



Special Education  
Policies & Procedures



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## PURPOSE

The purpose of this manual is to provide a guide for users on the implementation of special education services in Baker County. It is to be used in conjunction with the Georgia Department of Education's [Special Education Rules](#) and [Implementation Manual](#), and the Individuals with Disabilities Education Improvement Act of 2007 (IDEIA) and its regulations. It is not intended to state new law or supplant any Federal or State laws, regulations or requirements.

This manual should not be cited as law or as imposing any additional requirements or obligations outside of the requirements of existing law.

Nothing herein should be viewed as taking away from an Individualized Education Plan team's need to provide their own professional judgment to a particular situation. Instead, the teams using this guide are encouraged to use discretion and address each situation on a case-by-case basis, complying with federal and state law. This manual is not intended to create new rights under any applicable state or federal law.

This manual frequently refers to district personnel responsible for carrying out specified activities and to appropriate contacts for specific issues. If district personnel have questions regarding use or interpretation of the manual, legal, or other issues affecting students with disabilities, they will contact the Special Education Director.

The intended audience for this manual includes all parties involved with the provision of services for students with disabilities. This includes administrators, principals, program managers, school psychologists, special education teachers, regular education teachers, related service providers, therapists and specialists.

**This manual will be reviewed and updated at the beginning of each school year or as new information is released from the GaDOE.**



## **APPLICABLE LAWS AND REGULATIONS**

### **Individuals with Disabilities Education Improvement Act (IDEIA)**

The Individuals with Disabilities Education Improvement Act of 2004, often referred to as “IDEA,” provides federal funds to state and local agencies for the education of eligible students with disabilities. In order to be eligible to receive services under IDEA, a student must be determined to be a child with a disability and to need special education and related services (each as defined under IDEA).

The district receives IDEA funds for the education of students with disabilities only if it complies with the specific requirements of IDEA. They include, among other things, the requirement to identify and evaluate students who may have disabilities, to determine the eligibility of such students, to develop individualized education programs, to place students in appropriate settings, to follow certain procedural safeguards (including in connection with disciplinary actions), and to protect the confidentiality of student records. These requirements are discussed in more detail throughout this manual.

Congress made changes to IDEA in 2004, and the U.S. Department of Education revised the regulations on August 14, 2006 and December 1, 2008. This manual incorporates those changes.



## **AREA OF GENERAL SUPERVISION I: IDENTIFICATION PROCESS**

- **State Rule: [160-4-7-.08 Confidentiality of Personally Identifiable Information](#)**
- **State Rule: [160-4-2.32 Student Support Team \(SST\)](#)**
- **State Rule: [160-4-7-.03 Child Find Procedures](#)**
- **State Rule: [160-4-7-.04 Evaluations and Reevaluations](#)**
- **State Rule [160-4-7-.05 Eligibility Determination and Categories of Eligibility](#)**
- **State Rule [160-4-7-.13 Private Schools/Home School](#)**



## **Confidentiality of Personally Identifiable Information**

**State Rule: [160-4-7-.08](#)**

### **Confidential Information**

Education records means the type of records covered under the definition of “education records” in [34 C.F.R. part 99](#) (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA))

Personally identifiable information includes the following:

1. The name of the student, the student’s parent, or other family member;
2. The student’s address;
3. Any personal identifier such as the student’s social security number or student number; and
4. Any personal characteristics or other information that would make it possible to identify the student.

The Baker County School System shall provide a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the Baker County School System intends to use in gathering the information, and the uses to be made of the information.

Confidentiality information shall be given in native language appropriate to population groups served by the Baker County School System.

The Baker County School System shall provide notice that is adequate to fully inform all parents concerning the policies and procedures which the Baker County School System follows regarding storage, disclosure to third parties, and retention and destruction of personally identifiable information.

The Baker County School System shall provide a description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulation in [34 C.F.R. part 99](#).



## **Access Rights and Required Procedures**

The Baker County School System permits parents to inspect and review any education records relating to their children that are collected, maintained, or used by the Baker County School System.

The Baker County School System will comply with a request without unnecessary delay (within 10 days) and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made.

- The rights of parents regarding education records are transferred to the adult student at age 18.

The right to inspect and review all education records includes:

1. The right to a response from the Baker County School System to reasonable requests for explanations and interpretations of the records;
2. The right to request that the Baker County School System provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
3. The right to have a representative of the parents inspect and review the records.

The Baker County School System may presume that the parents have the authority to inspect and review all records relating to their child unless the Baker County School System has been advised that the parents do not have the authority under applicable State law governing such matters as guardianship separation and divorce.

