

General Supervision and IDEA Implementation Training: Part II January 23-24, 2019



Federal Programs

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General Supervision Requirements



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States must implement and maintain a general supervision system in order to:

1. Improve educational results and functional outcomes for all children with disabilities; and
2. Ensure that the requirements of IDEA are met.

Division for Special Education Services and Supports

2018-2019 Priorities

- Eligibility Determination Process
- IEP Development and Implementation
- Parent Procedural Safeguards

Meet Parent X



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Parent X would like to know how a child gets an IEP! Can you help Parent X?

nt of Education

Start

**Child Find -
Identify, locate,
and evaluate a
student suspected
of needing special
education**

**Parental Consent –
Obtain parental
consent before
the evaluation
/Give procedural
safeguards**

**Interventions – If
appropriate,
conduct during
the evaluation**

**Evaluation –
Conduct a full
evaluation**

**Evaluation Report
– Complete the
evaluation report
within 60 days**

**IEP- Develop IEP
within 30 days and
implement as
soon as possible**

**Parental Invite –
Notify parent of
the meeting early
enough to
participate**

**Parent Consent –
If eligible, obtain
consent for special
education and
related services**

**Eligibility
Meeting/Report –
Within 10 days,
conduct an
eligibility meeting
to determine
eligibility**



Someone told me that a district can do an emergency IEP for my child. Is this true?



Can a child
not yet
identified as
having a
disability
receive
protection?





What if I don't
give parental
consent for the
evaluation?

Someone told me that the district will not accept my consent if my child didn't have interventions. Is this correct?



Someone told me that the district will not accept my consent if my child has excessive absences. Is this correct?



Is there a
minimum
number of
interventions?



Can my child
be determined
not eligible
without the
intervention
data?



I heard that
my child
must have a
passed
hearing and
vision-first!
Is this
correct?



Can the LEA proceed
with eligibility without
receiving a passed
hearing and vision
report?





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If problems with the child's hearing or vision need medical diagnosis or require the purchase of hearing aids or eyeglasses and the parents are unable to accomplish this, then the LEA must make sure that these devices and services are made available to the child. Under IDEA Evaluation Procedures, if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results should 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).

Last year, I thought I asked for an evaluation but received a screening. Was that procedure-right? The district said they screen young children first because they don't have enough psychologists.



When
should I
expect the
evaluation
to be
completed?



Will child
find end
with the
evaluation?



What if I don't give parental consent for the special education services and related services?



Are you required
to develop the
IEP so I can
determine if I
want to give
consent for
services?



On another note, my child is enrolled in a private school. What happens if I choose not to receive FAPE?



Can you offer
me a service
plan without
developing an
IEP?



If I choose the service plan, is this the same thing as parent revocation?



If I accept
the Special
Needs
Scholarship,
is this
similar to
parent
revocation?



Will my
child
remain a
child with a
disability
forever?



How often
will the
district
address
reevaluation?





Will I have the opportunity to give parental consent for the reevaluation?

Will the district
continue to
reevaluate my
child if I revoke
consent?



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Can you
continue to
provide
services after
receiving
revocation?



What happens
if I change my
mind after
parent
revocation?



If I revoke, will
you remove all
references to
special
education in
the record?



At what point
is my child
considered a
child with a
disability?



Will the district offer a reevaluation for my parentally placed private school student?



I read my district's flexibility waiver. Can a district waive class size in the sped rule?



Is the
flexibility
extended
to FAPE, as
well?



What is caseload, and how is this different than case management?



Can the case manager attend the IEPs in lieu of the special education teachers?



If an IEP Team for a student who is already in special education wants an evaluation for a related service such as Occupational Therapy (OT)/Physical Therapy (PT) or Assistive Technology (AT), how would they proceed?



Free Appropriate Public Education (FAPE)

(34 C.F.R. §§ 300.101-300.113;
GEORGIA RULE 160-4-7-.02)

IDEA Definition of FAPE

§300.17 Free appropriate public education.

- *Free appropriate public education* or *FAPE* means special education and related services that—
 - (a) Are provided at public expense, under public supervision and direction, and without charge;
 - (b) Meet the standards of the SEA, including the requirements of this part;
 - (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
 - (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.

