

# Special Education

*A Primer for New Schools*

State Charter Schools  
Commission of Georgia



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# Overview

- Let's go over some Requirements and Issues: NOT a Practice Guide
- Section 504 v. Individuals with Disabilities Education Act
- Identification of Students
- Consent
- Evaluations and Reevaluations
- Individualized Education Program
- IEP Team
- Placement
- Related Services
- Discipline
- Procedural Safeguards
- Personnel and Caseloads
- Required Annual Reports
- Use of IDEA Funding

# Section 504 v. IDEA

## Section 504

Civil Rights Statute  
(Prohibits Discrimination)

Student with a Disability = A student who has a physical or mental impairment that substantially limits a major life activity.

FAPE = Accommodations and services that will allow the student access to the general education program.

Some procedural requirements and student protections

## IDEA

Educational Statute  
(Requires Educational Measures)

Student with a Disability = A student has a disability that affects educational performance that requires special education and related services.

FAPE = Educational services and supports reasonably calculated to provide the student an educational benefit.

Many procedural requirements and protections.

# Identification

- A student is eligible for services under IDEA if that student has a disability and by reason thereof needs special education and related services.
- Georgia has 12 areas of disabilities under IDEA, each with its own definitions, evaluation, and eligibility criteria.
- A parent, teacher, or other school official may request that the child be evaluated for special education services.
- Schools must also conduct “child find” activities to identify, locate, and evaluate children who are suspected of needing services under IDEA.
- The *Georgia Student Achievement Pyramid of Interventions* is a statewide child find activity.

# Consent

- Written parental consent is required prior to:
  - Evaluating or Reevaluating a child for a disability
  - Providing special education and related services
  - Accessing the parent or child's public health benefits
  - Disclosing personally identifiable student information (sometimes).
- Consent for evaluation is not consent for services.
- Consent for services is all or nothing.
- Consent for services can be revoked at any time.

# Evaluations and Reevaluations

- A complete evaluation is required prior to providing special education services.
- An initial evaluation must be completed within 60 calendar days of receiving consent for evaluation.
- An evaluation must assess the child in all areas of suspected disability and sufficiently comprehensive to determine all of the child's special education and related services needs.
- A child with a disability must be reevaluated at least every three years unless the state charter school and parent agree that a reevaluation is unnecessary

# Individualized Education Program (IEP)

- Each child eligible for special education and related services must have an Individualized Education Program (IEP).
- The IEP is a written document that details the special education and related services the student requires to receive a free appropriate public education (FAPE).
- The IEP must provide the student's present level of academic achievement and performance, measurable annual goals, specific accommodations necessary for classroom activities and assessments, and the frequency, location, and duration of additional services.
- The IEP must be reviewed and revised by the IEP Team at least annually.
- If a child with a disability is entering ninth grade or turning 16, whichever occurs first, the IEP must include appropriate measurable postsecondary goals based on age-appropriate transition assessments.

# IEP Team

- The IEP is developed by a group of individuals, including the parents, known as the IEP Team.
- The team developing and writing the IEP, the IEP Team, must consist of:
  1. The child's parents;
  2. At least one regulation education teacher;
  3. At least one special education teacher;
  4. A representative of the state charter school who qualified to provide or supervise instruction for children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources in the state charter school;
  5. An individual who can interpret instructional implications of evaluation results (this person may be another member of the IEP Team);
  6. Other individuals, at the discretion of the parent or state charter school, who have knowledge or special expertise regarding the child; and
  7. The child with a disability (when appropriate).
- While the input and opinion of parents is important, a parent does not need to agree to the services or provisions of an IEP (after consent for the initial provision of services is provided).



# Students Transferring with an IEP

- If a student transfers to a state charter school from another LEA in Georgia, the state charter school must, in consultation with the parents, provide the student FAPE through services comparable to the student's IEP until the state charter school adopts the student's IEP from the previous LEA or develops, adopts, and implements a new IEP in accordance with IDEA.
- If a student transfers to a state charter school from another state, the state charter school must, in consultation with the parents, provide the student FAPE through services comparable to the student's IEP until the state charter school conducts an evaluation if necessary and develops, adopts, and implement

# Placement

- Under IDEA, the term “placement” refers generally to the educational program for the student rather than a location.
- State charter schools must provide each student with a disability an appropriate placement to provide FAPE without regard to the cost or if the services needed by the student are traditionally provided by the school.
- IDEA requires an LEA, to make available a continuum of alternative placements for students with disabilities, but each student must be educated in the least restrictive environment to the maximum extent appropriate.
- Children with disabilities must participate with nondisabled children in nonacademic settings to the maximum extent appropriate for the child.