The Baker County School system keeps a record of parties obtaining access to education records collected or maintained (except access by the parents and authorized employees of the Baker County School System), including:

- The name of the party,
- The date access was given, and
- The purpose for which the party is authorized to review or use the records.

If any education record includes information on more than one student, the parent(s) of those students have the right to inspect and review only the data relating to their child or be informed of that specific information.

Upon request, the Baker County School System will provide the parents a list of the types and locations of education records collected, maintained, or used by the Baker County School System.



The Baker County School System may charge a fee for copies of records that are made for parents under this Rule if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. The Baker County School System may not charge a fee to search for and retrieve information.

### **Amendment of Records at Parent Request**

The 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 the Baker County School System amend the information.

The Baker County School System must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

If the Baker County School System 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 provided under this Rule.

The Baker County School System will, upon written 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. The hearing held will be conducted according to the procedures under FERPA and its regulations.

### **Results of Hearing**

If, as a result of the hearing, the Baker County School System decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it will amend the information accordingly and so inform the parents in writing.

If, as a result of the hearing, the Baker County School System decides the information is accurate and not misleading or otherwise in violation of the privacy or other rights of the student, it will inform the parents of their right to place in the records it maintains on the child, a statement commenting on the information and setting forth the reasons for disagreeing with the decision of the Baker County School System.

Any explanation placed in the records of the student will be maintained by the Baker County School System as part of the records of the child as long as the record or contested portion thereof is maintained by the Baker County School System. If the records of the child, or the contested portion thereof, are disclosed by the Baker County School System to any party, the explanation will also be disclosed to the party.



## Parent Consent

Special Education student information will not to be discussed with family members (other than the parents/guardian) or friends without written release from the parent/guardian or when the parent /guardian has indicated on a signed meeting notice that they wish for this individual to be their representative at an IEP meeting.

Parental consent must be obtained before personally identifiable information is disclosed to other parties in accordance with [34 C.F.R. § 99.30](#), unless the disclosure is authorized without parental consent under [34 C.F.R. § 99.31](#).

Written consent must:

1. Specify the records that may be disclosed,
2. State the purpose of the disclosure, and
3. Identify the party to whom the disclosure may be made.

Under [34 C.F.R. § 99.31](#), prior consent is not required to release information to:

1. Parents or eligible children;
2. Other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have a legitimate educational interest. This includes teachers and system administrators within the Baker County School System, legally constituted cooperating agencies or other agencies providing shared services;
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 must be 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. The Baker County School System must 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 Baker County School system has designated as "directory information" and the Baker County School System has given public notice to the parents and eligible students of the types of personally identifiable information that the Baker County School System has designated as directory information, a parent's or eligible student's right to refuse to let the Baker County School System 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 Baker County School System in writing that he or she does not want any or all of those types of information about the student designate 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 purposes of making appropriate educational decisions regarding placements.

### **Safeguards**

The Baker County School System will protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction states. The Baker County School System's superintendent or designee will ensure 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 will receive training or instruction regarding department policies and procedures concerning personally identifiable information.

The Baker County School System will maintain, for public inspection, a current listing of the names and positions of employees within the Baker County School System who have access to personally identifiable information.



Permanent records for Special Education students are kept in the Special Education office in secured filing cabinets. These cabinets are only accessible by key, which must be obtained from the Director of Special Education.

### **Destruction of Information**

Destruction means physical destruction or removal of personal identifies from information so that the information is no longer personally identifiable.

The Baker County School System will establish a procedure for destruction of information and will inform parents that personally identifiable information collected, maintained, or used in the provision of a FAPE is no longer needed to provide educational services to the child. These procedures must be in accordance with FERPA and its regulations and the [Georgia Open Records Act](#).

The information will be destroyed at the request of the parents when the information is no longer needed to provide educational services to the child. However, a permanent record of a child's name, address and telephone number, grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation.

### **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with confidentiality rules is monitored through the use of Access Sheets in student files.
- Technical Assistance is provided to faculty, staff and administration who may need assistance with following the confidentiality rule.



## **Student Support Team (SST)**

**State Rule:** [160-4-2.32](#)

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

### **Requirement for Local School SST**

Each school shall have a minimum of one SST and shall establish support team procedures.

### **Student Evaluation**

Before a referral is made for other supplemental or support services an evaluation and/or assessment shall be conducted.

- Prior evaluation(s) and/or assessment(s) of a student for a State or Federal program shall be considered as having met this requirement.