Andrew F. Standard for FAPE



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- **For all children**, including those performing at grade level and those unable to perform at grade level, a school must offer an IEP that is “**reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.**”
- **For all children**, the educational program must be **appropriately ambitious** in light of their circumstances and every child should have the chance to meet **challenging objectives.**

Andrew F. Standard for FAPE



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- LEAs should be able to provide “a **cogent and responsive explanation** for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of [the child’s] circumstances.”

FAPE

- A free appropriate public education (FAPE) must be available to all children residing in the State **between the ages of 3 and 21, inclusive**, including children with disabilities who have been suspended or expelled from school.
 - FAPE is available until the child graduates with a regular high school diploma or reaches age 22, whichever comes first.
 - 21 years, 1 day is still 21 years old.



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FAPE (Ga. Bd. of Educ. R. 160-4-7-.02)

- If a student is receiving services **upon reaching age 22**, the LEA shall have a written procedure that identifies a process for completing services to which the adult student has been previously entitled.
- LEAs shall state in writing that the goal is to secure the successful transition of students to their desired post-school outcomes and will collaborate to complete that transition **by age 22**.

FAPE (Ga. Bd. of Educ. R. 160-4-7-.02)

- If a student is still attending school at age **22**, the LEA shall state whether **services will cease on the student's 22nd birthday**, or will continue until the end of the semester or until the end of the current school year.
- If an adult student remains **after their 22nd birthday**, the LEA shall notify the adult student and the parent(s) that although services will continue, no individual entitlement to FAPE or other rights under IDEA are afforded the adult student.



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FAPE for Incarcerated Students

- **Who is responsible for providing a FAPE to eligible students in an adult correctional facility?**
 - If it is a Georgia Department of Corrections (GDC) facility, then the GDC must provide IEP services.
- **Who is responsible for providing a FAPE to eligible students in a local jail?**
 - The **LEA where the local jail is located** is responsible for the provision of a FAPE. LEAs should develop procedures to ensure two-way communication and collaboration is established with their local jail so that the LEA will be notified when a student with a disability is incarcerated in the local jail.

FAPE for Incarcerated Students



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- **How can a LEA ensure FAPE if a student is in a local jail or Sherriff's Detention Center, and the center will not allow the LEA to provide services?**
 - A student with a current IEP who is in the local jail, such as those managed by city or county agencies (i.e., the sheriff's office), are also entitled to a FAPE.
 - In these circumstances, the **LEA where the jail is located** is responsible for providing educational services.
 - The LEA will need to work closely with the local jail in order to gain access to the student and to deliver services. The LEA should document all correspondence with the local jail, especially if the local jail will not permit the LEA to provide a FAPE to the child with a disability.
- **Suggestion:** Develop interagency agreements between LEA and local jail to ensure the needs of students with disabilities are met.

FAPE for Incarcerated Students



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- Georgia Department of Juvenile Justice (DJJ) is an LEA; students incarcerated as juveniles should be withdrawn from your LEA and enrolled in DJJ.
- Students incarcerated in local jails **in your LEA's jurisdiction** should remain enrolled in your LEA and receive services.
 - An IEP Team should convene and determine appropriate services.
 - The student may be counted as present as long as services are being offered.
 - LEAs use an attendance code reserved for students not physically present in the school building

FAPE for Incarcerated Students



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Students incarcerated in local jails in a neighboring LEA

- *May* continue to be enrolled in your LEA and receive services
 - Convene an IEP Team meeting and determine appropriate services
- *May* withdraw from your LEA and enroll in the LEA where the jail is located
 - The LEA where the jail is located provides services
 - The 'home' LEA should work with the neighboring LEA and attend the IEP Team meeting to determine appropriate services
 - The student may be counted present in the new LEA using the attendance code reserved for students not physically present in the school building
- **This is a local decision. The 2 LEAs should collaborate to do what is best for the child.**



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Nonacademic and Extracurricular Activities

- LEAs must consider supplementary aids and services determined appropriate and necessary by the child's IEP Team to provide children with disabilities the **equal opportunity to participate** in nonacademic and extracurricular activities.
- An IEP may define the supports or services a child needs to participate in desired nonacademic and extracurricular activities **but does not change the nonacademic and extracurricular eligibility requirements.**

Charter Schools

- Children who attend public charter schools and their parents retain all the rights given to them under the IDEA, including FAPE.
- **Locally approved charter schools** operate according to the terms of a charter or contract that has been approved by a local board of education
- **LEA charter schools** operate according to the terms of a charter or contract that has been approved by the State Charter Schools Commission.

