

# Destinations Career Academy of Georgia Special Education Procedures Manual

2023-2024

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## 1. Special Education Program

The Destinations Career Academy of Georgia (GADCA) follows federal and Georgia guidelines in regard to providing a free and appropriate public education (FAPE) to students eligible for special education services under the supervision of the school's Special Education Department. The Georgia Special Education Manual serves as a basis for policies and procedures for the Special Education Department.

The GADCA Special Education Department is led by the Academic Administrator of Special Programs (AASP) and supported by the Stride National Special Programs Managers.

As GADCA is a virtual learning environment, special education services and support are provided through online meeting rooms, phone meetings, and electronic communications.

GADCA takes steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities as provided to students without disabilities. Nonacademic and extracurricular services and activities include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that aid individuals with disabilities and employment of students, including both employment by the school district and assistance in making outside employment available.

Link to Georgia Special Education Rules/Manual:

<https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-EducationServices/Pages/Special-Education-Rules.aspx>

<https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-EducationServices/Pages/Implementation-Manual.aspx> Georgia

Department of Education Website:

<https://www.gadoe.org/Pages/Home.aspx>

- Related services as outlined in a student's IEP or 504 Plan

## 2. Parent Engagement

The Destinations Career Academy of Georgia views parents as a vital part of the learning process and encourages parents to not only take a leading role in their child's education but to be an active participant in the IEP process. GADCA staff work to provide parents with the support and tools necessary to ensure that their student is successful in the virtual learning environment. If a parent is struggling to support their student in this unique environment, staff will work with that parent to provide various strategies to assist them in providing the student the best learning environment.

See GADCA Parent Student Handbook for school specific attendance policies.

### GADCA Procedure:

It is best practice for schools to implement a school wide policy in their district/school handbooks based on Georgia and district guidelines regarding attendance and non-compliance for any required class connect sessions or services. Examples of required sessions or services include:

- Remediation sessions as outlined in a student's IEP
- Intervention sessions for students receiving RTI/MTSS intervention support
- Special Education services as outlined in a student's IEP

### 3. Confidentiality

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

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

Personally identifiable information includes the following:

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

FERPA allows parents to inspect and review all educational records of their child maintained by an educational agency that receives federal funds. This includes all public schools. IDEA also specifies that each LEA must permit parents to inspect and review any education records that are collected, maintained, or used by the LEA under Part B of the IDEA. The LEA 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. In no case should the LEA delay more than 45 days after the request has been made.

#### GADCA Procedure:

The Destinations Career Academy of Georgia staff adheres to all portions of FERPA regarding student educational records and personal information.

Any correspondence, electronic or otherwise, referencing a student will only include the student's first initial, last name, and student identification number.

Special education documents including IEP notifications, IEPs, and evaluations will be password protected and sent via email directly to the legal guardian. The password will always be 'student's last name year of birth' and will be sent in a separate email. The email containing the password protected documents should be sent with delivery and read receipt to ensure not only that the parent has received the documents but that they have read it. The receipts can be saved in the student's special education file as documentation that the documents were provided to the parent.

### 4. Special Education Records

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

Each LEA must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made.

The right to inspect and review education records under this section includes:

- The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
- The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- The right to have a representative of the parent inspect and review the records.

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

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))

The LEA must establish a procedure for destruction of information and must inform parents that personally identifiable information collected, maintained, or used in the provision of a FAPE is no longer needed to provide educational services to the child. These procedures must be in accordance with FERPA and its regulations (34 CFR part 99) and the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq).

## **GADCA Procedure:**

### Special Education Record Maintenance

Each special education student will have either a physical or an electronic special education file.

**Electronic Files:** Electronic files will be in a secure location with ability to control access to student records. Each file will be clearly labeled with student ID, name and date of document. There should be standard naming conventions set by the school for all documents uploaded to the student's electronic file.

### Special Education Records Request Procedures

1. Request current documents from parent during the enrollment process.
2. Upon receiving information that there is a student with special education history is approved for enrollment in GADCA or enrolled in GADCA, the school will contact the previous school by telephone. The school will explain that GADCA is requesting special education records and that GADCA has a copy of the release of information signed by the parent. Ask the person from the previous school where GADCA should send this fax to (to whose attention and at what fax #). It is not unusual for special education records to be kept at another school or the district main office.
3. GADCA will send a first request for records along with a release of information signed by the parent to each student's previous district containing a cover sheet asking that the student's special education records be sent to GADCA. What documents are needed will be specified on the fax cover sheet. Keep the fax confirmation sheet, if applicable in the student file. Please note that pursuant to Federal statutes permission of the parent is not required when records are requested by authorized school personnel, so do not delay the records request if you do not have signed release of records.
4. If the requested special education records have not been received within 5 calendar days, or if partial special education records were sent, a second fax for request of records will be sent. If partial special education records were sent, it will be indicated on the second fax along with what documentation is still needed. The fax confirmation sheet, if applicable, should be kept in the student's file.
5. If complete special education records are not received within 5 calendar days of the second fax request for special education records, a certified letter will be sent with the student's information and what documentation is needed (or still needed if partial records were sent). If complete records are not received within 10 days of the certified letter being sent, the Academic Administrator of Special Programs will be notified.
6. The status of each student's records request will be updated in the GADCA special education student tracker located in Share Point to ensure compliance to time frames.
7. Three years after a student withdraws or graduates, any physical special education file will be transferred to electronic format and maintained without time limitation on a secure server. The physical file will be shredded once the electronic format has been stored.

## 5. Procedural Safeguards & Parent and Student Rights

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 LEA 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 decisionmakers. **Requirements**

1. "Parent Rights" must be given to parents only one time per school year, except that a copy shall also be given to parents in the following circumstances:
  - A. Upon initial referral or parent request for evaluation;
  - B. Upon receipt of the first state complaint in a school year;
  - C. Upon receipt of the first request for a due process hearing in a school year;

- D. Upon notification by the LEA to the parent of the decision to remove the child from his or her current placement and the removal constitutes a change of placement under the discipline provisions of IDEA and state rules because of a violation of a code of student conduct; and E. Upon request by the parent.
2. The parent may elect to receive the Procedural Safeguard/Parent Rights notice by electronic mail, if the district makes the option available.
3. The State and the district may place a copy of the Procedural Safeguards/Parent Rights on its web site. If parents would like a more detailed explanation of these rights, they can contact a teacher or administrator, the school AA-SP, and/or the Georgia Department of Education, Division for Special Education Services and Supports at 404-657-9968 or [spedhelpdesk@doe.k12.ga.us](mailto:spedhelpdesk@doe.k12.ga.us). Georgia Parent Rights resources can be found on the Georgia Department of Education website: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/ParentRights.aspx>
4. The content of the notice must include a full explanation of all the procedural safeguards available relating to:
- A. Independent educational evaluations;
  - B. Prior written notice;
  - C. Parental consent;
  - D. Access to education records;
  - E. Opportunity to present and resolve complaints through the State complaint procedures and a due process hearing including:
    - (i) The time period in which to file a complaint or due process hearing;
    - (ii) The opportunity for the agency to resolve the complaint; and
    - (iii) The difference between the due process hearing and the state complaint process, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
  - F. The availability of mediation;
  - G. The child's placement during the pendency of any due process hearing;
  - H. Procedures for children who are subject to placement in an interim alternative educational setting;
  - I. Requirements for unilateral placement by parents of children in private school at public expense;
  - J. Due process hearings, including requirements for disclosure of evaluation results and recommendations;
  - K. Appeals of due process hearings, including the time period in which to file those actions;
  - L. Attorneys' fees; and
  - M. Notice provided in a language understandable to the parents. If necessary, the LEA 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).
5. The district shall establish and maintain procedures to provide an opportunity for the parents of a child with a disability to:
- A. Inspect and review all education records relating to the identification, evaluation, educational placement and provision of FAPE to the child.
  - B. Participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to such child.
  - C. Obtain an independent educational evaluation of the child.
6. Destinations Career Academy of Georgia shall establish and maintain procedures to provide to ensure that parents:

- A. Receive notice before the school initiates or changes (or refuses to initiate or change) the identification, evaluation, educational placement of the child, or the provision of FAPE to the child.
- B. Receive notice of places to contact for assistance in understanding the procedural safeguards/parents' rights.
- C. Receive procedural safeguards notice and a full explanation of the procedural safeguards.

### **Rights Regarding Evaluation**

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. As a federally-funded education agency, GADCA must conduct evaluation procedures and produce relevant diagnostic reports per regulations, and at no cost to the student or their family.

Evaluations can consist of gathering data from several sources of information, and through both formal and informal assessments. Additionally, evaluations may include parent-contributed standardized assessments – such as norm-reference parent rating scales. Parents and students have rights to receive all evaluation-related materials and communications in their native language. Evaluations must only involve the selection of assessments that are considered appropriate, in that they measure performance in one or more area the team determined should be measured, they are appropriate for use with the student's age group/grade level, and they have a standard administration format applied to all recipients to support the validity of the results.

In addition, parents have the right for their child to be given appropriate tests by qualified examiners. GADCA only assigns evaluators who are determined eligible by the Georgia Department of Education (all clearances and specific credentials) to conduct student evaluations. Parents do not reserve the right to mandate GADCA to utilize a specifically named/chosen evaluator of their own finding for regular student evaluation/re-evaluations. The initial evaluation must be completed within 60 calendar days from the date the LEA 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 LEA 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 LEA agree one is needed. The 60day 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.

Due to standardized protocols for test security and factors impacting validity within the testing environment (the physical location in which a student is administered one or more assessment as part of an evaluation) GADCA policy is that parents/guardians are not present/involved within the testing environment during the administration of all assessment(s). (**NOTE:** If there are unique situations for which the absence of the parent/guardian, or other related individual, in the testing environment might be problematic for the student, the assigned evaluator should notify the Academic Administrator of Special Programs (AA-SP), and a plan will be discussed and implemented.)

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. While parents have the right to receive a detailed review of assessment results and the implications it may have on their child's learning, a parent may not request the alteration of assessment results or the data-driven recommendations summarized based on the student's performance.

- Parents have the right to withdrawal their consent for an evaluation at any time within the 60-day evaluation timeline from the date their signed consent was received. Once the evaluation/re-evaluation report is finalized through the required team process, consent for the evaluation may not be revoked.  
Should a parent have any concerns about the evaluation/re-evaluation report, they have a right to share those concerns with the IEP team and to collaborate through an effective resolution to those concerns.
- Parents have the right to contribute relevant information about the student from outside medical/clinical reports, prior school history, developmental information, which may or may not have implications on the overall outcome of the evaluation/re-evaluation.
- Parents have the right to ask general questions to be fully informed of the procedural steps GADCA follows for conducting initial evaluation or re-evaluation procedures, and the individuals expected to be involved in the process.
- A parent does not reserve the right to mandate GADCA to find a student eligible for one or more specific disability category, solely as a means to obtain or acquire any non-school service or funding.

