

CIRRUS ACADEMY CHARTER SCHOOL



SPECIAL EDUCATION  
HANDBOOK

AND

504 GUIDELINES

FY 20



## Preface

The purpose of the Special Education and Section 504 Policies, Procedures, and Practices Manual is to provide a comprehensive reference for teachers, paraprofessionals, supervisors, administrators, ancillary staff, and others who are responsible for providing special education services in accordance with federal and state special education regulations. Upon receipt, all staff members are to read the manual in its entirety and to comply with all required procedures. Additionally, staff members bear the responsibility of reviewing the contents and applying it as deemed appropriate in their day-to-day instructional and/or administrative practice as required by Part B of the Individuals with Disabilities Education Improvement Act (IDEA 2004) regarding Individualized Education Programs (IEPs) for children with disabilities (ages 3-21) and Section 504 of the Rehabilitation Act.

Some of the information in the manual reflects mandated procedures, while other information serves as resource material and suggested guidelines for practice. Whereas the manual is quite comprehensive, it is not inclusive of all procedures and forms used in the various programs. Staff members are to consult their respective supervisors for any forms, procedures or guidelines that are program specific (e.g., specific procedures for conducting a speech/language evaluation).

It is recommended that staff members have this manual readily available when procedural questions arise regarding the services to students. Annotated forms developed by the Georgia Department of Education (GaDOE) have been included to serve as a guide. The varied needs of students are such that there is no one "model report" that works best in all situations. However, there are basic components and considerations that must be included in completing mandated forms and executing specific procedures.

The Individuals with Disabilities Education Improvement Act of 2004 (P.L. 108-144), was signed into law by President George Bush on December 3, 2004. The Highly Qualified Teacher status is the only provision of the law that went into effect on December 3, 2004. The remaining provisions went into effect on July 1, 2005. Final regulations from the Office of Special Education Programs (OSEP) disseminated in December of 2005.

Section 504 of the Rehabilitation Act of 1973 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance. Regulations for Section 504 require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who are properly enrolled in the school district's jurisdiction, regardless of the nature or severity of the disability.

Cirrus Academy Charter School abides by the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as well as the revisions of the Americans with Disabilities Amendment Act of 2008 (Amendments Act,

effective January 1, 2009). The Amendments Act amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 that affects the meaning of disability in Section 504.

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## **CIRRUS ACADEMY CHARTER SCHOOL**

### **WRITTEN PROCEDURES AND PROCESSES THAT SUPPORT THE IMPLEMENTATION OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), SECTION 504 OF THE REHABILITATION ACT OF 1973 AND GEORGIA'S SPECIAL EDUCATION RULES IN CIRRUS ACADEMY CHARTER SCHOOL**

The Individuals with Disabilities Education Act (IDEA) requires that states review the data of each Local Education Agency (school system) each year in order to evaluate the system's performance in meeting requirements and purposes of the IDEA. After a review of the data, the Georgia Department of Education (GaDOE) is required to make determinations (Meets Requirements; Needs Assistance; Needs Intervention; or Needs Substantial Intervention) about each indicator related to the system's compliance.

## Table of Contents

<b>I. Area of General Supervision I: Identification Processes</b>	<b>11</b>
• <b>State Rule: 160-4-7-.08 — Confidentiality of Personally Identifiable Information</b>	
<b>11</b> ○ Maintenance of Records	
11 ○ Access to Confidential Student Information	
11 ○ Parental Review of Educational Records	
12 ○ Parental Consent	
.12 ○ Rights of Eligible Students	
. 12 ○ Authorized Access to Records	
. 12 ○ Student Records	
13 ○ Records Management	
13 ○ Amendment of Records at Parent’s Request	
14 ○ Consent	
.14 ○ Safeguards	
.15 ○ Destruction of Information	
16	
• <b>State Rule: 160-4-2-.32 — Student Support Team</b>	17
.17 ○ Special Education Referral Process	
• <b>State Rule: 160-4-7-.03 — Child Find Procedures</b>	19
○ Purpose	
.19 ○ Procedures	
. .20	
• <b>State Rule: 160-4-7-.04 — Evaluations and Reevaluations</b>	.22
○ Parent Consent for Evaluation	24 ○
Obtaining Parental Consent	25 ○
Reevaluations	26 ○
Evaluation Procedures	26 ○
Additional Requirements	.28 ○
Procedures for Initial Evaluation for Special Education	29 ○
Assessments	.32 ○
Evaluation Review	35 ○
Procedures for Reevaluation	36 ○ Parent
Requests for Special Education Evaluation Procedures	.38 ○ Special

Education Evaluations of Young Children . . . . .	.39	o Requests from parents of Children who are Home-schooled or Parentally Placed in Private Schools . . . . .	.41	o Independent Education Evaluation . . . . .	41
<b>• State Rule: 160-4-7-.05 — Eligibility Determination and Categories of Eligibility . . . . . 43</b>					
o Eligibility Determination . . . . .	.43	o General Requirements of Eligibility Determination . . . . .	43	o Ages Ranges for Eligibility . . . . .	45
o Termination of Eligibility . . . . .	45	o Other Considerations . . . . .	.45	o Eligibility Report . . . . .	46
o Criteria for Determining Eligibility . . . . .	46	o Categories of Eligibility . . . . .	47	o Autism . . . . .	47
o Deafblind . . . . .	48	o Deaf/Hard of Hearing . . . . .	49	o Emotional Behavior Disorder . . . . .	51
o Intellectual Disabilities . . . . .	53	o Orthopedic Impairment . . . . .	55	o Other Health Impairment . . . . .	56
o Specific Learning Disability . . . . .	58	o Speech-Language Impairment . . . . .	62	o Traumatic Brain Injury . . . . .	67
o Visual Impairment . . . . .	68	o Significant Developmental Delay . . . . .	70		
<b>• State Rule: 160-4-7-.13 — Private Schools . . . . . 73</b>					
o Procedures: Special Education Referrals for Children Placed in Private Schools by their Parents and Home School Children . . . . .	73	o Procedures for Students who attend Private School in Georgia but are not Macon Residents . . . . .	75	o Private School Residency Responsibilities to Cirrus Academy Charter School 3 and 4 year Old Residents attending Preschools/PreKindergarten Connected to Primary/Elementary Schools Outside Macon . . . . .	75
o Private School Residency Responsibilities for Students Aged 5-21 who are attending Schools Outside of the Attendance Area of Residence Private School District . . . . .	75	o Placement of Children in Private Schools . . . . .	75	o Children with Disabilities in Private Schools Placed or Referred by Cirrus	

Academy Charter School . . . . .	77
o Placement of Children by Parents when FAPE is at Issue . . . . .	77 o
Reimbursement for Private School Placement . . . . .	77 o
Exception to Limitation on Reimbursement . . . . .	78

**II. Area of General Supervision II: Services and Support . . . . . 79**

- **State Rule: 160-4-7-.07 — Least Restrictive Environment . . . . . 79**
  - o Requirements . . . . . 79
  - o Determining Educational Placements . . . . . 79
  - o Continuum of Alternative Placements . . . . . 80
  - o Determining Placement . . . . . 81
  - o Transfer Students . . . . . 82
  - o Private Special Education Programs . . . . . 82
  - o Homebound or Hospital Instruction . . . . . 83
  - o Parental Involvement . . . . . 83
  - o NonAcademic and Extracurricular Activities . . . . . 84
  - o Technical Assistance and Training Activities . . . . . 84
- **State Rule: 160-4-7-.10 — Discipline . . . . .**
  - .86** o General Information . . . . .
  - 88 o Change in Placement . . . . .
  - 88 o Removal from School . . . . .
  - 88 o Procedures for In-School Suspension . . . . .
  - .89 o Procedures for Out of School Suspension . . . . .
  - . 89 o Students Removed for More Than 10 Days . . . . .
  - .90 o Procedures for Suspensions 10+ Days . . . . .
  - . .90 o Monitoring Out of School Suspension . . . . .
  - . .91 o Manifestation Determination . . . . .
  - . . 92 o Determination that the Behavior was a Manifestation . . . . .
  - . . 92 o Manifestation Procedures . . . . .
  - . . 93 o Members of the Manifestation Team . . . . .
  - . . 94 o Documentation to Review . . . . .
  - . .94 o Change of Placement . . . . .
  - . .95 o Serving Students Removed for 10 or More Days . . . . .
  - . . 96 o Additional Considerations . . . . .
  - . 96 o Appeal . . . . .
  - . 96 o Placement during Appeals . . . . .
  - . 97 o Protections for Children Not Yet Eligible for Special Education and Related Services . . . . . 97
  - o Referral to and Action by Law Enforcement and Judicial Authorities . . . . . 98
  - o Definitions of Special Circumstances under United States Code of Controlled



Substances . . . . .	101
99 ○ Bodily Injury . . . . .	100
.100 ○ Dangerous Weapons . . . . .	100
• <b>Individual Education Program (IEP) Team and Implementation of the IEP . . . . .</b>	<b>101</b>
○ <b>State Rule: 160-4-7-.06 — Individual Education Program (IEP) 101</b>	
○ Procedures for IEP Development/Components . . . . .	101
○ Annual Review: Overview . . . . .	102
○ Placement of Transfer Students . . . . .	103
○ Components of the Individual Education Program . . . . .	103
○ Transition Services Participants . . . . .	105
○ The IEP Team . . . . .	106
○ Excusal of IEP Team Member . . . . .	106
○ Transition for Children Birth through Two – Part C . . . . .	106
○ Parent Participation in IEP: Notification and Invitation . . . . .	107
○ When the IEP Must be in Effect . . . . .	108
○ Initial IEP Services . . . . .	108
○ Accessibility of Child’s IEP to Teachers and Others . . . . .	108
○ Inter and Intra-State Transfer of Students with IEPs . . . . .	108
○ IEPs for Children who Transfer to Cirrus Academy Charter School from another Georgia System . . . . .	108
○ IEPs for Children who Transfer from Another State . . . . .	109
○ FERPA and Transmittal of Records . . . . .	109
○ Development of the IEP . . . . .	110
○ Participants of IEP Meeting . . . . .	111
○ IEP Changes or Amendments . . . . .	111
○ Review and Revision of IEPs . . . . .	111
○ Consideration of Special Factors . . . . .	112
○ Children with Disabilities in Adult Prisons . . . . .	112
○ Procedures for Notification of Meetings . . . . .	113
○ Developing the IEP . . . . .	114
○ Team Members/Case Manager . . . . .	114
○ Present Levels of Academic Achievement and Functional Performance . . . . .	115
○ Consideration of Special Factors . . . . .	115
○ Transition Planning . . . . .	115
○ Desired Measurable Post-Secondary Outcome/Completion Goals . . . . .	116
○ Transfer of Rights . . . . .	116
○ Measureable Transition IEP Goals . . . . .	116

Transition Activities and Services . . . . . 116 ○  
 Measurable Annual Goals and Short Term Objectives . . . . . 117 ○  
 Student Supports, Accommodations, Supplemental Aids and Services and  
 Supports . . . . . 117 ○ State  
 Testing . . . . . 117 ○ Services  
 in General Education, in Special Education and Related  
 Services . . . . .  
 118 ○ Related Services . . . . .  
 118 ○ Options Considered . . . . .  
 118 ○ Extended School Year Services (ESY) . . . . .  
 .118 ○ Functional Behavior Assessment . . . . .  
 118 ○ Extended School Year Services . . . . .  
 120 ○ Case Manager Responsibilities . . . . .  
 .121 ○ IEP Amendments . . . . .  
 122 ○ Dismissals . . . . .  
 .123 ○ Professional Learning . . . . .  
 .123 ○ Monitoring . . . . .  
 123

- **State Rule: 160-4-7-.14 — Personnel, Facilities, and Caseloads . . . .**  
**124** ○ Classroom Size and Appropriateness . . . . .  
 125 ○ Maximum Class Size and Caseload by Eligibility Category . . . . .  
 125 ○ Exception to Individual Maximum Class Size . . . . .  
 126
- **State Rule: 160-4-7-.15 — Georgia Network for Educational and  
 Therapeutic Support (GNETS) . . . . .**  
 .127 ○ Documentation of On-Going Effectiveness and Improvement . . . . .  
 .127 ○ Positive Behavioral Interventions and Supports . . . . .  
 .127 ○ Academic Curriculum . . . . .  
 127 ○ Eligibility and placement . . . . .  
 .128 ○ Procedures for Placement Consideration. . . . .  
 128 ○ Other Information. . . . .  
 130 ○ Exit Procedure. . . . .  
 130 ○ Exit Criteria. . . . .  
 130 ○ Other Information. . . . .  
 131

**III. Area of General Supervision III: Student Progress . . . . .**  
**.132**

- **State Rule: 160-4-7-.02 — Free Appropriate Public Education**

**(FAPE)** . . . . .

**132** ○ General . . . . .

132 ○ Limitation. . . . .

133 ○ FAPE – Methods and Payments . . . . .

.133 ○ Residential Placement . . . . .

136 ○ Accessible instructional materials . . . . .

136 ○ Assistive Technology . . . . .

.138 ○ Extended School Year. . . . .

139 ○ NonAcademic Services . . . . .

.140 ○ Physical Education. . . . .

140 ○ Full Educational Opportunity Goal (FEOG). . . . .

.141 ○ Charter Schools . . . . .

.141

○ Program Options . . . . . 141 ○

Routine Checking of Hearing/Aids/Other Components . . . . . 141 ○

Prohibition on Mandatory Medication . . . . .142

<b>IV. Area of General Supervision IV: Parent Engagement. . . . .</b>	<b>142</b>
• <b>State Rule: 160-4-7-.09 — Procedural Safeguards and Parent Rights . . .</b>	<b>142</b>
o General . . . . .	142 o
Parental Opportunity to Examine Records . . . . .	144 o
Parental Participation in Meetings. . . . .	144 o
Independent Educational Evaluation . . . . .	145 o
Notice to Parents/Guardian/Surrogate . . . . .	146 o
Consent . . . . .	148 o
Parental Training and Awareness. . . . .	150
• <b>State Rule: 160-4-7-.11 — Surrogate Parent . . . . .</b>	<b>151</b>
.151 o Appointment . . . . .	151 o
.151 o School Duties. . . . .	151 o
.151 o Wards of the State. . . . .	151
o Criteria for Selection of Surrogate Parents. . . . .	151
o Unaccompanied Homeless Youth. . . . .	152 o
Surrogate Parent Responsibilities . . . . .	152 o
Liability. . . . .	152
• <b>State Rule: 160-4-7-.12 — Dispute Resolution. . . . .</b>	<b>153</b>
o Complaint Process . . . . .	153
o Mediation Process . . . . .	156
o Impartial Due Process Hearings . . . . .	157
• <b>Section 504 of the Rehabilitation Act of 1973 . . . . .</b>	<b>169</b>
o Legal Definitions . . . . .	170 o
FAPE . . . . .	171 o
Educational Setting . . . . .	171 o
Evaluation and Placement. . . . .	171 o
Referral Procedures. . . . .	172 o
Committee Members. . . . .	173 o
Eligibility Determination Meeting. . . . .	173 o
Developing a Section 504 Accommodation Plan.. . . .	174 o
Individual Health Plans. . . . .	174 o
Section 504 Review Procedures. . . . .	174 o
Rights Afforded by Section 504. . . . .	175 o
Procedural Safeguards. . . . .	176 o
Non-Academic Services. . . . .	179
<b>SECTION I: Area of General Supervision I: Identification Process</b>	

Cirrus Academy Charter School ("CACS" or "School") implements identification procedures and practices to ensure that ALL students suspected of having a disability receive a special education evaluation and services, if appropriate.

## **State Board Rule: 160-4-7-.08**

### **Confidentiality of Personally Identifiable Information**

Confidentiality is one of the rights afforded to parents in the *Parent Rights* document (procedural safeguards). Cirrus Academy Charter School maintains confidentiality of records of students requiring special education and related services. 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 only those with disabilities.

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

The District establishes and implements policy and procedures which ensure that records are filed, protected, kept confidential, reviewed, and when appropriate, destroyed according to the Individuals with Disabilities Education Act (IDEA), the Family Educational Rights and Privacy Act (FERPA), and the State's Records Retention Schedule. Parents of students receiving special education and related services are notified annually of the availability of these policies and procedures. The written policies and procedures concerning education records are available to the public in the CEO's office.

### **Maintenance of Records**

Student records include records that are used for identification, evaluation and educational placement of a student for the provision of free appropriate public education. Cirrus Academy Charter School provides training to all individuals who collect or use personally identifiable information regarding the policies and procedures outlined in IDEA and the Family Educational Rights and Privacy Act, as well as in the District procedures. Training is provided for all school staff at the beginning of the year, generally during preplanning. A log of who has received the training is maintained at the School office.

### **Access to Confidential Student Information**

Cirrus Academy Charter School transmits copies of a student's special education records only to the extent that the Family Educational Rights and Privacy Act permit. Student

records are accessible to those who are determined by our District to have a legitimate educational need. The Academy maintains a record of those who have accessed a student's education record, including the name of the party having access, the date access of access, and the purpose for which the party was authorized to access the records.

### **Parental Review of Educational Records**

Parents have the right to inspect and review all education records pertaining to their child, maintained or used by the District to meet the requirements of special education law. A request to review and inspect records must be in writing. The District makes records available to parents within ten (10) school days of the request. A representative of the parent may inspect and review the records; however, the parent must consent to the District's release the information.

Cirrus Academy Charter School will provide to parents an explanation and an interpretation of their child's records upon parental request. Assessment protocols may be reviewed and inspected by parents; however, copies of the protocol will not be made available to the parent due the test manufacturer's ownership or copyright.

### **Parental Consent**

Parental consent is obtained before personally identifiable information is disclosed to anyone, other than officials of the District, who are determined to have a legitimate educational interest. The District does not release information from education records to other providers of special education and related services (IDEA) without parental consent unless authorized to do so under FERPA and Georgia law.

### **Rights of Eligible Students**

When a student with a disability reaches age eighteen (18), Cirrus Academy Charter School

- Provides all required notices to both the student and the parents
- Transfers to the student all other rights accorded to the parents under IDEA ·  
Notifies the student and the parents of the transfer of rights
- Transfers the rights regarding education records to the student.

### **Authorized Access to Records**

Each special education folder will have an access record attached to the folder. Each personnel reviewing the folder is to sign his/her name, write in the date, and the purpose on the access record. Each file cabinet containing student's special education folders is labeled with the *Authorized Access to Records* information. All agencies and agents who have access to student records are listed below and are listed on the file drawer:

Authorized Access to Records  
CEO  
Director of Special Education  
Administrative Assistant for Special Education  
School Administrators (Principal, Assistant Principal)  
Director of Student Support  
Special Education Teachers  
General Education Teachers  
School Psychologist  
Speech/Language Pathologist  
Physical Therapist  
Occupational Therapist  
Vision Therapist  
School Social Worker

Confidential information is stored in file cabinets and drawers that can be locked. The "official" file with original copies is the file in the Department of Special Education for the Cirrus Academy Charter School.

### **Student Records**

For students enrolled in special education any reference to *special education status* documented in a student's permanent records would place the record under the *Individuals with Disabilities Education Act* (IDEA) confidentiality requirements. It is mandated that reference to *special education status* be maintained in a separate supplemental file and not specifically by reference on the student's permanent record/card. The permanent record/card indicates that a supplemental file does exist and should be reviewed. Such a designation would indicate to any review that additional information is available and should be considered before drawing any conclusions regarding that student's record.

Verbal references to a student's special education program should be carefully restricted only to professional staff working with the student or professional staff working in the interests of the student. There will be no documentation that the student receives special education services on the official transcript, as well.

### **Records Management**

All official **Special Education Records** are maintained in the Cirrus Academy Charter School Office and on-line through *Infinite Campus*. All requests for records from transferring schools, Department of Juvenile





Justice, parents, Social Security Administration, medical personnel, etc. are handled at the Main office, when the appropriate *Authorization to Release of Information* has been provided. Records will be sent to transferring schools as soon as the child withdraws from Cirrus Academy Charter School so that the student can be placed in the appropriate classes and receive the same services. All special education records will be sent from the Main Office.

### **AMENDMENT OF RECORDS AT PARENT'S REQUEST**

Parents who believe that information contained in the education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the student may request that Cirrus Academy Charter School amend the information. The School will decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the School decides to refuse to amend the information in accordance with the request, it will inform the parents of the refusal and advise the parents of the right to a hearing.

The School will, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. If, as a result of the hearing, the School decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parents in writing. If, as a result of the hearing, the School decides the information is accurate and not misleading or otherwise in violation of the privacy or other rights of the student, it must inform the parents of their right to place in the student's record, a statement commenting on the information and setting forth the reasons for the Parent's disagreement with the decision of the School.

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

### **CONSENT**

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

1. Parents or eligible children;
2. Cirrus Academy Charter School officials, including teachers, legally constituted cooperating agencies or other agencies providing shared services that the system has determined to have legitimate educational interests.
3. Officials of another school, school system, or institution of postsecondary education in which the child seeks or is eligible to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record, if desired, and have an opportunity for a hearing to challenge the content of the record;



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

## **SAFEGUARDS**

The Cirrus Academy Charter School protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction states. The CEO or designee ensures the confidentiality of any personally identifiable information. Access of unauthorized persons to personally identifiable information without parent's consent is forbidden. All persons collecting or using personally identifiable information has received training or instruction regarding department policies and procedures concerning personally identifiable information. Cirrus Academy Charter School maintains, for public inspection, a current listing of the names and positions of School employees who may have access to personally identifiable information.

## **DESTRUCTION OF INFORMATION**

Cirrus Academy Charter School maintains special education records for students for ten years. Parents are notified via media, school website, newsletters, etc. when the School plans to destroy the information. The School reminds parents that they or their child may need the information for Social Security benefits for other purposes in the future. A permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. The School maintains most recent Eligibility Report, Psychological report, Individualized Education Plan, and Transcript. This information in a designated Main Office Vault.

## **State Board Rule: 160-4-2-.32 Student Support Team (SST)**

### **Special Education Referral Process: School-Aged Students**

Prior to a student being referred for evaluation for Special Education eligibility, the student goes through various levels, or tiers, through the ***Response to Intervention Pyramid***. Each school has established procedures for implementing this pyramid. Prevention through intervention is stressed in all tiers.

Tier I includes evidence-based instruction which is based on the Common Core Georgia Performance Standards. It includes effective school-wide behavior supports and differentiated instruction to promote higher levels of student engagement and achievement. Tier II interventions serve as standard intervention protocols for students in the school who require extended learning opportunities or students who are not making adequate progress and need additional interventions. If students are not making the expected levels of progress in Tier II, they are referred to the school's **Student Support Team** which comprises Tier III. As soon as the student arrives at Tier III, vision/hearing screening is conducted by the school nurse or trained staff member. (Procedures for handling failure of the hearing/vision screening is included as part of the *Response to Intervention Pyramid* instructions in the *Response to Intervention* handbook and in the Evaluation section of this manual.).

The Student Support Team includes, at a minimum, the referring teacher and at least two of the following participants, as appropriate to the needs of the student:

1. Principal.
2. General education teacher.
3. Counselor.
4. Lead teacher.
5. School psychologist.
6. Subject area specialist.
7. ESOL teacher.
8. Special education teacher.
9. School social worker.
10. Local Education Agency Administrator.
11. Section 504 coordinator.
12. Other appropriate personnel

Parents/guardians are invited to participate in all meetings of their child's Student Support Team and in the development of interventions for their child. Alternative strategies for

increasing the student's academic, social, and/or behavioral performance are identified, reviewed, and implemented during the time the student is being served through the Student Support Team. The team will meet at prescribed intervals (every four weeks) to review progress monitoring toward interventions, to devise more, or revise original strategies. Minutes of each meeting along with outcomes of interventions

and plans for the next strategies are kept. (For more information about the Pyramid of Intervention, a general education function, please refer to the Georgia Department of Education's Response to Intervention Handbook located on the system website at [www.gadoe.org](http://www.gadoe.org).)

Documentation of Tier II and Tier III interventions, along with Progress Monitoring results, are included in the referral packet if a child is referred from Tier III to Tier IV, which becomes a special education referral. All student referrals are preceded by researched and/or evidenced-based academic and/or behavioral interventions and the monitoring of progress. Before a referral for special education evaluation can be made, documentation that attempted reasonable alternative strategies and interventions have been made and have not been successful is provided. The referral for evaluation is then made in order to determine if physical, emotional, and/or academic problems may be interfering with the student's school progress.

If the student is referred directly for an evaluation, by-passing Tier III interventions, the Student Support Team committee fully documents the reason for the by-pass through written minutes.

## **State Board Rule: 160-4-70.03 Child Find Procedures OCGA**

### **160-4-7-.03 CHILD FIND PROCEDURES**

The **Individuals with Disabilities Education Act (IDEA)** mandates that the Local Education Agency locate and evaluate children, birth through age 21, who are suspected of a disability and require early intervention or special education services. Child Find is a process that includes activities that identify, locate, and evaluate all children with disabilities, birth through age 21, who are in need of early intervention or special education services. The Local Education Agency has a **Child Find** responsibility for all children suspected of having disabilities, regardless of the severity of their disabilities. This includes:

- children, birth through 3, who may or may not be referred to and served by the state's early intervention program, Babies Can't Wait;
- 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 district;
- children who are enrolled in a public school within the district, including public charter schools;
- children who are parentally placed in private and home schools or who are attending charter schools within the district;
- 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, ages 18 through 21, who are incarcerated in facilities operated by the local sheriff's office or other municipalities; and
- any other children suspected of having disabilities.

#### **Purpose**

The Cirrus Academy Charter School serves children grades K through 8<sup>th</sup> grade with identified special education needs. The purpose of the **Child Find** and screening process is to fulfill a school district's obligation to ensure that all children who are eligible for special education and related services are identified, located, and evaluated. "Child Find" includes the following:

- the various child find activities that must be conducted to ensure that all children eligible for special education are located
- the annual notice that school districts are required to disseminate



- information about equitable participation for children eligible for special education services who are placed in private schools by their parents.

IDEA 2004 requires that local education agencies (LEA) ensure that all children in need of special education services within their regions are located, identified, and evaluated. Children who are homeless, highly mobile, are wards of the State, detained or incarcerated in jails or correctional facilities, or are parentally-placed in private schools (including religious, elementary and secondary schools) or home school/study programs, regardless of the severity of their disability, are included in the child find activities. The LEA is mandated to locate and identify those students who are in need of special education services and to provide them the opportunity to benefit from special education services.

Cirrus Academy Charter School implements Child Find procedures in an effort to locate, screen, and evaluate children with suspected disabilities. The system will develop and offer specialized instruction through an Individualized Education Plan (IEP) or Service Plan if a student is found to be eligible for services.

### **Procedures**

Cirrus Academy Charter School conducts a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the school districts.

Children with disabilities in home school programs in Georgia are considered to be "students with disabilities placed by their parents in private school." CACS meets annually with representatives from home schools and private schools in the fall and spring of each year to educate them on the School's Child find procedures. Parents of children in home-school programs, daycare representatives, and Head Start are invited to the same communication, child find activities, and special services provided to students in private schools.

In Cirrus Academy Charter School, a **referral** may be made by anyone who has a concern about a child's development. All referrals are considered confidential. (The parent retains the right to refuse services.) Children may be referred by any of the following:

- Parents/legal guardians/foster parents
- Other family members
- Physicians/health care providers
- Preschool programs
- School system personnel
- Community agencies

- Private school personnel
- Others who are concerned about a child's development

Prior to any possible referral to special education, the screening of children by a teacher or specialist to determine appropriate **instructional strategies** for curriculum implementation will not be considered to be an evaluation for eligibility for special education and related services, but will aid in the decision-making process.

A child should be **referred** when:

- A health or medical disorder interferes with development or learning.
- A child seems to have difficulty seeing or hearing.
- A child appears to have social, emotional or behavioral difficulties that affect his/her ability to learn.
- A child has diagnosed progressive or degenerative condition that will eventually impair or impede the child's ability to learn.
- A child seems to have difficulty understanding directions like others that are his/her age.
- A child's speech is not understandable to family or friends.
- A child has difficulty with reading, math, or other school subjects.

As described in the Student Support Team section of these guidelines and in the Georgia Department of Education's Response to Intervention Handbook, student referrals are accompanied by documentation of scientifically researched or evidence-based academic or behavioral interventions that demonstrate insufficient rate of progress.

Student referrals must be accompanied by documentation of scientific, research or evidence based academic and/or behavioral interventions that have been implemented as designed for the appropriate period of time to show effect or lack of effect that demonstrates the child is not making sufficient rate of progress to meet age or Stateapproved grade-level standards within a reasonable time frame.

Exceptions may be made in circumstances where immediate evaluation and/or placement is required due to a significant disability that precludes access to instruction; however, exceptions are an infrequent and rare occurrence, and the circumstances evidencing the need for the local education agency's use of the exception will be clearly documented in the eligibility decision.

Each agency is provided information for contact with both school districts in the event a student is suspected of having a disability that requires special education and/or related services. School newsletters, flyers, district and school websites, personal contact with parents, media (radio, newspaper, etc.) are methods that Cirrus Academy Charter School



attempts in order to locate and identify children within the county who might require an evaluation and demonstrate a need for services.

Teachers receive training on Child Find annually. Information presented includes the federal and state mandates, district processes and procedures, and ways teachers can assist in Child Find at school and in the community.

The funds and services provided are designated and administered by the Cirrus Academy Charter School after consultation with private and home schools. All school systems must report the number of parentally enrolled children in private/home schools evaluated, determined to be children with disabilities, and served annually. Cirrus Academy Charter School maintains documentation of those students who are screened or evaluated due to Child Find activities.

### **State Board Rule: 160-4-7-.04 Evaluations and Reevaluations**

The purpose of the evaluation process is to gather information that will be used to determine if a student is eligible for special education services. (*Please see Eligibility Determination and Categories of Eligibility*). Each LEA must conduct a full and individual initial evaluation of a child before special education and related services are provided. Reevaluations are conducted as warranted to determine if the education and services provided require revisions or if the child no longer needs special education and related services. The task of the evaluation is to assist the evaluation (eligibility) team in answering two questions:

1. Does the student have a disability as defined under IDEA?
2. Does the student need specially designed instruction and related services?

The fact that a student has a disability does not automatically determine that the student is eligible for special education. It is only when a student with a disability needs specially designed instruction that she or he becomes a candidate for receiving special education and related services and programs. Students who are not determined eligible may qualify for services and accommodations under Chapter 15, Section 504 of the Rehabilitation Act of 1973 or under the Americans with Disabilities Act. Therefore, it is important for the team to consider all documentation to make thoughtful decisions about students.

The Individual with Disabilities Act 2004 states that each Local Education Agency shall ensure evaluation procedures are established and implemented, meeting requirements of this rule. Once a child is referred for an evaluation by the parent or the Student Support Team to determine if the child is a child with a disability, the initial evaluation must be completed within sixty (60) calendar days of receiving the parent consent for evaluation.