# Related Services

- Related services are those services that are required to assist a child with a disability in benefiting from special education.
- State charter schools must provide the related services a student needs to benefit from special education at no cost to the parent or student.
- The related services the IEP Team determines are necessary must be documented in the student's IEP.
- Specific related services include, but are not limited to:
  - Audiological services; Psychological services; Speech-language pathology; Physical therapy; Occupational therapy; Social work services; Counseling services, including rehabilitation services; Orientation and mobility services; Interpreting services; School nurse services; Medical services for diagnostic or evaluation purposes; Recreation, including therapeutic recreation; Early identification and assessment; Parent training; and Transportation.

# Discipline

- A student with a disability is subject to the same code of conduct as students who do not have disabilities.
- However, IDEA ensures that a student with a disability is not disciplined because of the disabilities alone.
- A student with a disability may be disciplined and removed from his or her placement for up to 10 school days per school year without receiving services.
- If a student is removed from his or her placement for 10 or more school days per year, the school must:
  - Conduct a manifestation determination
  - Conduct a functional behavioral assessment and behavior intervention plan (if the conduct was a result of the disability)
  - The school may impose the same disciplinary actions on the student as would be imposed on a student without a disability (if the conduct was NOT a result of the disability).
  - **The school must also continue to provide special education services to the student that will allow the student to participate in the general education curriculum and progress toward the goals in the IEP during the disciplinary action.**
- In certain limited circumstances, a student with a disability may be removed from his or her placement to an interim alternative educational setting for up to 45 school days without regard to whether the conduct was caused by the student's disability.

# Procedural Safeguards

## ■ Parental Rights

- A document that provides a detailed explanation of the various rights and safeguards afforded to parents and students with disabilities that must be provided at least once annually and at other times during the year.

## ■ Prior Written Notice

- Written notice in language understandable to the general public that details the school's proposal to initiate or change the identification, evaluation, placement, or provision of FAPE to the child in a reasonable amount of time before taking the proposed action.

## ■ Dispute Resolution

- Formal Complaints
- Mediation
- Due Process Hearings

# Personnel and Caseloads

- State charter schools may waive certification and maximum class size requirements, but must adhere to caseload requirements set by the State Board of Education.
- Caseload refers to the number of IEPs for which a teacher or provider is responsible for providing special education or related services.
- Caseload requirements are found in State Board of Education Rule 160-4-7-.14.

# Required Annual Reports

- Generally, the Georgia Department of Education collects special education information through the FTE-reporting process and Student Record data collection; however to collect data regarding the LEA's progress on specific targets, each LEA must complete and submit data through the Consolidated Application or stand-alone data collections.
- Failure to provide complete and accurate data or failure to abide by the timelines and deadlines for doing so can drastically affect the reporting for a school and can result in the misappropriation, or lack thereof, of federal funding.
- Each LEA will receive an annual determination based upon the LEA's performance indicators. The annual determination a state charter school receives will guide the level of intervention and assistance that the Georgia Department of Education will provide the state charter school.

# Use of IDEA Funds

- All uses of IDEA funding must comply with the general administrative requirements of EDGAR and applicable OMB Circulars, including time and effort reporting of personnel.
- IDEA also requires state charter schools to adhere to maintenance of effort requirements and avoid supplanting nonfederal funding with federal funding.
- **IDEA funds may only be used for the excess cost of providing special education services to students with disabilities.**
- All expenditures of IDEA funds must be consistent with the budget approved by the Georgia Department of Education.
- A state charter school may use up to 15% of its IDEA funds to develop a coordinated early intervening services (CEIS) program for regular education students.
- A state charter school **must** reserve a proportionate share of its IDEA funding for services to be provided to parentally-placed in private schools and home schools.



# Questions