### **SST Members**

The SST shall include 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. Central office personnel
11. Section 504 coordinator
12. Other appropriate personnel

### **Parent/Guardian Participation**

Parents/guardians shall be invited to participate in all meetings of their child's SST and in the development of interventions for their child.



## **Steps of SST Process**

Each school shall include the following steps in the SST process:

1. Identification of learning and/or behavior problems.
2. Assessment, if necessary
3. Educational plan
4. Implementation
5. Follow-up and support
6. Continuous monitoring and evaluation

## **Documentation of SST Activities**

Documentation of SST activities shall include the following:

1. Student's name
2. Names of team members
3. Meeting dates
4. Identification of student learning and/or behavior problems
5. Any records of assessment
6. Education plan and implementation results
7. Follow-up and, as appropriate, continuous evaluation

## **Exceptions to the Use of the SST Process**

School personnel and parents/guardians may determine that there is a reasonable cause to bypass the SST process for an individual student. Documentation in the student's record shall clearly justify such action, including whether the parent/guardian agreed with such a decision.

In cases where immediate referral is sought, the SST shall still determine what interim strategies, interventions and modifications shall be attempted for the student.

It is not necessary for students who transfer into the local school system/state operated program with a current Individualized Education Program (IEP) or Section 504 plan to go through the SST process.

Further information regarding the SST/RtI process at Baker County may be obtained from the SST/RtI Manual and/or by contacting the RtI Coordinator.

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## **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with the SST process is monitored by the RTI Coordinator.
- Technical Assistance is provided to faculty, staff and administration who may need assistance with implementation of the SST process.



## **Child Find Procedures**

**State Rule: [160-4-7-.03](#)**

The Baker County School System must have in effect policies and procedures to ensure that all suspected children with disabilities, including those who are homeless, are wards of the State or are attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated.

### **Annual Child Find Activity is Published in Newspaper or other Media**

The Baker County School System shall ensure that before conducting any significant activity that is designed to identify, locate or evaluate children annual notice must be published or announced in newspapers (Camilla Enterprise); meetings with private and home school representatives; on the Baker County School System website; and through collaboration with the Georgia Department of Behavioral Health and Developmental Disabilities, Baker and Mitchell County School System Preschool Intervention Program and Baker County Head Start, to notify parents of this activity.

### **Provides Screening and Evaluation of All Children**

These policies and procedures shall provide for the screening and evaluation of all children with suspected disabilities birth through age 21 to include:

- **Children birth-3 years of age**, who may or may not be referred to and served by the State's early intervention program Babies Can't Wait (BCW).
- **Preschool children, ages 3-5**, who may not be enrolled in a Georgia-funded Pre-K or K, including children who are parentally placed in private preschools or daycare centers outside of the district.
- **Students enrolled in a public school within the district, including public charter schools.**
  - **Children who are suspected of being children with disabilities** and in need of special education, even though they are progressing from grade to grade.
  - **Highly mobile children, including migrant, homeless, and children who are wards of the State.**
- **Children who are detained or incarcerated** in city/county operated jails or correctional facilities.
- **Children who reside in the Baker County School district and are enrolled in home school/study programs.**
- **Children served in community programs, such as rehabilitation centers, daycare centers, etc.**
- **Parentally-placed private school children.**
  - Children enrolled by their parents in private, including religious, elementary and secondary schools located in the Baker County School System's jurisdiction.



## **Interventions Prior to Referral**

The screening of children by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

IDEA does not require that a child receive scientific, research, or evidence-based interventions before being referred for consideration for eligibility for special education and related services. However, per Georgia's State Child Find Rule, the implementation of a multi-tiered system of supports, including the use of scientific, research, or evidence-based interventions are required before referring a child for an initial evaluation for special education.

In addition, if a parent or teacher requests an evaluation and interventions have not been provided prior to the referral, interventions may be provided while the child is being evaluated (within the 60-day timeline requirement).

Prior to referring a student for consideration for eligibility for special education and related services, a student must have received scientific, research or evidence based interventions selected to correct or reduce the academic, social or behavioral problem(s) the student is having.

1. 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 State-approved grade-level standards within a reasonable time frame.
2. Exceptions may be made in circumstances where immediate evaluation and/or placement is required due to a significant disability that precludes access to instruction.
3. The exception should be an infrequent and rare occurrence, and the circumstances evidencing the need for the use of the exception must be clearly documented in the eligibility decision.



## **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with Child Find rules is monitored through:
  - Bi-annual contact with Babies Can't Wait
  - Annual contact with the Camilla Enterprise
  - Annual meeting with private and home school representatives
  - Quarterly contact with Mitchell County Preschool Intervention Program, Baker County Head Start and the Georgia Department of Behavioral Health and Developmental Disabilities.
- Technical Assistance is provided to faculty, staff and administration who may need assistance with following the Child Find rule.