Charter Schools

- The ultimate responsibility to provide FAPE to children attending **locally approved charter schools** resides with the LEA that approved the charter or contract.
- For **LEA charter schools**, they are their own LEA and each individual LEA charter school has the responsibility to provide FAPE to children attending the LEA charter school.

**Implementation Discussion
for the Future:**
Should provision of FAPE
end when the student turns
21?



Questions



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INDIVIDUALIZED EDUCATION PROGRAM (IEP)

**(34 C.F.R § 300.320-300.328,
GEORGIA RULE 160.4-7-.06)**

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Do what is
RIGHT,

Not what is
EASY.

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Before the IEP Team Meeting

- OSEP does not encourage draft IEPs.
- Items to consider if the LEA chooses to draft portions of the IEPs for parents:
 - Provide a copy to the parents
 - Avoid predetermination of program, services or placement
 - Ensure the parents understand it is a draft and not final

IEP Team Members: Regular Education Teacher



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- **Regular Education Teacher**
 - Not less than **one of the child's** regular education teachers, **if the child is or may be participating in the regular education environment** (for preschool children, this representative is someone who is currently providing preschool services to nondisabled preschool children)
- Should there ever be a time when the regular education environment is not considered?
 - LRE and educational benefits must be considered
 - Possibility of participating

IEP Team Members: Regular Education Teacher



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Who should be the regular education teacher for the following?

- State Schools
- GNETS
- Preschool child

Can an instructional coach or someone on the administrative team be the regular education teacher on the IEP Team?

Do they have the qualifications?

Do they currently teach the general education curriculum?

Do they currently teach the child?

IEP Team Members: Regular Education Teacher

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

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

IEP Team Members: Special Education Teacher

- 34 C.F.R. § 300.321 (a)(3) Not less than one special education teacher **of the child**, or where appropriate, not less than one special education provider **of the child**;
- Should be the special education teacher who is or will be responsible for implementing the IEP
- Special education teacher and regular education teacher should **NOT** be the same individual.

IEP Team Members



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

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



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IEP Team Members: Parent Participation

- 34 C.F.R. § 300.322(d) A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as-
 - Provide an **adult** interpreter if necessary
 - Parents have meaningful input
 - **No** majority vote for IEP Team meetings
 - Consensus
 - If no consensus from the team
 - LEA determines appropriate services
 - Provide parents with prior written notice of the offer and of the parents' right to seek resolution of any disagreements by initiating a due process hearing

IEP Team Members: Parent Participation

What if the parent refuses to sign the IEP?

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

IEP Team Members



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Do IEP Team members vote on IEP decisions?

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

Reporting Progress on IEP Goals



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- Transition Goals
 - Postsecondary
 - Annual
- Letter to Pugh – January 18, 2017
 - IDEA limits the periodic progress reporting requirement in 34 CFR §300.320(a)(3) to the student's progress on the annual IEP goals.
 - However, a relationship exists between academic and functional goals of a transitioned-aged student and the student's postsecondary goals making it necessary to report progress in meeting postsecondary goals.

“OSEP believes that periodic progress reporting for transition-aged students would need to address the child's progress in meeting postsecondary goals.”

Letter to Pugh, OSEP, January 18, 2017

Summary of Performance



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- 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.
- It must be completed during the final year of a student's high school education.

Summary of Performance



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- When developing the SOP, the student should actively participate. Other IEP Team members, family members or other community agencies involved in this student's transition planning process should also provide input.
- The SOP becomes the student's resume as he or she transitions to postsecondary settings.
- The purpose of the SOP is to provide strategies for successful transition with needed supports.

Short-term Objectives

- Short-term objectives are not required for all children.
 - Only those children who participate in the Georgia Alternate Assessment (GAA) are required to have short-term objectives.
 - LEAs can recommend short-term objectives for all children.
- At times, a parent or Team member may request short-term objectives for a particular area of the IEP even though they may not be required, **this is an IEP Team decision.**

Student Supports *for District Personnel*



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- Supports for school personnel should be included when training or other supports are being provided **to school staff** regarding a specific child's need.
- Examples may include: training on an assistive technology device, a workshop on a content area or disability area, crisis prevention training, etc.