- Holiday periods and other circumstances in which children are not in attendance for five consecutive days are not counted toward the 60 calendar day timeline. This includes the weekend days before and after such holiday periods, if contiguous to the holidays except:
- 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.
- Any consent received thirty (30) days or more prior to the end of the school year must be completed within the 60 calendar day evaluation timelines.
- 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.
  - must consist of procedures which determine if the child is a child with a disability and to determine the educational needs of the child.

The timeline for three year olds does not apply if the parent of the child repeatedly fails or refuses to produce the child for an evaluation or if the child enrolls in a school of another LEA after the timeline to 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. This exception applies only if the subsequent LEA is making sufficient progress to ensure a prompt completion of the evaluation and the parent and subsequent LEA have agreed to a specific time when the evaluation will be completed.

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.



## **Parent Consent for Evaluation**

Parental permission must be obtained by the LEA prior to beginning the initial evaluation process to determine if the child qualifies as a child with a disability. After providing notice, the LEA must obtain an informed consent from the parents before an evaluation is conducted.

- The LEA must make reasonable efforts to obtain the informed consent from the parents.
- The LEA must document its attempts to obtain parental consent using procedures that may include detailed records of telephone calls or attempts and the results of those calls, copies of correspondence sent to the parents and 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 parents 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 the reevaluation, 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.

For initial evaluations only, if the child is a ward of the state and the child does not reside with the parent, the LEA is not required to obtain consent from the parent for the 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 (transferred 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.

Parent consent is not required before reviewing existing data as part of an evaluation or a reevaluation.

Parent consent is not required before administering a test or other evaluation that is administered to all children, unless before administration, consent for the test or evaluation is required of parents of all children.

Parent consent is not required before the screening of a child by a teacher or specialist to determine appropriate strategies for curriculum implementation. This screening should not be considered to be an evaluation for eligibility for special education and related services.

Parental Consent for Evaluation for Special Education Services form is the document utilized to obtain this permission. The 60 calendar day timeline to complete the evaluation begins upon the date the LEA receives the signed parental permission for the evaluation. Forms should be dated or date stamped when returned from the parents for documentation purposes.

When sending home the initial Parental Consent to Evaluate, a copy of the Procedural Safeguards (Parental Rights) and list of Evaluations must accompany this permission.

### **Obtaining Parental Consent**

In Cirrus Academy Charter School the initial Parental Consent for Evaluation is obtained by the Student Support Team (SST). Parents receive written notice and phone calls from classroom teachers to attend these meetings. If the SST recommends an evaluation and the parent is not present at the meeting, a notice with a self-addressed stamped envelope is mailed to the parent. After two attempts, a representative from Student Support Services takes paperwork (Parental Consent, List of Evaluations, and Parental Rights) to the home or the parent's place of employment. A log is maintained by the Office of Special Education as to when notices are sent (usually written on a copy of the notices).

If the child is in the Babies Can't Wait (BCW) program, a transition meeting is held at Cirrus Academy Charter School. The parents, BCW service worker, a school psychologist, special education preschool teacher, speech-language pathologist, and if warranted, the Special Education Director are in attendance. The Parental Consent for Evaluation, List of Evaluations, and Parental Rights are obtained at the meeting.

If the student is in an outside agency, i.e., Head Start or daycare setting, a referral packet is sent to the agency to be completed. A Bibb County Head Start representative hand delivers referrals to the Department of Special Education. Any daycare may hand deliver or mail the packet to the Department of Special Education.

Parents of young children not enrolled in a community agency may call and make referrals. These parents usually come to the Department of Special Education and complete the packet.





The Administrative Assistant to the Director of Special Education maintains a referral log for all dates of consents for evaluation, reevaluation, reevaluation determination, and eligibility meeting dates, and consents for placement.

## **Reevaluations**

Each LEA must ensure that a reevaluation of each child with a disability is conducted at least once every 3 years, unless the parent and the LEA agree that a reevaluation is unnecessary.

A reevaluation can be conducted sooner than three years 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.

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.

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

## **Evaluation Procedures**

The LEA shall provide notice to parents of a child suspected with a disability. In conducting the evaluation, the LEA must use a variety of evaluation tools and strategies to gather relevant academic, functional, and developmental information about the child, including information provided by the parents that may assist in determining

- whether the child is a child with a disability; and
- the content of the child's individualized education program including information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities).

The LEA shall not use any single procedure as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. The LEA shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

Each LEA shall ensure that:

- Assessments and other evaluation materials used to assess a child are selected and administered so as not to be discriminatory on a racial or cultural basis.
- Assessments are to be 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 provide or administer.
- Assessments are used for the purposes for which the evaluations or measures are valid and reliable.
- Assessments are administered by trained and knowledgeable personnel.
- Assessments are administered in accordance with any instructions provided by the producer of the assessments.

The child is assessed in all areas related to suspected disability, including, if appropriate, health, vision, hearing, social, and emotional status, general intelligence, academic performance, communication, and motor abilities.

Evaluation tools and strategies are used which provide relevant information that directly assists persons in determining the educational needs of the child.

Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient.

Assessment selection and administration is such that, when administered to a child with impaired sensory, manual or speaking skills, the results accurately reflect the child's aptitude or achievement level, or whatever other factors the assessment purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills, except where those skills are the factors which the assessment purports to measure.

If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, i.e., the qualifications of the person administering the test or the method of test administration must be included in the evaluation report.

In evaluating each child with a disability, the evaluation shall be sufficiently comprehensive to identify all of the child's special education and related services needs,

whether or not commonly linked to the disability category in which the child has been classified.

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.

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 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 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.

#### **Additional Requirements**

As part of an initial evaluation (if appropriate) and as part of any re-evaluation, the parent and other qualified professionals, as appropriate, must review existing evaluation data on the child, including:

- Evaluations and information provided by the parents of the child;
- Current classroom-based, local, or State assessments and classroom-based observations; and
- Observations by teachers and related services providers.

On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:

- Whether the child is a child with a disability and the educational needs of the child, or in case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child.
- The present levels of academic achievement and related developmental needs of the child
- Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

The parent and other qualified professionals may conduct its review without a meeting.

The LEA must administer such assessments and other evaluation measures as may be needed to produce the data identified.

Additional data are not needed if the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs. If it is determined that additional data are not needed, the LEA:

- Must notify the child's parents of that determination and the reasons for it and notify the parents of the right to request an evaluation to determine whether the child continues to be a child with a disability and to determine the child's educational needs;
- Is not required to conduct such an evaluation to determine whether the child continues to be a child with a disability unless requested by the child's parents. The LEA must evaluate a child with a disability before determining that the child is no longer a child with a disability. The evaluation is not required before termination of a child's disability due to graduation from high school with a regular education diploma, or due to exceeding the age eligibility for FAPE. However, the LEA must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals.

### **Procedures for Initial Evaluation for Special Education**

The Cirrus Academy Charter School conducts a **full and individual initial evaluation** before the initial provision of special education and related services to a child with a



disability. All student referrals must be preceded by evidenced-based academic and/or behavior data. Once Parental Consent for Evaluation to determine special education and related services is obtained, a referral packet, which includes components of the Student Support Team (SST) file is forwarded to the Department of Special Education.

Once the completed referral packet is received by the Department of Special Education, the Special Education Administrative Assistant enters the initial referral data into *Infinite Campus*. The completed packet is reviewed by the Director of Special before the referral folder is forwarded to the School Psychologist.

Once the signed *Consent for Evaluation* form is received, the evaluation process will be completed in no later than 60 calendar days. If the *Consent for Evaluation* is received 30 days prior to the end of school, a different timeline is followed based on the Georgia Department of Education timeline rules. Holiday periods and other circumstances when children are not in attendance for five consecutive school days are not counted toward the 60 calendar day timeline, including the weekend days before and after such holiday periods, if contiguous to the holidays. The summer vacation period in which the majority of teachers are not under contract is not included in the 60 day timeline for evaluation. However, the school system is not prohibited from conducting evaluations over a summer vacation period.

The referral packet includes:

- Initial Referral to Special Education Form
- Signed Consent to Evaluate
- Parent Consent to Screen with passed Hearing/Vision
- Parent Social History Questionnaire
- Progress monitoring data (RTI Data Collection)
- Classroom Observation (formal is a learning disability is suspected)
- Analyzed work samples in the suspected area(s) of weakness
- Any required Medical documentation (OHI form/Medical Report)
- Case Study Form
- Any private evaluation reports provided by the parents

The referral packet should also include (If applicable):

- Referral to RTI Tier 3/SST
- RTI Meeting Minutes
- Parent Letters/Documentation of Parent Contact
- Initial Tier 2 Meeting/Intervention Plan
- Follow-up Meeting(s) to Evaluate Student Progress

*If Tier 2 interventions are by-passed due to parent request or obvious needs of the student, Tier 3/SST begins with the parent's signature on the Parental*

*Consent for Evaluation for Special Education Services form. This begins the 60 day timeline. Initial*



*Tier 2/Intervention Plan, Parent Letter for Tier 2, and any Tier 2 Progress and Minutes might not be included.*

Evaluations cannot be administered until vision and hearing is either passed or resolved by appropriate school or medical personnel. Students may be re-screened within five to seven days after failure unless failure is due to other circumstances that require a longer wait (colds, earaches, etc.). If the student wears glasses, vision screening should be administered with the glasses. Vision/hearing results must be current within one calendar year. Often a child may pass near vision but not distant vision. In this case, you may continue the referral process; however, the school should still follow-up with a letter to parents.

If the student fails the hearing screening on second screening attempt, the student is referred for an audiological evaluation. Schools should contact the Special Education Office to make the referral to the audiologist.

- Parent permission for the evaluation and transportation are obtained.
- An appointment for the audiological evaluation is scheduled by the Department of Special Education.
- The parent will be notified of the appointment and can choose to provide transportation for their child.
- The audiological report is submitted to the Special Education Department and a copy of the report is sent to the school.

If the student fails the vision screening on the second attempt, administered by the school nurse, the parent should be notified of the results by phone and letter. The parent is responsible for scheduling an eye exam and reporting results to the school. If the school suspects the parent is unable to afford the exam or glasses, Student Support Services will be contacted.

The referral packet should not be submitted to the Office of Special Education for an Evaluation until it is complete with both the hearing and near vision resolved.

The referral packet is sent to the Special Education Office to the attention of the Administrative Assistant to the Director of Special Education. Once received, the referral is dated and the consent date is logged on a referral tracking spreadsheet.

*\*\*Incomplete packets will be returned to the school for missing documentation.*

If completed, the referral packet is transferred to the school psychologist who:

- Reviews components of the file
- Works with the Administrative Assistant to schedule a meeting within the 60 day timeframe to review evaluation information and determine eligibility
- Determine the appropriate assessments
- Schedules assessment date/dates

Once the comprehensive evaluation is completed, a Psychoeducational Evaluation is written by the psychologist and attached to SEMS Tracker. The psychologist is responsible for inputting the assessment results into the eligibility report.

If the student is referred for a speech-language evaluation, the packet is transferred to the Office of Special Education. A copy of the referral packet is retained by the school's speechlanguage pathologist who:

- Reviews components of the file
- Works with the Administrative Assistant to schedule a meeting within the 60 day timeframe to review evaluation information and determine eligibility
- Determine the appropriate assessments
- Schedules assessment date/dates

Once the comprehensive evaluation is completed, an Eligibility Meeting is scheduled. The speech-language pathologist is responsible for imputing assessment information into the eligibility report.

## **Assessments**

In Cirrus Academy Charter School a variety of individually administered measures are available. The completion of these tests is in response to unique student needs. Teachers and/or parents may identify those needs and often they are related to cognitive processing, academic achievement, social/emotional development, communication, motor skills and/or adaptive functioning.

Comprehensive batteries of multiple measures are administered by the school psychologist, speech-language pathologist, or other professionals and the information is gathered in a comprehensive report. These comprehensive evaluations are completed in response to Tier 3/SST referrals or parent requests. In order to consider special education eligibility,

comprehensive evaluations must be completed. The professionals completing the assessments must ensure that:

- The evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student is suspected or has been classified.
- Each student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, psychological processes, academic performance, communication, motor, and adaptive behavior. These may include, but are not limited to, educational, medical, social history, psychological, or developmental assessments.
- The hearing of each student suspected of having a disability will be screened during the evaluation process prior to initial determination of eligibility for special education and related services. A complete audiological assessment, including tests that will assess inner and middle ear functioning, shall be performed on each student who is hearing impaired or deaf, or who fails two hearing screening tests. Cirrus Academy Charter School contracts with a local audiologist to conduct audiological assessments.
- The administration of assessments and other evaluation materials is conducted by trained and knowledgeable personnel in accordance with the instructions provided by the producer of the assessments.
- Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills. Reports must indicate if the assessment was administered in a language other than English or if an interpreter was used.
- A variety of assessment tools and strategies are used to gather relevant functional, developmental and academic information about the student, including information provided by the parents, and information related to enabling the student to be involved in and progress in the general curriculum or for a preschool student, to participate in appropriate activities that may assist in determining whether the student is a child with a disability and the content of the student's IEP.

- No single measure or assessment is used as the sole criterion for determining whether the student is a child with a disability and for determining an appropriate educational program for the student.
- Ensure that assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student.
- Ensure that assessments or evaluation materials that are used to assess the student:
  - Are selected and administered so as to be neither culturally nor racially discriminatory;
  - Are provided and administered in language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;
  - Are used for the purposes for which the assessments or measures are valid and reliable;
  - Are administered by trained and knowledgeable personnel in accordance with the instructions provided by the producer of the test;
  - Include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
  - Are selected and administered so as to best ensure that if an assessment administered to a student with impaired sensory, motor, or communication skill, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test supports to measure rather than reflecting the student's impaired sensory, motor, or communication skills (except where those skills are the factors that the test purports to measure).
  - Are technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

- If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report.

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Any non-standardized test, administered by a qualified professional, may be used to assist in determining whether the student has a disability and in determining the contents of the student's IEP.

If the evaluation requires more than one component, the components shall be completed by a multidisciplinary team, including at least one teacher or other specialists with knowledge in the area of suspected disability.

For a student suspected of having a learning disability, the evaluation shall include an observation of academic performance in the general education classroom by at least one team member other than the student's general education teacher.

The administration of assessments must be coordinated between schools if a student transfers from one school to another in the same school year. In Cirrus Academy Charter School, the psychologist or speech-language pathologist who began the assessment will complete it, write the evaluation report, and input information into the eligibility report.

### **Evaluation Review**

In Cirrus Academy Charter School, following the individual assessments, the parent must be invited to a multidisciplinary team meeting of qualified individuals to review the assessments results, consider all documented information in the referral packet, and determine special education eligibility for the student and the educational needs of the child. This is an Eligibility Meeting.

Evaluation reports are provided to parents in writing. If requested by the parent, the reports must be made available to parents prior to the meeting to determine eligibility. A written copy of the evaluation reports shall be provided to the parents, at no cost, prior to or at the meeting where the eligibility team reviews the evaluation reports.

In making a determination of eligibility, a child must not be determined to be a child with a disability if the determinant factor for that eligibility is lack of appropriate instruction in reading, including the essential components of reading instruction; lack of appropriate instruction in math; or limited English proficiency; and if the child does not otherwise meet the program area eligibility criteria for a child with a disability.

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 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. If a determination is made that the child has a disability that affects educational performance (academic, functional and/or developmental) and that the child needs special education and related services, an eligibility document and IEP must be developed for the child.

*Please see the Eligibility Section of this manual for more information on eligibility team, eligibility criteria, and eligibility determination.*

### **Procedures for Reevaluation**

A **Reevaluation Determination**, consistent with federal and state statutes and regulations, is required for special education students at least once every 3 years, unless the parent and the Cirrus Academy Charter School agree that a reevaluation is unnecessary. The purpose of re-evaluation is to decide if further information is needed to determine if a disability continues to exist, to establish present levels of performance, or to determine whether the student continues to need special education and related services. If existing information satisfies these three needs then a comprehensive evaluation is not indicated and the child remains eligible for special education services.

Eligibility determination must be initiated with sufficient time to complete the re-evaluation process prior to the third anniversary of the date eligibility was last determined.

If the reevaluation is being conducted for purposes other than the student's triennial, the reevaluation process, including eligibility, must be completed within 90 business days of the date the request for reevaluation was received. Parents must be notified of the reevaluation determination committee meeting early enough to ensure they have an opportunity to participate. Every effort must be made to ensure that one or both parents are present at the meeting. If neither parent can attend, other methods to ensure parent participation should be used, including individual or conference telephone calls. A record must be kept of each parent contact. These contacts may include detailed records of telephone calls made or attempted and the results of those calls; detailed records of visits made to the parent's home; or copies of correspondence sent to and received from the parent.

The IEP reevaluation determination committee convenes to review existing evaluation data available for the student and the reasons for the reevaluation request. In Cirrus Academy Charter School existing evaluation data will include:

- Updated vision and hearing
- Social Questionnaire Update
- Previous evaluation data
- Psychologists input
- Specialist's input (SLP, CH, VI, etc)
- Current teacher reports and/or observations

- Current IEP progress reports (to include progress toward meeting IEP goals)
- Current classroom based assessments
- Analyzed work samples in areas of suspected deficit
- Any private evaluation reports provided by the parents • Any other relevant information.

All information provided by the parent, orally or in writing, must be considered.

On the basis of the review of all presented documentation that includes input from the student's parents and teachers, the student's IEP reevaluation committee determines what, if any, additional assessments are needed in order to determine:

- If the student continues to be a student with a disability.
- Present educational needs of the student.
- Present level of academic achievement and related developmental needs.
- Whether the student needs special education and related services, and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

If the team decides a re-evaluation is appropriate, **Consent for Evaluation** form will be signed by the parent at the meeting and a completed reevaluation packet will be submitted to the Department of Special Education. A completed reevaluation packet will include:

- Hearing/Vision screening
- Confidential Parent Questionnaire Update
- Analyzed work samples
- Data in the area of suspected disability, progress/mastery toward goals and objectives, and any Progress Monitoring in the area(s) of concern.

Once the evaluation is completed, an eligibility meeting will be scheduled and the psychologist will work with school personnel to enter information in a new Eligibility Report. The current IEP will be amended to reflect the new eligibility results, additional goals and objectives, etc., with important information supplied in the "*Meeting Notes*" section. The date of this IEP/Eligibility meeting will become the new eligibility date. Copies of paperwork will be given to the parent and saved in *Infinite Campus*.

If the IEP reevaluation committee determines that no additional data is required to determine eligibility then the review of existing data is considered the evaluation. There must be a thorough summary that outlines the review of



information and the team's decision. This can be written in the Minutes or Meeting Summary in Infinite Camps.

When a decision is made that no additional data is required, the committee can proceed with making an eligibility determination. The parent has the right to request assessments about their child's educational needs and/or to request assessments to determine whether their child continues to be a child with a disability and in need of special education and related services. However, it is not required to evaluate a student solely because the student is graduating with a regular or advanced diploma, even though this will be considered a change in placement.

*Prior Written Notice* will be provided to parents informing them that upon graduation the student will no longer be eligible for special education and related services. If additional evaluation data is required to determine continued eligibility, the reevaluation determination committee determines which evaluation components are needed. The school psychologist must provide input to the reevaluation determination committee when assessments are being considered to determine new or additional eligibility area and when assessments are being considered to determine whether the student continues to be a student with a disability who requires special education and related services.

Should the parent request assessments during a reevaluation determination meeting in which the school psychologist is not present; the reevaluation committee does not need to reconvene. The reevaluation committee should consider the parent's request at the time it is made. After the assessments are completed, the parent must be invited to a conference to discuss the results of the assessments.

For those reevaluation cases where the student was originally placed for **Speech-Language Impairment** services only, but now has a suspected disability in academic areas, the SpeechLanguage Pathologist will collaborate with the Tier III/Student Support Team to manage all academic interventions/progress monitoring while the Speech/Language Pathologist continues the speech/language interventions. This should be completed through the IEP process. The Tier III/Student Support Team Chair will coordinate with the Speech/Language Pathologist when a Redetermination meeting is needed to discuss with parents the potential need for additional interventions or a referral for psychoeducational academic evaluation.

*Please see the eligibility section of this manual for more information on eligibility team information, eligibility criteria, and eligibility determination.*

### **Parent Requests for Special Education Evaluation Procedures**

If a parent suspects their child has a disability and is need of special education services, the parent should contact the school and express their concerns to the child's teacher and/or

school administrator. If the parent makes an oral or written request for a Special Education Evaluation to the school, teacher, or administrator:

- The Parent Request is sent to the school's administrator or SST Chair.
- The administrator/Chair discusses the request with the parent and the type of request being made (SST Diagnostic or Special Education Evaluation).
- The administrator and/or SST Chair will explain the Evaluation for Special Education Process, and the Tier process, including interventions and progress monitoring.
  - If the parent requests an SST Diagnostic Assessment, the Consent for SST Diagnostic Evaluation is signed and evaluation instruments are provided.  
*Please refer to the RTI/SST Manual for these procedures.*
  - If the parent requests a Special Education Evaluation, the student is immediately placed in Tier III, if he is not already in this Tier. The Consent for Special Education Evaluation is signed, and Parental Rights and a copy of Evaluation Instruments are provided.

Regardless of the type of request, an evaluation results or eligibility determination meeting will be held within 60 days from the receipt of the request (for initial referrals only).

Absence of RTI data does not prevent the submission of a parent requested referral for evaluation.

### **Special Education Evaluations of Young Children**

Preschool-aged children (aged 3-5) may be referred for special education evaluation by any person (such as parents, school personnel, local pediatricians and other medical staff, audiologists, parents, and/or staff from private preschools or daycares, Head Start, PreK, Health Department, Family and Children's Services and Early Intervention/Babies Can't Wait). Individuals making referrals for special education evaluation may contact any the Cirrus Academy Charter School Department of Special Education.

Once the referral packet is received from Babies Can't Wait, Head Start, Daycare, parent, or other entity, a meeting is scheduled to complete intake paperwork and request additional records. After vision and hearing records have been received or conducted, the psychologists, speech language pathologist, and other staff members who will evaluate, i.e., occupational therapist or physical therapist, complete assessments. An eligibility and IEP meeting will be held prior to the child's third birthday.

### ***Babies Can't Wait Referrals:***

- Special Education Administrative Assistant receives notification of referral from *Babies Can't Wait* (BCW) office (usually by FAX or hand delivery);
- Special Education Administrative Assistant enters the notification date on BCW timeline sheet;
- Special Education Administrative Assistant collaborates with BCW Coordinator to schedule transition meeting;
- Special Education Administrative Assistant enters the transition date on BCW timeline sheet;

### **At transition meeting**

- Hearing/vision screens are scheduled (if warranted)
- Parental information needed for Eligibility Report is obtained (parental questionnaire/concerns, developmental milestones, medical information, etc.)
- Parents are informed of the evaluation process
- Evaluation may be scheduled at this time
- Parent signs the *Permission to Evaluate* form before the evaluation

### **Evaluation Procedures of Young Children**

- Team evaluation (most often including special education teacher, Speech/Language Pathologist, general education "teacher," parent, and psychologist) occurs.
- Eligibility/IEP meeting is scheduled upon completion of evaluation.
- Special Education Administrative Assistant is notified as to whether child is/is not eligible to receive services;
- Eligibility for Special Education status/dates is recorded on the BCW Timeline Sheet
- If eligible, parent is provided with Registration Checklist and is directed to the appropriate school office to complete the Process for registration.

### **Parent Referrals of Young Children**

- Designated Psychologist, Preschool Special Education, Speech-Language Pathologist meets with parent to discuss parental concerns (also obtain other info needed for Eligibility Report: medical information, developmental milestones, sensory issues; developmental history).
- Parents are informed of the evaluation process.

- Parents are provided with suggested strategies to complete at home.
- Vision/hearing screens are scheduled (if warranted).
- Evaluation date/time is scheduled.
- Consent to Evaluate is signed before evaluation.
- Evaluation(s) are conducted (most often including special education teacher, Speech/Language Pathologist, parent, and psychologist).
- Eligibility/IEP meeting is scheduled.
- Student information is recorded on Timeline Sheet indicating whether or not student is eligible for special education services.
- If eligible, IEP team will meet and develop the IEP for the student.

### **Requests from Parents of Children who are Homeschooled or Parentally Placed in Private Schools**

Once the referral packet, which should include progress monitoring data, is received, the psychologist, speech-language pathologists, and other disciplines complete assessments. An eligibility meeting will be held within 60 days. If the child is determined eligible for special education and related services, the child must be enrolled in Cirrus Academy Charter School to receive services other than those provided by proportionate share. *Please refer to IEP and Service Plans for further information.*

### **Independent Education Evaluation**

Parents of a student with a disability or of a student who has received an initial education evaluation from CACS have the right to request an Independent Educational Evaluation (IEE) at public expense if the parents disagree with an evaluation conducted by the Cirrus Academy Charter School.

Although parents have a right to request an IEE, Cirrus Academy Charter School Department of Special Education has the right to first conduct its own evaluation. It is the procedure of the department to ask parents the reason or reasons they object to the public evaluation; however, according to the regulations, parents are not required to provide statements as to why they object.

The Department of Special Education has developed a list of approved examiners who have demonstrated that they meet the qualifications and professional standards required by Cirrus Academy Charter School for educational evaluations. The parent is not obligated to choose an evaluator from this list; however, Cirrus Academy Charter School Department of Special Education reserves the right to object to any evaluator selected by the parent if that examiner, in the opinion of the Director of Special Education and Psychological Services, does not meet the qualifications and professional standards established by Cirrus Academy Charter School.

The independent evaluation examiner must meet the same evaluation criteria used by our own staff in conducting evaluations. Private evaluators are required to consult with Cirrus Academy Charter School's teacher(s), etc. who work with the student as part of their report.

Once the parent requests an Independent Education Evaluation,

- Determination of Reevaluation must be completed
  - Parent Consent for Special Education is signed
  - Parent Consent to Release Information is signed
- A copy of the most recent Psychological Evaluation(s) is sent to the independent education examiner.

Once the evaluation is completed, copies of the Evaluation Report must be sent to our office by the Independent Education Evaluator.

An evaluation results meeting and/or eligibility meeting is scheduled by the Department of Special Education.

Cirrus Academy Charter School will consider the Independent Education Evaluation to determine new or continued eligibility and educational needs of the student.

For those reevaluation cases where the student was originally placed for **SpeechLanguage Impairment** services only, but now has a suspected disability in academic areas, the Speech-Language Pathologist will collaborate with the Tier III/Student Support

Team to manage all academic interventions/progress monitoring while the Speech/Language Pathologist continues the speech/language interventions. This should be completed through the IEP process. The Tier III/Student Support Team Chair will coordinate with the Speech/Language Pathologist when a Redetermination meeting is needed to discuss with parents the potential need for additional interventions or a referral for psychoeducational academic evaluation.



## **STATE RULE 160-4-7-.05: ELIGIBILITY DETERMINATION AND CATEGORIES OF ELIGIBILITY**

### **Eligibility Determination**

Once a student has been formally evaluated, the District must convene a meeting of the Multidisciplinary Team (Eligibility Team) to determine whether the student has a disability and whether the student is eligible for special education and related services.

In order to ensure that required timelines are met for conducting an Individualized Education Program (IEP) meeting and that students begin receiving needed services in a timely manner, it is important to promptly schedule the eligibility determination meeting. In many instances, the eligibility determination and the IEP meeting may be held on the same date, provided that all necessary participants for each meeting are available and appropriate prior notices were sent.

In Cirrus Academy Charter School the eligibility determination meeting is scheduled by the Department of Special Education. Notices of meetings may include:

1. Phone call to parent
2. Notice of Meeting is sent to parent ten (10) days prior to the meeting
3. Second written notice or reminder may be mailed and/or sent by student within five (5) days prior to the meeting

### **General Requirements of Eligibility Determination**

Upon completion of assessments and other measures, an Eligibility team of qualified professionals and the student's parent must determine whether the child is a child with a disability within the meaning of IDEA. IDEA defines a child with a disability as a child who has been formally evaluated, has one or more identified disabilities, and because of that disability, needs special education and related services.

Cirrus Academy Charter School shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

A student must have at least one of the following disabilities to be eligible for special education in the state of Georgia.

- Autism Spectrum Disorder
- Deaf-blindness
- Deafness
- Emotional and Behavioral Disorder

- Hearing Impairment
- Intellectual Disability (Mild, Moderate, Severe, Profound)
- Multiple disabilities
- Orthopedic Impairment
- Other Health Impairment
- Significant Developmental Delay
- Specific Learning Disability
- Speech-Language Impairment
- Traumatic Brain Injury
- Visual Impairment

A student is not considered eligible for special education services if the Eligibility Team determines, through an appropriate evaluation, that a student has one of the above disabilities but does not require special education services. Related services are a support service and are only provided to students eligible for special education services.

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 o The essential components of reading instruction means explicit and systematic instruction in:
  - phonemic awareness
  - phonics
  - vocabulary development
  - reading fluency, including oral reading skills; and
  - reading comprehension strategies
- lack of appropriate instruction in math; or
- limited English proficiency; and
- the student does not otherwise meet the eligibility criteria described in this Rule.

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, Cirrus Academy Charter School 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;
- Ensure that information obtained from all of these sources is documented and carefully considered.



- 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 IEP must be developed for the child.

### **Age Ranges for Eligibility**

A child with a disability who has an educational need is eligible for services under IDEA when the child turns three years of age. A student's eligibility terminates when the student graduates with a regular high school diploma (Option 1) or reaches age 22, whichever is earlier.

### **Termination of Eligibility**

Any termination of eligibility is considered a change in placement. Termination of eligibility occurs when the student:

- graduates with a regular high school diploma (Option 1);
- turns 22 years of age, or
- is formally evaluated and found not eligible by the Eligibility Team.

A Free Appropriate Public Education (FAPE) is available to any individual student with a disability who needs special education and related services. A student may still be eligible for special education even though they have demonstrated passing grades and are advancing grade to grade. The determination that a student is eligible under this part must be made on an individual basis by an appropriate Eligibility Team.

### **Other Considerations**

If more than one disability is considered, Eligibility meeting participants must include required members for both the primary disability and the secondary disability.

Members of the Eligibility Team for eligibility must include, at a minimum, the following members:

- Local Education Agency Representative
- Parent
- Regular Education Teacher
- Special Education Teacher ○ Interrelated Teacher ○ Teacher of Deaf Education ○ Teacher of Orthopedically Impaired ○ Teacher of Visual Impaired ○ Speech-Language Pathologist
- An individual qualified to interpret the instructional implications of the evaluation results

If appropriate or if review of more than one disability category is considered, secondary or related service participants might include, but is not limited to:

- Speech-Language Pathologist

- Occupational Therapist
- Physical Therapist
- Orientation and Mobility Specialist

The Eligibility Team may proceed with completing eligibility determinations without the parent's participation when reasonable efforts to encourage parent participation, through formal notifications and attempted notifications, have been made and documented.