GADCA must produce evaluation reports that includes adequate data leading to or justifying any actions it proposes/or refuses to take as a result. Since parents/guardians are members of the eligibility/IEP team, they may specify any concerns or disagreements they have with specific details, or with the overall recommendation(s) for educational programming. Throughout any evaluation/re-evaluation conducted by GADCA, parents/guardians maintain their Procedural Safeguards and right to due process. This is further specified within the Procedural Safeguards, Independent Educational Evaluation, and Due Process sections of this manual.

## 6. Surrogate Parents

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 LEA 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 LEA, after reasonable efforts, cannot locate a parent;
- the child is a ward of the State; or
- the child is an unaccompanied, homeless youth as defined by the McKinney-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 LEA, 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. 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.

### GADCA Procedure:

The AA-SP should maintain a list of trained surrogates whether provided by the Georgia or compiled locally. When a Special Education Case Manager cannot identify or with reasonable efforts locate someone who qualifies as a "parent" in accordance with the Georgia Board of Education Rules, the Case Manager will select a surrogate from a list of trained surrogates to invite to the meeting and notify the Academic Administrator of Special Programs.

## 7. Child Find Query

All children with disabilities residing in Georgia, including children with disabilities who are homeless children or are wards of the state of Georgia, and children with disabilities attending private schools,

regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated.

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 (LEAs) in Georgia are responsible for identifying, locating, and evaluating all children within the jurisdiction of the LEA who are suspected of having disabilities that may result in a need for special education and related services. LEAs 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.

LEAs have Child Find responsibility for all children within their jurisdiction suspected of having disabilities, regardless of the severity of their 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 LEA;
- children who are enrolled in a public school within the LEA, including public charter schools;
- children who are parentally placed in private and home schools located within the LEA's jurisdiction (refer to the Private Schools Chapter of this manual for additional information on private school Child Find responsibilities);
- 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.

LEAs 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 their local partners or offices. LEAs may also utilize their websites as a means for disseminating Child Find information. Regardless of the methods employed, LEAs must conduct comprehensive Child Find activities. In addition, during the annual timely and meaningful consultation with representatives from private and home schools, LEAs are required to inform them of the LEA's Child Find procedures. See 34 C.F.R. § 300.134(a).

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. 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.

### **GADCA Procedure:**

Child find questions are completed by the parent within the online enrollment portal. These questions are asked again during the enrollment approval and placement process.

Once the school year begins, all staff will be trained on child find responsibilities and procedures, then the assigned staff member will again conduct a probe to determine if the student has any academic needs.

Any student for whom a parent answers that they previously or are currently receiving special education services is immediately referred to the Academic Administrator of Special Programs or designee.

Any special education or evaluation records shared by the parent with the assigned homeroom teacher are forwarded to the special education department at GADCA [schooloffice@gadca.org](mailto:schooloffice@gadca.org) so that they can be reviewed by the school psychologist and/or Academic Administrator of Special Programs or designee to determine next steps.

## **8. Enrollment and Intake Procedures**

### **Out-of-State Transfers:**

When a child transfers from another state with a current or expired IEP, the new LEA (in consultation with the parent) must provide services comparable to those in the out-of-state IEP until the new LEA can collect any necessary additional information necessary to complete the evaluation/eligibility determination and can develop, adopt, and implement a new IEP, if appropriate. After the receiving LEA reviews the out-of-state eligibility and data, the LEA may determine that the eligibility meets Georgia Rules for eligibility and accept the eligibility determination. If the LEA needs additional data prior to making an eligibility determination, FAPE must be provided to the child while this determination is being made. If the LEA chooses not to accept the eligibility determination, the team must refer the child for a comprehensive evaluation (subject to the 60day timeline) to determine eligibility under Georgia Special Education Rules. If an evaluation is required, it is treated as an initial evaluation in Georgia.

### **Transfers within the State of Georgia:**

If the child is transferring from another LEA in the state of Georgia, the LEA may accept the IEP as written or the IEP Team may amend it if necessary.

### **Provision of Comparable Services:**

If a child with a disability has an IEP or eligibility report developed in another state or LEA and transfers to a new LEA, the new LEA, in consultation with the parent, must provide the child with FAPE. This should include services comparable to those described in the child's IEP from the previous LEA. Such services should be provided even if the child's annual review IEP or triennial reevaluation is overdue. During this time, the new LEA 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 LEA 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 the new LEA is not able to obtain the IEP from the previous LEA or the parent, the new LEA is not required to provide special education and related services to the child. However, if the new LEA 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 the new LEA from providing special education services to the child while the evaluation is pending, subject to an agreement between the parent and the LEA. 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 new LEA 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.

## 9. Parent Consent

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The LEA 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 (consent for initial evaluation shall not be construed as consent for initial provision of special education and related services);
- to conduct a reevaluation;
- for the initial provision of special education and related services (consent to provide special education and related services is the consent for any special education and related services described in the IEP to provide FAPE. Annual decisions about what services are to be provided are made through the IEP process and are not part of this consent requirement); and
- before disclosure of personally identifiable information that is subject to confidentiality.

### **Consent for Evaluation:**

Before an evaluation can begin, the LEA must obtain a signed, informed parental consent for evaluation. The LEA proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability shall, after providing notice, obtain an informed consent from the parents of such child before the evaluation is conducted. The LEA must make reasonable efforts to obtain the informed consent from the parents. To meet the reasonable efforts requirement, the LEA must document its attempts to obtain parental consent using procedures that may include detailed records of telephone 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 the parent's home or place of employment and the results of those visits.

If the parent of a child refuses consent for the evaluation or the parents fail to respond to a request to provide consent, the LEA may, but is not required to, pursue the initial evaluation of the child by utilizing the mediation and impartial due process hearing procedures provided for in the procedural safeguards. However, if a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation, or such parent fails to respond to a request to provide consent, the LEA may not use the consent override procedures, and the LEA is not required to consider the child as eligible for services.

If the parent of a child in public school or seeking to enroll in public school does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the LEA may, but is not required to pursue, the initial evaluation by utilizing the procedural safeguards of mediation or due process hearings. The LEA does not violate its obligations under Child Find if it declines to pursue the evaluation.

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

- Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child;
- The rights of the parents of the child have been terminated in accordance with State law; or
- The rights of the parents to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

Parental consent is not required before:

- Reviewing existing data as part of an initial evaluation;
- Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.
- The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation. This shall not be considered to be an evaluation for eligibility for special education and related services.

#### **Consent for Reevaluation:**

The LEA must obtain informed parental consent prior to conducting a reevaluation of a child with a disability. If the parent refuses to consent to the re-evaluation, the LEA may, but is not required to, pursue the reevaluation by using the consent override procedures by accessing the mediation or due process hearing procedures. The LEA need not obtain informed parental consent if it can demonstrate that:

- It made reasonable efforts to obtain such consent; and
- The child's parents failed to respond.

The LEA does not violate its obligation if it declines to pursue the re-evaluation.

Parental consent is not required before reviewing existing data as a part of a re-evaluation or administering a test or other evaluation that is administered to all children (unless consent is required of parents of all children).

#### **Consent for Provision of Services:**

The LEA that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child. Consent for the initial evaluation does not provide consent for initial provision of special education and related services.

If the parents of a child fail to respond or refuse to consent to services, the LEA may not utilize the procedural safeguards of mediation or a due process hearing in order to obtain agreement that service may be provided. If the parents of the child do not provide consent for the initial provision of special education and related services, or the parents fail to respond to a request to provide consent for the initial provision of special education and related services, the LEA will not be considered in violation of the requirement to make FAPE available to the child for which the LEA sought consent. The LEA is not required to convene an IEP Team meeting or develop an IEP for the child for whom the LEA requests consent.

If the parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the reevaluation, or the parent fails to respond to a request to provide consent, the LEA may not use the consent override procedures. The LEA must document its attempts to obtain parental consent. The LEA is not required to consider the child as eligible for 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. Revocation of consent to provide special education and related services is for all special education and related services; not individual services. The intent to withdraw the child from special education and related services must be made in writing by the parent to the LEA. The LEA may not continue to provide special education and related services to the child, but must, prior to removing the child from special education and related services, provide the parent prior written notice. The LEA may not use the procedures of mediation or due process hearings to override the withdrawal of consent. The LEA will not be in violation of the responsibility to provide a free and appropriate public education (FAPE) to a child with a disability because of the failure to provide further special education and related services. The LEA is not required to convene an IEP meeting for a child whose consent to receive special education and related services has been revoked. Subsequent referrals for special education and related services shall be considered an initial evaluation and subject to the 60-day evaluation time period. The LEA is not required to amend the records of the child to remove any references to the provision of special education and related services prior to the receipt of the revocation of consent.

### **GADCA Procedure:**

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.

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

- to conduct an initial evaluation;
- to conduct a reevaluation;
- initial placement to receive special education and related services on the IEP; and

- before disclosure of personally identifiable information that is subject to confidentiality.
- Review of records for continued eligibility

Consent for the initial evaluation does not provide consent for initial placement. Consent for the initial evaluation may be given electronically, however the parent must sign in person the electronically signed consent prior to or at the time of the evaluation. The eligibility decision must be made within 60 calendar days of receipt of the virtually signed parental consent.

Consent for initial placement should be present in the student's special education file, even if the student was found eligible and began services prior to enrollment at GADCA. If consent for initial placement is not received from previous school, it should be completed during the first IEP meeting held at GADCA.

If during the reevaluation/redetermination process, a parent refuses consent for evaluation, the Case Manager will contact the Academic Administrator of Special Programs or designee for further guidance.

If, after two weeks, the parent fails to respond to multiple varied attempts to contact him/her to obtain consent for initial evaluation, the Case Manager will contact AA-SP to refer the student back to SST.

## 10. Initial Evaluations

### Initial Evaluations

Each LEA must conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability. The evaluation must consist of procedures which determine if the child is a child with a disability and to determine the educational needs of the child.

Once a child is referred for an evaluation by a parent or Student Support Team (SST) to determine if the child is a child with a disability, the initial evaluation must be completed within 60 calendar days of receiving parental consent for evaluation. Holiday periods and other circumstances when children are not in attendance for five consecutive school days shall not be counted toward the 60-calendar day timeline, including the weekend days before and after such holiday periods, if contiguous to the holidays, except that any summer vacation period in which the majority of an LEA's teachers are not under contract shall not be included in the 60 day timeline for evaluation. However, an LEA is not prohibited from conducting evaluations over a summer vacation period.