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Assessment Decisions

IMPORTANT REMINDER

- Decisions regarding the individual appropriate accommodations to measure the academic achievement and functional performance of a child on State and districtwide assessments AND
- If the IEP Team determines that a child must take an alternate assessment are **ANNUAL decisions**.
See 34 C.F.R. § 300.320(a)(6).

Extended School Year

- The IEP Team shall consider each child's need for ESY services **annually**. The individual needs of the child shall be considered and may include such factors as:
 - the severity of the disability;
 - the age of the child;
 - any transitional needs;
 - the rate of progress or regression that may limit the child's ability to achieve IEP goals/objectives;
 - the relative importance of IEP goals at issue;
 - whether the child is at a critical point of instruction, such as emerging skills; and
 - whether any delays or interruptions in services occurred during the school year

Extended School Year

- If the need for ESY is determined, the IEP Team must identify which goals in the current IEP are being extended or modified.
- ESY is not the same thing as summer school; however, ESY services may be provided during the school year as well as during the summer.
- Any services provided as ESY must meet the requirements of FAPE. A LEA must not state that ESY is only for certain groups of students.

Summer School

- An LEA **may not** take the position that all children eligible for special education services are **only** provided their IEP accommodations during summer school.
- LEAs should require IEP Teams to meet to discuss any additional services and supports a child may need during summer school.
- Whether a child only needs his or her accommodations in summer school is a decision for the child's Team, not the LEA.

Transfer IEPs

- **What are the requirements if a child transfers within Georgia?**
- When a child transfers from another LEA within Georgia with a current or expired IEP, the receiving LEA (in consultation with the parent) must provide services comparable to those services described in the sending LEA's IEP until the receiving LEA either adopts the previous IEP or develops and implements a new IEP.

Transfer IEPs

- **What are the requirements for children who transfer from other states?**
- When a child transfers from another State with a current or expired IEP, the new 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. **If an evaluation is required, it is treated as an initial evaluation in Georgia.**

Timeline for IEP Services



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Implementation date vs. Service date

- **Implementation date is the service date!**
- The IEP date is the date when the IEP Team convenes and makes the offer of FAPE
- The IEP Team can make determinations about the most appropriate timelines to implement services and supports

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Questions



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Service Delivery and Least Restrictive Environment

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

Least Restrictive Environment



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

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Continuum of Services



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REGULAR EDUCATION	Child with disability is served in the regular education class with no additional personnel support from special education.
ADDITIONAL SUPPORTIVE SERVICES	The child remains in regular classroom with supplementary aids and services provided to the teacher and/or child to implement the IEP. The services provided may be from personnel such as paraprofessionals, interpreters, or others.
DIRECT SERVICE: CONSULTATIVE	Child with disability receives at least 1 segment per month of direct service from the special education teacher in the regular or special education classroom.

Continuum of Services



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DIRECT SERVICE: COLLABORATION	A special education teacher provides service to children with disabilities and shares teaching responsibilities with a regular education teacher within an instructional segment in the regular education classroom (less than full segment daily).
DIRECT SERVICE: CO-TEACHING	The special education and regular education teacher provide service to children with disabilities and share teaching responsibilities for the children in the regular education classroom. (full segment everyday)
SMALL GROUP	The special education teacher provides service to children with disabilities in a special education classroom.

Alternative Placements

The continuum of alternative placements includes options that must be available such as:

- instruction in regular education classes
- special classes (small group)
- special schools
- home instruction
- instruction in hospitals and institutions

Supplementary services and supports can be provided in any setting to children whose IEP requires such supports. For instance, children may receive small group **in conjunction with regular class placement for the same subject area.**

The Full Continuum of Options during the IEP Team Meeting



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- LEAs must ensure the availability of the full continuum of services and discuss each option, as appropriate, during the IEP Team meeting.
- The IEP Team can consider placing the child outside of regular education settings **only** when the IEP Team has evidence that even with the use of supplemental aids and services, education in regular education settings will not be successful.
- LRE cannot be based on availability of services.

Preschool Continuum of Services



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

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



Home-based Instruction



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

Questions



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