### **Eligibility Report**

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 to the parent.

In Cirrus Academy Charter School, at the Eligibility Team meeting, the parent receives the following:

1. Parental Rights (explained to the parent prior to the meeting, unless the parent indicates that further explanation is not necessary)
2. Draft Eligibility Report
3. Psycho-educational Evaluation Report

In Cirrus Academy Charter School, the Eligibility Report must include a detailed, educationally relevant description of the student's needs. The report must be written in succinct, readily understandable language, using as little educational jargon as possible. The Eligibility Report shall be signed by eligibility team members, including, the person(s) conducting the evaluation, provide the dates the assessments were administered, and the date of the eligibility meeting. Immediately after the meeting, the parent receives a copy of the eligibility that includes eligibility determination and signatures. The final copy of eligibility report must include Statements of Eligibility (Decision Making and Committee Rationale) upon their completion. The Eligibility Report must be maintained in the student's confidential folder.

### **Criteria for Determining Eligibility**

In order to determine that a student is eligible for special education and related services, the multidisciplinary team must determine that the student meets the specific criteria for one or more disabilities. There are thirteen eligibility categories in the state of Georgia.

The following define each eligibility category and describe criteria according to specific classifications.

## **Categories of Eligibility**

### **Autism**

Autism is a developmental disability, generally evident before age three, that adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines. Students with autism vary widely in their abilities and behavior. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional and behavioral disorder.

The term of autism may also include students who have been diagnosed with Pervasive Developmental Disorder, Asperger's Disorder, Rett's Disorder, or Childhood Disintegrative Disorder provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements. Autism may exist concurrently with other areas of disability.

The following evaluations and assessments shall be utilized to determine the presence of the characteristics of autism spectrum disorder.

1. Comprehensive psychological evaluation to include a formal assessment of intellectual functioning and an assessment of adaptive behavior.
2. Educational evaluation to include an assessment of educational performance and current functioning levels.
3. Communication evaluation to include assessment of verbal and non-verbal communication, prosody (linguistics including intonation, rhythm and focus in speech), and pragmatic language utilizing both formal and informal measures.
4. Behavioral evaluations to include assessment of social interaction and participation, peer and adult interactions, capacity to relate to others, stereotypical behaviors, resistance to change, atypical responses to sensory stimuli, persistent preoccupation with or attachment to objects and other behaviors often associated with autism spectrum disorder.
5. Developmental history to include developmental differences and delays and age of onset, which is typically before the age of three. A child may be diagnosed as a child

with autism spectrum disorder after age three if the characteristics of autism spectrum disorder are met.

### **Eligibility and Placement**

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

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

Social interaction and participation. A child displays difficulties and/or idiosyncratic differences in interacting with people and participating in events. Often a child is unable to establish and maintain reciprocal relationships with people. A child may seek consistency in environmental events to the point of exhibiting rigidity in routines.

Communication (verbal and/or nonverbal). A child displays a basic deficit in the capacity to use verbal language for social communication, both receptively and expressively. Characteristics may involve both deviance and delay. Verbal language may be absent or if present, may lack usual communicative form, or the child may have a nonverbal communication impairment. Some children with autism may have good verbal language but have significant problems in the effective social or pragmatic use of communication.

Sensory processing. A child may exhibit unusual, repetitive or unconventional responses to sensory stimuli of any kind. A child's responses may vary from low to high levels of sensitivity.

Repertoire of activities and interests. A child may engage in repetitive activities and/or may display marked distress over changes, insistence on following routines and a persistent preoccupation with or attachment to objects. The capacity to use objects in an appropriate or functional manner may be absent, arrested, or delayed. A child may have difficulties displaying a range of interests and/or imaginative play. A child may exhibit stereotypical body movements.

A child with autism spectrum disorder may be served by any appropriately certified teacher in any educational program as described in the child's individualized education program (IEP). The identification of autism spectrum disorder for educational programming does not dictate a specific placement; however, it is based on the assessed strengths, weaknesses and individual goals and objectives of the child.

## **Deafblind**

Deafblind (DB) means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

## **Eligibility and Placement**

For a student to be determined eligible for placement in special programs for the deafblind, the student shall have current optometric or ophthalmological examinations, as well as an audiological evaluation, all administered by qualified professionals.

Students who are deafblind shall have an Audiological evaluation administered by a certified/licensed audiologist annually, or more often if needed. The annual audiological evaluation shall include, but is not limited to: an otoscopic inspection, unaided and aided pure tone and speech audiometry (as applicable), immittance testing, word recognition, hearing aid check and electro-acoustic analysis of the hearing aid (if amplified), and an analysis of a frequency modulated (FM) system check (if utilized).

A comprehensive written report indicating the date of the audiological evaluation and a description of the results of the audiological testing and amplification evaluation. In addition, the report should include a description of classroom environmental modifications which will assist the individualized education program (IEP) team in making instructional decisions, the student's ability to understand spoken language with and without amplification, and an interpretation of the results as they apply to the student in his or her classroom setting.

Students who are deafblind may be served in other classes serving students with other disabilities; however, the class-size ratio for deafblind shall be maintained. Additional Requirements: Each student who has been diagnosed as having dual sensory impairments shall be reported to the Georgia Deafblind Census.

## **Deaf/Hard of Hearing**

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

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

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

### **Eligibility and Placement**

The eligibility report shall include audiological, otological and educational evaluation reports. Audiological evaluations shall be provided with initial referral. Children who are deaf or hard of hearing shall have an audiological evaluation administered by a certified/licensed audiologist annually, or more often if needed. The annual audiological evaluation shall include, but is not limited to: an otoscopic inspection, unaided and aided pure tone and speech audiometry (as applicable), immittance testing, word recognition, hearing aid check and electro-acoustic analysis of the hearing aid (if amplified), an analysis of a frequency modulated (FM) system check (if utilized).

A comprehensive written report shall be included in the audiological evaluation. This written report shall include, but is not limited to: the date of the audiological evaluation, description of the results of the audiological testing, an amplification evaluation including the child's ability to understand spoken language with and without amplification, as well an interpretation of the results as they apply to the child in his or her classroom setting.

An otological evaluation report from appropriately licensed or certified personnel is required at the time of initial placement in the program for the deaf/hard of hearing. The otological evaluation report is required as medical history pertinent to the absence of hearing. If such a report is not available upon initial placement, it shall be obtained within 90 days of placement. The initial or most recent otological evaluation result shall be summarized and that otological evaluation report shall be attached to the eligibility report.

A comprehensive educational assessment shall be used in the development of the child's individualized education program (IEP). The educational evaluation shall include assessment data from more than one measure and shall include, but is not limited to, information related to academic/achievement levels, receptive and expressive language abilities, receptive and expressive communication abilities, social and emotional adjustment and observational data relative to the child's overall classroom performance and functioning.

A psychological evaluation, using instruments appropriate for children who are deaf or hard of hearing, is recommended as part of the overall data when eligibility is being considered.

Children who exhibit a unilateral hearing loss may be considered for eligibility provided documentation exists that indicates academic or communicative deficits are the result of the hearing loss.

## **Additional Requirements**

1. An evaluation of the communication needs of a child who is deaf or hard of hearing shall be considered in the program and class placement decisions. An evaluation of a child's communication needs shall include, but is not limited to: language and communication needs and abilities, opportunities for direct communication with peers and professional personnel in the child's preferred language and communication mode, severity of loss, educational abilities, academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode.
2. Any classroom to be used for a child who is deaf or hard of hearing shall be soundtreated and present an appropriate acoustical environment for the child. All placements, including regular education placements and desk arrangements within classrooms shall be made so that environmental noise and interruptions are minimized.
3. Recommendation of the appropriate educational environment, including acoustical considerations, should be made by the IEP Team.
4. Each LEA shall have written procedures to ensure the proper functioning of assistive amplification devices used by children who are deaf or hard of hearing. These procedures shall include the designated qualified responsible personnel, daily and ongoing schedules for checking equipment, as well as follow-up procedures. *Please see Assistive Technology Section for Procedures.*

## **Emotional Behavior Disorder**

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

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

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

### **Eligibility and Placement**

A child may be considered for placement in a program for children with EBD based upon an eligibility report that shall include the following:

- Documentation of comprehensive prior extension of services available in the regular program to include counseling, modifications of the regular program or alternative placement available to all children, and data based progress monitoring of the results of interventions
- Psychological and educational evaluations
- Report of behavioral observations over a significant period of time;
- Appropriate social history to include information regarding the history of the child's current problem(s), the professional services and interventions that have been considered or provided from outside the school; and
- Adequate documentation and written analysis of the duration, frequency and intensity of one or more of the characteristics of emotional and behavioral disorders.

A child must not be determined to be a child with an Emotional and Behavioral Disorder if the primary factor for that determination is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction;
- Lack of appropriate instruction in math;
- Lack of appropriate instruction in writing;
- Limited English proficiency;
- Visual, hearing or motor disability;
- Intellectual disabilities;
- Cultural factors;
- Environmental or economic disadvantage;
- Atypical education history (multiple school attendance, lack of attendance, etc.).

The term does not include children with social maladjustment unless it is determined that they are also children with EBD. A child whose values and/or behavior are in conflict with the school, home or community or who has been adjudicated through the courts or other involvement with correctional agencies is neither automatically eligible for nor excluded from EBD placement. Classroom behavior problems and social problems, e.g., delinquency and drug



abuse, or a diagnosis of conduct disorder, do not automatically fulfill the requirements for eligibility for placement.

## **Intellectual Disabilities**

Mild Intellectual Disabilities (MID)

Moderate Intellectual Disabilities (MOID) Severe

Intellectual Disabilities (SID)

Profound Intellectual Disabilities (PID)

Intellectual disabilities refers to significantly subaverage general intellectual functioning which exists concurrently with deficits in adaptive behavior that adversely affect educational performance and is manifested during the developmental period.

Significantly subaverage general intellectual functioning is defined as approximately 70 IQ or below as measured by a qualified psychological examiner on individually administered, standardized measures of intelligence.

All IQ scores defining eligibility for students with intellectual disabilities shall be interpreted as a range of scores encompassed by not more than one standard error of measurement below and above the obtained score. The standard error of measurement for a test may be found in the technical data section of the test manual.

Any final determination of the level of intellectual functioning shall be based on multiple sources of information and shall include more than one formal measure of intelligence administered by a qualified psychological examiner. There may be students with IQ scores below 70 who do not need special education, while some students with IQ scores over 70 may need special education. Interpretation of results should take into account factors that may affect test performance such as socioeconomic status, native language, cultural background and associated disabilities in communication, sensory or motor areas.

Significantly subaverage intellectual functioning must be verified through a written summary of at least one structured observation that demonstrates the child's inability to progress in a typical age appropriate manner and with consideration for culturally relevant information, medical and education history.

Deficits in adaptive behavior are defined as significant limitations in an individual's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age-level and cultural group, as determined by clinical judgment.

Individuals with intellectual disabilities typically have strengths that coexist with weaknesses in adaptive behavior. During the pre-school years the primary criteria for adaptive behavior evaluations are sensory motor skills; communication skills; self-help skills; and socialization. In addition to the previous criteria, during the school age years evaluation criteria include the use of basic academic skills in practical situations, the use of reasoning and judgment in coping effectively in a variety of environments, the acquisition of social skills and establishing and maintaining satisfactory personal relationships. In late adolescence and adulthood, additional criteria related to independent functioning and vocational activity are used.

Any final determination of impairment in adaptive behavior shall be based on at least two measures of adaptive behavior, one of which shall be a formal measure.

At least two sources must be used to provide the information for the adaptive behavior measures. The first source should be someone from the local school who knows the student such as a general education teacher, a special education teacher, or a counselor. The second source, if possible, should be someone who knows the student from outside the school environment such as a parent, guardian, family member or other person familiar with the student.

Interpretation of results should consider the student's cultural background, socioeconomic status and any associated disabilities that may limit impact the results of the adaptive behavior measures in comparing students to expected standards for a particular age group.

Deficits in intellectual functioning and adaptive behavior are all documented prior to age 18.

### **Eligibility and Placement**

A student may be classified as having an intellectual disability (at one of the levels listed below) when a comprehensive evaluation indicates deficits in both intellectual functioning and adaptive behavior. Intellectual functioning and adaptive behavior shall be considered equally in any determination that a student is eligible for services in the area of intellectual disability. A comprehensive educational evaluation shall be administered to determine present levels of academic functioning. A written report shall be prepared for each student to provide an adequate description of the data collected during evaluation and to explain why the student is eligible for services in a program for students with intellectual disabilities. In situations where eligibility discrepancies exist between test score results from intellectual functioning, adaptive behavior and academic achievement, the eligibility report must contain a statement of specific factors considered which resulted in the decision of the eligibility team. A student may be classified as having an intellectual disability at one of the levels listed below.

### **Mild Intellectual Disability**

(1) Intellectual functioning ranging between an upper limit of approximately 70 to a lower limit of approximately 55; and

(2) Deficits in adaptive behavior that significantly limit an individual's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age level and cultural group, as determined by clinical judgment.

### **Moderate Intellectual Disability**

(1) Intellectual functioning ranging from an upper limit of approximately 55 to a lower limit of approximately 40; and

(2) Deficits in adaptive behavior that significantly limit an individual's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age-level and cultural group as determined by clinical judgment.

### **Severe Intellectual Disability**

(1) Intellectual functioning ranging from an upper limit of approximately 40 to a lower limit of approximately 25; and

Deficits in adaptive behavior that significantly limit an individual's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility and especially school performance that is expected of the individual's age-level and cultural group as determined by clinical judgment.

### **Profound Intellectual Disability**

(1) Intellectual functioning below approximately 25; and

(2) Deficits in adaptive behavior that significantly limit an individual's effectiveness in meeting the standards of maturation, learning, personal independence or social responsibility and especially school performance that is expected of the individual's age-level and cultural group, as determined by clinical judgment.

### **Orthopedic Impairment**

Orthopedic impairment (01) refers to a child whose severe orthopedic impairments adversely affect their educational performance to the degree that the child requires special education.

This term may include:

1. Impairment caused by congenital anomalies, e.g., deformity or absence of some limb.

2. Impairment caused by disease (poliomyelitis, osteogenesis imperfecta, muscular dystrophy, bone tuberculosis, etc.)
3. Impairment from other causes, e.g., cerebral palsy, amputations, and fractures or burns that cause contractures.

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

### **Eligibility and Placement**

Evaluation for initial eligibility shall include the following:

1. A current medical evaluation from a licensed doctor of medicine. The evaluation report used for initial eligibility shall be current within one year. The evaluation shall indicate the diagnosis/prognosis of the child's orthopedic impairment, along with information as applicable regarding medications, surgeries, special health care procedures and special diet or activity restrictions.
2. A comprehensive educational assessment to indicate the adverse affects of the orthopedic impairment on the child's educational performance.
3. Assessments shall document deficits in: pre-academic or academic functioning, social/emotional development, adaptive behavior, motor development or communication abilities resulting from the orthopedic impairment. When assessment information indicates significant deficit(s) in cognitive/academic functioning, a psychological evaluation shall be given.

Children served in a program for orthopedic impairments should be functioning no lower than criteria outlined for mild intellectual disabilities programs. For those children with orthopedic impairments served in other special education programs due to the severity of their sensory or intellectual disability, support by the OI teacher regarding the implications of the child's orthopedic impairment may be appropriate.

### **Other Health Impairment**

Other health impairment (OHI) means having limited strength, vitality or alertness including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that

1. Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficient hyperactivity disorder, diabetes, epilepsy, or heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome, and
2. Adversely affects a child's educational performance. In some cases, heightened awareness to environmental stimulus results in difficulties with starting, staying on and

completing tasks; making transitions between tasks ; interacting with others; following directions; producing work consistently; and organizing multi-step tasks.

## **Eligibility**

### 1. Evaluation for initial eligibility shall include the following:

- a. The medical evaluation from a licensed doctor of medicine, or in the case of ADD and ADHD an evaluation by a licensed doctor of medicine or licensed clinical psychologist, should be considered by the child's Eligibility Team as part of the process of determining eligibility. The evaluation report shall indicate the diagnosis/prognosis of the child's health impairment, along with information as applicable regarding medications, special healthcare procedures and special diet or activity restrictions. The evaluation report used for initial eligibility shall be current within one year and must document the impact of the physical condition on the vitality, alertness or strength of the child. In cases of illness where the child's physical health and well-being are subject to deterioration or change, this report shall be updated as frequently as determined by the IEP Committee.

A medical diagnosis does not automatically include or exclude a child from determination of eligibility.

- b. A comprehensive developmental or educational assessment to indicate the effects of the health impairment on the child's educational performance. Assessments shall document deficits in pre-academic or academic functioning, adaptive behavior, social/emotional development, motor, or communication skills resulting from the health impairment. When assessment information indicates significant deficits in cognitive/academic functioning, a psychological evaluation shall be given.
- c. A child must not be determined to be a child with Other Health Impairment if the determinant factor for that determination is:
  - Lack of appropriate instruction in reading, including the essential components of reading instruction;
  - 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 (attendance at multiple schools, lack of attendance).

## **Placement and Service Delivery**

A child meeting eligibility criteria shall be served by any appropriately certified teacher in any educational program, as specified in the child's individualized education program (IEP).

According to State Board of Education Rule 160-1-3-.03 Communicable Diseases, the district shall allow a child infected with a communicable disease to remain in his or her educational setting unless he or she currently presents a significant risk of contagion as determined by the district after consultation with the child's physician, a knowledgeable public health official and/or a physician designated by the LEA (at the LEA's option).

### **Specific Learning Disability**

Specific learning disability (SLD) 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 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 available in the general education classroom, 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.

### **Exclusionary Factors**

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)

### **Required Data Collection**

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:

1. Data is collected and considered prior to conducting a formal evaluation for special education:
  - a. At least two current (within twelve months) assessments such as the results of the CRCT, norm-referenced achievement tests or benchmarks indicating performance that does not meet expectations for grade level standards;
  - b. 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.
2. Supplementary instruction that has been or is being provided:
  - a. that lasts for a minimum of 12 weeks;
  - b. At least four data collections of progress monitoring occur during the twelve weeks;
  - c. the strategies used and the progress monitoring results are presented to the parents at regular intervals
3. interventions used and the data based progress monitoring results are presented to the parents at regular intervals throughout the interventions.
4. 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 strengths 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 for the academic school year and
  - The current school year's Response to Intervention data based documentation required prior to referral indicating the lack of progress toward the attainment of grade level standards.
  - As appropriate, a language assessment as part of additional processing batteries may be included.

### **Eligibility Determination**

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

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:



1. Oral expression- use of spoken language to communicate ideas;
2. Listening comprehension-ability to understand spoken language at a level commensurate with the child's age and ability levels;
  
3. Written expression - ability to communicate ideas effectively in writing with appropriate language;
4. Basic reading skills-ability to use sound/symbol associations to learn phonics in order to comprehend the text;
5. Reading comprehension-ability to understand the meaning of written language based in child's native language;
6. Reading Fluency Skills- the ability to read and process a text with appropriate rate and accuracy;
7. 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
8. 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 SLD Eligibility Group**

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.

### **Speech-Language Impairment**

Speech or language impairment (SLI) refers to a communication disorder, such as stuttering, impaired articulation, language or voice impairment that adversely affects a child's educational performance. A speech or language impairment may be congenital or acquired. It refers to impairments in the areas of articulation, fluency, voice or language. Individuals may demonstrate one or any combination of speech or language impairments. A speech or language impairment may be a primary disability or it may be secondary to other disabilities.

(1) **Speech Sound Production Impairment (e.g. articulation impairment)**- atypical production of speech sounds characterized by substitutions, omissions, additions or distortions that interferes with intelligibility in conversational speech and obstructs learning, successful verbal communication in the educational setting. The term may include the atypical production of speech sounds resulting from phonology, motor or other issues. The term speech sound impairment does not include:

- Inconsistent or situational errors;
- Communication problems primarily from regional, dialectic, and/or cultural differences;
- Speech sound errors at or above age level according to established research-based developmental norms, speech that is intelligible and without documented evidence of adverse affect on educational performance;
- Physical structures (e.g., missing teeth, unrepaired cleft lip and/or palate) are the primary cause of the speech sound impairment; or
- Children who exhibit tongue thrust behavior without an associated speech sound impairment.

(2) **Language Impairment** - impaired comprehension and/or use of spoken language which may also impair written and/or other symbol systems and is negatively impacting the child's ability to participate in the classroom environment. The impairment may involve,

in any combination, the form of language (phonology, morphology, and syntax), the content of language (semantics) and/or the use of language in communication (pragmatics) that is adversely affecting the child's educational performance. The term language impairment does not include:

- Children who are in the normal stages of second language acquisition/learning and whose communication problems result from English being a secondary language unless it is also determined that they have a speech language impairment in their native/primary language.
- Children who have regional, dialectic, and/or cultural differences.
- Children who have auditory processing disorders not accompanied by language impairment.
- Children who have anxiety disorders (e.g. selective mutism) unless it is also determined that they have a speech language impairment. There must be a documented speech-language impairment that adversely affects the educational performance for these children to qualify for special education services.

(3) **Fluency Impairment** - interruption in the flow of speech characterized by an atypical rate, or rhythm, and/or repetitions in sounds, syllables, words and phrases that significantly reduces the speaker's ability to participate within the learning environment. Excessive tension, struggling behaviors and secondary characteristics may accompany fluency impairments. Secondary characteristics are defined as ritualistic behaviors or movements that accompany dysfluencies. Ritualistic behaviors may include avoidance of specific sounds in words. Fluency impairment includes disorders such as stuttering and cluttering. It does not include dysfluencies evident in only one setting or reported by one observer.

(4) **Voice/Resonance Impairment** — interruption in one or more processes of pitch, quality, intensity, or resonance resonance that significantly reduces the speaker's ability to communicate effectively. Voice/Resonance impairment includes aphonia or the abnormal production of vocal quality, pitch, loudness, resonance, and/or duration, which is inappropriate for an individual's age and/or gender. The term voice/resonance impairment does not refer to:

- Anxiety disorders (e.g. selective mutism)
- Differences that are the direct result of regional, dialectic, and/or cultural differences
- Differences related to medical issues not directly related to the vocal mechanism (e.g. laryngitis, allergies, asthma, laryngopharyngeal reflux (eg. acid reflux of the

throat, colds, abnormal tonsils or adenoids, short-term vocal abuse or misuse, neurological pathology)

- Vocal impairments that are found to be the direct result of or symptom of a medical condition unless the impairment impacts the child's performance in the educational environment and is amenable to improvement with therapeutic intervention.

## **Evaluation**

All of the special education rules and regulations related to evaluation, eligibility and placement must be followed including:

1. Documentation of the child's response to prior evidenced-based interventions prior to referral for a comprehensive evaluation.
2. A comprehensive evaluation shall be performed by a certified or licensed SpeechLanguage Pathologist (SLP) for consideration of speech-language eligibility. Following receipt of a clear hearing and vision screening and medical clearance for voice (as appropriate) this evaluation consists of an initial screening of the child's speech sounds, language, fluency, voice, oral motor competency, academic, behavioral, and functional skills using either formal or informal assessment procedures to assist in determining if the child is a child with a disability. An indepth evaluation of each area suspected of being impaired, using at least one formal test and/or procedure.
3. A full and individual initial evaluation for each area suspected of being a disability must be provided and considered prior to the child's eligibility for speech-language services. This may include assessments in the areas of health (e.g. ENT, otolaryngologist, ophthalmologist, and optometrist), vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.
4. The evaluation is sufficient to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been referred or classified.
5. Children with voice/resonance impairment must have a medical evaluation to rule out physical structure etiology by a medical specialist either prior to a comprehensive evaluation or as part of a comprehensive evaluation. The presence of a medical condition (e.g., vocal nodules, polyps) does not necessitate the provision of voice therapy as special education or related service nor does a prescription for voice therapy from a medical doctor. A written order

from a medical practitioner is a medical opinion regarding the medical evaluation or treatment that a patient should receive. When directed to a school, these medical orders should be considered by the team as a part of the eligibility process. The team, not a medical practitioner, determines the need for an evaluation for special education services based on documented adverse effect of the voice impairment on the child's educational performance.

6. A variety of assessment tools and strategies must be used to gather relevant functional, developmental and academic information about the child, including information provided by the parent. Information from the evaluation is used to determine whether the child is a child with a disability and the content of the child's IEP including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities).

### **Eligibility**

Determining eligibility for speech-language impaired special education services includes three components:

- 1) The Speech-Language Pathologist determines the presence or absence of speechlanguage impairment based on Georgia rules and regulations for special education.
- 2) Documentation of an adverse affect of the impairment on the child's educational performance.
- 3) The team determines that the child is a child with a disability and is eligible for special education and appropriate specialized instruction needed to access the student's curriculum.

Eligibility shall be determined based on the documented results of at least two or more measures or procedures, at least one of which must be formal, administered in the area of impairment and documentation of adverse affect.

A speech-language disorder does not exist if:

- Environmental, cultural, or economic disadvantage cannot be ruled out as primary factors causing the impairment; or
- A child exhibits inconsistent, situational, transitory or developmentally appropriate speech-language difficulties that children experience at various times and to various degrees.

- Because children who have communication difficulties do not necessarily have speech or language impairments, the speech-language program may not be the appropriate service delivery model to adequately meet the child's educational needs. For this reason, all children who are suspected of having communication problems shall be the subject of a Student Support Team (SST) to problem solve and implement strategies to determine and limit the adverse affect on the child's educational performance.

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

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

### **Placement**

Placement in the speech-language program shall be based on the results of the comprehensive assessment, and eligibility, along with all other pertinent information.

Children shall not be excluded from a speech-language program based solely on the severity of the disability. Cognitive referencing (i.e., comparing language scores to IQ scores) is not permissible as the only criteria for determining eligibility for speechlanguage impaired services.

**Communication Paraprofessionals** - A communication paraprofessional is an adjunct to the Speech Language Pathologist (SLP) and assists with certain duties and tasks within the speech-language program. The communication paraprofessional is under the supervision of a certified or licensed SLP. The communication paraprofessional can not carry their own caseload, nor do they increase the certified SLP's caseload outside of a self-contained classroom.

The primary responsibility for the delivery of services, as indicated on the IEP, remains with the certified or licensed SLP. Children who receive services from the

communication paraprofessional shall also receive services from the supervising SLP and/or licensed or certified SLP a percentage of the time designated in the IEP for speechlanguage services, but no less than one hour per month. Each LEA should develop and implement procedures for the training, use and supervision of communication paraprofessionals.

### **Traumatic Brain Injury**

Traumatic Brain Injury (TBI) refers to an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects the student's educational performance. The term applies to open or closed head injuries resulting in impairments which are immediate or delayed in one or more areas, e.g., cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, speech and information processing. These injuries may intensify pre-existing problems in these areas as well. Resulting impairments may be temporary or permanent in nature. The term does not apply to brain injuries that are congenital or degenerative in nature, brain injuries induced by birth trauma or those resulting from internal occurrences such as stroke, tumor or aneurysm.

### **Eligibility**

Evaluation for eligibility shall include the following.

- A summary of the student's pre-injury functioning status. This information may be available through previous formal evaluations, developmental assessments, achievement tests, classroom observations and/or grade reports.
- Verification of the TBI through the following:
  - a. A medical evaluation report from a licensed doctor of medicine indicating that TBI has occurred recently or in the past, or
  - b. Documentation of TBI from another appropriate source, such as health department or social services reports, or parents' medical bills/records.
- A neuropsychological, psychological or psychoeducational evaluation that addresses the impact of the TBI on the following areas of functioning:
  - o Cognitive - this includes areas such as memory, attention, reasoning, abstract thinking, judgment, problem solving, speed of information processing, cognitive endurance, organization, receptive and expressive language and speed of language recall.

- o Social/Behavioral - this includes areas such as awareness of self and others, interaction with others, response to social rules, emotional responses to everyday situations and adaptive behavior.
- o Physical/Motor - this includes areas such as hearing and vision acuity, speech production, eye-hand coordination, mobility and physical endurance.
- o Deficits in one or more of the above areas that have resulted from the TBI and adversely affect the student's educational performance shall be documented.

### **Placement/Service Delivery**

The identification of TBI for educational programming does not dictate a specific service or placement. The student with TBI shall be served by any appropriately certified teacher in any educational program, as specified in the student's individualized education program (IEP) Committee minutes.

### **Visual Impairment**

A student with a visual impairment (VI) is one whose vision interferes with functioning in a regular school program or, for preschool-age children, in learning tasks. Examples are students whose visual impairments may result from congenital defects, eye diseases, or injuries to the eye. Visual impairment is determined on the basis of a current examination by an ophthalmologist or optometrist.

Functionally blind means a student who is legally blind and unable to use print as the reading medium. Consideration of instruction in Braille is essential to this student's education.

Legally blind means a student whose visual acuity is 20/200 or less in the better eye after correction or who has a limitation in the field of vision that subtends an angle of 20 degrees. Some students who are legally blind have useful vision and may read print.

Visually impaired refers to a student whose visual acuity falls within the range of 20/70 to 20/200 in the better eye after correction or who have a limitation in the field of vision that adversely impacts educational progress.

Progressive visual disorders: Children, whose current visual acuity is greater than 20/70, but who have a medically indicated expectation of visual deterioration may be considered for vision impaired eligibility based on documentation of the visual deterioration from the child's optometrist or ophthalmologist.





## **Eligibility and Placement**

A current (within one year) eye examination report shall be completed and signed by the ophthalmologist or optometrist who examined the student.

- (a) A report from a neurologist in lieu of the optometrist/ophthalmologist report is acceptable for students who have blindness due to a cortical vision impairment.

A comprehensive education evaluation shall be administered to determine present levels of functioning. The adverse effect of the visual impairment on the student's educational performance shall be considered for eligibility.

A **clinical low vision evaluation** shall be completed by a low vision optometrist for children who are not totally blind;

- (a) if the student is under the age of 8 and/or has a severe cognitive and/or physical disability that would make the use of low vision aids unfeasible, a functional vision evaluation may be used instead of a low vision evaluation to establish eligibility.

1. The low vision evaluation should be completed by age 10 for children who do not have one during eligibility determination prior to age 8 unless other circumstances apply.
2. The low vision evaluation is often difficult to schedule within the 60 day timeline, therefore, if children meet all other eligibility requirements, the eligibility report shall document the date of the scheduled upcoming low vision evaluation and the team may proceed with the eligibility decision.
3. Once the low vision evaluation has occurred the eligibility information shall be updated, and as appropriate, the IEP.

The low vision evaluation must occur within 120 days of receipt of parental consent to evaluate to determine eligibility for visual impairment.