Consent received 30 days or more prior to the end of the school year must be completed within the 60 calendar day evaluation timeframe. Students who turn three during the summer period or other holiday periods must have an eligibility decision and IEP (if appropriate) in place by the third birthday.

The timeframe described above does not apply to a LEA if the parent of a child repeatedly fails or refuses to produce the child for the evaluation; or a child enrolls in a school of another LEA after the relevant timeline in this Rule has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability. If extenuating circumstances, e.g., illness, unusual evaluation needs, or revocation of parent's consent for evaluation affect this time line, the LEA shall document the exceptions.

### Evaluation Procedures

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 LEA's psychologist, educational diagnostician, speech-language pathologist, 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.

Evaluations often use many of the following sources of information:

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

IDEA requires that before a child can receive special education services, the LEA must determine whether the child requires specialized instruction and meets eligibility requirements for special education. The LEA 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.

The LEA must provide notice to the parents of a child with a suspected disability that describes any evaluation procedures the agency proposes to conduct. In conducting the evaluation, the LEA must:

- Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining:

- Whether the child is a child with a disability under §300.8; 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);

- Not use any single measure or assessment 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.
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- Each public agency must also ensure that:
    - Assessments and other evaluation materials used to assess a child under this part:
      - 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 for which the assessments 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.
    - Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
    - Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
    - 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;
    - Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
    - In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.
    - Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.
    - Evaluations of children with disabilities who transfer from one LEA to another LEA in the same school year are coordinated with those children's prior and subsequent schools, as necessary and expeditiously as possible, to ensure prompt completion of full evaluations. [34 C.F.R. § 300.304(c)(5)]

- The evaluation of children referred because of learning and/or behavior problems is the responsibility of a multidisciplinary evaluation team. For children who require a psychological and clinical evaluation, it must be conducted by a qualified psychological examiner:
  - Qualified Psychological Examiner Requirements.
  - Initial evaluation results used for consideration of eligibility for special education, if not provided by a school psychologist with a valid S-5 (or higher) certificate in school psychology, shall be from one of the following:
    - A psychologist licensed by the Georgia Board of Examiners of Psychologists and having training and experience in school psychology or child clinical psychology.
    - A full-time graduate student in an approved, properly supervised school psychology or child clinical psychology training program internship/practicum, who has completed a minimum of one year of approved appropriate graduate training.
    - A Georgia Merit System employee who has a classification rating of psychologist, senior psychologist, or psychology program specialist.

### **Steps in the Evaluation Process**

1. Appropriate LEA staff or the parent make a referral for an evaluation. A parental consent for evaluation is received from the parent. Once LEA staff receives the signed consent, the 60- calendar-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 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 LEA, 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 LEA 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.

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.

### GADCA Procedure:

The initial evaluation must be completed and the evaluation report must be sent to the parent or guardian within 60 calendar days from the date signed parental consent is received by GADCA. There are a few possible exceptions to the 60-day requirement. School-based special education teams must confirm with their Georgia-specific special education evaluation guidelines, whether the following factors or 60-day timeline exceptions apply (for those that apply, include in manual):

- The 60-calendar day count stops upon the last calendar day of the current school year, and resumes upon the first calendar day of the following school year. (In other words, if consent is received for the initial evaluation and there are only 30 calendar days left in the 17-18 school year, the 31st day in the timeline will be on the first day of the 18-19 school year.)
- Schools are not held accountable for an evaluation that was delayed, if the delay was the result of the student not being available and/or the parent/guardian not producing the student for the evaluation
- If during the course of the initial evaluation procedures in progress, and prior to the determination of disability, the student withdraws from GADCA to enroll in another public school entity
- If GADCA is evaluating to determine whether the student presents with a specific learning disability (SLD) – only considered justifiable with written verification that the parent/guardian and the team agreed with an extension for this reason

The initial evaluation process is initiated by a request or referral. A parent/guardian may request an initial evaluation for their child should they have reason to suspect their child presents with an educational disability that limits their ability to show progress in learning. A member of the GADCA school-based team may also refer a child for an evaluation should data show the child is not making adequate progress despite efforts to address the issue(s); such as through the GADCA multi-tiered system of supports (MTSS).

The intent of requesting or referring a child for an initial evaluation is to gather and review comprehensive data to show whether a child has an educational disability and whether they require certain specialized supports or services in order made educational progress.

When a student's academic concerns have been addressed through the GADCA MTSS process, and the student's response to those efforts is reviewed, a Special Education representative will attend the meeting, review the outcome data from the interventions that have been implemented to the student, and

participate in the determination of inadequate progress and whether to proceed with a referral for a formal initial evaluation.

The following steps outline GADCA's initial evaluation process:

- Within one school day of the student support team(SST)/MTSS team's determination to refer the student for an initial evaluation, the Homeroom Teacher, or SST/MTSS team's designee, will submit the evaluation referral {insert school procedure here – survey, SharePoint, etc.}.
  - o (Specify referral details to be included such as specific academic areas or tasks of concern, all areas to be assessed, parent/guardian's specific concerns (if applicable)
- The School Psychologist or designee will collaborate with the Related Services Coordinator who will manage and track procedures requested for each evaluation referral (See GADCA's Related Services Manual for additional details and information).
- GADCA (School Psychologist or Related Services Coordinator) will communicate the GADCA timeline, the details of the referral, and any relevant procedures to the contracted evaluators. Only evaluators who are fully authorized (having all current clearances and professional credentials) AND practice under the scope of an active contract with GADCA may be assigned to conduct evaluation procedures for a GADCA student.
- The assigned contracted evaluators are responsible for coordinating with families to administer all required assessments with the referred student or with the parent/guardian (i.e., parent questionnaires or rating scales).
- The contracted evaluator will complete the relevant portions of the Comprehensive Eligibility forms as specified and directed within the GADCA Related Service Manual.
- The evaluating psychologist or speech language pathologist (if either apply) must submit their completed evaluation report to the GADCA Related Services Coordinator prior to the 60-day deadline (50 days suggested) to allow for internal review, final report edits, and to give clearance for the final draft to be reviewed with the parent/guardian
- The Related Service Coordinator will monitor the contracted evaluators and confirm that the timeline has been met and evaluation results have been reviewed with the parents.
- The Special Education teacher/Case Manager will schedule the eligibility/IEP team meeting once the final evaluation report draft has been received and reviewed by the parent.

Ethical guidelines regarding school-based evaluations advise that comprehensive evaluations should not occur more frequently than one time per year unless the parent/guardian and the school agree that one is necessary. If that situation applies, there are specific parameters and cautions given for administering formal assessments with students in close succession (less than one year).

For information related to re-evaluations of students who qualify for special education services through the initial evaluation process, please see Redeterminations/Reevaluations procedures in the next section of this manual.

For additional details regarding the rights that parents/guardians have during and following the initial evaluation process, please consult with the Eligibility Determination and Procedural Safeguards sections of this manual.

## 11.   Reevaluations

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### **Reevaluations**

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 may not occur more than once a year, unless the parent and the LEA agree otherwise; and must occur at least once every 3 years, unless the parent and the LEA agree that a re-evaluation is unnecessary. A reevaluation should occur:

- If the LEA determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrants a reevaluation; or
- If the child's parent or teacher requests a reevaluation.

Each LEA shall obtain informed parental consent prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the LEA can demonstrate that it has taken reasonable measures to obtain such consent and the child's parents failed to respond.

The LEA 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:

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

The LEA 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 LEA'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.

### **Additional Requirements for Evaluations & Reevaluations**

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 LEA agree not to convene a meeting for this purpose. The team will, on the basis of that review, and considering how long 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 LEA 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.

### **GADCA Procedure:**

The purpose of a special education reevaluation is to review of educational records and the current performance data for a student with an IEP, to conclude whether there is sufficient data to confirm that the student continues to present with one or more disability category (as defined by IDEA/Georgia DOE) AND that he/she continues to require specially designed instruction or services (Special Education) to receive a free appropriate public education (FAPE). There are times in this process that the team concludes there is insufficient data determine either or both considerations; for which additional data collection procedures would be necessary.

The IEP team identifies what, if any, additional information might be needed to decide whether the child continues to have an educational disability and the need for special education supports/services. When that includes the administration of formal assessment procedures with the student, signed parental consent is required, and the regulations/procedures associated with conducting assessment procedures directly with a student will apply.

In some cases, GADCA and the parent/guardian may agree that a review of records for a re-evaluation is not necessary. In that case, only a re-evaluation waiver (or its equivalent form) is required to convey:

1. there is team agreement that a re-evaluation will not be conducted,
2. the specific reasons for which the team came to that determination,
3. that, with the waiver of a re-evaluation, the student's eligibility and educational program will remain unchanged.
4. that, by demonstration of their signature, the parent/guardian was informed of their rights to a re-evaluation for their child and agrees to waive the current re-evaluation

A Parent/Guardian's signature is required for any documentation involving re-evaluation or a reevaluation waiver. The date of the signed re-evaluation waiver should represent the new date for tracking eligibility/re-evaluation compliance.

### **General points regarding special education re-evaluations:**

- A reevaluation may be conducted prior to the 3-year timeline, any time the team finds the needs of the child should be reevaluated to confirm or revise the parameters of appropriate educational programming within the IEP.

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A reevaluation should not occur more than once a year, unless there is a dispute over the validity of the evaluation/reevaluation that was done just prior. *(For additional details related to this, consult with the Procedural Safeguards and Due Process sections of this manual)*

The following procedures outline the general re-evaluation process at GADCA:

- GADCA must provide prior written notice to the parent/guardian to conduct a review of records for the re-evaluation process
- Signed, informed consent must be requested and received before conducting any reevaluation/data collection procedures with a student.
- For any proposed assessment procedures, the parent/guardian consents to, a 60-calendar day timeline is applied for the completion of all procedures and the associated re-evaluation report to be provided to the parent (OR eligibility determination meeting held, if applicable)

**NOTE:** The re-evaluation review/eligibility compliance date is essential for schools to prioritize. Timelines attached to signed consent forms DO NOT absolve a school from its responsibility to reevaluate by the re-evaluation due date. As a best practice, re-evaluation procedures should begin no less than 90 calendar days before the due date to ensure adequate time to conduct additional assessments/data collection procedures, as needed.

