses referrals through methods other than Babies Can't Wait)

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

Components of the Referral Process

- The SUMTER COUNTY SCHOOLS representative obtains the parent written consent to conduct a comprehensive evaluation.
- The SUMTER COUNTY SCHOOLS conducts a comprehensive evaluation within 60 days of receipt of written consent.

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- The Team will informally and formally assess all areas related to any suspected disability, including, if appropriate, vision and hearing, health, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- The Team will review early childhood data from evidence based interventions and progress monitoring implemented *prior* to referral and provided by referring party, if available.
- If appropriate, the Team identifies and continues to implement additional early childhood evidence-based interventions and progress monitoring during the evaluation process.
- The parent, regular early childhood provider (as appropriate), special education early childhood provider, and SUMTER COUNTY SCHOOLS representative participate in the eligibility determination meeting and IEP development.
- The SUMTER COUNTY SCHOOLS implements the IEP as soon as possible following the development of the IEP.

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

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

- giving written consent to allow Part C Babies Can't Wait or other programs or providers to share the child's records with the SUMTER COUNTY SCHOOLS;
- voicing educational concerns, desires, and goals for the child;
- giving written consent for a comprehensive evaluation;
- actively participating in the eligibility meeting;
- actively participating in the development of the child's program (IEP) for special education services and/or related services; and
- giving written consent for initial provision of special education and related services.

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

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

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

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

Specific Stakeholder Roles and Responsibilities

Parent

- Identify concerns about their child's development.
- Discuss concerns with caregiver or teacher.
- Contact SUMTER COUNTY SCHOOLS for assistance and/or referral.
- Implement, in coordination with SUMTER COUNTY SCHOOLS, regular early childhood evidence-based interventions as deemed appropriate with the support and direction of the early childhood provider or teacher.

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- Monitor and document progress or lack thereof from the implementation of early childhood evidence-based interventions.

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

- Identify and document concerns about child's development, including documenting information from universal screenings.
- Discuss concerns with parents.
- Identify and implement in coordination with the SUMTER COUNTY SCHOOLS, early childhood evidence-based interventions as deemed appropriate.
- Monitor and document progress or lack thereof from the implementation of early childhood evidence-based interventions.
- Contact SUMTER COUNTY SCHOOLS for assistance and/or referral.

Local Education Agency

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