## **Additional Requirements**

Students identified with visual impairments shall be evaluated to determine the need for Braille skills. The evaluation will also include the future needs for Braille instruction or the use of Braille. For students who are identified through evaluation that Braille instruction and use is indicated, the individualized education program (IEP) shall include the following:

- Results obtained from the evaluation conducted for the purpose of determining the need for Braille skills;
- How instruction in Braille will be implemented as the primary mode for learning through integration with other classroom activities;
- Date on which Braille instruction will commence;
- The length of the period of instruction and the frequency and duration of each instructional session; and
- The level of competency in Braille reading and writing to be achieved by the end of the period and the objective assessment measures to be used.

For those students for whom Braille instruction is not indicated, the minutes of the IEP shall include a statement that the absence of Braille instruction will not impair the student's ability to read and write effectively.

### **Significant Developmental Delay**

The term significant developmental delay (SDD) refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or emotional development to the extent that, if not provided with special intervention, the delay may adversely affect a child's educational performance in age-appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage or lack of experience in age appropriate activities. The SDD eligibility may be used for children from ages three through nine (the end of the school year in which the child turns nine).

### **Eligibility**

Initial eligibility must be established, and an IEP in place, on or before the child's seventh birthday. SDD eligibility is determined by assessing a child in each of the five skill areas of adaptive development, cognition, communication, physical development (gross and fine motor), and social/emotional development. Any child who scores at least 2 standard deviations below the mean in one or more of the five areas or 1<sup>1</sup>/<sub>2</sub> standard deviations below the mean in two or more areas shall meet eligibility for SDD.

For children who are kindergarten age or older, initial eligibility shall also include documented evidence that the impact on educational performance is not due to:

- Lack of appropriate instruction in reading or literacy readiness, including the essential components of reading instruction;

- Lack of appropriate instruction in math or math readiness skills;
- Limited English proficiency;
- Visual, hearing or motor disability;
- Emotional disturbances;
- Cultural factors; or
- Environmental or economic disadvantage.

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

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

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

### **Placement and Service Delivery**

Preschool-aged (3-5) children meeting eligibility criteria as SDD and needing special education services may receive those services in a variety of placement options, as determined by the child's IEP Team and participation by other agencies, such as, but not limited to:

#### Regular Early Childhood Setting;

- Head Start Programs
- Georgia Pre-K Classes
- Community Daycares
- Private Preschools

#### Separate Early Childhood Special Education Setting;

- Day School
- Residential Facility;
- Service Provider Location; or
- Home

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

*NOTE: There are occasional situations that are so compellingly appropriate for Special Education consideration that it would be unacceptable to delay needed services by having to go through Response to Intervention (R77)/Student Support Team (SST) processes. The committee must review the information presented by the parents and school to determine if the intensity of the rare, unique situation warrants referral for immediate comprehensive special education evaluation and eligibility consideration.*

*If it does, this section of the report is explained.*



## **State Board Rule: 160-4-7-.13 – Private Schools**

### **Procedures: Special Education Referrals for Children Placed in Private Schools by their Parents and Home School Children**

If a parent or private school staff suspects a child of having a disability, the Cirrus Academy Charter School will conduct an evaluation within established legal guidelines. The child must pass hearing and vision screening. The Charter School system can conduct a hearing/vision screening at the home school (with consent), or parents may obtain hearing/vision screening from the child's physician or the health department. The parent will also be asked to provide information about the child on the *Confidential Parent Questionnaire* and to sign the *Consent for Evaluation* along with providing some feedback on checklists.

Parents and private schools are asked to provide documentation of interventions tried prior to referral. The feedback will help the evaluator identify the student's deficits in the area(s) of suspected disability.

Once a request for an evaluation is received, the referral packet is mailed to the parent. When all items of the packet are returned, including interventions attempted and *Consent for Evaluation* is signed, the referral is logged for evaluation and the appropriate evaluators are assigned.

The Cirrus Academy Charter School will evaluate private school/home school students within the Georgia Department of Education sixty (60) day timeline requirement. Once testing is complete, the psychologist works with the Special Education Administrator to schedule an Eligibility/IEP meeting. If the student is eligible for special education services, the IEP team will develop an IEP (if the student is within the attendance area for CACS) and offer these services if the parent enrolls the student into a Cirrus Academy Charter School. If the parent chooses to enroll the child, the IEP team will project the implementation date of the IEP forward to a date when the child will be enrolled.

If the parent chooses to continue the student's placement in a private school, then the meeting minutes will reflect this decision. When students are placed in private or home school, the school district may consider some services. The Cirrus Academy Charter School has agreed to use its private/home school allocation to provide Speech-Language services to those students found eligible for Speech/Language services, for as long as the funding for the allocation is available.

For children **ages 3-21**, Cirrus Academy Charter School is required to expend an amount that is the same proportion of its total Part B of IDEA flow through funding as the number of private school children with disabilities, ages 3-21, residing in its jurisdiction is to the total number of children with disabilities, ages 3-21, in its jurisdiction; and



For children **ages 3-5**, Cirrus Academy Charter School is required to expend an amount that is the same proportion of its IDEA preschool funding as the number of private school children with disabilities, ages 3-5, residing in its jurisdiction is to the total number of children with disabilities, ages 3-5, in its jurisdiction.

The Cirrus Academy Charter School controls and administers the funds used to provide special education and related services and holds title to and administers materials, equipment, and property purchased with those funds. The system ensures that the equipment and supplies placed in a private school are used only for special education purposes and can be removed from the private school without remodeling the private school facility.

Equipment and supplies may be removed from a private school by Cirrus Academy Charter School if they are no longer needed for special education purposes or the removal is necessary to avoid their unauthorized use for other than special education purposes.

If a private school/home school student is found to be eligible for Speech/Language services, an **Individual Service Plan (ISP)** will be developed to provide Speech/Language services. Services will be provided on the campus of a Cirrus Academy Charter School within the school year school. Special Education transportation is not provided. The Individual Service Plan (ISP) will be reviewed annually.

An **Individual Education Plan (IEP)** will be offered if the student intends to enroll in Cirrus Academy Charter School; and if the student does not enroll, a new Service Plan will be written as long as the student remains eligible. When the Individual and subsequent Individual Service Plans are developed, Cirrus Academy Charter School will ensure that a representative of the private school attends the meeting. If the representative cannot attend, CACS shall use other measures to ensure participation, including individual or conference telephone calls.

Equitable services will be provided. Services provided to private school children with disabilities will be provided by personnel who meet the same standards as personnel providing services in the public schools, except the personnel is not required to meet the highly qualified definition, however, parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

Children who live in the attendance area who are **home-schooled** are also considered parentally-placed private school students. It is the responsibility of the Cirrus Academy Charter School to locate, identify, and evaluate all private schools children with disabilities enrolled by their parents in private (including religious, elementary and secondary schools) located in the attendance area. The Cirrus Academy Charter School consults with appropriate representatives of private school children with disabilities to carry out Child Find activities. These activities are similar to those undertaken for the public school

children and completed in a time period comparable to that for children attending public schools.

**Procedures for students who attend private school in Georgia but are not Macon Residents**

If the student does not live in Macon but attends a private school in Georgia, the Cirrus Academy Charter School will evaluate the child and the Eligibility Team will determine eligibility. It is the responsibility of the parent to notify the eligibility status to the system of residence. The system of residence is responsible for offering services, not Cirrus Academy Charter School. If the student attending a private school in Macon is found eligible for Speech/Language services (the special education service agreed to be offered to private school students eligible for this service) and if there is space available, then a Service Plan can be developed for Cirrus Academy Charter School speech services only.

**Private School Residency Responsibilities to Cirrus Academy Charter School 3 and 4-Year-Old Residents attending Preschools/PreKindergarten Connected to Primary/Elementary Schools Outside Macon**

Initial Evaluation

Eligibility

IEP/Free Appropriate Public Education Offered Individual Service Plan

**Private School Residency Responsibilities for Students Aged 5-21 who are attending Schools Outside Of The Attendance Area of Residence Private School District**

Student Support Team Documentation

Initial Evaluation & Reevaluations

Eligibility

IEP/Free and Appropriate Public Education Offered Service

Plan

*NOTE: In order for school systems to share eligibility data and reports, they must first secure permission to release/obtain records from the parents.*

The district of residence always has some responsibility to conduct Child Find for any of its residents. When a child is enrolled in a private school in another district, then both districts have an obligation, and they work together so as to not delay access to the Child Find activities.

**Placement of Children by Parent in Private *Schools***

*(from the Georgia Department of Education Special Education Rules Implementation Manual, April 4, 2011)*

Cirrus Academy Charter School is not required to pay for the cost of education, including special education and related services for the child **parentally placed** at a private school, if FAPE (Free and Appropriate Education) was made available for the child. Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment must be secular, neutral, and nonideological.

According to State Board of Education rules, each local education agency/school system makes the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities prior to the start of the school year. In Cirrus Academy Charter School Speech-Language services will be offered to eligible private school students.

Private school placement may occur in three circumstances:

1. First, if the Cirrus Academy Charter School determines that it cannot provide free appropriate public education (FAPE), the system will identify and pay for a private school to provide services. This is at no cost to the parent.
2. Second, a parent may remove the child from public school at any time and enroll the child in private school. Under certain circumstances the parent may request reimbursement from the school district to pay for the private placement. The parents must tell the IEP team they disagree with the proposed IEP and placement and want the Cirrus Academy Charter School to reimburse them. The parents may also notify the school system in writing, at least 10 days prior to removing the child from public school, that they disagree with the IEP and placement and want the school system to reimburse them for the private school tuition. If the Cirrus Academy Charter School asks to evaluate the child during the 10 day period and the parents refuse, then reimbursement may be denied. If the parents want to be reimbursed for all the costs of private school and the district does not agree to it, the parties must go before a due process hearing officer to determine whether the public school provided FAPE.
3. Third, the parent may choose to use a private school instead of public school at the parent's expense, in which case, FAPE is not an issue.

When the student is in private school by parent choice, the student and the parent lose their individual rights to special education services, however, to the extent consistent with their number and location in the state, provisions are made for the participation of private school children with disabilities in programs provided under Part B of the Individuals with Disabilities Education Act (IDEA) by providing children with special education and related services in accordance with this section. No parentally-placed

private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

### **Children with Disabilities in Private Schools Placed or Referred by Cirrus Academy Charter School**

Cirrus Academy Charter School ensures that a child with disability who is placed in or referred to a private school or facility by the school system as a means of providing special education and related services is provided special education and related services in conformance with an IEP:

- At no cost to the parents;
- Is provided an education that meets the standards that apply to education provided by the Georgia Department of Education (Georgia Department of Education (GaDOE)) and by Thomasville City; and
- Has all of the rights of a child with a disability who is served by Cirrus Academy Charter School.

The Georgia Department of Education shall monitor compliance of these children through procedures such as written reports, on-site visits and parent surveys; disseminate copies of State standards to each private school and facility to which the Cirrus Academy Charter School has referred or placed a child with a disability; and provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

### **Placement of Children by Parents when FAPE is at Issue**

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

### **Reimbursement for Private School Placement**

If the parents of a child with a disability, who previously received special education and related services in a local educational agency/school system enroll the child in a private preschool, elementary school or secondary school without the consent of or referral by the Cirrus Academy Charter School, a court or an administrative law judge (ALJ) may

require the school system to reimburse the parents for the cost of that enrollment if the court or ALJ finds that the school system had not made a FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate.

A parental placement may be found to be appropriate by an ALJ or a court even if it does not meet the state standards that apply to education provided by the State or local education agency. The cost of reimbursement described above may be reduced or denied if:

- At the most recent IEP Team meeting that the parents attended prior to the removal of the child from the local education agency, the parents did not inform the IEP Team that they were rejecting the placement proposed by the school system to provide a FAPE to their child and did not state their concerns or their intent to enroll the child in a private school at public expense; or
- At least ten (10) business days prior to the removal of the child from the local education agency, the parents did not give written notice to the school system that they were rejecting the placement proposed by the school system to provide a FAPE to the child and did not state their concerns or their intent to enroll the child in a private school at public expense;
- If, prior to the parent's removal of the child from the school system, the system informed the parents through the notice requirements of its intent to evaluate the child, including a statement of the purpose and scope of the evaluation that was appropriate and reasonable, but the parents did not make the child available for evaluation; or upon a judicial finding of unreasonableness with respect to actions taken by the parents.

**Exception to Limitation on Reimbursement:**

The cost of reimbursement must not be reduced or denied for a parent's failure to provide the notice to the local education agency described above, if:

- The school prevented the parents from providing the notice;
- The parents had not been provided a copy of the parent's rights under IDEA and, therefore, had not been notified of the requirement to provide the notice described in above; or
- The provision of notice would likely result in physical harm to the child.

The cost of reimbursement may, in the discretion of the court or administrative law judge, not be reduced or denied for a parent's failure to provide the notice to the school system described above, if:

- The parents are not literate or cannot write in English; or
- The provision of notice would likely result in serious emotional harm to the child.

## **Area of General Supervision II: Services and Supports**

The Cirrus Academy Charter School ensures that appropriate procedures are in place so that students with disabilities receive a free and appropriate public education in the least restrictive environment to access the general curriculum.

### **State Board Rule: 160-4-7-.07 — Least Restrictive Environment**

#### **REQUIREMENTS**

Cirrus Academy Charter School will ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities are educated with children who are not disabled.

Special classes, separate schooling or other removal of children with disabilities from the regular class environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

#### **DETERMINING EDUCATIONAL PLACEMENTS**

When determining the educational placement of a child with a disability, including a preschool child with a disability, Cirrus Academy Charter School ensures that the placement decision is made by a group of persons, including the parents, who are knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is made in conformity with the LRE provisions contained the this rule.

The child's placement is determined at least annually. The child's placement is based on the child's IEP and is as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.

In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. Additionally, a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

In Cirrus Academy Charter School, once a child's eligibility is completed and Individualized Education Plan is developed for the student within thirty days. The IEP team must consider the student's strengths, needs, goals, supports, and services to determine the most appropriate placement for the student. Members of the IEP team will include persons knowledgeable of the student, including the parent, regular education teacher(s), special education teacher(s), and a local education agency representative. Based on the student's specific needs, other members of the team may include, but is not limited to, the school psychologist and any related services, i.e., speech-language pathologist, occupational therapist, physical therapist, teacher of the hearing impaired, teacher of the vision impaired, and teacher or the orthopedically impaired.

Students individualized education plans are reviewed annually at a formal IEP meeting. The IEP team considers the student's present level of academic and functional performance to determine the most appropriate educational goals, supports, and services for the student.

Students in Cirrus Academy Charter School have school choice. To the most extent appropriate, students are educated in the school they would attend if nondisabled. When determining the least restrictive environment, the IEP team must consider any potential harmful effect on the child or on the quality of services that he or she needs to receive specialized instruction. The IEP team will consider the needs, accommodations, and supplemental aids and supports of the child with a disability to ensure that he or she is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

### **CONTINUUM OF ALTERNATIVE PLACEMENTS**

Each LEA must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include alternative placements listed in the definition of special education (instruction in the regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions). The LEA must make provision for supplemental services (such as resource room, itinerant instruction) to be provided in conjunction with regular class placement.

Preschool placements include a regular education early childhood program in the public school or community (such as Head Start, Bright from the Start Pre-Kindergarten, public or private daycare), and preschool programs with special education services delivered as:

- Additional supportive services. The child remains in a regular early childhood program 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 services. The child remains in a regular early childhood program with direct services from special education personnel utilizing a consultative, collaborative or coteaching model.
- The child is in the regular education early childhood program but special education and related services are provided outside a regular education early childhood program.

Placements for children not attending a regular early childhood program include:

- A separate special education program housed in the public school or in a community-based setting, in a separate school or residential school or facility;
- A program provided at home as a natural environment;
- A program provided through service providers in their offices; or
- Any combination of the above and/or other settings based on the child's IEP. • School age placements.

School placements include:

- General education classroom with age appropriate non-disabled peers, if required by the IEP:
- 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. These services provided may be from personnel such as paraprofessionals, interpreters, or others.
- Direct services. The child remains in the regular classroom with direct services from special education personnel on a consultative, collaborative, or co-teaching basis.
- Instruction outside the general classroom for individuals or small groups.
- Separate day school or program.
- Home-Based instruction may be used as a short-term placement option on occasions when the parent and LEA agree at an IEP meeting with the following considerations: A free and appropriate public education (FAPE) is provided and includes access to the general curriculum and an opportunity to make progress toward the goals and objectives included in the IEP; home-based services must be reviewed no less than quarterly by the IEP team; and all IEPs that require homebased placements will include a reintegration plan for returning to the school setting.
- Residential placement in-state or out-of-state.
- Hospital/homebound instruction program (HHB) is used for students with disabilities who are placed in a special education program and have a medically

diagnosed condition that will significantly interfere with their education and requires them to be restricted to their home or a hospital for a period of time.

### **Determining Placement**

Cirrus Academy Charter School provides a continuum of alternative placements to meet the needs of students with disabilities who require special education and related services. These alternative placements are available to the extent necessary in order to implement the IEP. This continuum of placements includes instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. In addition, supplementary services, such as a separate classroom or itinerant instruction are provided in conjunction with regular class placement.

In determining the educational placement of a student with a disability, including a preschool student with a disability, Cirrus Academy Charter School ensures that the placement decision is made in conformity with the LRE provisions of IDEA. The placement decision is made by the IEP team which consists of persons who are familiar with the student. This includes, but is not limited to the parent(s), regular classroom teacher, special education teacher, school psychologist, and speech-language pathologist.

Cirrus Academy Charter School's continuum of services for young children includes:

- preschool special education teacher and therapists (SLP, OT, PT, etc.) to provide services in community settings (public and private daycares, Head Start, etc.), if determined to be the most appropriate placement by the IEP team.
- inclusion pre-k classrooms with special education support staff
- home or natural environment for young children
- instruction provided in their offices or classrooms

School placements within Cirrus Academy Charter School include:

- consultative, collaborative or co-teaching model
- special education and related services provided outside the regular education classroom
- separate special education program housed in the public school or in a community-based setting (GNETS-Pathways)
- Separate day school or program
- Home-Based instruction
- Residential placement in-state or out-of-state • Hospital/homebound instruction program (HHB).

In selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services the student needs. Each IEP

includes an explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities, and a justification for removal from regular education. The IEP team will consider accommodations, supports, and supplemental services and not remove the student from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. Each student requiring special education and related services is educated in the school that he or she would attend if he or she did not require special education and related services, unless the IEP requires another placement.

### **Transfer Students**

Once any student with a disability enrolls in Cirrus Academy Charter School, an IEP meeting is held to review any educational information, including psychological evaluations, eligibility reports, current IEP, discharge summary(ies), and other pertinent information community agencies (i.e., Department of Family and Children Services, Department of Juvenile Justice), to make the most appropriate educational placement decision for the student.

### **Private Special Education Programs**

A student with a disability who is placed in a private school or facility or other private special education program by Cirrus Academy Charter School will not be denied access to an education in the least restrictive environment. The exception is for those students in adult prisons.

Cirrus Academy Charter School is responsible for the education of a child with a disability who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services.

### **Homebound or Hospital Instruction**

Hospital/homebound instruction program (HHB) for students with disabilities is used for those who are placed in a special education program and have a medically diagnosed condition that will significantly interfere with their education and requires them to be restricted to their home or a hospital for a period of time. Cirrus Academy Charter School offers, at no charge to the parents, academic instruction to eligible students who are confined at home or in a health care facility for periods of time that would prevent normal school attendance. In Cirrus Academy Charter School, if a student with a disability requires hospital/homebound services, the case manager should contact the school counselor.

### **Parental Involvement**

The district must take steps to ensure that one or both of the parents are present at each IEP meeting or are afforded the opportunity to participate at each IEP meeting with respect to decisions related to identification, evaluation, educational placement and the provision of FAPE. If neither parent can participate in a meeting at which a decision is made related to changing the IEP of their student, Cirrus Academy Charter School will use

other methods to ensure parent participation, including individual or conference telephone calls, and home visits.

If the district is unable to obtain parent participation in a placement decision, the IEP team within Cirrus Academy Charter School may make a placement decision; however, the school system will attempt to ensure parent involvement by arranging a meeting at a mutually agreed upon time and place. Records of phone calls made or attempted, and results of those calls, copies of correspondence sent to parents and any responses received, and documentation of visits to parents' homes or places of employment and results of those visits are examples of methods that will be used by our staff.

Cirrus Academy Charter School presumes that divorced parents have equal rights under state and federal law to participate in all aspects of their child's education, unless either or both parents do not have authority under applicable state law governing matters such as guardianship, separation or divorce.

Cirrus Academy Charter School makes reasonable efforts to ensure that parents understand, and are able to participate in any group discussions concerning the educational placement of their student. Such efforts would include arranging for an interpreter for parents with deafness or whose native language is other than English.

### **Nonacademic and Extracurricular Activities**

Extracurricular services and activities, including meals, recess periods, and other services and activities, each LEA shall ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The LEA must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

Each LEA must ensure the provision of supplementary aides and services determined appropriate by the IEP team in order to allow children with disabilities an equitable opportunity for participation in nonacademic and extracurricular activities.

Cirrus Academy Charter School ensures that in providing for nonacademic and extracurricular activities and services, each student with a disability participates with nondisabled students to the maximum extent appropriate to the needs of the student. Cirrus Academy Charter School must ensure that each child with a disability has the supplemental aids and services determined by the IEP team to be appropriate and necessary to participate in non academic settings. The provision of these activities and services may include counseling services, athletics, transportation, health services, recreational activities, and special-interest groups or clubs sponsored by the School.

Cirrus Academy Charter School makes referrals to agencies that provide assistance to individuals with disabilities and employment by the public agency and assistance in making outside employment available.

Students with disabilities have available to them the variety of educational programs and services that are available to nondisabled students in our District. These programs and services include but are not limited to art, music, consumer education and vocational education.

### **Technical Assistance and Training Activities**

Each LEA must carry out activities to ensure that all teachers and administrators are fully informed about their responsibilities for implementing LRE and are provided with technical assistance and training necessary to assist them in this effort. In Cirrus Academy Charter School, regular and special education certified teachers and administrators are trained annually.

Supervision and monitoring are completing via IEP checks. The Director of Special Education attends IEP meetings to assist the team with considering information to determine the most appropriate placement for the student. The Director of Special

Education conducts IEP compliance checks. IEPs are reviewed for overall compliance, including service options considered and rationales of placement outside of the general classroom.

## **State Board Rule: 160-4-7-.10 Discipline**

According to Georgia school laws, Local Education Agencies (LEAs) are given the responsibility to develop legally based disciplinary procedures.

Students in Cirrus Academy Charter School are expected to follow the rules of the Code of Conduct included in the Student Handbook. These handbooks are given at the beginning of each year or when a student enrolls in the school. Parents and students return a signed form to the school acknowledging that they have read, discussed, and understand these rules. Students with disabilities are expected to follow the rules, just like all of the students in the school, unless a child's Individualized Education Program (IEP) specifically states otherwise.

Under the Individuals with Disabilities Education Act (IDEA), students who receive special education services are entitled to additional due process in the area of discipline. Disciplinary information contained in this Section pertains to all students with disabilities in any category of eligibility. The LEA will ensure that the parents and the child with a disability receive notice of the rules and regulations applicable to children with disabilities with respect to discipline and suspension/expulsion upon the child's entry into the special education program or at the student's annual review.

In most cases, disciplining students who have IEPs is no different than disciplining other students. However, the Individual with Disabilities Act (IDEA) affords eligible students specific protections. One protection includes the right to continuation of services indicated by the IEP if the student is removed (i.e., expelled) from school for more than 10 cumulative days within a school year. This protection is extended due to the requirement for a free appropriate public education (FAPE). In addition to the right to continue special education services, students with disabilities (those with IEPs) may receive a consequence different from that of other students if the IEP team decides that the student's misbehavior was substantially related to or caused by the student's disability. The forum in which the team meets to determine this is a Manifestation Determination Hearing and must occur within ten days of the alleged violation of the code of conduct.

During the manifestation determination hearing, the team will examine the student's IEP and Behavior Intervention Plan (BIP), discuss the characteristics of the student's medical condition and/or disability as set forth in the IEP, and review details of the misconduct by reviewing all evidence presented at the disciplinary hearing. The IEP team decides, by consensus, if the school correctly implemented the student's IEP and BIP, if applicable. Additionally, the team decides, by consensus, if the student's behavior which violated the school's code of conduct, was substantially related to the student's disability. If the IEP Team determines that either the school failed to correctly implement the student's IEP or that the student's misbehavior was substantially related to the student's disability, the behavior will be deemed a manifestation of the student's disability, and the student will not be deemed to have violated the code of conduct and may not be punished. However, if the IEP Team decides, by consensus, that the IEP and BIP, if applicable, were properly implemented, and that the student's behavior was not substantially related to

the student's disability, then the behavior will not be deemed as a manifestation of the student's disability,

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and the student is treated the same as a student without an IEP during the disciplinary process. In other words, the student may be suspended beyond the 10 days; hence, the student would receive the same consequences any other student would be given. The only difference would be that the school must continue to provide the student who is eligible for protection under IDEA the special education services set forth in the student's IEP during the suspension or expulsion period, as such is required to provide FAPE as guaranteed by federal law.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates the code of conduct. With the appropriate parental notification, school personnel may remove a child with a disability who violates the student code of conduct from his current placement to an interim alternative educational setting, another setting, or suspension for not more than ten (10) days in the same year for separate incidents of misconduct.

After a child with a disability has been removed from his current placement for ten (10) school days in the same year, during any subsequent days of removal, the LEA must provide services to the student and schedule an IEP team meeting to discuss changes in the student's educational placement. Decisions regarding interim or alternative educational placement and services of a child with a disability must be determined based on the consensus of the IEP team.

A child who is removed from his or her placement for more than ten days must:

- Continue to receive educational services to enable to the child to participate in the general curriculum, although in another setting, and to progress toward meeting goals outlined in the student's IEP.
- Receive a functional behavioral assessment and behavior intervention services and, if applicable, modifications as set forth in the BIP and IEP that are designed to address the student's behavior(s) that violated the Code of Conduct to prevent reoccurrence.

The LEA is only required to provide services to a child with a disability during periods of removal from the current placement for more than 10 school days or less in that school year, if services are provided to a child without disabilities who have been similarly removed.

After a child with a disability has been removed from the current placement for 10 school days within the same year, if not more than 10 consecutive days and not a change in placement because of disciplinary removals, school personnel, in consultation with at least



one of the child's teachers, determine the extent to which services are needed, in order to provide a free appropriate public education, so as to enable the child to continue to participate in the general curriculum, although in another setting, to progress toward meeting the goals in student's IEP.

If the removal is for more than ten school days or is a change in placement because of disciplinary removals, the child's IEP team determines the appropriate services needed in order to provide FAPE, so as to enable the child to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in student's IEP. Services may be provided in an interim alternative educational setting.

In Cirrus Academy Charter School, the IEP Team is comprised of: the Special Education Director, a regular education staff member, a special education staff member, and the student's parents. If the student is removed from school for more than ten days, a special education teacher will be designated to provide continued services, as set forth in the student's IEP, to that student. In some instances, a student might receive instructional materials that allow for educational classes to be presented remotely during the day, and an assigned special education teacher will provide specialized instruction to the student in the afternoon.

### **General Information**

The Individual with Disabilities Education Act (IDEA) states that a short-term removal occurs when a child is removed from his regular setting for less than 10 consecutive school days for disciplinary purposes. A long-term removal is when a child is removed for over 10 consecutive school days. A "pattern of exclusion" change in placement is where a school engages in a series of short-term removals, each of which is less than 10 consecutive school days in length.

### **Change in Placement:**

#### **In-School Suspension (ISS)**

- ISS is considered a "removal" from the student's current placement, but days served in ISS are not counted toward the ten (10) day limitation. Students protected under IDEA must continue to have access to the school's general curriculum and have the opportunity to progress toward the goals in the IEP in order to receive a free appropriate public education (FAPE).

#### **Out of School Suspension (OSS)**

- Cannot be for more than 10 days without the provision of services by the school as set forth in the IEP and BIP, if applicable.
- A series of short-term removals from school that constitute a pattern of forced absences of the student and inability to receive services as stated in the student's IEP and BIP, if applicable.

## **Removal from School**

Bus Suspension will count as a removal days from school if one of the following is met:

- transportation is a related service in the IEP
- if the student has no alternate way to get to school.

If the student is suspended pending a manifestation determination hearing, all days that the student does not come to school will count towards the total ten (10) days limit for Out of School suspension days.

## **Procedures for In-School Suspension**

In-School Suspension (ISS) is removal, however, it does not count towards the ten (10) day limitation.

- Review student's status for Special Education in Infinite Campus
- Review student's IEP, including Behavior Intervention Plan
- Immediately notify the Special Education Lead Teacher and/or the case manager
- If the student has accumulated 5 or more days in the ISS/Time Out, the IEP team will convene to review the IEP to discuss options to remediate behaviors.
- Case manager will be responsible for assuring that student receives the work from subject area teachers and the appropriate accommodations while in ISS/Time Out.
- The School Administrator over discipline and the Lead Teacher will maintain a log in ISS /Time Out room that documents that this procedure has been followed.

*Failure to provide these services could result in having these days count as OSS days even if the student remained at school in ISS and received services under the student's IEP.*

## **Procedures for Out of School Suspension**

- Check student's record in Infinite Campus to determine if the student has an IEP.

- Review student's IEP and Behavior Intervention Plan.
- Immediately notify the Lead Teacher and Case Manager of the student's disciplinary incident and the punishment imposed.
- An IEP team meeting will be held at the student's fifth day of suspension to review the IEP, BIP, and determine if it is necessary to revise these plans, and whether a functional behavioral assessment is warranted.
- A manifestation meeting, as required by IDEA, will be held within the student's tenth day of suspension. The IEP team will review the IEP, BIP, and determine if it is necessary to update these plans and whether a functional behavioral assessment is warranted.
- School personnel will consult with the Director of Special Education and Student Support Services to develop a strategy for dealing with further disciplinary action.
- If the student is suspended pending an IEP meeting, all days that the student is not allowed to come to school will count as suspension days.

### **Students Removed for More Than 10 Days**

Long term disciplinary removal for students with disabilities refers to a student's removal from instruction for over 10 consecutive school days in a given school year and constitutes a change in placement. Administrators should be cognizant of the fact that courts and federal agencies consider removal of a student for more than 10 days in a school year as a "significant change of placement" that can only be made by following the placement procedures set forth under the IDEA.