## 12. Independent Individual Education Evaluation

If a parent disagrees with the results of a completed evaluation completed by the LEA, the parent may request that the LEA pay for an outside independent educational evaluation (IEE). If a parent requests an independent educational evaluation, the LEA may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the LEA may not unreasonably delay either providing the independent educational evaluation at public expense or initiating an impartial due process hearing to defend the LEA evaluation. Except for the criteria described in this Rule, an LEA may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

The LEA must agree to pay for the IEE or begin the due process hearing procedures to show that the LEA's evaluation is adequate. If there is a due process hearing and the LEA's evaluation is judged to be sufficient, then the LEA will not have to pay for an IEE. If the administrative law judge or hearing officer conducting the impartial due process hearing requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense. A parent is entitled to only one IEE at public expense each time the LEA conducts an evaluation with which the parent disagrees. The LEA must provide to the parents, upon request, information about where an independent educational evaluation may be obtained and the LEA's criteria applicable for independent educational evaluations. The list of criteria of the independent evaluator must be the same as those required of the LEA's evaluators. The LEA may set a reasonable limit on the cost of the IEE. However, the LEA must also allow parents the opportunity to prove extraordinary circumstances warranting an IEE at public expense that does not meet the LEA's criteria.

A parent does not have the right to an IEE at public expense until he or she has allowed the LEA 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 LEA's evaluation. As long as the evaluation was conducted by someone who meets the qualifications for LEA evaluations, the LEA must consider the results of the parentally obtained evaluation.

If the parent obtains an independent educational evaluation at public or private expense, the results of the evaluation:

- Shall be considered by the LEA, if it meets state and LEA criteria, in any decision made with respect to the provision of a FAPE to the child; and
- May be presented by either party as evidence at an impartial due process hearing under these Rules regarding that child.

### GADCA Procedure:

If a parent/guardian disagrees with the overall determination of the evaluation/re-evaluation as they find reason(s) to believe the evaluation/re-evaluation that GADCA conducted for their child is NOT appropriate, they reserve the right to request an independent educational evaluation (IEE). When GADCA receives a request for an IEE, it must provide a prior written notice with its decision in response.

If GADCA reviews its evaluation/re-evaluation report disputed by the parent/guardian and continues to affirm it is a valid and appropriate report from which the IEP team developed an appropriate IEP (if applicable), GADCA must formally defend its evaluation by requesting resolution through a due process hearing.

However, if GADCA agrees to an IEE at public expense,

- GADCA's agreement to the IEE DOES NOT automatically denote that it has determined its evaluation/re-evaluation report to be either invalid or inappropriate;
- The IEE must be conducted by an outside entity; in that, the evaluator may not be employed by or under contract with the school or its affiliates.
- The parent must agree to the evaluator and has the right to propose an appropriate evaluator to conduct the IEE

The GADCA Academic Administrator of Special Programs will collaborate with the Related Services Coordinator to facilitate the preliminary arrangement of the IEE (associated quote for the IEE, explanation of the IEE, required payment documentation for GADCA accounting, and contact information for all parties). It is recommended that Schools refer to resources from their Department of Education to determine Georgia approved ranges of IEE cost.

## 13. Eligibility

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LEAs 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.

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

- 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

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.

A child or youth from 3 through 21 years of age is considered to have a disability under the Individuals with Disabilities Education Improvement Act (IDEA 2004) if the child or youth meets the eligibility criteria in any of the following areas and needs special education and related services.

- (a) Autism spectrum disorder.
- (b) Deafblind.
- (c) Deaf/hard of hearing.
- (d) Emotional and behavioral disorder.
- (e) Intellectual disability (mild, moderate, severe, profound).
- (f) Orthopedic impairment.
- (g) Other health impairment.
- (h) Significant developmental delay.
- (i) Specific learning disability.
- (j) Speech-language impairment.
- (k) Traumatic brain injury. (l) Visual impairment.

Upon completion of the administration of assessments and other measures, a group of qualified professionals and the parents of the child (Eligibility Team) determine whether the child is a child with a disability and the educational needs of the child. In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each LEA must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations as well as the information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information obtained from all of these sources is documented and carefully considered.

A child must not be determined to be a child with a disability if the primary factor for that determination is:

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

- Lack of appropriate instruction in mathematics; or
- Limited English proficiency; and
- If the child does not otherwise meet the eligibility criteria under this Rule.

If a determination is made that a child has a disability, and the disability adversely affects educational performance (academic, functional and/or developmental) and therefore needs special education and related services, an Individualized Education Program (IEP) must be developed for the child. An eligibility report which documents the area of disability shall be completed and placed in each child's special education folder. The eligibility report shall provide statements for each component of the eligibility and shall be comprehensive enough to serve as the evaluation report when necessary. For those children determined not eligible for special education and related services, the eligibility report shall clearly explain the Eligibility Team's determination. The parent of the child shall receive a copy of the eligibility report at no cost.

### **GADCA Procedure:**

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

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

## 14. Additional Procedures for Identifying Students with Specific Learning Disabilities

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 visual, hearing or motor disabilities, intellectual disabilities, emotional or behavioral disorders, environmental, cultural or economic disadvantage.

The child with a specific learning disability has one or more serious academic deficiencies and does not achieve adequately according to age to meet State-approved grade level standards. These achievement deficiencies must be directly related to a pervasive processing deficit and to the child's response to scientific, research-based interventions. The nature of the deficit(s) is such that classroom performance is not correctable without specialized techniques that are fundamentally different from those provided by general education teachers, basic remedial/tutorial approaches, or other compensatory programs. This is clearly documented by the child's response to instruction as demonstrated by a review of the progress monitoring available in general education and Student Support Team (SST) intervention plans as supported by work samples and classroom observations. The child's need for academic support alone is not sufficient for eligibility and does not override the other established requirements for determining eligibility.

A child must not be determined to be a child with a specific learning disability if the determinant factor for that determination is:

- Lack of appropriate instruction in reading, to include the essential components of reading instruction (phonemic awareness, phonics, fluency, vocabulary, and comprehension);
- Lack of appropriate instruction in math;
- Lack of appropriate instruction in writing;
- Limited English proficiency;
- Visual, hearing or motor disability;
- Intellectual disabilities;
- Emotional disturbances;
- Cultural factors;
- Environmental or economic disadvantage; or
- Atypical educational history (such as irregular school attendance or attendance at multiple schools)

In order to determine the existence of Specific Learning Disability, the group must summarize the multiple sources of evidence to conclude that the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards and intellectual development. Ultimately, specific learning disability is determined through professional judgment using multiple supporting evidences that must include:

- At least two current (within twelve months) assessments such as the results of the CRCT or other staterequired assessment, norm-referenced achievement tests or benchmarks indicating performance that does not meet expectations for State-approved grade-level standards;

- 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.
- Results from supplementary instruction that has been or is being provided:
  - 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 indicated by the instructional strategy(ies). If the instructional strategies do not indicate a period of time the strategies should be implemented, the instructional strategies shall be implemented for a minimum of 12 weeks to show the instructional strategies' effect or lack of effect that demonstrates the child is not making sufficient progress to meet age or State-approved grade level standards within a reasonable time frame;
- The interventions used and the data based progress monitoring results are presented to the parents at regular intervals throughout the interventions.
- Any educationally relevant medical findings that would impact achievement.
- After consent is received from the parents for a comprehensive evaluation for special education determination, the following must occur:
  - An observation by a required group member;
- Documentation that the determination is not primarily due to any of the exclusionary factors;
  - Current analyzed classroom work samples indicating below level performance as compared to the classroom normative sample; and
- Documentation of a pattern of strength and weaknesses in performance and/or achievement in relation to age and grade level standards must include:
  - A comprehensive assessment of intellectual development designed to assess specific measures of processing skills that may contribute to the area of academic weakness. This assessment must be current within twelve months; and
  - Current Response to Intervention data-based documentation indicating the lack of sufficient progress toward the attainment of age or State-approved grade-level standards.
  - As appropriate, a language assessment as part of additional processing batteries may be included.

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.

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.

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:

- Oral expression- use of spoken language to communicate ideas;
- Listening comprehension-ability to understand spoken language at a level commensurate with the child's age and ability levels;
- Written expression - ability to communicate ideas effectively in writing with appropriate language;
- Basic reading skills-ability to use sound/symbol associations to learn phonics in order to comprehend the text;
- Reading comprehension-ability to understand the meaning of written language based in child's native language;
- Reading Fluency Skills- the ability to read and process a text with appropriate rate and accuracy;
- Mathematics calculation-ability to process numerical symbols to derive results, including, but not limited to, spatial awareness of symbol placement and choice of sequence algorithms for operations required; and
- Mathematical problem solving -ability to understand logical relationships between mathematical concepts and operations, including, but not limited to, correct sequencing and spatial/symbolic representation.

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.

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 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:

- 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;
- A highly qualified certified special education teacher; and
- 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.

Each group member must certify in writing whether the report reflects the member's conclusions. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

## Georgia Guidelines:

<https://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/SBOE%20Rules/160-4-7.05.pdf>

## 15. Meeting Notification Process

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 LEA personnel or meetings on issues such as teaching methods, lesson plans, or coordination of service provision, as long as those issues are not addressed in the child's IEP, nor does it include meetings involving the preparation of a proposal or response to a parent proposal that will be discussed at a later meeting.

Each LEA shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually agreed upon time and place. The parent may request to reschedule the IEP Team meeting or to participate by telephone or videoconference if attending in person is not possible.

The invitation to the IEP Team meeting shall indicate the purpose, time, and location of the meeting, participants who will be in attendance, and informs the parents of their right to invite other individuals who, in their opinion, have knowledge or special expertise regarding their child, including related services personnel.

For a student with a disability, beginning not later than entry into ninth grade or by age 16 whichever comes first, or younger if determined appropriate by the IEP Team, the invitation must also indicate that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student. The LEA will invite the student and identify any other agency that will be invited to send a representative.

If neither parent can attend an IEP Team meeting, the LEA must use other methods to ensure parent participation, including individual or conference telephone calls or video conferences. A meeting may be conducted without the parents in attendance if the LEA is unable to convince the parents that they should attend. In this case, the LEA must keep a record of its attempts to arrange a mutually agreed on time and place such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records and results of visits made to the home or place of employment and the results of those visits.

## GADCA Procedure:

If possible, parent input will be gathered for any IEP meeting date and time. If, after 48 hours, no response or consensus is reached, a date/time will be set by school staff **allowing for 10 days** notification through email.

If the parent does not attend the meeting the process will be repeated using the following notification methods.

1. Notice #1 –Email
2. Notice #2 –Email & phone/text
3. Notice #3 –Email, phone/text, & certified letter containing Notice of Meeting

All attempts to obtain parent participation will be documented and retained as part of the student's special education record.

If the parent does not attend after the 3<sup>rd</sup> attempt, the IEP team may choose to develop the IEP without parent attendance and send a copy of the IEP to the parent. Eligibility meetings may not be held without the parent. If the parent does not attend after three eligibility meeting attempts, school staff are to collaborate with the Academic Administrator of Special Programs for assistance in determining next steps.

If the parent responds and indicates that they wish to participate in the development of the IEP, but cannot meet, school staff must document the multiple good faith attempts to involve the parent before conducting the IEP without the parent. This should only be done if the delay of the IEP meeting will cause timelines to not be met.

The parent may opt to waive the 10-day notification and hold the IEP meeting earlier. This is documented within the notes of the IEP and the parent signs the notice of meeting indicating that they have chosen to waive this right.

All Notifications of Meeting will be filed as part of the student's special education record.

All students with a disability should be invited to participate in their IEP meeting, however, attendance for students not considering postsecondary goals and transition services is optional.

**Commented [CF(A2):** Verbiage was added to make the GADCA specific recommendation that all students with a disability be invited to their IEP meeting.

## 16. Parent Request for IEP Meeting

The IEP may be reviewed more than once a year if the parent or the LEA requests a review. Parents may request an IEP meeting at any time.

### GADCA Procedure:

Upon request for an IEP meeting from a parent or other team member, the assigned special education teacher will gather parent input for meeting time and date within 48 hours of the initial request, with every attempt for 10 days notification of the meeting time/date to the IEP team. Notice of Meeting will be sent to parent via email and filed in students SE file.

If the request is not honored or the meeting is unnecessarily delayed the parent may contact the Academic Administrator of Special Programs at the school for assistance.

## 17. Prior Written Notice

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The parents shall be provided notice written in language understandable to the general public a reasonable time before the LEA proposes to initiate or change the identification, evaluation or educational placement of a child or the provision of a FAPE to the child. Written notice shall also be provided if the LEA refuses to take such action. After rights have been transferred to a child who has reached the age of majority, any written notice covered under this Rule shall be provided to both the child and to the parent(s) of the child.

Each LEA shall ensure that the notice required in this rule shall be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure the notice is translated orally or by other means to the parent in his or her native language or other mode of communication. The LEA must ensure the parent understands the content of the notice, and that there is written evidence that these requirements have been met.

LEAs must inform the parents in writing and within a reasonable time of any actions being proposed or actions the LEA refuses to initiate. These include any of the following:

- identification (process to determine eligibility),
- evaluation (nature and scope of assessment procedures),
- educational placement (graduation from high school with a regular education diploma constitutes a change in placement), 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 LEA will respond in writing. Regardless of the way the LEA decides to provide prior written notice, the notice must contain:

- a description of the action refused or proposed by the LEA;
- an explanation of why the LEA 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 LEA's proposal or refusal.

In most cases, the above Notice requirements can be addressed by providing the parent(s) with a copy of documents such as the consent to evaluate, consent for placement, consent for accessing a child's or parent's public benefits or insurance, evaluation report, eligibility report, invitation to a meeting, the full individualized education program (IEP) (with minutes, if taken), and/or other relevant documents, as appropriate. However, there may be circumstances when a parent makes a request but these items have not yet been generated for the child. In such a case, the LEA must respond to the request through an

alternative manner, such as through a letter to the parent(s), which provides all of the required elements identified above.

### GADCA Procedure:

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

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

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

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

## 18. IEP Meeting Protocols

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 (LEA) requests a review.

In developing each child's IEP, the IEP Team must consider:

- The strengths of the child;
- The concerns of the parents for enhancing the education of their child;
- The results of the initial or most recent evaluation of the child;
- The results, as appropriate, of the child's Statewide or districtwide assessments; and
- The academic, developmental, and functional needs of the child.

In the case of a child whose behavior impedes the child's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports and other strategies, to address that behavior in the IEP or behavioral intervention plan.

*Special Factors:*

- In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as those needs relate to the child's IEP.
- In the case of a child who is blind or visually impaired, the IEP team must provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the child's reading and writing skills, needs and appropriate reading and writing media, that instruction or the use of Braille is not appropriate for the child.
- The IEP team must consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode. The team must also consider whether the child needs assistive technology devices and services.

Each LEA must ensure that extended school year services (ESY) are available as necessary to provide FAPE. The LEA shall provide ESY services as required by the child's IEP, and all necessary transportation, at no cost to the parent. ESY services must be provided only if a child's IEP Team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. The LEA shall not limit ESY services to a particular disability category or unilaterally limit the type, amount or duration of those services. When determining if ESY services are needed as part of the child's FAPE, the team shall consider the individual needs of the child.

If the IEP Team determines that ESY shall be provided, it shall:

- Indicate which goals are being extended or modified to deliver FAPE; and,
- State the specific services needed, the amount of time for each service, the beginning and ending dates for the services and the service provider and location.

A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of:

- Appropriate positive behavioral interventions and supports and other strategies for the child; and
- Supplementary aids and services, accommodations, program modifications, and support for school personnel.

Changes or amendments to the IEP may be made either by the entire IEP Team at an IEP Team meeting or by agreement between the parents and LEA. In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent(s) of a child with a disability and the LEA may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP, the LEA must ensure that the child's IEP Team is informed of those changes. A parent must be provided with a revised copy of the IEP with the amendments incorporated.

Each LEA must ensure that the IEP Team:

- Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
- Revises the IEP, as appropriate, to address:
  - Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;
  - The results of any reevaluations conducted.
  - Information about the child provided to, or by, the parents;
  - The child's anticipated needs; or
  - Other matters.

To the extent possible, the LEA must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

In conducting a review of the child's IEP, the IEP Team must consider the *special factors* as indicated above.

If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP. Nothing in this part relieves any participating agency, including the State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons (Department of Corrections):

- Participation of children with disabilities in State and districtwide assessments; and
- The requirements related to transition planning and transition services do not apply to children whose eligibility under Part B of the IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

The IEP Team of a child with a disability who is convicted as an adult and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. The IEP requirements in this Rule and the LRE requirements do not apply with respect to the modifications described.

### **GADCA Procedure:**

1. All IEP Meetings are to be held in an online meeting room with the option of a participant participating by teleconference. (\*)
2. The Academic Administrator of Special Programs or designee will be invited to all IEP meetings through class connect in the online school in order to have access to all recorded IEP meetings.
3. All IEP Meetings will have typed minutes on the IEP Meeting Minutes form. (\*)  
\*Please note that it should be determined prior to the meeting who will be responsible for taking minutes. It should not be the meeting facilitator and is generally the general education teacher in attendance.
4. The below order of the meeting will be followed.
5. A sample meeting agenda can be found here.

### **ORDER OF THE MEETING**

1. The student's name, purpose of meeting, date and time allotted should be on the whiteboard
2. Make it clear that the time allotted is firm and if the meeting should go longer than scheduled a new time will be scheduled with the team at the end of the meeting in order to complete all agenda items.
3. A clear agenda should be on the whiteboard and should be reviewed at the start of the meeting (\*).
4. The meeting facilitator should use the procedural safeguard script (\*) to review parental rights with the parent. Basic procedural safeguards summary should be on the whiteboard.

6. An introduction of each team member along with their role is to be done by the meeting facilitator or by each member themselves.
7. A draft copy of the IEP or the special education website will be shared in the online meeting room whiteboard so updates can be made as the meeting progresses.
8. If the previous IEP was in effect while student was enrolled GADCA, the previous IEP will need to be reviewed with parent re: progress toward meeting goals and objectives.
9. Then the new IEP is to be developed. Each section of the IEP will be reviewed and updated as appropriate. Not all sections will be applicable to every student.

\*Please note that the order in which the IEP will be reviewed may vary from what is outlined below.

\*Please see the IEP Writing Checklist (\*) for the specifics that are to be covered in each section.

- a. Type of meeting and time frame
- b. Student Information
- c. Primary Disability (and as applicable Secondary Disability) along with the Re-evaluation of Eligibility Date
- d. Medical Information
- e. Parent Contact Information
- f. Current Descriptive Information
  - i. Allow each team member to provide input in this area (show slide 'Team input on present levels' to assist in facilitating this discussion)
  - ii. Student's Strengths – include not only academic strengths but also student's interests and hobbies so you can relate to the student on another level other than academic and the student's personality. This section should also include the student's progress in the OLS to date in all academic areas.
  - iii. Parent concerns
  - iv. How the student's disability affects progress and involvement in the general curriculum
- g. Present Level of Performance – only those areas that need to be updated (i.e. pre-vocational checklist, related service observation, Universal Screener, etc.)
- h. Consideration of Special Factors for IEP Development
- i. Measurable Annual Goals and Benchmarks/Short-term Instructional Objectives for IEP and Transition Activities.
- j. Supplemental Aids
- k. Program Participation
- l. Classroom Accommodations (\*)
- m. Georgia/District Mandated Tests and Accommodations (\*)
- n. Special Education and Related Services.
  - i. Type of Service
  - ii. Provider
  - iii. Sessions per (day, week, month or year)
  - iv. Time per session (avoid sessions shorter than 30 min. in length)
  - v. Beginning-Ending Dates
  - vi. Location of Services

\*A statement of assurance (\*) should be reviewed at the meeting and sent along with the IEP to the parent if a therapist has not been identified or assigned at the time of the meeting.

- o. LRE and General Education

- p. Special Transportation
  - q. Extended School Year
  - r. Transition Services
  - s. IEP Participants.
  - t. Informed Parental Consent
10. Once the IEP has been reviewed and updated in its entirety, the actions to be taken as a result of the IEP meeting should be reviewed.
  11. The meeting facilitator should ask if there are any further questions and/or concerns. Address as appropriate.
  12. The meeting facilitator should remind all participants how you will be sending the documentation in order to obtain their signatures and how they need to get them back to you. (\*)

The meeting facilitator should officially conclude the meeting by thanking everyone for attending and by providing their contact information.

## 19. Transition Services

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.

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.

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 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.

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.

The "Transition Activities and Services" 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.

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 LEA 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.

### GADCA Procedure:

Transition Service Plans must be developed for each child prior to the start of high school. Beginning not later than the IEP to be in effect when the student begins eighth grade or turns 14, or younger if determined appropriate by the IEP team, the transition plan must be updated annually thereafter; the Transition Plan must include appropriate measurable postsecondary goals and the transition services (*including courses of study*) needed to assist the student in reaching those goals. Training and guidance for Special Education Case Managers on developing Transition Plans will be provided by GADCA leadership staff. The plan details the student's needs based on an age-appropriate assessments and the course of study (diploma type) the child plans to earn. This must be updated at least annually and is the road map to post-secondary outcome goals (what the student plans to do after high school). When students turn 18, all due process rights transfer to them. They must be informed of this Transfer of Rights at age 17. Transition requires support from multiple sources, including K12 courses and tools, so the student and his or her family can make choices, develop connections, and access services.

**Commented [CF(A3):** We are changing this to age 14 to be in alignment for the typical age of an 8th grade matriculating to 9th Grade.

## 20. Summary of Performance

For a student whose eligibility terminates due to graduation with a regular diploma or to exceeding the age requirements under IDEA, the LEA 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.

## 21. Transfer of Rights

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 been transferred to the student at age 18, the LEA must provide any IDEA required notices to both the student and the parent. All rights given to the parent transfer to the student.