### **Procedures for Suspensions 10+ days**

- School administration will notify the Special Education Office and the Lead Teacher.
- If scheduled, the school administration will inform the Director of Special Education of the meeting date and time to convene the IEP to conduct a manifestation determination. The manifestation will be held simultaneously with the disciplinary hearing.
- If the IEP Team determines the behavior **IS** a manifestation of the student's disability, **further out of school suspension is not appropriate.**

- The IEP Team will make any necessary changes in placement, services, FBA, BIP, classroom modifications, and any positive behavior strategies that are designed to address the behavior violation.
- If the IEP Team determines the behavior **IS NOT** a manifestation of the student's disability, **further out of school suspension is allowable. The following action is taken:**

**The Disciplinary Hearing Officer will determine whether the student violated the Code of Conduct and impose the appropriate punishment if the student is found to have violated the Code of Conduct.**

- IEP Team will determine the services that will be provided during suspension period. The IEP Team will recommend appropriate services to be provided and the school will assist the special education department in providing services that will enable the student to continue to progress in the general curriculum and advance toward achieving IEP goals (i.e. facility, teacher, lesson plans).
- IEP Team may determine that IEP revisions may be appropriate, including a proposal for an educational change in placement.
- IEP Team plans Functional Behavior Assessment (FBA) for this incident, if appropriate, or if a Behavior Intervention Plan (BIP) is already in place, reviews and revises the BIP, as appropriate.

**For first-time disciplinary actions resulting in suspension in excess of 10 days, an FBA must be conducted, and the IEP Team will reconvene to develop a BIP, if necessary.**

### **Monitoring Out of School Suspension**

Monitoring Out of School Suspension (OSS) for students with disabilities is an **IMPORTANT shared responsibility**. In Cirrus Academy Charter School the following procedures will be implemented in regards to discipline for students with disabilities.

- At the beginning of each school year, and as often as necessary, the Department of Special Education (Director) will remind staff to
  - check special education status in Infinite Campus when suspending students
  - maintain ongoing communication with the Director of Special Education about the discipline of students with disabilities.

- The Lead Teacher at each school will ensure that administrators are aware of all students with disabilities (provide IEPs) and that the teacher(s) has(ve) a copy of each Behavior Intervention Plan.
- Special Education Teachers (case manager) will review student's Behavior Intervention Plan with general education teachers and Administrators responsible for discipline.
- Students' case managers will ensure that the most current BIP is provided to the teachers and Administrator(s) responsible for discipline.
- Principal, Assistant Principal, and Lead Teacher will monitor the number of days a student receives OSS.

- The teacher responsible for the student's IEP (case manager) will monitor the discipline of students on their caseloads. The case manager will be informed of suspensions of special education students, and will report days of suspension to the Lead Teacher who will report these days to the District Office of Special Education at the end of every month.
- An IEP team meeting will be held at the student's fifth day of suspension to review the IEP, BIP, and determine if it is necessary to update these plans and whether a functional behavioral assessment is warranted.
- A manifestation meeting, as required by IDEA, will be held as soon as possible within the student's ten days of suspension, generally, simultaneously with a disciplinary hearing. The IEP team will review the IEP, BIP, and determine if it is necessary to update these plans and whether a functional behavioral assessment is warranted.

### **Manifestation Determination 34 C.F.R. § 300.530**

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

If the LEA, the parent and the relevant members of the child's IEP Team determines the conduct in question was a direct result of the failure of the LEA to implement the IEP, 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 behavior 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 behavior intervention plan already has been developed, review the behavioral intervention plan, and modify it, if necessary, to address the behavior, and 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 behavior intervention plan.

There are exceptions to the aforementioned statement. Under the following special circumstances, school personnel may remove a child to an interim alternative placement for not more than 45 days without regard to whether the behavior is a manifestation of his/her disability if the child:

- Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of the State or the LEA;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or to a school function under the jurisdiction of the State or the 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 the LEA.

The interim alternative educational setting is determined by the IEP Team.

### **Manifestation Procedures**

In Cirrus Academy Charter School, once a student has been suspended for 10 days, the school designee will contact the Office of Special Education.

1. School Personnel will give parents their Procedural Safeguards.
2. A Manifestation Determination hearing will be scheduled to be held at the same time as the disciplinary hearing.
3. The Special Education Administrative Assistant will send a formal, written Notice of Manifestation Determination hearing to the parents and student.
4. A Manifestation Determination hearing will be held within 10 school days at the time of the disciplinary hearing.

5. The LEA, the parent, and relevant members of the child's IEP Team will review all relevant information in the child's file 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.
6. If the IEP team determines that a change of placement is warranted, a Consent for Placement is to be signed by the parent.

**Members of the Manifestation Team may include**

- Director of Special Education
- Parent /Guardian
- Student
- Student Support Services
- School Administrator(s)
- Case manager
- Lead Teacher
- Special Education Teacher
- Regular Education Teacher

**Documentation to Review**

- Student's IEP
- Behavior Intervention Plan
- Functional Behavior Plan (if available)
- Most Recent Psycho educational Evaluation
- Most recent Eligibility Report
- Attendance
- Grades
- Behavior Referrals
- Teacher Observations
- Any anecdotal notes

The IEP team will determine that the child's conduct is a manifestation of the child's disability if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the team, which includes the LEA, the parent, and the relevant members of the child's IEP Team, determines the conduct in question was a direct result of the failure to implement the IEP, Cirrus Academy Charter School will take immediate steps to remedy those deficiencies. Steps include, but are not limited to:

- expeditiously implementing the student's IEP as written, unless the team determines that it will be updated



- considering the need for compensatory services

If the team determines that the child's behavior is a manifestation of the child's disability, Cirrus Academy Charter School will consider the need for a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) for the child. The student's case manager is responsible for ensuring completion of the FBA and scheduling a meeting to develop the (BIP). However, if the behavioral intervention plan already has been developed, the team will review the behavioral intervention plan, and modify it, as necessary, to address the behavior, and 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.

Cirrus Academy Charter School will consider removal of the student for up to 45 days if the behavior includes any of the following while at school, on school premises, or at a school function under the jurisdiction of the State or LEA:

1. possession of a weapon on school premises
2. possession or use of illegal drugs, or solicitation or sale of a controlled substance
3. infliction of serious bodily injury upon another person

Should any of the aforementioned occur, after following school system procedures, a school administrator (Principal or Assistant Principal) will notify the Director of Special Education. Cirrus Academy Charter School will adhere to the following definitions as outlined in the State Rules and Regulations for these special circumstances.

For the purposes of removal, the following definitions will apply:

- Controlled substance—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—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."

*\*\* Please refer to the appended definitions for thorough explanations of the United States Codes.*

## **Change of Placement**

When a student is removed from school for more than 10 days, this is considered to be a "change of placement." The school system is responsible for the student's educational progress; therefore IEP services must be continued. In Cirrus Academy Charter School, when a student is removed from school for more than ten days, the school administration and the student's case manager will notify parents and provide Procedural Safeguards to the parents. The Office of Special Education will be notified and a manifestation meeting will be scheduled. A Consent for Placement form will be signed anytime this type of circumstance occurs.

### **Serving Students Removed for 10 or More Days Interim Alternative School**

Cirrus Academy Charter School has an Interim Alternative Educational Setting for students, grades 6-12, to receive academic and behavior support in the event that a child with or without a disability is removed for ten or more days. The IEP or 504 manifestation team will determine whether social skills instruction for students is appropriate.

## **Additional Considerations**

School personnel who serve as members of the student's IEP team may take into account all circumstances when deciding if a change in placement is the right action to take for a student with a disability. IEP Team members may consider various forms of information including, but not limited to:

- student's disciplinary history
- ability to understand the consequences
- expression of remorse
- the supports that were provided to the student prior to the behavioral violation.

## **Appeal**

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. To request a hearing, the parent must file a due process hearing. A judge or hearing officer hears the facts and makes a determination regarding an appeal under the disagreement.

The administrative law judge (ALJ) or hearing officer hears the facts and makes a determination regarding an appeal under the disagreement. The ALJ or hearing officer has the authority to return the child to the placement from which he/she was removed if the ALJ

determines that the removal was a violation of this Rule or that child's behavior was a manifestation of the child's disability. The ALJ may order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the ALJ or hearing officer determines that maintaining the current placement of the child substantially will result in injury to the child or others.

Appeal procedures may be repeated if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or others.

Whenever a hearing is requested, those involved in the dispute, parents or LEA, must have an expedited impartial due process hearing. Exceptions to this statement include:

- The State is responsible for the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The ALJ or hearing officer must make a determination within ten school days after the hearing.
- The parent and LEA agree in writing to waive the resolution meeting or agree to use the mediation process.
  - A resolution must occur within seven days of receiving notice of the due process hearing request/complaint
  - The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 day of the receipt of the due process hearing request/complaint.
  - The decisions on expedited due process hearing are appealable consistent with the Dispute Resolution Rule (Please refer to this section of the manual).

### **Placement during Appeals**

When an appeal has been made by the parent or LEA, the child must remain in the interim alternative placement setting pending the decision of the ALJ or hearing officer or until the end of the 45 school day time period, whichever comes first, unless the parent and LEA agree otherwise.

### **Protections for Children Not Yet Eligible for Special Education and Related Services**

A child who has not been determined eligible for special education and related services who has engaged in behavior that violated a code of student conduct, may assert any of these protections if the LEA had knowledge that the child was a student with a disability before the behavior occurred.

- The parent must have expressed concern in writing to supervisory or administrative personnel or a teacher of the child, that the child is in need of special education and related services.
- The parent of the child requested an evaluation of the child for eligibility determination.
- The teacher of the child or other personnel of the LEA expressed specific concerns about the pattern of behavior demonstrated by the child directly to the Director of Special Education or the LEA or to other supervisory personnel of the LEA.

An LEA would not be deemed to have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services or the child has been evaluated and determined not to be a child with a disability (the child did not meet eligibility criteria).

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

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

*Please refer to the Evaluation/Re-evaluation Section of this manual for more information about the evaluation process.*

### **Referral to and Action by Law Enforcement and Judicial Authorities**

Nothing in Discipline Rule, 160-4-7-.10, prohibits the LEA from reporting a crime committed by a child with disabilities to appropriate authorities. Nothing in the Discipline Rule prevents State law enforcement or judicial authorities from exercising their responsibilities with regard to application of Federal and State law to crimes committed by a child with a disability.

The LEA reporting the crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

The LEA reporting the crime may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational rights and Privacy Act (*please see the Confidentiality Section of this manual for more about this Act*). Records requests will be fulfilled by Cirrus Academy Charter School using the following guidelines:

- Any outside agency, including the Department of Juvenile Justice, sends request for records to the child's school and the Special Education Department.
- The child's service school sends attendance, discipline, and academic records.
- The Special Education Office fulfills Special Education Records Requests, including, current Individualized Education Plan, Eligibility Report, and most recent psycho-educational evaluation.

### **Definitions of Special Circumstances under United States Codes Controlled Substances**

Schedules I, II, III, IV, V in Section 202 (c) of the Controlled Substances Act (21. U.S.C. 812 § (c)).

#### Schedule I.

- A. The drug or other substance has a high potential for abuse.
- B. The drug or other substance has no currently accepted medical use in treatment in the United States.
- C. There is a lack of accepted safety for use of the drug or other substance under medical supervision.

#### Schedule II.

- A. The drug or other substance has a high potential for abuse.
- B. The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.
- C. Abuse of the drug or other substances may lead to severe psychological or physical dependence.

#### Schedule III.

- A. The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.
- B. The drug or other substance has a currently accepted medical use in treatment in the United States.
- C. Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

Schedule IV.

- A. The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.
- B. The drug or other substance has a currently accepted medical use in treatment in the United States.
- C. Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Schedule V.

- A. The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.
- B. The drug or other substance has a currently accepted medical use in treatment in the United States.
- C. Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

**Bodily Injury**

Paragraph (3) of subsection (h) of Section 1365 of Title 18, United States Code.

The term "serious bodily injury" means bodily injury which involves: A. a substantial risk of death;

- B. extreme physical pain;
- C. protracted and obvious disfigurement; or
- D. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

**Dangerous Weapon**

Paragraph 2 of the first subsection (g) of Section 930 of Title 18, United States Code [34 C.F.R. §300.530 (i) (1)].

The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily

injury, except that such term does not include a pocket knife with a blade of less than 2<sup>1</sup>/<sub>2</sub> inches in length.

## **INDIVIDUAL EDUCATION PROGRAM TEAM AND IMPLEMENTATION OF THE IEP**

### **State Board Rule: 160-4-7-.06 — Individual Education Program (IEP)**

#### **Procedures for IEP Development/Components**

##### Individual Education Program Overview

An **Individualized Education Program (IEP)** must be developed for every disabled student who is or will be receiving special education services. This IEP becomes the important document that insures the special education student is provided appropriate educational services based on his/her special needs. The IEP is not a binding contract, for which the school system is responsible if the student does not achieve the growth projected in the goals and objectives; however, it assures that the school system will provide the special education and related services as outlined in the IEP. Additionally, any changes in special education and/or related services for a student are documented in the IEP.

The parents/guardians are notified of the proposed date, time and location of each IEP meeting in order to give them sufficient time to make arrangements to attend or to contact the school to reschedule the meeting. The parents are sent **written notice** on the Meeting Notification Form found in *Infinite Campus* regarding the meeting date and time. The school system must give the parents every opportunity for a convenient, mutually agreed upon meeting time as well as the option to reschedule so that the parents may attend.

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

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

- General Education Teacher;
- Special Education Teacher;
- Representative from the school system (called the Local Educational Agency);
- An individual who can interpret the instructional implications of evaluation results; and
- Parents (unless they indicate the meeting should proceed without their presence).



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

In Cirrus Academy Charter School, if the Eligibility Committee recommends that the student **does not meet eligibility** for a special education program, regular education options are discussed, and the student is referred back to the Student Support Team for follow-up and continuing interventions, as needed. The SST file is sent back to the SST chair at the child's school.

If the Eligibility Committee recommends that a student be placed in any special education program, a **Parental Consent for Placement form** will be signed before services are initiated. If the parent is not present, the student's case manager will send the parent a copy of the eligibility report, the IEP, psychological report, parental rights and Consent for Placement form by mail for review and signature, following up with a telephone call to insure understanding.

If the parent did not attend the IEP meeting where eligibility and placement were decided, the date for initiation of services must be at least 10 days from the date of the IEP meeting in order to allow proper notice and opportunity for the parent(s) to respond (assuming the parent agrees to the placement and signs the Consent for Placement form).

### **Annual Review: Overview**

The IEP must be reviewed annually. Procedures for initiating the Annual Review as follows:

- A. The student's Case Manager will send a **Notice of IEP Meeting** to the parents ten days prior to the projected review date. The projected review date must occur before the end date of the current IEP, so case managers are encouraged to begin working with parents to arrange a mutually-agreed upon date well before the ending date. A copy of the notification (for documentation purposes) is saved in *Infinite Campus*, along with all required attendees are invited are listed on the meeting notice, along with other stakeholders invited by the parent or the school. The parents will be given the names in writing of all members invited to the Annual Review.
- B. At the **Annual Review** meeting, the current IEP, including mastery/progress toward goals/objectives is reviewed by the committee and a new IEP is developed based on the student's Present Level of Performance. A copy of the new IEP is sent home with the parents if they are in attendance, or mailed if they are not present. Update any changes from the IEP meeting and a copy of

the new IEP will be saved through *Infinite Campus* for "read only" access for school personnel given the rights to that student's IEP.

**NOTE:** *The Parental Consent for Special Education and Related Services is required to be signed only once, at the time of the initial placement, even though the program or location of program may change.*

### **Placement of Transfer Students**

Every transferring student from a Georgia school to the Cirrus Academy Charter School will be checked through the SLDS system in order to determine if he/she received special education services from the transferring school. If so, records will be requested from that school by Cirrus Academy staff. Records will also be requested from students outside of Georgia. Once received, the records will be reviewed by the Department of Special Education in order to determine the presence of all required information and documentation.

Copies of the record will be sent to the Lead Teacher to disseminate to the student's assigned case manager. Notice will be sent to the student's Case Manager to review the records, along with information about any needed documentation. While waiting on a new IEP meeting, the student will be placed in the appropriate program(s) based on records from the transferring school.

Within ten (10) days of the transfer or receipt of records, the Case Manager will set up a time to meet with the student's Cirrus Academy Charter School IEP team and a new Cirrus Academy Charter School IEP will be developed, following the review of the transferring IEP and eligibility information. The Cirrus Academy Charter School's **Consent for Placement** form will be signed at the IEP meeting and parents will be provided with a copy of *Parent's Rights in Special Education*.

If transfer records are received directly by the school, the records will be sent to the Department of Special Education for review.

### **Components of the Individual Education Program (IEP)**

The IEP is a written statement for each child with a disability that is developed, reviewed, and revised in a meeting. The IEP must include:

1. A statement of the child's present levels of academic achievement and functional performance, including:
  - a. How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
  - b. For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
2. A statement of measurable annual goals, including academic and functional goals designed to:

- a. Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and b. Meet each of the child's other educational needs that result from the child's disability;
    - i. For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;
3. A description of:
  - a. How the child's progress toward meeting the annual goals will be measured; and
  - b. 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;
4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
  - a. To advance appropriately toward attaining the annual goals;
  - b. To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
  - c. To be educated and participate with other children with disabilities and nondisabled children in academic, nonacademic and extracurricular activities;
5. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the nonacademic and extracurricular activities;
6. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments; and
  - a. If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or district-wide assessment of student achievement, a statement of why:

i. The child cannot participate in the regular assessment; and ii. The particular alternate assessment selected is appropriate for the child; and

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- iii. The parents of the child must be informed that the child is being assessed against alternate or modified achievement standards and any consequences of such assessments.
  - b. IEP teams must select for each assessment only those accommodations that do not invalidate the score according to state standards.
- 7. The projected date for the beginning of the services and supports and the anticipated frequency, location, and duration of those services and program modifications.
- 8. **TRANSITION SERVICES:** Beginning not later than entry into ninth grade or by age 16, whichever comes first, if determined appropriate by the IEP Team and updated annually, the IEP must include information about Transition Services:
  - a. Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
  - b. The transition services (including courses of study) needed to assist the student in reaching those goals.

### **Transition Services Participants**

Cirrus Academy Charter School invites the student with a disability to attend the student's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP Team meeting, the school system will take other steps to ensure that the student's preferences and interests are considered.

To the extent appropriate, with the consent of the parents or the adult student who has reached the age of 18, in implementing the transition requirements, the school system will invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. (The determination of the knowledge or special expertise of this person must be made by the party (parents or school system) who invited the individual to be a member of the IEP Team.)

Beginning not later than one year before the student reaches age 18, the IEP must include a statement that the student has been informed of the student's rights under Part B of the IDEA, if any, which will transfer to the student on reaching his or her age 18. *This section is known as the **Transfer of Rights**.*

**THE IEP TEAM** is a group of individuals that is responsible for developing, reviewing, or revising an IEP for a child with a disability. The Cirrus Academy Charter School ensures that each IEP Team meeting includes the following participants:

- The parent(s) of the child
- Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)
- Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child
- A representative(s) of the local education agency who —
  - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - Is knowledgeable about the general education curriculum; and
  - Is knowledgeable about the availability of resources of the school system
  - An individual who can interpret the instructional implications of evaluation results, who may be a member of the team
  - At the discretion of the parent or the local educational agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
  - Whenever appropriate, the child with a disability.

### **Excusal of IEP Team Member**

A member of the IEP Team is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the school system agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP Team may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

- The parent, in writing, and the school system consent to the excusal; and
- The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

### **Transition for Children Birth through Two — Part C**

In the case of a child, birth through age 2, who was previously served under **Babies Can't Wait**, an invitation to the initial IEP Team meeting must, at the request of the

parent, be sent to the Babies Can't Wait service coordinator or other representatives of Babies Can't Wait to assist with the smooth transition of services.



## **Parent Participation in IEP: Notification and Invitation**

The Cirrus Academy Charter School ensures 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 invitation to the IEP Team meeting indicates 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. The invitation shall also inform the parents of a child previously served in *Babies Can't Wait* of their right to request that an invitation to the initial IEP Team meeting be sent to the service coordinator or other representative of *Babies Can't Wait* to assist with the smooth transition of services.

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 school system 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 school system will use other methods to ensure parent participation, including individual or conference telephone calls or means. A meeting may be conducted without the parents in attendance if the school is unable to convince the parents that they should attend. In this case, the school will 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.

Cirrus Academy Charter School will take whatever action is necessary to ensure that the parents understand the proceedings of the IEP Team meeting, including arranging for an interpreter for a parent who is deaf or whose native language is other than English.

A copy of the IEP is provided to the parents at no cost. Special education staff, including administrators, teachers, and case managers, are available to review explanations of proceedings to parents. Additionally, Cirrus Academy Charter School ensures that the parents of each child with a disability are members of any group that makes decisions on the child's educational placement.

### **When the IEP Must be in Effect**

At the beginning of each school year, the IEP will be in effect for each child with a disability served by Cirrus Academy Charter School.

### **Initial IEP Services**

Cirrus Academy Charter School ensures that:

- A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and
- As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

### **Accessibility of Child's IEP to Teachers and Others**

Each student with a disability's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for the implementation of the student's IEP. Each teacher and provider is informed of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

- Special education teachers and related service providers have access to IEPs on *Infinite Campus*.
- Regular education teachers can review IEPs with the student's case manager.
- Each regular education teacher is provided with a copy of the student's classroom and testing accommodations, and supports, including behavior intervention plan, behavior contract, if any, etc.

### **Inter and Intra-State Transfer of Students with IEPs**

#### **IEPS for Children who Transfer to Cirrus Academy Charter School from Another Georgia System**

If a child with a disability transfers to Cirrus Academy Charter School in the same school year from another school within Georgia, the Cirrus Academy Charter School, in consultation with the parents, will provide a Free and Appropriate Public Education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous school system), until Cirrus Academy either:

- adopts the child's IEP from the previous school system; or
- develops, adopts, and implements a new IEP that meets all IEP requirements set forth in State Board of Education rules.

## **IEPs for Children who Transfer from Another State**

If a child with a disability who had an IEP that was in effect in another State transfers to Cirrus Academy Charter School within the same school year, Cirrus Academy Charter School, in consultation with the parent, will provide the child with Free and Appropriate Public Education (including services comparable to those described in the child's IEP from the previous school system, until the Cirrus Academy:

- Conducts an evaluation if determined to be necessary, and
- Develops, adopts, and implements a new IEP, if appropriate.

All paperwork for transferring students with disabilities will be requested from the previous school by Cirrus Academy Charter School. School administrators, counselors, special education teachers, general education teachers, and the school psychologist, as appropriate, will be notified when paperwork has been received. School staff will send copies of the records to the special education teacher. When received, the special education teacher will review the documents and schedule an IEP meeting with the IEP team. Within ten (10) days of the transfer or receipt of records, the Case Manager will set up a time to meet with the student's Cirrus Academy Charter School's IEP team.

A Cirrus Academy Charter School IEP will be developed, following the review of the transferring IEP and eligibility information. The student's IEP will be put in Infinite Campus. At the IEP Meeting

- a. The Cirrus Academy Charter School's **Consent for Special Education and Related Services** form will be signed.
- b. Parents will be provided with a copy of *Parent's Rights in Special Education*.
- c. Authorization to Release Information

After the meeting, the case manager will send the final copy of the IEP, Notice of IEP Meeting, Consent for Special Education and Related Services, and Authorization to Release to the parent. Original paperwork will be sent to the Department of Special Education for State reporting purposes and filing.

## **FERPA and Transmittal of Records**

To facilitate the transition for a child who transfers to Cirrus Academy Charter School:

- a. The Cirrus Academy Charter School works diligently to promptly obtain the child's records, including the IEP, eligibility report, psychological evaluation report, supporting documents, and any other records relating to the provision of special education or related services to the child, from the previous school system in which the child was enrolled, pursuant to the Family Educational Rights and Privacy Act (which does not require prior parental consent to disclose education records to officials of another school where the student seeks or intends to enroll); and

- b. It is expected that the previous school system in which the child was enrolled will take reasonable steps to promptly respond to the request from Cirrus Academy Charter School.

### **Development of the IEP**

In developing each child's IEP, the IEP Team considers:

1. The strengths of the child
2. The concerns of the parents for enhancing the education of their child
3. The results of the initial or most recent evaluation of the child
4. The results, as appropriate, of the child's Statewide or district-wide assessments
5. The academic, developmental, and functional needs of the child.
6. Consideration of special factors. The IEP team must:
  - a. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports and other strategies, to address that behavior in the IEP or behavioral intervention plan;
  - b. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
  - c. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP 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;
  - d. 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; and
  - e. Consider whether the child needs assistive technology devices and services.

Cirrus Academy Charter School ensures that **Extended School Year** services (ESY) are available, if determined necessary, to provide a free and appropriate public education. Extended School Year services are provided only if a child's IEP Team determines, on an individual basis, that the services are necessary for the provision of free and appropriate public education (FAPE) to the child. Cirrus Academy Charter School does not limit Extended School Year services to a specific disability category or unilaterally limit the type, amount or duration of those services.

The IEP Team determines if Extended School Year services are needed as part of the child's free and appropriate public education. In doing so, the team considers the individual needs of the child. If the IEP Team determines that Extended School Year services shall be provided, it shall:

- Indicate which goals are being extended or modified to deliver the child's free and appropriate public education (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.

The Cirrus Academy Charter School provides Extended School Year services as required by the child's IEP and all necessary transportation at no cost to the parent unless the parent agrees to provide transportation.

**Participants of IEP Meeting:** Requirements with respect to a regular education teacher. A regular education teacher of a child with a disability, as a required 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.

### **IEP Changes or Amendments**

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 the 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 school system 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, Cirrus Academy Charter School ensures that the child's IEP Team is informed of those changes. The amendment will be put into *Infinite Campus* which all appropriate school personnel have access. The parents will receive a copy of the amendment. Classroom teachers will receive copies of any changes of the Behavior Intervention Plan, Accommodations, and Supplementary Aids and Services.

### **Review and Revision of IEPs**

The Cirrus Academy Charter School ensures that the IEP team reviews the child's IEP at least 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.

In Cirrus Academy Charter School, it is appropriate to consolidate reevaluation meetings for the child and other IEP Team meetings for the child (i.e., annual review).

### **Consideration of Special Factors**

In conducting a review of the child's IEP, the IEP team must consider the special factors described above. A regular education teacher of the child, as a member of the IEP Team, must participate in the review and revision of the IEP of the child.

There are several reasons for failure to meet transition objectives:

- If a participating agency, other than the school system fails to provide the transition services described in the IEP, Cirrus Academy Charter School will 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.

### **Children with Disabilities in Adult Prisons**

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 district-wide assessments;
- 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 Least Restrictive Environment (LRE) requirements do not apply with respect to the modifications described in this section.

## **Procedures for Notification of Meetings (IEP, Re-Evaluation, Eligibility, etc.) IEP Meeting Notice**

The parent must be notified of the proposed date, time and location of an IEP meeting to give sufficient time to make arrangements to attend or contact the school to reschedule the meeting. The notice should include the purpose of the meeting (including transition planning, if appropriate); the proposed date, time and location of the meeting; as well as the names (whenever possible) and positions of the people that the school will invite or have invited to attend.

The parent may request to reschedule the IEP meeting or to participate by telephone via a conference call if attending in person is not possible.

There are two circumstances in which a required member of the IEP Team may be excused:

- When an IEP Team member's area of curriculum or related services is NOT being changed or discussed at the meeting, the parent and the system may agree to excuse the team member from all or part of the meeting if the parent consents in writing to this excusal; or
- When the IEP Team member's area of curriculum or related services is not being discussed at the meeting, the parent and the system may excuse an IEP Team member from all or part of a meeting if the parent consents in writing to the excusal and the person submits relevant written input to the IEP Team prior to the meeting. Notification must be given 10 calendar days prior to the meeting.

The School must make reasonable attempts to involve the parent. One attempt must be a written notice. Documented attempts may include, but are not limited to:

- Telephone conversations
- E-mail
- Notice sent in mail
- Notice sent with student
- Certified Mail
- Home visit
- Student Support Specialist/Social worker

Should the IEP team determine that reasonable attempts were made to involve the parent, and the School has documentation of said attempts, then the IEP team may proceed with the meeting without the parent.

If a response is given stating that parent will attend, you may proceed with the meeting with or without the parents in attendance. If the parent requests to reschedule, you should not proceed without them, unless you have consulted with CACS's legal counsel about the situation.



Participants to be included are:

- Parents of the child or surrogate parent if the child is a ward of the state;
- At least one regular education teacher of the child (if the child is, or may be participating in the regular education environment);
- At least one special education teacher or provider of the child;
- Other representative(s) of the local education agency who —
  - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - Is knowledgeable about the general education curriculum; and
  - Is knowledgeable about the availability of resources of the school system
- An individual who can interpret the instructional implications of evaluation results, who may be a member of the team
- At the discretion of the parent or the local educational agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- Whenever appropriate, the child with a disability.

Others who may also attend

- Related Service Providers, if appropriate (SLP, OT, PT)
- Student, if transition is being discussed or if the child is 16 or older or in 8th grade
- Any other appropriate personnel or person invited by the parent.

### **Developing the IEP**

When beginning the IEP meeting: • Review the purpose of the meeting;

- Introduce all team members;
- Review the agenda for the meeting, if developed;
- Review Parental Rights;
- Discuss reason for referral, if appropriate.

In a successful IEP meeting:

- Decisions are documented;
- There is a clear understanding of who is responsible for designated tasks, i.e., Action Plan;
- All team members are active participants; • Team members are open, honest, and positive.

### **Team Members/Case Manager**

At the beginning of the year or once a child is referred, the case manager and other team members are established. All staff that will work with the child or assess the child should be

set up as team members and included on the Notice of IEP Meeting, including parents and the student (if over 14).

### **Present Levels of Academic Achievement and Functional Performance**

The Present Levels of Performance is the basis for the development of the entire IEP including the Transition Plan, the Goals/Objectives, and the Classroom and State Assessment Accommodations. The Present Levels should include academic, developmental, and functional performance. It should be specific and individualized and related to measurable findings and observations.

The Present Levels of Performance must include the most recent state assessment and system level assessment results (within the last two years). This is not a listing of state scores or grades, only. Pertinent formal or informal testing data should be included along with an explanation of the information which better defines the current levels of the student. This information will help in linking goals and objectives that may need to be developed for the student.

The Present Levels of Performance include statements identifying the student's academic, developmental, and/or functional strengths and weaknesses. In addition, each identified area of significant deficit should be addressed in the annual goals, short-term objectives, if appropriate, accommodations/modifications, and special education and related services. The Present Levels of Performance must include parental input whether the parent is present at the meeting or not. The parental input may be from a previous discussion with the parent during the school year. Additional parental input may also be included in the minutes of the IEP. It is best practice for the IEP to document how the parent's concerns have been or will be addressed.

A discussion of the impact of the disability on involvement and progress in the general education curriculum or for preschool in appropriate activities is included.

**Considerations of Special Factors** are addressed with statements written where needed. The need for a **Behavior Intervention Plan** is documented in this area. If the student needs or is using an **assistive technology** device or **alternative format** for instructional materials, this is where the need is documented.

**Transition Planning** must begin at end of 8th grade or by age 16, whichever is first. In Cirrus Academy Charter School, the Transition Plan will be in place prior to the student's ninth grade year.