(a) General. A state may provide that, when a child with a disability reaches the age of

majority under Georgia law that applies to all children (except for a child with a disability who has been determined to be incompetent under Georgia law)—

(1)(i) The public agency must provide any notice required by this part to both the child and the parents; and

(ii) All rights accorded to parents under Part B of the Act transfer to the child;

(2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, Georgia or local correctional institution; and

(3) Whenever a Georgia provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights.

(b) Special rule. A Georgia must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under Georgia law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program. (Authority: 20 U.S.C. 1415(m))

#### GADCA Procedure:

In the state of Georgia, when a student reaches 18 years old, he/she is an adult unless legal action is taken. On or before a student's 17th birthday, the district is to inform the parents and the student that, at

## 22. Functional Behavior Assessment/Behavior Intervention Plan

Many students with disabilities exhibit inappropriate behaviors that interfere with learning. Some behaviors can cause harm to the student or others. There are many reasons why a student might exhibit problem behaviors. All behaviors, even inappropriate ones, serve a purpose. Some behaviors are a part of their disability. Some are behaviors they cannot control. And other behaviors can be changed or replaced with more acceptable ones. Functional behavioral assessments and behavior intervention plans can be used by families and professionals to understand the reason for the behavior and to manage or change the behaviors.

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. 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.

The FBA should include:

- An observable and measurable definition of the target behavior;
- Measurement of the behavior; • Data collection and assessment; and
- A summary (hypothesis).

age 18, the student attains the age of majority in Georgia and will become his or her own educational decision maker. GADCA may also inform parents of other options or about where to get more information about guardianships, powers of attorney, and any other options. For example, it may be that for some students, a guardianship or a more limited form of transfer of rights would be necessary. Beginning at age 18, the school is to send all notices to both the parent and the student, but the student will provide informed written consent for any action requested by the district. When the student turns 18, he or she becomes the educational decision maker; but, while the student is eligible under the IDEA, the parents retain the rights to all notices of meetings, notices of changes in program or placement, and notices of evaluations.

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.

The BIP should include:

- Information from the FBA: This includes the target behavior, the data that was collected, and the best ideas about the purpose or function of the behavior;
- Positive strategies to avoid or prevent the behavior;
- New skills to replace the target behavior;
- Ways to teach the new behaviors;
- Consequences;
- Dates when the plan will be implemented;
- Names of people who will implement the plan;
- Materials, training and support for persons implementing the plan;
- Collecting and reviewing data; and
- Timelines for team meetings, reviewing the data and monitoring the plan.

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.

### Georgia Resources:

FBA/BIP Checklist: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-EducationServices/Documents/Sp%20Ldrshp%2014%20Handouts/Handout%201-16.pdf>

BIP Best Practices: <https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Special-EducationServices/Documents/Eligibility%20Areas/BIP%20Best%20Practice%20One-pager-FINAL.pdf>

GA Model BIP: [http://archives.gadoe.org/\\_documents/ci\\_exceptional/New%20Sp%20Ed%20Sample%20Forms/Behavioral\\_Intervention\\_Plan.pdf](http://archives.gadoe.org/_documents/ci_exceptional/New%20Sp%20Ed%20Sample%20Forms/Behavioral_Intervention_Plan.pdf)

### GADCA Best Practice:

**\*\*Prior to starting any FBA data collection parent permission must be obtained.**

\* Special Education Teacher/School now has 60 school days to gather information, analyze data, develop a behavior plan, and hold an IEP Meeting.

1. Is this a move-in student?

- a. If yes, Have Parent/Guardian and Special Education Teacher complete the Problem Behavior Questionnaire together
  - b. If no, Do we know the problem behavior?
    - i. If yes, Go on to Step #2
    - ii. If no, Have Parent/Guardian and Special Education Teacher complete the Problem Behavior Questionnaire together
2. Problem Behavior is Defined
  3. Parent/Guardian, General Education Teacher (at least one), Academic Advisor (at least one), and Special Education Teacher complete Behavior Observation Data
    - a. Parent/Guardian completes Behavior Observation Data form observing student at home (Special Education Teacher educates Parent/Guardian on completing forms as needed)
    - b. General Education Teacher completes Behavior Observation Data form "observing" student in their break out room
    - c. Special Education Teacher completes Behavior Observation Data form "observing" twice (minimum); in a break out room and (if possible) in a face to face setting
  4. Special Education Teacher completes Student Interview form with student
  5. Special Education Teacher completes FBA Summary Documentation Form

Analyze data to develop Behavior Intervention Plan and hold IEP case conference to review and finalize plan.

## 23. Reporting IEP Progress

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### Federal Guidelines:

- (i) How the child's progress toward meeting the annual goals will be measured; and
- (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided

### GADCA Procedure:

Special educators should understand and follow appropriate procedures to ensure the delivery of special education programs that confer meaningful educational benefit, which include:

- Conducting relevant assessments of students, which provide information to teachers on a student's unique academic and functional needs and how best to address those needs. Such assessments include criterion-referenced tests, curriculum-based measures (CBM), curriculum-based assessments, and direct observation data;

- Developing meaningful educational programs for students based on the assessment, which consists of special education and related services grounded in research-based practices;
- Generating measurable annual goals that will be used to monitor a student's academic and functional progress;
- Monitoring the student's progress by collecting data on his or her growth toward those goals, and make instructional changes when necessary;
- Individual IEP annual goals are developed that enable progress in the general curriculum and meet each of the child's other educational needs that result from the child's disability; and
- Evidence-based intervention must be provided to address IEP annual goals and objectives as appropriate.

## 24. Extended School Year Services (ESY)\*

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### Federal Guidelines:

Each LEA must ensure that extended school year services (ESY) beyond the normal school year of the LEA are available as necessary to provide FAPE. The LEA shall provide ESY services as required by the child's IEP, and all necessary transportation, at no cost to the parent. ESY services must be provided only if a child's IEP Team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. The LEA shall not limit ESY services to a particular disability category or unilaterally limit the type, amount or duration of those services. When determining if ESY services are needed as part of the child's FAPE, the team shall consider the individual needs of the child.

If the IEP Team determines that ESY shall be provided, it shall:

- Indicate which goals are being extended or modified to deliver FAPE; and,
- State the specific services needed, the amount of time for each service, the beginning and ending dates for the services and the service provider and location.

A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of:

- Appropriate positive behavioral interventions and supports and other strategies for the child; and
- Supplementary aids and services, accommodations, program modifications, and support for school personnel.

### GADCA Procedure:

In general, extended school year (ESY) refers to special education and/or related services provided beyond the normal school year of a public agency for the purpose of providing FAPE to a student with a disability. These services are distinct from enrichment programs, summer school programs, and compensatory services and are not simply an extension of time. ESY services are not so much a regression and recoupment issue as they are an issue of FAPE. Unrecouped regression, over time, may be evidence that FAPE is not being provided. In other words, it is not the case that a student is entitled to ESY services, but that the student will not receive FAPE if ESY services are not provided. These services, at no cost to the parent, will vary in type, intensity, location, inclusion of related services, and length of time, depending on the individual needs of the student.

ESY services are only necessary to FAPE when the benefits a disabled child gains during the regular school year will be significantly jeopardized if the child is not provided with an educational program during breaks in instruction. ESY services are intended to address critical life skills. ESY is not about gaining new skills or making progress above what is gained during the regular school year. ESY is NOT the same as compensatory.

The consideration of ESY services is a part of the individualized education program (IEP) process. The IEP, in accordance with the Regulations Governing Special Education Programs for Children with Disabilities in Georgia, must have a statement of the projected dates for initiation of services and the anticipated duration of the services. The IEP must address the provision of ESY services, if required, in order for the student to receive FAPE. Frequency and duration of services do not have to be at same level as during the school year.

ESY is not a separate planning process since it is part of the IEP process. Thus, an IEP meeting must be held to consider if a student needs ESY services and must be conducted like any other IEP meeting with appropriate prior notice. If seen as separate, it may lead to the segmentation of services for the student and further lead to situations where these services are considered or open to discussion for some students, but not for all. Therefore, a separate IEP should not be developed for ESY services; the current or an amended IEP should be used. Goals must be identified to be worked on during ESY. These will not be new goals rather goals carried over from current regular school year IEP.

#### ***What Extended School Year Services Are Not***

Because ESY services are uniquely designed to provide FAPE to students with disabilities, it is necessary to emphasize that these services are:

- Not based on the category of student's disability - services must be based on the student's unique educational needs;
- Not mandated twelve-month services for all students with disabilities;
- Not a child care service;
- Not necessarily a continuation of the total IEP provided to a student with a disability during the regular school year;
- Not required to be provided all day, every day, or each day;
- Not an automatic program provision from year to year;
- Not summer school per se, compensatory services, or enrichment programs;
- Not required to be provided in a traditional classroom setting; and
- Not a service to be provided to maximize each student's potential

#### ***Determining the Need for Extended School Year Services***

The determination of need for ESY services must occur within the context of the IEP team meeting. The IEP team should consider the need for these services at least annually, but must consider the need at other times, if so requested. The request to consider ESY services may be initiated by the parent, the student, the student's teacher(s), related service providers, or administrators. It is important that the decision regarding whether ESY services are provided not be delayed. The IEP Team should make the decision early enough to ensure that parents can meaningfully exercise their due process rights if they wish to challenge an ESY decision. The IEP Team must remember that it is not acceptable to pre-limit ESY services to a set number of days or hours of service nor restrict the provision of ESY services for administrative convenience. Likewise, ESY services may not be limited by the financial resources of the school system. Students who will not receive FAPE without ESY services are entitled to these services.

Therefore, it is not appropriate for a district to limit ESY services to predetermined disability categories, nor to categorically exclude certain students with disabilities.

If a teacher suspects that a child may be eligible for ESY services, all supporting documentation must be sent to the Academic Administrator of Special Programs for review prior to the ESY meeting being held.

## 25. Exit From Special Education/Parent Revocation\*

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### Georgia Guidelines:

If a child is being considered to be potentially no longer eligible for special education services, the school system must first comprehensively evaluate the child. This does not apply to a child whose eligibility is ending due to graduation from high school with a regular education diploma or for a child who has exceeded the age of eligibility (22nd birthday) for a free and appropriate public education (FAPE).

Amendments to the Individuals with Disabilities Education Act (IDEA) effective December 31, 2008 give parents or students over the age of 18 the right to remove their child/themselves from special education and related services, even when the school system disagrees and believes that the student still requires special education and related services.

The revoking of consent is the revocation of all special education and related services and is not partial revocation. When a parent/student revokes consent, they are removing consent to provide any and all special education and related services to the child. The parent/student who disagrees with one recommended service for the IEP should not revoke consent but should request an IEP meeting to negotiate the provision of a free and appropriate public education. Parents who continue to disagree with IEP services may also use dispute resolution to work out the issues.