An assessment of the skills and interests related to education, employment, training, and independent living skills (as appropriate) should be conducted in conjunction with the

development of the transition components. The initial transition assessment may be prior to the eighth grade and could occur when a reevaluation consideration is conducted. It should also be ongoing and fluid.

Assessment tools that clearly describe a 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. Also, there are six characteristics that should be considered when conducting a transition assessment. The assessment should be

1. child centered
2. continuous
3. occurring in many places
4. involving a variety of people
5. have understandable data
6. be sensitive to cultural diversity

**Desired Measurable Post-Secondary Outcome/Completion Goals** should be measurable post-secondary outcome/completion goals of what the child wants to achieve *after* graduation. They should be "major life accomplishments" or "completion goals." These should be in the areas of Education/Training, Employment and Independent Living (as appropriate). These goals should be written in easy to understand language. These outcome/completion goals can change and become more refined as the child has more experience and gets closer to graduation. They should occur after the child graduates from school.

**Transfer of Rights** will be discussed and dated if student is 17 years old and older. Once the student turns 18 years old, it must be documented and dated that the student has been informed that the rights have been transferred.

**Measurable Transition IEP Goals** are based on age appropriate transition assessment and include transition activities and services appropriate to attain the Post-Secondary Outcome/Completion Goals. This section should include *measurable* transition IEP goals that directly relate to the how, when, where, and what is needed to complete each postsecondary outcome/completion goal. The goals should be relevant to "how to get to" the desired post-secondary outcomes. They must be meaningful.

This section is divided into Education/Training, Development of Employment, Community Participation, Adult Living Skills and Post School Options, Related Services and Daily Living Skills (as appropriate). There will be at least one measurable transition IEP goal for Education/Training and Employment. Measurable transition goals for Independent Living are addressed as appropriate.

**Transition Activities and Services** address the transition activities and services that are needed to attain these measurable goals. Transition Activities and Services are planned to meet the "what is needed to achieve these goals" criterion. Many activities and services are documented, planned, and implemented for each goal. In Cirrus Academy Charter School, there will be a minimum of two activities for each goal.

**Persons and Agency Involved** includes the people who will help the child achieve the goals. Documentation is provided that these persons were invited to the Transition IEP meeting and that the parents and student (if over 18) were notified of their possible attendance.

**Date of Completion and Achieved Outcome** is left blank and then completed at the next annual review.

### **Measurable Annual Goals & Short Term Objectives**

In the last reauthorization of the *Individuals with Disabilities Education Act* (IDEA) and the latest Georgia State Regulations, short term objectives are not required for all students in special education. Only those **students who participate in the Georgia Alternate Assessment (GAA) are required to have short term objectives.**

However, there is nothing that prohibits a system from requiring short term objectives or benchmarks for all special education students. IEPs developed for Pre-Kindergarten students and IEPs written for students who participate in an adaptive curriculum (tested through GAA) require goals *and* objectives. Other IEPs that may be written with goals and objectives are those IEPs for students in special circumstances and objectives included because of teacher's professional judgment. All other IEPs for students who participate in standardized tests can be written with measurable annual goals only.

These goals must:

- be skill building—What *skills does the student need to develop in order to access, participate and make progress in the general curriculum and school activities?*
- contain a target behavior, condition and criteria—Clear and measurable present levels make writing clear and measurable goals easier.
- have a data collection strategy that supports the measurability of the goal.

Measurable annual goals are written to address an individual student's deficits to enable that student to *make progress* in grade level standards. All students are expected to be working toward grade level standards, so it is not necessary to list those standards in the IEP.

### **Student Supports, Accommodations, Supplemental Aids and Services and Supports**

All new teachers of special education students are provided access to the IEP, including classroom and state assessment accommodations, through Infinite Campus.

### **State Testing**

Allowable accommodations for state testing may only be allowed when agreed upon by the IEP Team. The state testing accommodations are accommodations that are also used throughout the year and not only for state testing. The allowable assessment accommodations may be found in the annually updated Georgia Assessment Manual. Decision-making guides for selection of appropriate assessment accommodations can be found in the Georgia Accommodation Manual.

Rules should be followed carefully when choosing a conditional accommodation for a student and should be chosen rarely. If this choice is made by the IEP Team, the

Director of Special Education and Testing Coordinator must be contacted. Tests administered with conditional modifications will not count towards *College and Career Ready Performance Index* (CCRPI) measurements.

Only students with significant cognitive disabilities may be allowed to participate in the Georgia Alternate Assessment (GM), and this decision is documented in the IEP.

### **Services in General Education, in Special Education, & Related Services**

Services in General Education include Consultation, Supportive Instruction, Collaborative, and Co-teaching. Services in Special Education setting include resource and self-contained (both considered small group instruction) and now defined as a "separate class."

**Related Services** include Occupational Therapy, Physical Therapy, Special Transportation, Adapted PE, Interpreter, and Orientation and Mobility, Counseling, School Health/Nursing Services, School Social Work, Audiology, Diagnostic Services, and Psychological Services.

### **Options Considered**

All service options considered are discussed and documented in the IEP. Once the options are decided upon, a WHY statement should be included which describes the extent to which the student will not participate with peers without disabilities in the regular class and/or in nonacademic and extracurricular activities, if this is the case.

### **Extended School Year Services (ESY)**

The IEP team will decide whether the child needs Extended School Year (ESY) services or will document either a date by which the team will reconvene to determine the need or will write a rationale statement of why the student does or does not need the service. If the team decides to reconvene, you must meet on or before that date.

### **Functional Behavioral Assessment**

The purpose of a Functional Behavioral Assessment is to determine the relationship between the environment and the occurrence of behavior. In other words, the assessment seeks to determine what elicits the behavior and what goal the behavior is achieving (hence, its function). Signed **Consent for Evaluation** is required prior to conducting FBA.

- The IEP Team begins by listing student's behaviors that have resulted in missed instructional time and possibly disciplinary action.
- The team will prioritize the behaviors and choose the top one to three behaviors to focus on for the functional assessment.

- The team must describe the behavior in such a way that there is no doubt what the behavior looks like and when it is occurring. The behavior must be described so that it is observable, measurable, and clear to an observer.
- The team should recall and summarize everything that has been done in the past in order to prevent or minimize the problem behavior (Changing seat, modifying assignments, teaching anger management strategies).
- The team should consider characteristics that are unique to a student (physical, emotional, cognitive, social, and academic).
- The team should determine why a behavior is occurring:
  - How often does the target behavior occur and how long does it last? ○ Where does the behavior typically occur? Where does it never occur? ○ Who is present for the occurrence/nonoccurrence of the behavior? ○ What is going on during the occurrence/nonoccurrence of the behavior? ○ When is the behavior most likely/least likely to occur?
  - How does the student react to the usual consequences that follow the behavior?

In order to answer these questions, the team utilizes: observation, interviews, behavior rating scales, discipline records, special education records, notes from parents, teachers, and student, etc. The IEP Team should collect enough information to effectively answer the above questions.

A functional assessment of an individual's behavior is based on the assumption that all behaviors serve some purpose for that person. In identifying the function of a behavior, the team must identify events, which occur before a behavior (antecedent) and the events that follow a behavior (consequences).

According to the **Implementation Manual for the Special Education State Rules**, if an IEP team has adequate information to develop a Behavior Intervention Plan (BIP), a Functional Behavior Assessment (FBA) may not be required. Although not required, in Cirrus Academy Charter School, best practice is to conduct a Functional Behavioral Assessment prior to the development of a Behavior Intervention Plan.

The IEP Team must develop intervention plans (**Behavior Intervention Plan**) based on the information provided through this Functional Behavioral Assessment. The following techniques are considered when designing behavior intervention plans:

1. manipulate the antecedent and/or consequences of the behavior;
2. teach more acceptable behavior replacement behaviors that serve the same function as the inappropriate behavior;
3. implement changes in curriculum and instructional strategies; and 4. modify the physical environment.

To be meaningful, plans need to be reviewed at least annually and revised as appropriate. However, the plan may be reviewed and reevaluated whenever any IEP Team member feels that a review is necessary.

A Behavior Intervention Plan is not just punishment. It is designed to help a student learn to stop herself/himself from repeating inappropriate behavior.

### **Extended School Year Services**

Local school districts are required to consider the need for Extended School Year Services (ESY) for each student with a disability. ESY may be necessary to provide a particular student a free appropriate public education as required by the *Individuals with Disabilities Education Act (IDEA)*. As with all other programming needs, the need for ESY is documented via data gathered about the student's performance in relation to the IEP goals and objectives throughout the year.

Extended School Year (ESY) must be addressed at least annually in all Individual Education Program (IEP) meetings. The rationale for any decision must be indicated on the IEP. Extended School Year services may include a variety of program delivery models. The following factors are considered when reviewing whether a student is eligible for Extended School Year services:

- Nature of child's disability
- The severity of the disability
- The age of the student
- The areas of learning crucial to the child's attainment of self-sufficiency and independence
- The contents of any applicable transition plan
- Areas of student's curriculum which need continuous attention;
- Progress on skills as identified in the IEP goals and objectives which address, as appropriate, the student's needs in the areas of academics, communication, social, behavior, motor, vocational, and mobility
- The rate of progress for the student or the rate of regression which may limit the student's ability to achieve IEP goals and objectives
- The relative importance of the IEP goals at issue
- Whether related services are needed to enable the student to progress toward IEP goals
- Whether there were any delays or interruptions in services during the school year • Other pertinent information such as emerging skills.

**Recommended sources** of information when considering whether a student with disability requires Extended School Year services:



Assessment information maintained on the student, including pretest and posttest data;

- Current IEP and pertinent curricula information;
- Progress reports maintained by teachers, therapists and others having direct contact with the student before and after breaks in educational programming.
- Educational, medical or psychological records of the student from public and private sources;
- Prognosis or opinions of educators, medical personnel, parents, and others who work with the student;
- Achievement of goals on successive IEPs;
- Reports by parents of negative changes in adaptive behaviors over extended break periods;
- Progress reports of teachers contrasting present and previous levels of achievement;
- Medical and other agency reports indicating degenerative type difficulties that become exacerbated during breaks in educational programming.

### **Documentation of Extended School Year Services**

If a student is determined eligible for Extended School Year services by the IEP team, the team must:

- Indicate which goals and objectives from the current school year are being extended or modified. Such extension is needed to develop a free, appropriate public education (FAPE).
- The specific services needed
- The amount of time for each service
- The beginning and ending dates for the services
- The service provider and location

Extended School Year services will be provided when recommended in the student's IEP, and all necessary transportation is offered at no cost to the parent. Special Education and Related Services necessary to meet an individual student's needs shall be provided by qualified personnel.

### **Case Manager Responsibilities**

It is the responsibility of each student's Case Manager to become very familiar with each of his/her student's IEPs. The Case Manager:

- Ensures that a student's IEP is reviewed at least once annually, and amended during the school year if warranted.
- Keeps track of student progress and ensure that Progress Reports are sent to parents with all Report Cards.
- Ensures that all classroom and testing accommodations are carried out.

- Makes sure that IEPs are fully and accurately implemented; the hours of service stated in the IEP match the student's actual schedule.
- Ensures that all of the student's teachers have access to the IEP • Monitors both the academic and behavioral progress of students.
- Contacts parents at the beginning of the school year.
- Participates in Eligibility /IEP meetings for new referrals; sending out Parent Notification of Meeting, developing the IEP, insuring that the parents receive copies, parental rights at least annually, etc.
- Prepares paperwork in a timely, efficient, and accurate manner.
- Finalizes all IEPs within three to five days from the meeting.
- Sends appropriate paperwork to the Department of Special Education
- Carries out other duties essential to provide Student assigned to the Case manager a free appropriate public education

### **IEP Amendments**

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

### **How can an IEP be amended without having a face-to-face meeting?**

Following communication with the parents, if both the school and parents agree that a meeting is not necessary to amend the IEP, an amendment can be made. The parents and staff working with the student must be provided a copy of the amended IEP. The amendment is developed using Infinite Campus. If the services change, be sure to use the Amendment with the Services Grid.

### **Can a change in time or placement on the IEP be made without a meeting— as part of an amendment? Are there any changes that can be made to an IEP that require a meeting, and cannot be made through the use of an amendment?**

The answer to both of these questions is yes, if the School and parents agree. The Individuals with Disabilities Education Act (IDEA) does not specify any specific circumstances in which these changes may be made. Professional judgment should be used to determine when it is necessary to convene a meeting. Amendments are intended to relieve the paperwork burden when minor changes need to be made in the IEP to which both the School and parents agree.

### **Is it permissible to have only one signature, representing one person at the "meeting," on the IEP Addendum form?**

Yes. When a case manager contacts the parent by phone to discuss a change to the IEP and both parties agree to the change, the case manager may write up the agreed upon changes

as an IEP Addendum and document the method of contact (i.e.—phone call or impromptu conversation) on the Parent Notification of Meeting Response Section. If either party requests that a meeting should be called, then a meeting should be arranged to discuss and document the changes. Best practice is to have a second school official in the room when the phone conversation or impromptu conversation is taking place; however, it is permissible to have only one signature if both parties agree to the change.

### **Dismissals**

For dismissals from special education services, there must be a review of data indicating that the child is not a child with a disability. This must be shared with the parents. To meet the requirements of prior written notice, the parents must be informed of changes, what data was considered, and what options were considered. Completing or updating the Reevaluation Determination form will document this need. Therefore, dismissals must be initiated with a *Reevaluation Determination* meeting.

### **PROFESSIONAL LEARNING**

Implementation of the IEP with fidelity is at the heart of serving students with disabilities. At the beginning of each school year, professional learning on IEPs will be provided to all special education staff by the Special Education Director. Throughout the year, the Lead Special Education teachers at each school will contact the Special Education Director if additional training is needed. When/if new staff is hired during the year, professional learning will be provided.

### **MONITORING**

Thorough implementation of the IEP includes the essential steps of scheduling/holding annual reviews and redeterminations, progress monitoring of student goals, and timely completion/turn-in of all required paperwork. Each case manager is charged with ensuring full implementation with fidelity. It is the responsibility of the CACS Special Education Director to ensure the fidelity of the process through monitoring the GOIEP Dashboard for timeliness and completion and checking random selection of progress monitoring notebooks each semester. Technical Assistance/Corrective Action will be provided as needed by the Special Education Lead teachers, Special Education Director, and school administrators.

**State Board Rule: 160-4-7-.14 -- Personnel, Facilities, and Caseloads  
Maintenance of Credentials for Professional Employees**

Maintenance of current credentials is the ongoing responsibility of any professional employed by or under contract with the Cirrus Academy Charter School.

Maintenance of records of current credentials is the ongoing responsibility of the Cirrus Academy Charter School. Cirrus Academy Charter School will recruit, hire, train and retain an adequate supply of highly qualified (certified or licensed) personnel, including special education, related services (therapists) and Leadership personnel, to meet the needs of children with disabilities.

Related service personnel who deliver services in their discipline or profession must maintain current, State approved or recognized certification, licensing, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services. Related service personnel must have not had certification or licensure requirements waived on an emergency, temporary or provisional basis.

The required standard credential for all personnel providing educational interpreting for children who are deaf or hard of hearing in Cirrus Academy Charter School, regardless of job title, shall hold a current Georgia Quality Assurance Screening (G-QAS) rating of Level III or higher in both interpreting and transliterating , as approved and maintained by the Georgia Department of Labor/Vocational Rehabilitation Program (DOL/VR), and/or documentation of advanced interpreting skills and qualifications through current national certification from the Registry of Interpreters for the Deaf (RID), and/or documentation of advanced interpreting skills and qualifications through current national certification from the National Association of the Deaf (NAD) Levels III, IV or V, and/or documentation of advance interpreting skills and qualifications through a current Educational Interpreter Performance Assessments (EIPA) rating of Level 3.5 or higher. The EIPA rating cannot be more than five years old.

Maintenance of current credentials shall be the ongoing responsibility of any educational interpreter employed by the Cirrus Academy Charter School for purposes of educational interpreting for children who are deaf or hard of hearing. Maintenance of records of current credentials shall be the ongoing responsibility of the Cirrus Academy Charter School and current credentials of educational interpreters are filed with other personnel records (e .g., teacher certification credentials).

The Department of Human Resources maintains all credentialing documentation.

### **Classroom Size and Appropriateness**

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

### **Maximum Class Size and Caseload by Eligibility Category**

Cirrus Academy Charter School follows the Georgia State Board of Education Rules that mandates thirty-eight square feet to be provided for each child in the class with a variance of 10 percent depending upon the total number of personnel in the class at any time, the type of children and class, the kind and amount of furniture and equipment required, and the necessity for storage capabilities. Special circumstances shall be reviewed by the Director in charge of Facilities and the Facilities Department of the Georgia Department of Education.

Maximum class sizes and caseloads for personnel providing services for children, ages 3 through 5, in Community, Full Day, and Part Day classes, with a paraprofessional: **Preschool**

#### **Special Education Maximum Class Size/Caseload**

**Full Day** 8; with Para 16

**Part Day** 12; with Para 32

**Community Setting** N/A 32

#### **Special Education Maximum Class Size: See Appendix Class Sizes and Caseloads**

#### **NOTES:**

Each paraprofessional is the equivalent to 1/3 teacher and affects individual class size proportionately. Various teacher/paraprofessional models shall be averaged independently. If students from different exceptionalities programs are within the same segment, the maximum class size shall be determined by the program with the smallest class size.

Middle school and high school students served in a departmental model shall have an individual maximum class size of seven without a paraprofessional and ten with a paraprofessional, provided the number of students of any one exceptionality within the class does not exceed the individual maximum class size for that exceptionality.

## **EXCEPTION TO INDIVIDUAL MAXIMUM CLASS SIZE**

The individual maximum class size with a paraprofessional may be increased as noted for two segments per day per teacher for the school year. Maximum teacher/pupil ratio without a paraprofessional may not be increased.

## **State Board Rule: 160-4-7-.15 -- Georgia Network for Educational and Therapeutic Support (GNETS)**

The Psychoeducational Network is known as the **Georgia Network for Educational and Therapeutic Support (GNETS)**. The GNETS programs support the local school system's continuum of services by providing comprehensive special education and therapeutic support for the children served. The purpose of the GNETS is to prevent children from requiring residential or other more restrictive placements by offering cost-effective comprehensive services in local areas.

The Georgia Network for Educational and Therapeutic Support (GNETS) program provides comprehensive educational and therapeutic support services to students who might otherwise require residential or other more restrictive placements due to the severity of one or more of the characteristics of the disability category of emotional and behavioral disorders (EBD). Families have the opportunity to be engaged in all aspects of service planning. Child specialists (educators, psychologists, social workers, psychiatrists, behavior support specialists, or etc.) from a variety of professions collaborate on behalf of the children served. All programs may serve children ages 3 through 21 years by the program staff in classes, with direct therapeutic services, evaluation and assessment or other services as appropriate.

The **Pathways Psychoeducational Program**, which is utilized by Cirrus Academy Charter School, is designed for students with severe emotional/ behavioral disorders for whom a more restrictive setting is required than is available in the child's current educational setting. This program is the most restrictive environment for EBD students within the public school system.

### **Documentation of On-Going Effectiveness and Improvement**

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

### **Positive Behavioral Interventions and Supports**

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

### **Academic Curriculum**

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

## **Eligibility and Placement**

Students receiving services through a GNETS Program are referred by the Cirrus Academy Charter School through the Individual Education Program (IEP) process. An IEP team may consider in-class services by a GNETS program for a child with an emotional and behavioral disorder based upon documentation of the severity of the duration, frequency and intensity of one or more of the characteristics of the disability category of emotional and behavioral disorders (EBD). This documentation includes prior extension of less restrictive services and data which indicate such services have not enabled the child to benefit educationally.

An IEP team, which includes GNETS personnel, may consider services by a GNETS program based upon documentation of the severity of the duration, frequency, and intensity of one or more characteristics of the disability category of emotional and behavioral disorders (EBD). Other eligible students with disabilities may receive GNETS services when the frequency, intensity, and duration of their behaviors is such that this service is deemed by those students' IEP teams to be appropriate to meet the students' needs. Students who are served directly in GNETS classes are those requiring the intensive therapeutic interventions and educational support that GNETS programs are designed to provide.

Documentation must include evidence that appropriate research-based interventions were provided for a significant length of time and data that indicate such interventions have not enabled the child to benefit educationally. Additional evaluations prior to placement may also be necessary.

Placement in a GNETS program is determined by the student's IEP team. GNETS directors and special education directors should collaborate both to ensure that GNETS program staff are included in IEP meetings when GNETS services are being considered and to develop a process to consider all available data and information in order to facilitate a student's entrance and exit from a GNETS program.

### **Procedures for Placement Consideration:**

- The special education teacher contacts the county's behavior specialist/ Special Education Director to identify any interventions that may help the student be successful at the home school. The recommended interventions are implemented with integrity.
- The special education teacher contacts the Special Education Director to discuss the student and obtain approval to proceed with referral. If appropriate, other interventions are recommended and tried at the home school. An IEP committee



- meeting is held to review the present level of academic and functional performance & discuss all options including a GNETS referral.
- The Special Education Director contacts Pathways Coordinator to discuss the student.
  - The Pathways consideration for placement packet is completed and sent to the Pathways Coordinator.
  - The Pathways Coordinator sends a GNETS staff person to the home school to observe the student and review the due process file and other records, such as discipline, attendance records and anecdotal notes.
  - An FBA must be updated or completed. A current IEP with Behavior Intervention Plan which is being implemented along with behavioral/emotional goals must be included. It is best practice for the student to be receiving services for at least half the school day.
  - Transfer students meet at home school to discuss student's needs
  - Parents/guardians are informed by the home school that a placement at Pathways is being considered. The Pathways Program Information for Parents/Guardians is provided to parents/guardians.
    - o The case manager should let parent(s) know that they are invited to contact the Pathways Program Coordinator to schedule a visit if they wish.
  - If needed, the Pathways Coordinator directs the home school to hold a reevaluation determination meeting to initiate additional testing.
  - The referring school schedules an IEP meeting and invites the Pathways Coordinator or her representative to the meeting.
  - After testing is reviewed and options have been considered and discussed, if placement in the Pathways program is determined to be the least restrictive environment for the student, the case manager will inform the Special Education Administrative Assistant who will work with Pathways personnel to arrange transportation (if warranted).
  - The home school is responsible for submitting the file within the required time period, completing the necessary corrections, and delivering the referral packet to the Office of Special Education.



- The Office of Special Education will deliver the educational information to the Pathways Coordinator.

### **Other Information**

- GNETS students' IEPs should be developed on the LEA IEP forms.
- The LEA is responsible for the provision of FAPE to all students, including those served by a GNETS Program; and participation in the development and revision of the IEP is required. Federal regulations and Georgia Special Education Rules require the IEP team to consider the full continuum of placement options. All required team members must attend the scheduled IEP meetings.

### **Exit Procedures:**

- The GNETS coordinator contacts the home district Special Education Director to discuss student's possible transition to his/her home school.
- The local Special Education Director contacts the student's home school to discuss possible transition.
- Observations by home school personnel (case manager/administrator) are conducted prior to IEP meeting.
- Home school personnel reviews data and educational information prior to the IEP meeting.
- An IEP meeting will be scheduled with all the required personnel to discuss educational services and placement.

Once the IEP team determines that the home school is the least restrictive environment for the student, GNETS personnel should work with the home school to develop a transition plan that will help the student be successful.

### **Exit Criteria**

Georgia's Special Education Rule 160-4-7-.15 requires that exit criteria be developed upon entry into the GNETS program as part of the IEP process. Exit criteria are based upon the behaviors that necessitated GNETS services and the data that supported the placement. If a student later exhibits behaviors with severity of duration, frequency, and intensity that were not present upon entry into GNETS, exit criteria may be revised to include those behaviors. Exit criteria should include the following:

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- Target behavior described in measurable and observable terms
- Data on target behavior at initial placement
- Criteria for target behavior for consideration of exit from GNETS program
- Method of data collection/evaluation

Progress toward meeting the exit criteria should be regularly monitored, and instruction should be adjusted if progress is not being made. As a student progresses toward meeting exit criteria, GNETS personnel should collaborate with the LEA representative to assist in planning for a smooth transition back to the LEA.

### **Other Information:**

Exit Criteria is established based on the severe behaviors that necessitated placement, and/or continued placement, in a GNETS program.

GNETS students should not be held to higher standards than SWD in the LEA (see below) such as passing grades, general discipline referrals, or attendance (unless school phobia was documented in referral process) as these behaviors would not necessitate a GNETS placement.

Exit criteria are individualized and rarely would look the same for more than one student.

Passing grades, general discipline referrals & attendance would not be criteria for exiting the GNETS program.

Exit criteria should be written in the same way that IEP goals are written - with conditions for specific, observable, and measurable target behaviors including criteria for performance and specific length of time.

Exit criteria must be reviewed at least annually and may be modified to reflect needs.

**May a student who has met exit criteria but still has some behavioral problems be prevented from returning to his LEA?** If a student is no longer exhibiting the severity of the duration, frequency, and intensity of the behavior that warranted GNETS services, a return to the LEA should be considered by the IEP team. Students coming from GNETS classes should not be held to a higher behavioral standard than their peers in the LEA. If a student still has some behavioral problems, the IEP, the Behavior Intervention Plan, and a well formulated transition plan should be developed to provide the necessary supports for students.

## **Area of General Supervision III: Student Progress**

### **Free Appropriate Public Education (FAPE)**

#### **160-4-7-.02 FREE APPROPRIATE PUBLIC EDUCATION (FAPE).**

##### **GENERAL.**

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, as provided for in State R. 160-47-.18 Discipline.

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. If a student is still attending school at age 22, the LEA shall state whether services will cease on the student's 22<sup>nd</sup> 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 22<sup>nd</sup> 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.

FAPE for children beginning at age 3. Each LEA must ensure that:

1. The obligation to make FAPE available to each eligible child residing in the LEA begins no later than the child's third birthday; and
2. An IEP or an IFSP is in effect for the child by that date.
3. If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.

Children advancing from grade to grade.

1. Each LEA must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

2. The determination that a child described above is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

**LIMITATION** - exception to FAPE for certain ages.

(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

1. Adult students aged 18 through 21, who, in the last educational placement, prior to their incarceration in an adult correctional facility:

(i) Were not actually identified as being a child with a disability;

(ii) Did not have an IEP in effect; and

(iii) Graduates from high school with a regular high school diploma. This constitutes a change in placement, requiring written prior notice.

2. The exception does not apply to adult students with disabilities, aged 18 through 21, who:

(i) Had been identified as a child with a disability and had received services in accordance with an IEP but who left school prior to their incarceration in an adult correctional facility or local jail;

(ii) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability; or

(iii) Have graduated from high school but have not been awarded a regular high school diploma.

(iv) The term regular high school diploma does not include an alternative degree that is not aligned with the State's academic standards such as a special education diploma, certificate of attendance or a general educational development credential (GED).

(b) Documents relating to exceptions. The LEA must assure that the information it has provided is current and accurate.

**FAPE--METHODS AND PAYMENTS.**

(a) Georgia may use whatever State, local, Federal, and private sources of support that are available in the State to meet the requirements of this Rule. For example, if it is necessary to place a child with a disability in a residential facility, Georgia could use joint agreements between the agencies involved for sharing the cost of that placement.



(b) Nothing relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.

(c) The LEA must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

(d) Children with disabilities who are covered by public benefits or insurance.

1. A LEA may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA, as permitted by the public benefits or insurance, except -

(i) With regard to services required to provide FAPE, the LEA may not require the parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE;

(ii) The LEA may not require the parents to incur any out-of-pocket expenses such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided, but may pay the cost the parents would otherwise be required to pay; and

(iii) The LEA may not use a child's benefits under a public benefits or insurance program if that use would -

(I) Decrease available lifetime coverage or any other insured benefit;

(II) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and are required for the child outside of the time the child is in school;

(III) Increase premiums or lead to the discontinuation of benefits or insurance; or

(IV) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenses; and

2. The LEA shall obtain parental consent prior to accessing a child's or parent's public benefits or insurance for the first time and after providing notification to the child's parents consistent with paragraph (3)(d)3. of this rule and 34 C.F.R. § 300.154(d)(2)(v). The parental consent to access a child's or parent's public benefits or insurance shall:

(i) Meet the requirements of 34 C.F.R. § 99.30 and 34 C.F.R. § 300.622 by specifying the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular

child), the purpose of the disclosure (e.g., billing for services provided under IDEA), and the agency to which the disclosure may be made (e.g. the Georgia Department of Community Health); and

(ii) Specify that the parent understands and agrees that the LEA may access child's or parent's public benefits or insurance to pay for services provided under IDEA.

3. Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the LEA shall provide written notification to the child's parents consistent with 34 C.F.R. § 300.503(c) that includes:

(i) A statement of parental consent provisions in 34 C.F.R. § 300.154(d)(2)(iv)(A)-(B);

(ii) A statement of the "no cost" provisions in 34 C.F.R. § 300.154(d)(2)(i)-(iii);

(iii) A statement that the parents have the right under 34 C.F.R. part 99 and 34 C.F.R. part 300 to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of Georgia's public benefits or insurance program at any time; and

(iv) A statement that the withdrawal of consent or refusal to provide consent under 34 C.F.R. part 99 and 34 C.F.R. part 300 to disclose personally identifiable information to the agency responsible for the administration of Georgia's public benefits or insurance program does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

Children with disabilities who are covered by private insurance.

1. With regard to services required to provide FAPE to an eligible child, a LEA may access the parents private insurance proceeds only if the parents provide consent.

2. Each time the LEA proposes to access the parents' private insurance proceeds, the LEA must —

(i) Obtain parental consent; and

(ii) Inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

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

### **ACCESSIBLE INSTRUCTIONAL MATERIALS.**

(a) LEAs will provide print instructional materials in specialized, accessible formats (i.e. Braille, audio, digital, large-print, etc.) to children who are blind or other print disabled in a timely manner. LEAs will take all reasonable steps to ensure that children with print disabilities have access to their accessible format instructional materials at the same time as students without print disabilities.

1. Print instructional materials include textbooks and related core materials that are required by the LEA for use by children in the classroom.

2. Specialized formats refer to Braille, audio, or digital text which is exclusively for use by children who are blind or other persons with print disabilities. Large print formats are also included when the materials are distributed exclusively for use by children who are blind or other persons with disabilities. [17 U.S.C.

§ 121(d)(4)]

(i) Specialized formats do not include altering the content (e.g. breadth, depth, or complexity) of the print instructional material in the production of accessible instructional materials.

3. Children who are blind or print disabled include:

(i) Children whose visual acuity, as determined by a competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees.

(ii) Children whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.

(iii) Children certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.

(iv) Children certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.

4. The following groups of individuals are eligible to certify children who are blind or other print disabled for specialized format instructional materials:

(i) In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents).

(ii) In the case of a reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

(b) In order to insure the timely provision of high quality, accessible instructional materials to children who are blind and other print disabled, the LEA must adopt the National Instructional Materials Accessibility Standard (NIMAS).

1. The NIMAS refers to a standard for source files created by textbook publishers for the purpose of producing accessible instructional materials. NIMAS files are not child ready files and will be used by authorized users and entities to produce accessible materials for children who are blind and visually impaired.

2. Children who are certified as blind or other print disabled are eligible to receive accessible instructional materials produced with NIMAS files.

(c) The LEA may coordinate with the National Instructional Materials Access Center (NIMAC) to facilitate the production and delivery of accessible materials to children who are blind or other print disabled.

1. The NIMAC refers to the central repository which is responsible for processing, storing, and distributing NIMAS files of textbooks and core instructional materials.

2. LEAs must provide written assurances to the GaDOE regarding their intention to coordinate with the NIMAC.

3. LEAs coordinating with the NIMAC will require textbook publishers to deliver the contents of the print instructional materials to the NIMAC in a NIMAS format file on or before delivery of the print instructional materials. The files will be used in the production of accessible instructional materials.

4. LEAs coordinating with the NIMAC may also purchase instructional materials from the textbook publishers that are produced in or may be rendered in a specialized format.

(d) If the LEA chooses not to coordinate with the NIMAC, assurances must be made to the GaDOE that the LEA will provide accessible instructional materials to children who are blind or other print disabled in a timely manner. LEAs will take all reasonable steps to ensure that students with print disabilities have access to their accessible format instructional materials at the same time as students without print disabilities.

1. LEAs that do not coordinate with the NIMAC will be responsible for purchasing, producing or otherwise providing high-quality, accessible instructional materials in specialized formats in a timely manner for children who are blind or print disabled. LEAs will take all reasonable steps to ensure that students with print disabilities have access to their accessible format instructional materials at the same time as students without print disabilities.

(e) The LEA is also responsible for providing accessible materials to children who require instructional materials in accessible formats, but who do not qualify for the materials under the definition of blind and other print disabled or who need materials that can not be produced from NIMAS.

(f) Some children who require accessible instructional materials will need assistive technology to access the materials (e.g. text reader to read digital file, screen magnification program to read digital file).

### **ASSISTIVE TECHNOLOGY.**

(a) Children with disabilities who require assistive technology in order to receive a free appropriate public education (FAPE) are eligible for assistive technology devices or services, or both, as a part of the child's special education, related services, or supplemental aids and services.

(b) Each IEP Team will consider whether or not a child requires assistive technology devices and services in order to receive a free appropriate public education (FAPE). Minimal compliance will be indicating the appropriate response in the Consideration of Special Factors section of the IEP. Assistive technology can also be addressed when considering other factors such as communication needs and instruction in the use of Braille.

(c) An assistive technology evaluation may be required if appropriate assistive technology solutions are not known to the child's IEP Team through the consideration process. This evaluation shall be conducted by a multidisciplinary team of professionals knowledgeable about assistive technology devices in the technology areas being assessed. The child and family should also be included in this evaluation process. The

evaluation should result in recommendations for assistive technology devices and services, if required.

(d) If the child's IEP Team determines that assistive technology devices or services are required for the child to receive a FAPE, a statement to that effect must be included in the child's IEP.

1. If assistive technology is required for the child to participate in districtwide or Statewide testing, the need for technology should be documented in the appropriate section of the IEP and provided to the child.

2. If assistive technology devices or services, or both, are required for a child who is blind or other print disabled to access alternative format instructional materials, the assistive technology should be documented in the IEP and provided to the child.

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

#### **EXTENDED SCHOOL YEAR SERVICES.**

(a) Each LEA must ensure that extended school year services are available as necessary to provide a FAPE.

1. Extended school year 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.

2. In implementing the requirements of this section, the LEA may not -

(i) Limit extended school year services to particular categories of disability;

or

(ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition. As used in this Rule, the term extended school year services means special education and related services that -

1. Are provided to a child with a disability:

- (i) Beyond the normal school year of the LEA;
- (ii) In accordance with the child's IEP;
- (iii) At no cost to the parents of the child; and
- (iv) Meet the standards of the State.

### **NONACADEMIC SERVICES.**

(a) Each LEA must take 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 equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

**PHYSICAL EDUCATION.** The LEA must ensure that its public schools comply with the following:

(a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the LEA enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless -

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

(c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the LEA responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

(d) Education in separate facilities. The LEA responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this Rule.

**FULL EDUCATIONAL OPPORTUNITY GOAL (FEOG).** Each LEA must have in effect policies and procedures to demonstrate that the LEA has established a goal of providing full educational opportunity to all children with disabilities, aged birth through 21, and a detailed timetable for accomplishing that goal.

### **CHARTER SCHOOLS**

(a) Children with disabilities who attend public charter schools and their parents retain all rights to a FAPE as described in this Rule.

(b) Charter schools that are public schools of an LEA. Each LEA must ensure that charter schools that are public schools of the LEA must -

1. Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and

2. Provide funds to those charter schools at the same time and on the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities.

(c) Public charter schools that are LEAs. If the public charter school is an LEA, that charter school is responsible for ensuring that all of these requirements are met.

**PROGRAM OPTIONS.** Each LEA shall takes steps to ensure that children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the LEA, including art, music, and Career, Technical and Agricultural Education.]

### **ROUTINE CHECKING OF HEARING AIDS/OTHER COMPONENTS.**

(a) Hearing aids. Each LEA must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

(b) External components of surgically implanted medical devices. Each LEA must ensure that the external components of surgically implanted medical devices are functioning properly. The LEA is not responsible for the post-surgical maintenance, {Doc: 01806333.DOCX} 168



programming or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

#### **PROHIBITION ON MANDATORY MEDICATION.**

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

(b) Nothing under paragraph (14)(a) above shall be construed to create a prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a child's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services as it relates to child find.

#### **IV. Area of General Supervision IV: Parent Engagement**

##### **State Board Rule: 160-4-7-.09**

##### **Procedural Safeguards and Parent Rights**

##### **GENERAL**

(a) The term "Procedural Safeguards Notice" also refers to the document commonly identified as "Parent Rights" which, 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

1. Upon initial referral or parent request for evaluation;
2. Upon receipt of the first state complaint in a school year;
3. Upon receipt of the first request for a due process hearing in a school year;
4. Upon notification by Cirrus Academy staff to the parent of the decision to remove the child from his or her current placement and the removal constitutes a

change of placement under the discipline provisions of IDEA and state rules because of a violation of a code of student conduct;

5. Prior to accessing a child's or parent's public benefits or insurance for the first time; and

6. Upon request by the parent.

7. The parent may elect to receive the Procedural Safeguard/Parent Rights notice by electronic mail, if Cirrus Academy makes that option available. (b) The State and CACS may place a copy of the Procedural Safeguards/Parent

Rights on its web site.

(c) The content of the notice must include a full explanation of all the procedural safeguards available relating to:

1. Independent educational evaluations;

2. Prior written notice;

3. Parental consent;

4. Access to education records;

5. 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;

6. The availability of mediation;

7. The child's placement during the pendency of any due process hearing;

8. Procedures for children who are subject to placement in an interim alternative educational setting;

9. Requirements for unilateral placement by parents of children in private school at public expense;

10. Due process hearings, including requirements for disclosure of evaluation results and recommendations;

11. Appeals of due process hearings, including the time period in which to file those actions;

12. Attorneys' fees; and

13. Notice provided in a language understandable to the parents

(d) CACS shall establish and maintain procedures to provide an opportunity for the parents of a child with a disability to:

1. Inspect and review all education records relating to the identification, evaluation, educational placement and provision of FAPE to the child.

2. Participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education (FAPE) to such child.

3. Obtain an independent educational evaluation of the child.

(e) CACS shall establish and maintain procedures to provide to ensure that parents:

1. 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.

2. Receive notice of places to contact for assistance in understanding the procedural safeguards/parents' rights.

3. Receive procedural safeguards notice and a full explanation of the procedural safeguards.

## **PARENTAL OPPORTUNITY TO EXAMINE RECORDS**

CACS shall establish and maintain procedures which permit the parents of a child with a disability an opportunity to inspect and review any education records relating to their children that are collected, maintained or used in the identification, evaluation, educational placement and provision of a FAPE. These rights include the right to a response from CACS to reasonable requests for explanations and interpretations of the records, the right to request CACS to provide copies of the records and the right to have a representative of the parent to inspect and review the records. All rights of parents to examine education records shall transfer to the child at age 18, consistent with Rule 160-4-7-.09 Confidentiality of Personally Identifiable Information. CACS may presume that the parent has these rights unless CACS has been advised that the parent

does not have the authority due to State law governing, guardianship, separation and divorce.

## **PARENTAL PARTICIPATION IN MEETINGS**

(a) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and the provision of a FAPE to the child.

1.A meeting does not include informal or unscheduled conversations involving LEA personnel and does not include conversations on issues such as teaching methodology, lesson plans or coordination of service provision.

2.A meeting also does not include preparatory activities that LEA personnel engage in to develop a proposal or to respond to the parent's proposal that will be discussed at a later meeting.

3.Each LEA shall ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

(i) If the parents cannot participate in a meeting in which a decision is to be made relating to the educational placement of their child, the LEA shall use other methods to ensure their participation, including individual or conference telephone calls or video conferencing.

(ii) A placement decision may be made by a group without the involvement of the parent(s) if the LEA is unable to obtain their participation in the decision. In this case, the LEA must have a record of its attempts to ensure their involvement, including information that is consistent with State Rule 160-4-7-.06 Individualized Education Program.

4. The LEA shall make reasonable efforts to ensure that the parents understand and are able to participate in any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness or whose native language is other than English.

(b) Each LEA must provide notice consistent with State Rule 160-4-7-.06(11)(a) and (b) Individualized Education Program to ensure that parents of children with disabilities have the opportunity to participate in meetings described in (3)(a) above.

## **INDEPENDENT EDUCATIONAL EVALUATION**

As used in this section, independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by CACS responsible for the

education of the child with a disability in question. As used in this section, public expense means that CACS pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parents.

(a) The parent(s) has/have the right to an independent educational evaluation at public expense if the parent(s) disagree(s) with an evaluation conducted/obtained by CACS, subject to the conditions in paragraphs (a)(1) — (3) of this section.

1. If a parent requests an independent educational evaluation at public expense, CACS must, without unnecessary delay either, initiate an impartial due process hearing to show that its evaluation is appropriate, or ensure that an independent educational evaluation is provided at public expense, unless CACS demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.

2. If the final decision is that CACS's evaluation is appropriate, the parent(s) still has/have the right to an independent educational evaluation but not at public expense.

3. If a parent requests an independent educational evaluation, CACS 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 CACS may not unreasonably delay either providing the independent educational evaluation at public expense or initiating an impartial due process hearing to defend CACS's evaluation.

4. CACS must provide to the parents, upon request, information about where an independent educational evaluation may be obtained and CACS's criteria applicable for independent educational evaluations.

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

1. Shall be considered by CACS, if it meets state and CACS's criteria, in any decision made with respect to the provision of a FAPE to the child; and

2. May be presented by either party as evidence at an impartial due process hearing under these Rules regarding that child.

(c) 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.

(d) Whenever the state or CACS pays for an independent educational evaluation, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the state or CACS uses when it initiates an evaluation. Except for the criteria

described in this Rule, CACS may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(e) A parent is entitled to only one independent education evaluation at public expense each time CACS conducts an evaluation with which the parent disagrees.

#### **NOTICE TO PARENTS/GUARDIAN/SURROGATE.**

(a) The parents shall be provided notice written in language understandable to the general public a reasonable time before CACS 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 CACS 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.

(b) CACS shall provide a full explanation of all procedural safeguards/parents' rights available to the parent(s). The communication to the parent(s) shall include a description of the action proposed or refused by CACS, an explanation of why the CACS proposes or refuses to take the action, and a description of any options CACS considered and the reasons why those options were rejected. Communication to the parent(s) shall include a description of each evaluation procedure, assessment, record or report CACS used as a basis for the proposed or refused action. Also included shall be a description of any other factors which are relevant to CACS's proposal or refusal, a statement that the parent(s) of a child with a disability has protection under the procedural safeguards/parents' rights, a statement of the means by which a copy of the procedural safeguards/parents' rights may be obtained, and information providing sources to contact for assistance in understanding the procedural safeguards/parents' rights.

(c) 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, CACS 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 in paragraph (5)(b) above.

(d) Graduation from high school with a regular education diploma constitutes a change in placement and requires written prior notice, in accordance with information above.

(e) Language Understandable to the General Public.

1. CACS shall ensure that the notice required in this rule shall be written in language understandable to the general public.

2. 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.

3. 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;

(i) The LEA must ensure the parent understands the content of the notice;  
and

(ii) That there is written evidence that the requirements have been met.

### **CONSENT**

(a) At a minimum, informed parental consent shall be obtained before:

1. Conducting an initial evaluation to determine if the child qualifies as a child with a disability;

2. Conducting any re-evaluation of a child with a disability;

3. Providing initial special education and related services to a child with a disability;

(i) 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.

(ii) Annual decisions about what services are to be provided are made through the IEP process and are not part of this consent requirement.

4. Disclosing personally identifiable information under conditions described in Sate Rule 160-4-7-.08 Confidentiality of Personally Identifiable Information; and

5. Accessing a child's or parent's public benefits or insurance for the first time as described in State Rule 160-4-7-.02 Free Appropriate Public Education (FAPE).

(b) Except for an initial evaluation, initial placement, and re-evaluation, consent is not required as a condition of any benefit to the parent(s) or child.

(c) Consent for initial evaluation shall not be construed as consent for initial provision of special education and related services.

(d) CACS must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. [34 C.F.R. § 300.300(a)(1)(iii)]

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

1. Despite reasonable efforts to do so, CACS cannot discover the whereabouts of the parent of the child;

2. The rights of the parents of the child have been terminated in accordance with state law;

3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(f) 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, CACS may, but is not required to pursue, the initial evaluation by utilizing the procedural safeguards of mediation or due process hearings.

1. CACS does not violate its obligations under Child Find if it declines to pursue the evaluation.

(g) CACS is responsible for making FAPE available to a child with a disability and must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

(h) If the parents of a child fail to respond or refuse to consent to services, CACS may not utilize the procedural safeguards of mediation or a due process hearing in order to obtain agreement that service may be provided.

1. 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, CACS will not be considered in violation of the requirement to make FAPE available to the child for which CACS sought consent.

2. CACS is not required to convene an IEP Team meeting or develop an IEP for the child for whom CACS requests consent.

(i) CACS must obtain informed parental consent prior to conducting a re-evaluation of a child with a disability.



1. If the parent refuses to consent to the re-evaluation, CACS may, but is not required to, pursue the re-evaluation by using the consent override procedures by accessing the mediation or due process hearing procedures.

2. CACS does not violate its obligation if it declines to pursue the re-evaluation.

(j) CACS need not obtain informed parental consent if it can demonstrate that:

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

(k) Parental consent is not required before:

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

(l) CACS may not use a parent's refusal to consent to one service or activity under subparagraph (d) — (f) of paragraph 6 of this Rule to deny the parent or child any other service, benefit, or activity of CACS.

(m) If the parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or reevaluation, or the parent fails to respond to a request to provide consent, CACS may not use the consent override procedures described in this rule;

1. CACS is not required to consider the child as eligible for services.

2. To meet the reasonable efforts requirement in the consent section of this rule, CACS must document its attempts to obtain parental consent.

(n) 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.

1. Revocation of consent to provide special education and related services is for all special education and related services; not individual services.

2. The intent to withdraw the child from special education and related services must be made in writing by the parent to CACS.

3. CACS 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 that meets the requirements of paragraph (5) of this rule.

4. CACS may not use the procedures of mediation or due process hearings to override the withdrawal of consent.

5. CACS 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.

6. CACS is not required to convene an IEP meeting for a child whose consent to receive special education and related services has been revoked.

7. Subsequent referrals for special education and related services shall be considered an initial evaluation and subject to the sixty day evaluation time period.

8. CACS 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.

### **PARENTAL TRAINING AND AWARENESS**

(a) Parents may be provided assistance:

1. To understand the special needs of their child and information about child development; and
2. To acquire the necessary skills to support the implementation of their child's IEP if determined by the IEP Team as a related service.

### **State Board Rule: 160-4-7-.11:**

#### **Surrogate Parents**

**APPOINTMENT.** In order to provide every child eligible for a public education with the protection of procedural due process, a surrogate parent shall be appointed by CACS when:

- (a) No parent can be identified;
- (b) CACS, after reasonable efforts, cannot locate the parents;
- (c) The child is a ward of the State under the laws of Georgia; or
- (d) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

#### **SCHOOL DUTIES.**

(a) CACS shall have procedures to determine that a child needs a surrogate parent and the assignment of an individual to act as a surrogate for the child.

(b) CACS responsible for educating children with disabilities shall maintain a list of eligible persons to serve as surrogate parents.

**WARDS OF THE STATE.** In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in the criteria set forth, below.

**CRITERIA FOR SELECTION OF SURROGATE PARENTS.**

(a) CACS must ensure that a person selected as a surrogate parent -

(i) Is not an employee of the GaDOE, CACS or any other agency that is involved in the education or care of the child;

(ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

**NON-EMPLOYEE REQUIREMENT; COMPENSATION.** A person otherwise qualified to be a surrogate parent under the criteria set forth in this section is not an employee of CACS solely because he or she is paid by CACS to serve as a surrogate parent.

**UNACCOMPANIED HOMELESS YOUTH.** In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to the criteria in this section, until a surrogate parent can be appointed that meets all of the requirements of the criteria set forth in this section.

**SURROGATE PARENT RESPONSIBILITIES.** The surrogate parent may represent the child in all matters relating to -

- (a) The identification, evaluation, and educational placement of the child; and
- (b) The provision of FAPE to the child.

**LIABILITY.** Any individual appointed to act as a surrogate parent for a child with a disability under IDEA 2004 shall not be liable for any civil damages for any action or actions done while performing duty as a surrogate parent, except for acts or omissions to act constituting gross, willful, or wanton negligence.

**State Board Rule 160-4-7-.12:  
DISPUTE RESOLUTION**

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

(a) The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.

(b) The party filing the complaint must forward a copy of the complaint to CACS at the same time the party files the complaint with the GaDOE.

(c) The complaint shall be reviewed and investigated as necessary and appropriate action taken within 60 calendar days of its receipt by the GaDOE.

(d) If a written complaint is received that is also the subject of an impartial due process hearing or contains multiple issues, some of which are a part of an impartial due process hearing, the portions of the complaint that are not a part of that hearing shall be resolved, following the time limits and procedures described in this rule. The portions of the complaint which are also the subject of an impartial due process hearing shall be set aside pending the conclusion of the hearing.

(e) If a written complaint is received which contains issues previously decided in an impartial due process hearing involving the same parties, the hearing decision is binding on that issue, and the complainant shall be so informed by the GaDOE. However, a complaint alleging CACS's failure to implement an impartial due process hearing decision shall be resolved, following the time limit and procedures described in this rule.

(f) Through activities of the GaDOE and CACS, the state complaint procedures will be widely disseminated to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

(g) The complaint procedure is as follows:

1. Complaints from any organization or individual shall be signed and addressed in writing to:

Director, Division for Special Education Services  
Georgia Department of Education  
1870 Twin Towers East  
Atlanta, Georgia 30334-5010

2. The party filing the complaint must forward a copy of the complaint to CACS at the same time the party files the complaint with the State. The complaint should be forwarded to the Superintendent or the Special Education Director of CACS.

3. The complaint shall include a statement that the State or CACS has violated a requirement of Part B of IDEA and the facts on which the statement is based, the signature and contact information for the complainant, and, if alleging violations with respect to a specific child, the name and address of the residence of the child, the name of the school the child is attending, in the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending, a description of the nature of the problem of the child, including facts relating to the problem, and a proposed resolution to the problem to the extent known and available to the party at the time the complaint is filed.

4. The Divisions for Special Education Services and Supports shall address the issue with CACS in writing and request a response within 10 business days from the public agency directly involved.

(i) CACS shall respond directly in writing and shall describe any explanation and/or actions relevant to the allegations.

(ii) Copies of all correspondence shall be sent to the parties involved that include the complainant, the GaDOE and CACS. In some cases, where the parent of the child is not the complainant, the parent shall also receive copies of all correspondence and the complainant may only receive copies of information that include personally

identifiable information if the parent has provided consent to release such information.

5. The parent who files the complaint and CACS shall have the opportunity to voluntarily engage in mediation to resolve the issues within the complaint.

6. Upon receipt of the first State complaint from a parent in a school year, CACS involved shall provide the parent with a copy of procedural safeguards available to the parents of a child with a disability.

7. The Divisions for Special Education Supports and Services shall review CACS's response and a decision may then be made that no further action is required. If, however, the issue is not fully resolved, complaint investigators from the Divisions For Special Education Supports And Services shall be assigned to carry out an independent investigation, including an on-site visit, if necessary, to clarify the issue.

8. The on-site complaint team shall gather information to determine whether there has been a violation of state rules and/or Part B of the IDEA. The on-site review may include examination of records, interviews and classroom visits.

9. The Divisions For Special Education Supports And Services shall give the complainant the opportunity to submit additional information, either orally or in writing, regarding the allegations in the complaint.

10. The Divisions For Special Education Supports And Services shall review all relevant information and make an independent determination as to whether CACS is violating a requirement of Part B of the IDEA.

11. The Divisions For Special Education Supports And Services shall issue a written decision to CACS and the complainant that addresses each allegation in the complaint and includes findings of fact and conclusions and the reasons for the final decision.

(i) The Divisions For Special Education Supports And Services shall include in the decision the steps necessary to resolve the complaint, including technical assistance activities, negotiations, and corrective actions to achieve compliance. This letter of notification shall include specific requirements and timelines that shall be met in order to continue to receive IDEA federal funds or state special education funds.

(ii) If the complaint findings indicate a failure to provide appropriate services, the complaint resolution process will address how CACS is to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and to the future provision of services for all students with disabilities.

(iii) GaDOE must not make any final determination that CACS is not eligible for assistance under part B of the Act without first giving CACS reasonable notice and an opportunity for a hearing under 34 C.F.R. § 76.401(d). GaDOE's hearing process can be found in State Rule 160-5-2-.02 Withholding of Funds from Local Units of Administration.

12. An extension of the 60 calendar-day time limit for resolution may be made by the GaDOE only when exceptional circumstances exist with respect to a particular complaint or if the parent or other complainant and the LEA involved agree to extend the time to engage in mediation, or to engage in other alternative means of dispute resolution.

(h) Complaints - Private Schools. Complaints that Private School has failed to meet the requirements regarding children who are parentally-placed in private schools must be filed under the complaint procedures outlined above. Complaints regarding child find are to be filed with the LEA in which the private school is located and a copy forwarded to the GaDOE.

**(2) MEDIATION PROCESS.** CACS shall ensure that procedures are established and implemented to allow parties to disputes involving any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE) to resolve such disputes through a mediation process.

(a) The mediation process shall be available on request of either party to resolve disputes.

(b) Mediation shall be available and offered upon each receipt of a complaint or a due process hearing request.

(c) The procedures shall ensure that the mediation process:

1. Is voluntary on the part of the parties;

2. Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of IDEA; and

3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(d) CACS may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet at a time and location convenient to the parents with a disinterested party who is under contract with an appropriate alternative dispute resolution entity, a parent training and information center or a



community parent resource center in the State established under section 671 or 672 of IDEA, who would explain the benefits of and encourage the use of the mediation process to the parents.

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

1. An individual who serves as a mediator may not be an employee of the GaDOE or CACS; and

2. Mediators must not have a personal or professional interest that conflicts with the person's objectivity.

(i) A person who otherwise qualifies as a mediator is not an employee of CACS or State agency solely because he or she is paid by the GaDOE to serve as a mediator (f)

The State shall bear the cost of the mediation process.

(g) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(h) If the parties resolve a dispute through the mediation process, they shall execute a legally binding agreement that sets forth the resolution and states that:

1. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings; and

2. Is signed by both the parent and a representative of CACS with the authority to bind CACS.

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

**(3) IMPARTIAL DUE PROCESS HEARINGS.** The impartial due process hearing is designed to provide a parent or CACS an avenue for resolving differences with regard to the identification, evaluation, placement or provision of a (FAPE) to a child with a disability.

6. Must possess knowledge of, and the ability to understand, the provisions of the IDEA, Federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by Federal and State courts;

7. Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

8. Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

9. GaDOE or its representatives must keep a list of the persons who serve as administrative law judges or hearing officers. The list must include a statement of the qualifications of each of those persons.

(j) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process hearing request, unless the other party agrees otherwise.

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

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

(l) Any party to a due process hearing has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

4. Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing;

5. Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

6. Disclosure by each party to the other party at least five business days prior to a hearing all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(i) An administrative law judge or hearing officer may bar any party that fails to comply with this disclosure rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

7. The calculation of business days under this section for the purposes of disclosure shall be calculated in accordance with the Georgia Civil Practice Act, O.C.G.A. § 9-11-6; O.C.G.A. 1-3-1(d)(3).

8. Obtain a list of all potential witnesses at least five business days before the hearing. If the witness list, due to its length or other factors, does not reasonably disclose the potential witnesses in the hearing, any party or the administrative law judge on his/her own motion may require a party to amend his/her witness list to include only the names of such persons who may actually testify and the general thrust of their testimony.

(m) The parties may agree to settle the matters in dispute at any time whereupon the ALJ, upon written request, shall enter an order dismissing the matter.

1. A party may file a motion for voluntary dismissal at any time, up until five days before the scheduled date of the hearing. No motion for voluntary dismissal shall be considered if filed after that time.

2. Any motion for voluntary dismissal filed pursuant to this subsection shall include a statement of the reason(s) for requesting dismissal.

3. Within five (5) days after service of the motion for voluntary dismissal pursuant to this subsection, the opposing party may file a response to the motion for voluntary dismissal.

4. If the ALJ determines that the motion has been made for good cause, the case shall be dismissed without prejudice and the party shall be authorized to re-file the complaint within the time authorized under the applicable statute(s) of limitations.

5. If the All determines that there is a lack of good cause, and the party fails to appear at any scheduled hearing, or to otherwise prosecute their case, the party's claims will be deemed abandoned and dismissed with prejudice.

(n) The party seeking relief shall bear the burden of persuasion with the evidence at the administrative hearing. The administrative law judge or hearing officer shall retain the discretion to modify and apply this general principle to conform with the requirements of law and justice in individual cases under unique or unusual circumstances as determined by the administrative law judge or hearing officer.

(o) Parents involved in hearings must be given the right to:

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

(p) An administrative law judge or hearing officer's determination of whether a child received FAPE must be based on substantive grounds.

1. In matters alleging a procedural violation, an administrative law judge or hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:

- (i) Impeded the child's right to a FAPE;
- (ii) Significantly impeded the parent's opportunity to participate in the decisionmaking process regarding the provision of a FAPE to the parent's child; or
- (iii) Caused a deprivation of educational benefit.

(I) Nothing in this paragraph shall be construed to preclude an administrative law judge or hearing officer from ordering CACS to comply with procedural requirements.

(q) Nothing in this Rule shall be construed to preclude a parent from filing a separate due process hearing request on an issue separate from a due process hearing request already filed.

(r) The GaDOE, after deleting any personally identifiable information, must transmit the findings and decisions to the State advisory panel and make those findings and decisions available to the public.

(s) A decision made in a due process hearing is final, except that any party involved in the hearing may appeal the decision under the provisions in paragraph (t) below.

(t) The GaDOE must ensure that not later than 45 days after the expiration of the 30-day resolution period or the adjusted resolution time periods that:

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

(u) Civil Action. Any party aggrieved by the findings and decision made by an administrative law judge or hearing officer has the right to bring a civil action with respect to the due process hearing request notice requesting a due process hearing. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

1. The party bringing the action shall have 90 days from the date of the decision of the administrative law judge or hearing officer to file a civil action.
2. In any civil action, the court:
  - (i) Receives the records of the administrative proceedings directly from the administrative law judge or hearing officer;
  - (ii) Hears additional evidence at the request of a party; and
  - (iii) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

(v) The district courts of the United States have jurisdiction of actions brought under section 615 of the IDEA without regard to the amount in controversy.

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

(x) Attorneys' fees. In any action or proceeding brought under the due process hearing provisions of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the prevailing party who is the parent of a child with a disability; or

(y) To a prevailing party who is the GaDOE or CACS against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(z) To a prevailing GaDOE or CACS against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(aa) Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under the due process hearing provisions of the IDEA. This does not preclude a public agency from using funds under Part B of the IDEA for conducting an action or proceeding under section 615 of the IDEA.

(bb) If a court awards reasonable attorneys' fees, they must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.

(cc) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under the due process hearing provisions of IDEA for services performed subsequent to the time of a written offer of settlement to a parent if:

1. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;
2. The offer is not accepted within 10 days; and
3. The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(i) An award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(dd) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for mediation.

(ee) A meeting conducted pursuant to the resolution process shall not be considered a meeting convened as a result of an administrative hearing or judicial action, or an administrative hearing or judicial action, for purposes of this section.

(ff) The court may reduce the amount of the attorneys' fees awarded, if the court finds that:

1. The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

2. The amount of attorney's fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

3. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

4. The attorney representing the parent did not provide to CACS the appropriate information in the due process hearing request notice.

(gg) The provisions of paragraph (dd) of this section do not apply if the court finds that the State or CACS unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of IDEA.

(hh) Child's status during proceedings. Except as noted in State Rule 160-4-7-.10 Discipline, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, unless the State or CACS and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

(ii) If the due process hearing request involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

(jj) If the due process hearing request involves an application for initial services under this part from a child who is transitioning from Part C (Babies Can't Wait) to Part B and is no longer eligible for Part C services because the child has turned three, CACS is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, CACS must

provide those special education and related services that are not in dispute between the parent and CACS.

(kk) If the administrative law judge or hearing officer in a due process hearing conducted by the State agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between CACS and the parents.



## **SECTION 504 OF THE REHABILITATION ACT OF 1973**

### **LEGAL DEFINITIONS**

Section 504 provides: "No otherwise qualified individual with a disability . . . shall solely by the reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C.S. § 794

Under Section 504 and ADA, a person is considered to have a disability if that person:

- 1) has a physical or mental impairment which substantially limits one or more of such person's major life activities;
- 2) has a record of such impairment; or 3)

is regarded as having such an impairment

Physical or mental impairment is defined as:

- (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or
- (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The Section 504 regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

It is important to remember that the presence of a mental or physical impairment in and of itself does not qualify an individual for 504 eligibility and accommodations. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

### **34 CFR §104.33 Free appropriate public education.**

(a) General. A recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) Appropriate education. (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§104.34, 104.35, and 104.36.

(2) Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person or refer such a person for aid, benefits, or services other than those that it operates or provides as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) Free education—(1) General. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the aid, benefits, or services. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) Transportation. If a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means

of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the aid, benefits, or services operated by the recipient.