When parents/adult students inform a school system that they want to withdraw their child/self from special education, the following procedures and issues should be considered:

1. The parents/adult students must state the intent to withdraw from special education and related services in writing. The school system should assist the parent/adult student to put the intent in writing if the assistance is needed. The Georgia Department of Education (GaDOE) has created a sample form that may be used. Please note the form is not required, but it is required that the parent/adult student put their withdrawal of consent in writing.
2. Once the written notice of revocation is received, the school system must develop and provide to the parent and the adult student (when applicable) prior written notice that informs the parent:
  - a. The action that will be taken, including, in this case, taking away the services of the IEP and rights and protections of the IDEA
  - b. An explanation of why the system does not agree with the action
  - c. A description of any other options that may be considered
  - d. A description of each evaluation, test record, data, or report the system has as a basis for disagreeing with the action
  - e. A description of any other relevant factors or considerations
  - f. Who the parent can contact for more information
  - g. Where to find a copy of the parent rights

h. When the action will be implemented (date the student will be removed from special education and related services)

3. The purpose of the prior written notice is to give parents/adult students a clear understanding of what they are giving up, what other options may be available and from whom they may seek more information. Students may not be removed from special education until the prior written notice has been provided to the parent. A student may be removed from special education and related services once the parent has received prior written notice.

4. If the parents/adult students and the school system agree to convene an IEP meeting prior to removing the student, this may be set up, but a school system may not delay removing a student from special education and related services due to the scheduling of an IEP meeting without parental agreement. If the parent/student does not want to participate in an IEP meeting, then the process for removing the student from special education and related services should move forward.

5. Consent to provide special education and related services is the consent for any and all services. It is a general consent only required the first time a student is determined to be eligible for special education and related services. The IEP is the annual negotiation of what special education and related services are required to provide the student a free and appropriate public education.

6. A school system may not use the dispute resolution procedures such as complaint, due process hearing or mediation to combat, disagree with or refute the revocation of consent.

7. If, after being removed from special education and related services, the parent or adult student requests consideration to be returned to special education services, the referral is treated and considered an initial referral. This will give the school system up to 60 days to evaluate and consider eligibility for special education and related services. Although the system has 60 calendar days, the system should keep in mind that it may be in the best interest of the student to expedite the evaluation and eligibility consideration.

8. A student who reaches the age of majority may not hold the school system responsible for lack of the provision of FAPE if the parent previously revoked consent for placement. A student who has reached the age of majority may revoke consent for placement. In this instance, prior written notice should be provided to both the child and the parent.

9. If consent is revoked, the school system is not deemed to have "knowledge of disability" in the matter of discipline; therefore protections in regard to out of school suspension and manifestation do not apply. The rules and timelines applying to general education students will apply once consent is revoked.

10. The school system is not required to amend the child's educational record to remove any references to the child's receipt of special education and related services because of the revocation of consent.

11. When a parent/student revokes consent for special education and related services, the student should be reported with the withdrawal code of 10 in the Final Student Record Submission. The date of Event Code 10 indicates the date at which the student no longer receives special education services.

### GADCA Procedure:

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

- graduates with a regular diploma, or
- exceeds the age of eligibility for FAPE (age 22) before the start of the school year.

GADCA must, however, provide the student with a summary of academic and functional performance that includes recommendations for meeting postsecondary goals when the student is graduating with a regular diploma or aging out of school. Best practice would also include providing the summary of performance for the student who receives a special education diploma or other exit document.

Parents who request that their child be taken out of special education must provide the request in writing and will be provided a summary of their student's current academic and functional performance.

## 26. Signature Collection\*

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

## 27. Related Services

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### Federal Guidelines:

§300.34 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) of this section—

(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 in §300.113(b).

#### GADCA Procedure:

For detailed procedures, refer to GADCA's Related Services Manual.

## 28. Transportation

If transportation is required for a student to receive services as outlined on their IEP, GADCA will work with the family to ensure that appropriate transportation is provided. Transportation arrangements will vary depending on the service location and transportation options in that area of Georgia. Arrangements may include bus tokens, taxi credits, contracts with local transportation providers, or reimbursement to the parent directly based on the federal mileage rate.

Reimbursement for mileage will be approved by the Academic Administrator of Special Programs or designee. Proper documentation must be submitted (\*) for reimbursement to be made.

## 29. Assistive Technology

Assistive Technology (AT) Devices are items, pieces of equipment or products which are used to increase, maintain or improve the functional capabilities of students with disabilities. AT devices can be standard "off the shelf" items or modified or customized to meet the individual needs of the student. Many AT devices are

"no tech" or "low tech" and require little accommodation and minimal expense. Some examples of "no or low tech" devices include magnifiers, raised line paper, pencil grips, an adapted cup with large handles, or colored reading filters. These easy to obtain items can help students with visual and physical difficulties be more independent in their schoolwork. There are also many other low-tech options that can help students who have other disabilities. AT devices can also be very high-tech. High tech items can be things such as electronic communication aids, screen reading software, or mobility devices. Whatever the technology (no, low or high tech) The need for AT devices should be documented in a student's Individual Education Program (IEP).

Assistive Technology (AT) Services are the services that need to be provided so that a child with a disability is able to use an AT Device. Services can include an evaluation to see if AT is needed, acquiring the device, adapting it to the individual needs of the student, coordinating the use of the device and providing necessary training to the student, family and professionals.

### GADCA Procedure:

Assistive technology (AT) is a component of the educational programs of students with disabilities.

Assistive Technology Devices are any items, equipment, products, or system, whether acquired commercially, teacher-made, modified, or customized, that are used to increase, maintain, or improve the functional capabilities of children with disabilities. For example, some students' ability to learn, compete, work and interact with others may improve with the use of the following:

- adapted toys,
- switches,
- computers,
- amplification systems,
- wheelchairs,
- memory aids,
- magnifiers,
- augmentative communication devices, and
- other adapted devices.

Assistive Technology Services are services needed to support effective use of AT devices. AT services may include:

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

GADCA will provide assistive technology and or adapted materials as needed to provide each child FAPE.

## 30. Accessible Instructional Materials

Accessible Instructional Materials (AIMs)/Accessible Educational Materials (AEMs) are specialized formats of textbooks, workbooks, etc. that students use in the classroom to learn. These formats do not change the content of the original printed material; instead, they allow the student to access the information another way that works better for those with visual impairments, blindness, or other print disabilities. They are considered accommodations for students with print disabilities, allowing them to hear the text read aloud (audio recording) or see and hear the text read with highlighting of the text on the computer (electronic text version). These alternate formats may require Assistive Technology to be used by the student.

AIMs/AEMs are different from Alternate Formats. Alternate Formats are created for students who would not understand the information as it is presented in the general curriculum. Alternate format materials

change the expectations of the student and are considered modifications, usually lowering the instructional level or amount of information a student will learn.

IDEA states that State Educational Agencies (Georgia Department of Education) or Local Educational Agencies (local school districts) must provide accessible instructional materials to blind persons or other persons with print disabilities in a timely manner. (Part B, Sec. 612(a)(23)(B) and Sec. 613(a)(6)(B)).

Section 504 of The Rehabilitation Act of 1973 says that agencies that receive federal funding must provide “auxiliary aids to qualified students who have disabilities”, and the Office of Civil Rights, United States Department of Education, has determined that Section 504 at 34 C.F.R. 35.160 (Communication)...in this context to mean the transfer of information, including (but not limited to) the verbal presentation of a lecturer, the printed text of a book, and the resources of the Internet.

The Chaffee Amendment is a 1996 Amendment to the copyright law (17 U.S.C. 121 [1]). This law enables nonprofit organizations or governmental agencies (including schools) to provide alternative accessible copies of previously published nondramatic literary works in specialized formats exclusively for use by blind or other persons with disabilities. Amended again in 2004 by IDEA to include large print textbooks. The school must own the book in order to have a specialized format of the book.

#### **Who is eligible for Accessible Instructional Materials?**

Individuals who experience:

- Blindness or visual impairment
- Physical disability
- Organic brain dysfunction (*These individuals must be certified by a “competent authority” such as a doctor of medicine or osteopathy in the case of organic brain dysfunction. The certification is kept with the student’s records. AIMS/AEMs cannot be requested without this certification.*) **What formats are available in Georgia?**

- Braille
- Large Print
- Audio (from [Learning Ally](#) – formerly R, F, B, & D)
- Electronic Text formats – PDF and DAISY

#### **GADCA Procedure:**

GADCA will provide print instructional materials in an accessible format to students who are blind or other print disabled. These materials must be provided in a timely manner, usually about the same time as the traditional materials are received by other students, unless unusual circumstances exist.

Accessible formats include Braille, audio, or digital text, but do not include the altering of the content. It is the special education teacher’s responsibility to notify the Academic Administrator of Special Programs or designee of any special instructional materials needed by students on their caseload as soon as possible to allow sufficient time for such materials to be delivered to the student.

A request for accessible K12 materials or support in obtaining accessible materials can be made by contacting the Stride National Special Programs Team.

## 31. Manifestation Determination

Local educational agency (LEA) personnel must follow specific procedures when they discipline children with disabilities. Removals of children by LEA 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).

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the LEA's failure to implement the IEP.

The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that either of the aforementioned conditions were met.

If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described was met, the LEA must take immediate steps to remedy those deficiencies.

Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must either:

- Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
- If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

Except as provided in the *special circumstances* identified below, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

- Special circumstances: school personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:
  - Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the state or LEA;

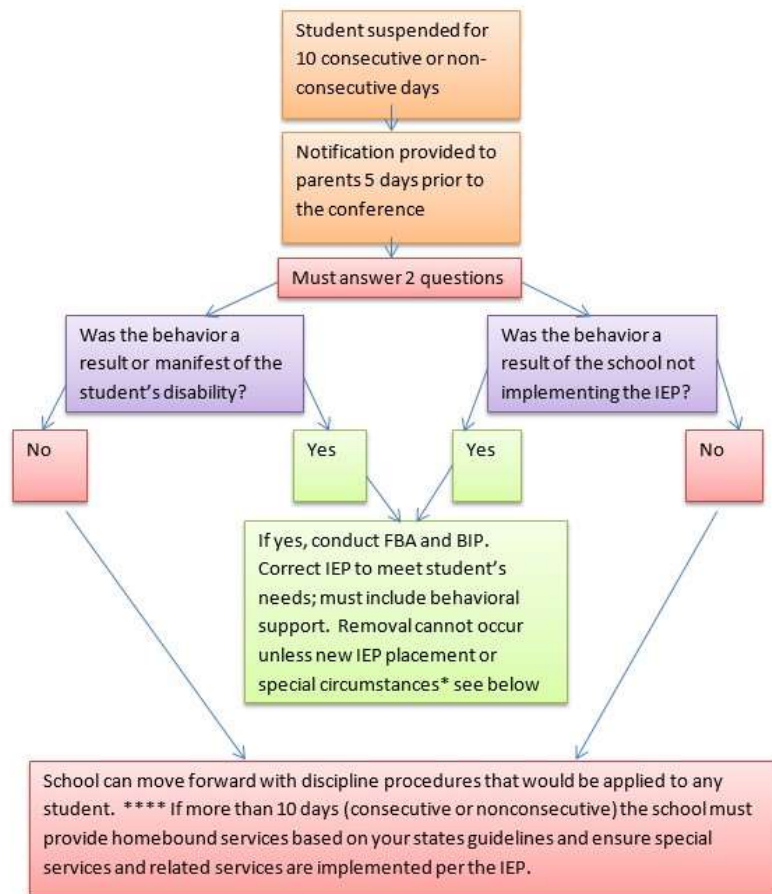
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the state or LEA; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or LEA.

On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in §300.504.

For purposes of this section, the following definitions apply:

- Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
  - Serious bodily injury has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code. (Authority: 20 U.S.C. 1415(k)(1) and (7))

## GADCA Procedure:



**\*Special Circumstances:** If the alleged behavior involved weapons, drugs, or serious bodily injury—the child may be removed from their current placement for up to 45 days to an alternate placement.

\*\*This information is based on federal guidelines. Please refer to Georgia specific guidelines for variations.

#### **When should you conduct a Manifestation Determination Review?**

Under §300.530(e), a manifestation determination must occur within 10 days of any decision to change the child's placement because of a violation of a code of student conduct.

This includes consecutive and nonconsecutive removal from the general education setting (e.g. out of school suspension).

### **When should a FBA be conducted?**

If a current FBA is available, it should be reviewed in regards to the behavior exhibited and in creating a new BIP to support the student. If no FBA has been conducted permission to conduct an FBA should be obtained asap.

### **Who should be invited? And Notification?**

The IEP team required by your Georgia should be in attendance for a Manifestation Determination Review. In other words, the same individuals that attend an annual IEP meeting should also attend a Manifestation meeting. In most cases students are not in attendance.

Parents/Guardians should be notified 5 days prior to the conference. These timelines can be shorter if the parents/guardians request an earlier date. If this occurs this should be thoroughly documented within the conference notes.

### **What is discussed?**

The IEP team must answer 2 questions regarding the behaviors exhibited that resulted in the 10-day removal (consecutive or nonconsecutive):

1. **Was** a manifestation of the child's disability, *or*
2. Was the behavior direct result of the LEA's failure to implement the child's IEP.

### **How do determine the answer to the two questions?**

IDEA states that the LEA, the parent, and relevant members of the child's IEP team must review "all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents" as part of conducting a manifestation determination [§300.530(e)(1)]. This list is not exhaustive, per the Department. It may include other relevant information in the child's file, including placement appropriateness, supplementary aids and services, and if the behavior intervention strategies were appropriate and consistent with the IEP. (71 Fed. Reg. 46719)

### **What if the answer is YES for failing to implement the IEP?**

The LEA has an affirmative obligation to take immediate steps to ensure that all services set forth in the child's IEP are provided, consistent with the child's needs as identified in the IEP. (71 Fed. Reg. 46721)

The student would be returned to the placement from which he or she was removed as part of the disciplinary action. However, the parent and LEA can agree to a change of placement as part of the modification of the behavioral intervention plan. [§300.530(f)(2)] **What if the answer is YES for being directly related to the disability?**

The IEP team must consider:

- Functional behavioral assessment (FBA)—Has the child had one? Does one need to be conducted?
- Behavioral intervention plan (BIP)—Does the child have one? If so, does it need to be reviewed and revised? Or if the child does not have one, does one need to be written? [§300.530(f)]
- The IEP team must also address a child's misbehavior via the IEP process as well. As the Department explains:

The student should return to the placement from which he or she was removed with the implementation of the behavioral strategies identified in a child's IEP, including strategies designed to correct behavior by imposing disciplinary consequences, is appropriate... even if the behavior is a manifestation of the child's disability. (71 Fed. Reg. 46720-21)

However, the parents and school can agree to change the child's placement as part of the modification of the BIP.

#### **What if the IEP Team answered NO to both questions?**

The school has the authority to implement the same discipline and duration to the student as their nondisabled peers.

**HOWEVER**, if a student is suspended for more than 10 school days for each day past the 10<sup>th</sup> day the student must receive their special education and related services the school is required to provide per the student's IEP. Additionally, homebound services should be implemented per individual Georgia guidelines.

#### **What if the school held a Manifest at 10 days, then upon returning to school the behavior or another behavior is exhibited by the same student?**

Upon creating a BIP the behavior and the consequence for the behavior should be clearly outlined within the plan. If school removal is part of the behavior plan it should NOT be counted as an out of school suspension.

If a new behavior is exhibited that requires an out of school suspension a new manifestation determination meeting should be held. The same process should be followed above.

## 32. Dispute Resolution

A resolution in a dispute with a local educational agency (LEA)<sup>1</sup> 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 the LEA. The special education director can often assist a family in working out the differences with minimal time and conflict. Parents or LEA 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.

#### **§300.152 Minimum Georgia complaint procedures.**

(a) Time limit; minimum procedures. Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under §300.153 to—

- (1) Carry out an independent on-site investigation if the SEA determines that an investigation is necessary;
- (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum—

- (i) At the discretion of the public agency, a proposal to resolve the complaint; and
  - (ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with §300.506;
- (4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and
- (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—

(i) Findings of fact and conclusions; and

(ii) The reasons for the SEA's final decision.

(b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of this section also must—

(1) Permit an extension of the time limit under paragraph (a) of this section only if—

- (i) Exceptional circumstances exist with respect to a particular complaint; or
- (ii) The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under Georgia procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute resolution, if available in Georgia; and

(2) Include procedures for effective implementation of the SEA's final decision, if needed, including—

- (i) Technical assistance activities;
- (ii) Negotiations; and
- (iii) Corrective actions to achieve compliance.

(c) Complaints filed under this section and due process hearings under

§300.507 and §§300.530 through 300.532. (1) If a written complaint is received that is also the subject of a due process hearing under §300.507 or §§300.530 through 300.532 or contains multiple issues of which one or more are part of that hearing, the Georgia must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.

(2) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties—

- (i) The due process hearing decision is binding on that issue; and
- (ii) The SEA must inform the complainant to that effect.

(3) A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA.

Approved by the Office of Management and Budget under control numbers 1820–0030 and 1820–0600)

(Authority: 20 U.S.C. 1221e–3)

**§300.153 Filing a complaint.**

(a) An organization or individual may file a signed written complaint under the procedures described in §§300.151 through 300.152.

(b) The complaint must include—

(1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;

(2) The facts on which the statement is based;

(3) The signature and contact information for the complainant; and

(4) If alleging violations with respect to a specific child—

(i) The name and address of the residence of the child;

(ii) The name of the school the child is attending;

(iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless

Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;

(iv) A description of the nature of the problem of the child, including facts relating to the problem; and

(v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §300.151.

(d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA. (Approved by the Office of Management and Budget under control numbers 1820–0030

and 1820–0600)

(Authority: 20 U.S.C. 1221e–3)

## Georgia Guidelines:

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;
- 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 LEA or public agency serving the child at the same time the party files the complaint with the GaDOE.

Formal complaints are filed in writing and sent to the LEA 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.

In addition to the LEA 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.

Upon receipt of the first written complaint, the LEA will provide a copy of procedural safeguards to the parent of a child with a disability.

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.

The LEA 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 LEA 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.

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 LEA. 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.

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.

Complaints that a LEA has failed to meet the requirements regarding children who are parentally-placed in private schools must be filed under the complaint procedures outlined above.

GA statute: [http://archives.doe.k12.ga.us/DMGetDocument.aspx/160-4-7-.12\\_Dispute\\_Resolution\\_3-3110.pdf?p=6CC6799F8C1371F683DB7194AC8721B1C10F1B1B75F96FD2DEC2E6EC6A5B4551&Type=D](http://archives.doe.k12.ga.us/DMGetDocument.aspx/160-4-7-.12_Dispute_Resolution_3-3110.pdf?p=6CC6799F8C1371F683DB7194AC8721B1C10F1B1B75F96FD2DEC2E6EC6A5B4551&Type=D)

### GADCA Procedure:

Disputes that are resolved at the local level may preserve and even strengthen the relationship between the school and the parent. While the parent always has the right to request Mediation or a Due Process Hearing and should always be informed of this right, many times issues can be resolved at a less intense level as system personnel and parents seek mutual understanding and agreement. The following four (4) step process may be used to resolve problems before they grow to the level requiring Mediation or a Due Process Hearing:

**Step One:** Contact the assigned Special Education Teacher or Academic Administrator of Special Programs via email and/or by phone.

**Step Two:** Hold an IEP team meeting to discuss concerns of the IEP team members.

**Step Three:** If 'Step Two' is unsuccessful, contact the GADCA Head of School via email and/or by phone.

**Step Four:** If 'Step Three' is unsuccessful, contact the Stride Special Programs Manager via email and/or phone.

**Step Five:** If 'Step Four' does not resolve the matter, contact the Office of Legal Services, GEORGIA NAME Department of Education, Division of Special Education. Phone (XXX)XXX-XXXX. FAX (XXX)XXXXXXX.

Although the goal should always be to resolve disputes at the local level, sometimes situations require the assistance of persons not directly involved with the issues at hand. School administration should contact K12 legal to apprise them of any possible or pending Mediations or Due Process Hearings.

### 33. Stay Put

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During the pendency of any administrative or judicial proceeding, including mediation (if the school district or other public entity voluntarily agrees to participate in mediation), unless the school district and the parents or student (if at least 18 years of age or emancipated) otherwise agree, the student shall remain in his or her present educational placement and continue in his or her present eligibility status and special education and related services, if any. If mediation fails to resolve the dispute between the parties, the parent (or student if 18 years of age or older or emancipated) shall have 10 days after the mediation concludes to file a request for a due process hearing in order to continue to invoke the “stay-put” provisions of this subsection. The costs for any special education and related services or placement incurred following 60 school days after the initial request for evaluation shall be borne by the school district if the services or placement is in accordance with the final determination as to the special education and related services or placement that must be provided to the child, if during that 60-day period there have been no delays caused by the child’s parent.

#### Georgia Guidelines:

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 LEA agree to an alternate placement. This is commonly referred to as “stay put.” “Stay-put” does not apply when the parent is appealing a decision to place the child in an interim alternative setting because of discipline.