(3) Residential placement. If a public or private residential placement is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the placement, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) Placement of handicapped persons by parents. If a recipient has made available, in conformance with the requirements of this section and §104.34, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made a free appropriate public education available or otherwise regarding the question of financial responsibility are subject to the due process procedures of §104.36.

(d) Compliance. A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than September 1, 1978.

#### **34 CFR § 104.34 Educational setting.**

(a) Academic setting. A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §104.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) Comparable facilities. If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

**34 CFR § 104.35 Evaluation and placement.**

(a) Preplacement evaluation. A recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement.

(b) Evaluation procedures. A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) Placement procedures. In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with §104.34.

(d) Reevaluation. A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students

who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

### **REFERRAL PROCEDURES**

When a parent or teacher suspects a student has a disability that substantially limits a major life activity a Section 504 referral form is completed and submitted to the Student Support team to consider eligibility.

### **COMMITTEE MEMBERS**

Prior to convening a meeting to consider eligibility the parents, the student's teacher(s), school level 504 coordinator and if appropriate the school psychologist, school counselor or other personnel who has knowledge of the student are invited to the meeting. A letter is sent to parents to invite them to the meeting and to obtain consent for evaluation.

### **504 ELIGIBILITY DETERMINATION MEETING**

The eligibility determination meeting and worksheet is completed at the meeting. The amount of information required is determined by the multi-disciplinary committee gathered to evaluate the student. The committee members must determine if they have sufficient information to make a knowledgeable decision as to whether or not the student has a disability which requires a Section 504 plan. Section 504 requires that school districts draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background and adaptive behavior. In evaluation for a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons.

There are no impairments which automatically mean a student has a disability under Section 504. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

A medical diagnosis alone cannot suffice as an evaluation for the purpose of providing FAPE. A physician's medical diagnosis may be considered among other sources as mentioned in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity.

Mitigation measures cannot be considered when determining whether a student has a disability under Section 504.

Mitigating measures are devices or practices that a person uses to correct for or reduce the effects of that person's mental or physical impairments. A student's medication may alleviate many symptoms of ADHD, but this may not affect the determination of whether the student has a disability. It may be considered, however, in determine what the student needs in the way of accommodations.

Congress provided a non-exhaustive list of "mitigating measures." Mitigating measures include medication, medical supplies, equipment or appliances, low-vision devices (however ordinary eyeglasses or contact lenses are not considered mitigating measures), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment and supplies use of assistive technology, reasonable accommodations or auxiliary aids or services and learned behavioral or adaptive neurological modifications.

#### **DEVELOPING A SECTION 504 PLAN**

The 504 Team is the mechanism for determining the educationally reasonable and research based accommodations to be included in the 504 Individual Accommodations Plan (IAP) for the students who are determined eligible. Only those accommodations that are used within the classroom can be used during standardized testing. In the case of a disabled student with an IEP, the IEP Team will determined whether accommodations are required. The accommodations selected must be the same as, or similar to, those listed on the IEP for classroom use, and must be documented on the IEP for each test. The provision of testing accommodations to students with a Section 504 Individual Accommodation Plan follows the same basic requirements. Test accommodations on state or district-wide tests may be provided only if the same, or similar, accommodations are part of the Section 504 Individual Accommodations Plan and are in use in the classroom.

The phrase "and are in use in the classroom" provides an important limitation. One implication is that a student who has an IEP or a Section 504 Individual Accommodations Plan would not have an accommodation on that plan that is specific only to mandatory state-wide standardized test.

The needs of many students with physical or medical impairments may be addressed within the Individual Health Plan (IHP), as determined appropriate on a case-by-case basis.

#### **INDIVIDUAL HEALTH PLANS (IHP)**

The purpose of an IHP is to ensure access to education for students with special healthcare needs. AS mentioned earlier in the Amendment Act of 2008, Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life

activities. These changes create potential eligibility for students with health conditions and health plans if the child meets the definition of disability as defined above.

### **SECTION 504 REVIEW PROCEDURES**

A review of all students with a 504 Individual Accommodation Plan (IAP) will be conducted annually. Prior to convening a meeting the parents, the student's teacher(s), school level 504 contact person and if appropriate the school psychologist, school counselor or other personnel who has knowledge of the student are invited to the meeting. A letter is sent to the parents to invite them to the meeting.

During the annual review the team should discuss if the content of the plan is appropriate. During the reevaluation period the team should address the following questions at least every three years but annually if necessary:

1. Is there a need for additional information?
2. Does the student continue to meet criteria for eligibility under Section 504?

### **Rights Afforded by Section 504 of the Rehabilitation Act of 1973**

The following is a description of the rights granted by federal law to students with handicaps, as outlined under Section 504. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. have your child take part in, and receive benefits from, public education programs without discrimination because of his/her handicapping conditions.
2. have the local school system advise you of your rights under federal law.
3. receive notice with respect to identification, evaluation, or placement of your child.
4. have your child receive a free appropriate public education.
5. have your child receive services and be educated in facilities which are comparable to those provided to non-handicapped students.
6. have evaluation, educational, and placement decisions made based on a variety of information sources, and by persons who know the students and who are knowledgeable about the evaluation data and placement options.

7. have transportation provided to and from an alternative placement setting (if the setting is a program not operated by the local school system) at no greater cost to you than would be incurred if the student were placed in a program operated by the local school system.
8. have your child be given an equal opportunity to participate in academic and extracurricular activities offered by the local school system.
9. examine all relevant records relating to decision regarding your child's identification, evaluation, and placement.
10. request mediation or an impartial due process hearing relating to decisions or actions regarding your child's identification, evaluation, educational program, or placement. (You and your child may take part in the hearing and be represented by counsel. Hearing requests must be made to your local school system superintendent).
11. file a local grievance.

The Office for Civil Rights of the United States Department of Education enforces the requirements of Section 5-4 of the Rehabilitation Act of 1973. The address of the Regional Office (which includes Georgia) is: Office for Civil Rights, Region IV, 61 Forsyth Street Suite 1970, Atlanta, GA 30303.

## **SECTION 504 PROCEDURAL SAFEGUARDS**

**1. Overview:** Any student or parent or guardian ("grievant") may request an impartial hearing due to the school system's actions or inactions regarding your child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the school system's Section 504 Coordinator; however, a grievant's failure to request a hearing in writing does not alleviate the school system's obligation to provide an impartial hearing if the grievant orally requests an impartial hearing through the school system's Section 504 Coordinator. The school system's Section 504 Coordinator will assist the grievant in completing the written Request for Hearing.

**2. Hearing Request:** The Request for the Hearing must include the following:

- a. The name of the student.
- b. The address of the residence of the student.



- c. The name of the school the student is attending.
- d. The decision that is the subject of the hearing.
- e. The requested reasons for review.
- f. The proposed remedy sought by the grievant.
- g. The name and contact information of the grievant.

Within 10 business days from receiving the grievant's Request for Hearing, the Section 504 Coordinator will acknowledge the Request for Hearing in writing and schedule a time and place for a hearing. If the written Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the grievant of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

**3. Mediation:** The school system may offer mediation to resolve the issues detailed by the grievant in his or her Request for Hearing. Mediation is voluntary and both the grievant and school system must agree to participate. The grievant may terminate the mediation at any time. If the mediation is terminated without an agreement, the school system will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

#### **4. Hearing Procedures:**

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the grievant's Request for Hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by the grievant or school system, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
- c. The grievant will have an opportunity to examine the child's educational records prior to the hearing.
- d. The grievant will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the grievant is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e. The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims (i.e. A recipient

shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §104.34). One or more representatives of the school system, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the grievant testimony and answer questions posed by the review official.

- f. The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
  - g. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
  - h. The hearing shall be closed to the public.
  - i. The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
  - j. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
  - k. Testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.
  - l. Unless otherwise required by law, the impartial review official shall uphold the action of school system unless the grievant can prove that a preponderance of the evidence supports his or her claim.
  - m. Failure of the grievant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial review official.
- 5. Decision:** The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorney's fees.
- 6. Review:** If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations.

**34 CFR §104.37 Nonacademic services.**

- (a) General. (1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford

handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) Counseling services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) Physical education and athletics. (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of §104.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.



## NOTICE OF RIGHTS OF STUDENTS AND PARENTS UNDER SECTION 504

Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of Section 504 is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.



For more information regarding Section 504, or if you have questions or need additional assistance, please contact Cirrus Academy Charter School 504 Coordinator Dr. Cheryl Chapman at the following address:

1870 Pio Nono Avenue

Macon, Ga. 31204

Phone: (478) 250-1368

The implementing regulations for Section 504 as set out in 34 CFR Part 104 provides parents and/ or students with the following rights:

- 1) Your child has the right to an appropriate education designed to meet his or her individual educational needs as adequately as the needs of non-disabled students. 34 CFR 104.33.
- 2) Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties who provide services not operated by or provided by the recipient are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR 104.33.
- 3) Your child has a right to participate in an educational setting (academic and nonacademic) with non-disabled students to the maximum extent appropriate to his or her needs. 34 CFR 104.34.
- 4) Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 CFR 104.34.
- 5) Your child has a right to an evaluation prior to a Section 504 determination of eligibility. 34 CFR 104.35.
- 6) You have the right to not consent to the school system's request to evaluate your child. 34 CFR 104.35.
- 7) You have the right to ensure that evaluation procedures, which may include testing, conform to the requirements of 34 CFR 104.35.
- 8) You have the right to ensure that the school system will consider information from a variety of sources as appropriate, which may include aptitude and achievement tests, grades, teacher recommendations and observations, physical conditions, social or cultural background, medical records, and parental recommendations. 34 CFR 104.35.
- 9) You have the right to ensure that placement decisions are made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35.
- 10) If your child is eligible under Section 504, your child has a right to periodic reevaluations, including prior to any subsequent significant change of placement. 34 CFR 104.35.
- 11) You have the right to notice prior to any actions by the school system regarding the identification, evaluation, or placement of your child. 34 CFR 104.36.
- 12) You have the right to examine your child's educational records. 34 CFR 104.36.
- 13) You have the right to an impartial hearing with respect to the school system's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
- 14) You have the right to receive a copy of this notice and a copy of the school system's impartial hearing procedure upon request. 34 CFR 104.36.





- 15) If you disagree with the decision of the impartial hearing officer (school board members and other district employees are not considered impartial hearing officers), you have a right to a review of that decision according to the school system's impartial hearing procedure. 34 CFR 104.36.
- 16) You have the right to, at any time, to file a complaint with the United States Department of Education's Office for Civil Rights.

**Office for Civil Rights**

U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100

Additionally, you may contact us at:

Toll-free: (800) 368-1019  
TDD toll-free: (800) 537-7697

### **STUDENT SERVICES/ SECTION 504 PROCEDURAL SAFEGUARDS**

Overview: Any student or parent or guardian ("grievant") may request an impartial hearing due to the school system's actions or inactions regarding your child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the school system's Section 504 Coordinator; however, a grievant's failure to request a hearing in writing does not alleviate the school's obligation to provide an impartial hearing if the grievant orally requests an impartial hearing through the school's Section 504 Coordinator. The schools Section 504 Coordinator will assist the grievant in completing the written Request for Hearing.

For the purposes of notice, the 504 Coordinator's contact information is as follows:

Dr. Cheryl Chapman at the following address:  
1870 Pio Nono Avenue  
Macon, Ga. 31204  
Phone: (478) 250-1368  
Email: [Cheryl.chapman@cirrusacademy.org](mailto:Cheryl.chapman@cirrusacademy.org)

Hearing Request: The Request for the Hearing must include the following:

- a) The name of the student.
- b) The address of the residence of the student.
- c) The name of the school the student is attending.
- d) The decision that is the subject of the hearing.
- e) The requested reasons for review.
- f) The proposed remedy sought by the grievant.
- g) The name and contact information of the grievant.

Within 10 business days from receiving the grievant's Request for Hearing, the Section 504 Coordinator will acknowledge the Request for Hearing in writing and schedule a time and place for a hearing. If the written Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the grievant of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

Mediation: Cirrus Academy Charter School may offer mediation to resolve the issues detailed by the grievant in his or her Request for Hearing. Mediation is voluntary, and both the grievant and school system must agree to participate. The grievant may terminate the mediation at any time. If the mediation is terminated without an agreement, the school system will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

Hearing Procedures:

- a) The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the grievant's Request for Hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
- b) Upon a showing of good cause by the grievant or school system, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
- c) The grievant will have an opportunity to examine the child's educational records prior to the hearing.
- d) The grievant will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the grievant is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 Calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e) The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims (i.e. A recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §104.34). One or more representatives of the school system, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the grievant testimony and answer questions posed by the review official.
- f) The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
- g) The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
- h) The hearing shall be closed to the public.
- i) The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
- j) Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
- k) Testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.
- l) Unless otherwise required by law, the impartial review official shall uphold the action of the school system unless the grievant can prove that a preponderance of the evidence supports his or her claim.
- m) Failure of the grievant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial

review official.

**Decision:** The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorney's fees. The written determination shall be delivered via mail to the grievant and any other appropriate affected parties to provide notice of the outcome and assurances that the School will take steps to prevent any further offending conduct or to correct its effects, if appropriate.

**Review:** If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations.

### **Student Services/ Section 504 Grievance Procedures**

Although the below steps are recommended for the most efficient resolution at the lowest level, the parent, guardian, employee or other person with a complaint or report alleging violation of Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. These procedures apply to complaints of discrimination by students, employees, applicants for employment, non-employees and third parties such as contractors.

For the purposes of notice, the 504 Coordinator's contact information is as follows:

Dr. Cheryl Chapman at the following address:

1870 Pio Nono Avenue

Macon, Ga. 31204

Phone: (478) 250-1368

Email: [Cheryl.chapman@cirrusacademy.org](mailto:Cheryl.chapman@cirrusacademy.org)

Superintendent/CEO

**Dr. Gail M. Fowler**

Cirrus Academy Charter School

Macon, GA 31204

Office: (478)250-1376 ext 806

email: [gail.fowler@cirrusacademy.org](mailto:gail.fowler@cirrusacademy.org)

#### Step I

The complaint shall be presented orally or in writing to the school principal or assistant principal within ten (10) calendar days after the most recent incident upon which the complaint is based. Any witness or other evidence should be provided at this time by the Complainant. The principal or assistant principal will conduct an investigation taking into consideration the information provided by the Complainant as well as performing an independent investigation into the complaint. During that investigation the subject of the Complaint shall be given the opportunity to provide evidence, defenses and other due process rights in order to ensure that they receive equitable treatment during this investigation. Following the investigation, the Principal or assistant principal shall then render a written decision within ten (10) calendar days of the filing of the complaint and that written decision shall be delivered to the Complainant, the subject of the Complaint and any other appropriate affected parties immediately following the decision being rendered. As a part of the decision, the principal or assistant principal shall provide assurance and guidance to the Complainant, the subject of the Complaint and any

other appropriate affected parties of the steps necessary to prevent future issue and how to correct the effects of the complained behavior if appropriate

## Step II

A Complainant or the subject of the Complaint that is dissatisfied with the decision of the school principal or assistant principal may appeal to the System Section 504 Coordinator by submitting a written statement of complaint to the System Section 504 Coordinator. This request must be filed within ten (10) calendar days after the complainant or the subject of the Complaint receives the decision from the principal or assistant principal. Following that Appeal, the Section 504 Coordinator shall meet with the Complainant or the subject of the Complaint within five (5) days of receipt of the Complaint and will then subsequently undertake its own independent investigation, looking into the prior investigation and separately looking into any issues which were raised by the Complainant as well as the prior investigation. During that investigation the Complainant or the subject of the Complaint shall be given the opportunity to provide evidence, defenses and other due process rights in order to ensure that they receive equitable treatment during this investigation. Subsequently, The Section 504 Coordinator will render a written decision within ten (10) calendar days after the meeting following the conclusion of its investigation and that written decision shall be delivered to the Complainant or the subject of the Complaint and any other appropriate affected parties immediately following the decision being rendered. As a part of the decision, the Section 504 Coordinator shall provide assurance and guidance to the Complainant, the subject of the Complaint and any other appropriate affected parties of the steps necessary to prevent future issue and how to correct the effects of the complained behavior if appropriate.

## Step III

A Complainant or the subject of the Complaint that is dissatisfied with the decision of the System Section 504 Coordinator may appeal to the CACS Board of Directors by filing a written request to the Office of the Superintendent/CEO. The appeal must be filed within ten (10) calendar days after the complainant or the subject of the Complaint receives the decision from the Section 504 Coordinator. Following that Appeal, the Board shall meet with the Complainant or the subject of the Complaint at the next scheduled Board meeting following the receipt of the Complaint and will then subsequently undertake its own independent investigation, looking into the prior investigation and separately looking into any issues which were raised by the Complainant as well as the prior investigation. During that investigation the Complainant or the subject of the Complaint shall be given the opportunity to provide evidence, defenses and other due process rights in order to ensure that they receive equitable treatment during this investigation. Subsequently, The Board will render a written decision within ten (10) calendar days after the meeting following the conclusion of its investigation and that written decision shall be delivered to the Complainant, the subject of the Complaint and any other appropriate affected parties immediately following the decision being rendered. As a part of the decision, the Board shall provide assurance and guidance to the Complainant, the subject of the Complaint and any other appropriate affected parties of the steps necessary to prevent future issue and how to correct the effects of the complained behavior if appropriate.

## **STUDENT SERVICES/ SPECIAL EDUCATION**

CACS operates in strict adherence to policies and procedures set forth in IDEA and the State Rules and Regulations Pertaining to Special Education. The state rules, as well as parental rights may be referred to online at the following address:

<http://www.doe.k12.ga.us/Curriculum-Instruction-and-Assessment/Special-Education-Services/Pages/SpecialEducation-Rules.aspx>

## CIRRUS ACADEMY CHARTER SCHOOL

### Special Education: A Parent's Guide to Understanding Rights and Responsibilities

This guide is designed to help you understand your rights and responsibilities regarding special education. It should not be used as a substitute for the full version of the Parents' Rights outlined in the Individuals with Disabilities Education Act (IDEA) and the Georgia State Board of Education Rules (Ga. Bd. of Educ. R.) pertaining to Special Education. (See Ga. Bd. of Educ. R. 160-4-7-.09 PROCEDURAL SAFEGUARDS/PARENT RIGHTS). To view the full version of the Georgia Parents' Rights, please go to the Georgia Department of Education web site at [www.gadoe.org](http://www.gadoe.org) and select *Offices & Divisions*, then under *Curriculum & Instruction*, select *Special Education Services and Supports*. You will then look under *Dispute Resolution* to find Parent Rights. The full version of these rights is available in multiple languages and is also presented in video format.

<p><b>RECORDS:</b></p> <ul style="list-style-type: none"> <li>⇒ You have a right to look at your child's education records.</li> <li>⇒ You may also have the records interpreted or explained to you.</li> <li>⇒ You may request to have something in the record changed or removed if you feel it should not be in your child's record.</li> <li>⇒ You have the right to add information, comments, data or any other relevant written material to your child's record.</li> <li>⇒ You may ask for and receive copies of the Individualized Education Program (IEP) and/or any of your child's records. The school district may charge a fee for the copies but may not charge a fee for searching for and retrieving documents.</li> <li>⇒ With your written permission, you may have a person acting on your behalf inspect and review the records.</li> </ul>	<p><b>EVALUATION PROCEDURES:</b></p> <ul style="list-style-type: none"> <li>⇒ Your child has the right to a full and complete evaluation to determine if he/she has a disability and is in need of special education and/or related services.</li> <li>⇒ You have the right to have your child assessed in all areas of the suspected disability.</li> <li>⇒ The school district must test your child according to procedures outlined in the IDEA and Georgia Special Education Rules.</li> <li>⇒ Evaluations must consist of more than one test, and those tests must be given in the language that the child normally uses, unless the parent and school agree otherwise, and at least once every three years.</li> <li>⇒ You will be involved in the decision about eligibility and what programs and services your child needs during the reevaluation.</li> </ul>
<p><b>CONFIDENTIALITY OF INFORMATION:</b></p> <ul style="list-style-type: none"> <li>⇒ Your child's educational records are <u>private</u>.</li> <li>⇒ You can ask to have copies of only your child's records.</li> <li>⇒ School employees involved with your child may see your child's records and do not require your permission.</li> <li>⇒ No one else may see the results of your child's records without your permission</li> </ul>	<p><b>LEAST RESTRICTIVE ENVIRONMENT:</b></p> <ul style="list-style-type: none"> <li>⇒ You have the right to have your child taught in classrooms and participate in all school programs and activities with other children without disabilities, of the same age and grade, to the greatest extent appropriate for your child.</li> <li>⇒ School district personnel must make accommodations and modifications so that your child can participate in all school programs and activities to the greatest extent appropriate.</li> </ul>
<p><b>INDEPENDENT EVALUATION:</b></p> <ul style="list-style-type: none"> <li>⇒ If you disagree with the school's evaluation, you may have your child tested by a professional evaluator not employed by the school district, at public or private expense. Contact the school district to find out the procedures for accessing this right.</li> <li>⇒ <u>Upon request</u>, the school district <u>must provide</u> you a list of <u>independent</u> evaluators so that you may choose one to test your child.</li> <li>⇒ The school district must consider the results of an independent evaluator.</li> <li>⇒ The IEP Team uses the results of the test to determine if your child has a disability or needs special education.</li> </ul>	<p><b>SURROGATE PARENTS:</b></p> <ul style="list-style-type: none"> <li>⇒ When the school cannot find the child's parents or the child is a ward of the state, the school district will assign a surrogate (substitute) parent who will represent the child regarding the child's rights and interests for any evaluation, meeting, or educational decisions for special education services.</li> <li>⇒ Surrogate parents will receive special training and will act as the parent by giving consent and participating in IEP Team/other meetings.</li> <li>⇒ The surrogate parent has the same rights and responsibilities as a parent in special education in matters relating to a student.</li> </ul>

**NOTICE/PARENT PARTICIPATION:**

- ⇒ You must be notified of your parental rights.
- ⇒ You must be invited to attend meetings about your child such as eligibility, reevaluation, or IEP Team meetings.
- ⇒ You are to receive copies of all documents about your child's education program and can have them explained to you.
- ⇒ Copies can be in your native language, Braille, or explained in sign language. If needed, the school district will provide

**COMPLAINTS, MEDIATION, HEARINGS:**

- ⇒ You have the right to ask for mediation or a due process hearing if you disagree with what the school has planned for your child.
- ⇒ The school district can also ask for mediation or a due process hearing.
- ⇒ The parent and the school district must both agree to try mediation before mediation will be scheduled.

Georgia Department of Education  
Dr. John D. Barge, State Superintendent of Schools  
Revised July 2014

## Special Education: A Parent's Guide to Understanding

<p>a translator or interpreter.</p> <ul style="list-style-type: none"> <li>⇒ You must be given opportunities to participate in any decision-making meeting regarding your child's special education.</li> <li>⇒ You must be invited to any meeting that is held to discuss your child's disability, evaluations, reevaluations, placement of your child, and his/her IEP and its contents.</li> <li>⇒ You are entitled to have IEP Team meetings held at a time and place mutually convenient to you and other members of the IEP Team.</li> <li>⇒ You have the right to excuse or not to excuse a member of your child's IEP Team from attending an IEP Team meeting. The school district cannot excuse a required member without your permission.</li> </ul>	<ul style="list-style-type: none"> <li>⇒ When you request a due process hearing, you have the right to participate in a resolution session that provides an opportunity for parents and school districts to resolve any issues in a due process complaint so that the parents and districts can avoid a due process hearing and provide an immediate benefit to the child.</li> <li>⇒ When you request a due process hearing, you have the right to an impartial due process hearing conducted by an administrative law judge (ALJ)/hearing officer.</li> <li>⇒ When you request a due process hearing, you have the right to legal counsel during the due process hearing.</li> <li>⇒ After an ALJ/hearing officer renders a final decision in a due process hearing, you have the right to appeal the decision in a state or federal court within 90 days of the date of the decision.</li> <li>⇒ You may file a formal written complaint with the Georgia Department of Education to conduct an investigation about any concerns, problems, or disagreements related to the IDEA or Georgia Special Education Rules. The complaint can be faxed to the Division for Special Education Services and Supports at 404-651-6457 (fax) or mailed to the division at 1870 Twin Towers East, 205 Jesse Hill Jr. Drive SE, Atlanta, GA 30334.</li> </ul>
<p><b>CONSENT:</b></p> <ul style="list-style-type: none"> <li>⇒ The school cannot test/evaluate or reevaluate your child without your permission/consent.</li> <li>⇒ The school cannot place your child in special education or change your child's program placement without your permission/consent.</li> <li>⇒ The school district cannot release your child's records without your permission/consent except to certain individuals identified in law.</li> <li>⇒ You have the right to <u>not</u> give your permission/consent.</li> <li>⇒ You have the right to take away your consent to special education and related services once you have given permission; you must do it in writing. Revoking consent means your child will no longer receive any special education services.</li> </ul>	<p><b>DISCIPLINE PROCEDURES AND RIGHTS:</b></p> <ul style="list-style-type: none"> <li>⇒ The school district must follow certain procedures when students with disabilities exhibit behaviors that cause the IEP Team to find other settings and/or ways to educate the child.</li> <li>⇒ Schools may remove students to alternative programs when there is a potential danger to the child, students, or school personnel.</li> <li>⇒ Regardless of the setting, the school district must continue to provide a free appropriate public education for your child.</li> <li>⇒ The setting must enable your child to continue to receive services that will allow him/her to meet the goals and objectives in his/her IEP.</li> <li>⇒ Disciplinary actions occur for violations involving drugs, alcohol, weapons, or other school rules violations.</li> <li>⇒ These rights protect you, your child, and the school district.</li> </ul>
<p><b>PRIVATE SCHOOL PLACEMENT:</b></p> <ul style="list-style-type: none"> <li>⇒ If you decide to place your child in a private school, you must inform school officials at the last IEP Team meeting of your intent and explain your concerns about the public program.</li> <li>⇒ The school district is not required to pay for the private school if the school district offered a free appropriate public education to meet a child's educational needs that have been identified through the educational evaluation and are included in the IEP.</li> </ul>	<p><b>CONTACTS:</b></p> <ul style="list-style-type: none"> <li>⇒ When you have concerns about your child's education, it is important to tell the school principal or special education director.</li> <li>⇒ If you need further help, there are parent or advocacy groups from whom you may obtain help. Ask the school for information or a list of names. You also can contact Parent to Parent of Georgia which keeps an active list for referrals or other information. Call 1-800-229-2038 or go to <a href="http://www.p2pga.org">www.p2pga.org</a>.</li> <li>⇒ You may also contact the Division for Special Education Services and Supports at 404-656-3963 or 1-800-311-3627 or go to the Georgia Department of Education website at <a href="http://www.gadoe.org">www.gadoe.org</a> to help find other helpful resources.</li> </ul>
<p><b>LOCAL CONTACT INFORMATION:</b></p> <p style="text-align: center;"><b>Cirrus Academy Charter School</b>  <b>1870 Pio Nono Avenue</b>  <b>Macon, Ga. 31204</b></p> <p><b>SPED Director: Brenda Edwards</b>                      <b>Principal: Dr. Gail Fowler</b>                      <b>Phone: 478-250-1376</b></p>	

## **Cirrus Academy Charter School Special Education and 504 Procedures for the Distribution of Parent and Student Rights**

All Special Education Staff and the 504 Coordinator issue the Parental/Student Rights documentation using the following method:

### Special Education

1. A copy of the Parental rights is issued at all SPED parent meetings but during the following parent/guardian meetings the Long version of the parent rights are reviewed and shared with the parent or guardian.

- Parent Consent for Evaluation Meeting
- Eligibility or Redetermination Meeting
- Parent Notification Letter of IEP Meeting
- IEP Meeting

2. During the following conferences or meetings the short version of the rights are reviewed and shared with the parent or guardians. The long version of the rights is always available at each meeting as well.

- Teacher/Parent/SPED Case Manage conferences
- Student Support Parent Meetings or conferences

### 504 Parental Rights

1. 504 Parental Rights are issued at all meetings held with the parent or guardian.

## **CIRRUS ACADEMY CHARTER SCHOOL YOUR RIGHTS AS PARENTS - REGARDING SPECIAL EDUCATION**

The Individuals with Disabilities Education Act, 34 C.F.R. § 300 *et seq.* (IDEA), the federal law concerning the education of students with disabilities, requires schools to provide parents of a child with a disability with notice containing a full explanation of the procedural safeguards available under the IDEA and U.S. Department of Education regulations.

### **Terms used in this document**

The terms “Local Educational Agency (LEA),” “public agency,” “agency,” “local system,” or “system” refer to school systems as designated by the state of Georgia to provide special education and related services to eligible children, including public nonprofit charter schools.

The term “parent” refers to the same broad definition of parent as found in the IDEA, including the biological or adoptive parent, a foster parent, a guardian authorized to make educational decisions for the child, a person acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, an individual who is legally responsible for the child’s welfare, or a surrogate that has been appointed. (34 C.F.R. § 300.30]

A copy of this notice must be given to parents only one time a school year, except that a copy must also be given to the parents: (1) upon initial referral or parent request for evaluation to determine if the student is a student with a disability; (2) upon receipt of the first written formal complaint



involving the student's school system;(3) upon receipt of the first due process complaint involving the student's school system in a school year; (4) when a decision is made to take a disciplinary action that constitutes a change of placement;(5) prior to accessing a student's or parent's public benefits or insurance for the first time; and (6) upon parent request. [34 C.F.R. §300.504(a)]

As a parent of a child who has been referred for special education services or a child who is already receiving special education and related services, you and your child have certain rights which are protected by state and/or federal law. These rights are outlined in the next few pages. Please be sure to ask your school or school system for an explanation if there is anything in them that you do not understand, if you need them in a different language, or if you want them explained to you.

### **CONFIDENTIALITY OF INFORMATION:**

The information about your child being a child with a disability eligible under the IDEA, his or her special education and related services, and other personally identifiable information is confidential and is not released to others within the system unless they have a legitimate need to know nor is it released to other agencies or groups except under limited circumstances.

Regarding when confidential information is released, you have the right to:

1. Restrict third party access to your child's records by withholding consent to disclose records except (a) in certain limited circumstances described in the federal regulations implementing the Family Educational Rights and Privacy Act of 1974, 34 C.F.R. Part 99 (FERPA), and (b) when the records are released to officials of participating agencies for purposes of meeting a requirement under the IDEA;
2. Restrict the release of your child's personally identifiable information to officials of participating agencies that provide or pay for transition services to your child;
3. Restrict the release of your child's personally identifiable information to a private school that is not located in the LEA of your residence;
4. Be notified and receive copies before information in your child's record is destroyed;
5. Be told to whom information has been disclosed; and
6. Review and receive copies of all information sent to another agency where your child seeks or is eligible to enroll.