## Evaluations and Reevaluations

State Rule: [160-4-7-.04](#)

### Initial Evaluation

The Baker County School System must conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability.

The Baker County School System will ensure that evaluation procedures are established and implemented that meet the requirements of this rule.

### Referral Process

Referrals for initial evaluations can be made through Child Find Activities such as Babies Can't Wait (BCW), Student Support Team (SST), and parent referral.

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

When a child turns 30 months of age, Babies Can't Wait (BCW) will forward the following documentation to the Special Education Director (with written permission):

1. Current hearing and vision evaluation
2. A birth certificate
3. Social Security number
  - If parents/guardians do not have a SSN for students, or do not want to share the SSN with the school, a mock SSN can be provided.
4. The Individual Family Service Plan
5. Social history
6. Medical history evaluations, and
7. A copy of the releases

BCW will coordinate with the family to obtain written releases of providers the child is currently seeing such as Physicians, Physical Therapist, Occupational Therapist, or Speech Pathologist etc.

Before 33 months, BCW service coordinator will contact the Special Education Director to schedule a Transition Meeting.

BCW Service Coordinator will facilitate with the parent the completion of eye, ear, and dental screening at the County Health Department or a private physician. Screenings must be documented on Form 3300 of the Georgia Department of Human Resources of Ear, Eye and Dental Examinations. The completion of this process facilitates placement of preschool special education students into facility based school programs.

If a child has his/her third birthday during summer months when school is not in session, BCW service coordinator can continue services until the beginning of school.



The Baker County School System requires proof of residency for all students as evidenced by one of the following:

1. Recent (no more than 30 days old) electric bill or printout from the power company must include name and E911 address.
2. Three letters from neighbors stating residency (with all household members listed) at given address (must include neighbor's name, address and phone number)
3. Printout from Department of Family and Children Services (DFCS) showing address where benefits are received.
4. Copy of child support stub showing the parent/guardian's name and E911 address.

The Baker County School System requires students be enrolled in the school information system (SIS). As such, the following information is required:

1. Birth certificate
2. Student information sheet
3. Social Security number.
  - a. If parents/guardians do not have a SSN for students, or do not want to share the SSN with the school, a mock SSN can be provided.

### **Head Start**

As part of Child Find, Baker County Head Start staff will make referrals to their office in Moultrie, Georgia. Once processed, referrals will be mailed to the Mitchell County Special Education Office.

Once received, the Mitchell County Special Education Director will meet with parents, review and provide copy of Parental Rights and obtain consent to evaluate.

If concerns are found during the evaluation, Mitchell County Preschool Intervention Program Director will provide Head Start with interventions to assist the student in weak areas. The Preschool Intervention Program team will follow-up regarding the progress of interventions.

If progress is not being made, further evaluation will be conducted to identify a possible disability and eligibility for special education services. The Mitchell County Special Education Director will notify the Baker County Special Education Director at that time.

The Baker County SIS Coordinator will enter the child in Infinite Campus.

The Baker County Special Education Director will assign a Case Manager in GO IEP.



### **SST referral**

If the Student Support Team determines that an evaluation for special education services is warranted, the RtI Coordinator contacts the Director of Special Education and requests a parental consent for evaluation.

The RtI Coordinator schedules a meeting with the parents, goes over parent rights and gets parental consent to evaluate signed.

The RtI Coordinator forwards the signed parental consent for evaluation to the Director of Special Education, who then initiates the evaluation process and 60-day timeline.

### **Parent referral**

Parents may refer their child for evaluation by submitting a written request for evaluation to the Director of Special Education.

If the written request for evaluation is provided to any other school personnel (teacher, counselor, school secretary, etc...), the individual receiving the letter will immediately pass that letter on to the Director of Special Education.

Upon receipt of written request, the Director of Special Education will contact the Student Support Team and schedule a meeting with the parent to review existing data and discuss parent concerns.

- In the event that the student is not in RtI, the RtI process will begin immediately.
- If the student is in Tier 2 of RtI and making progress, the student will remain in Tier 2.
- If the student is in Tier 2 of RtI and not making progress, the student will move up to Tier 3.

The Baker County School System can either agree to or refuse the parent request for evaluation. If the System refuses, it must give the parent written notice explaining the reason(s) why it is declining to initiate an evaluation, what data the decision was based upon, and other factors considered. The parents then have the right, if they choose, to request a Due Process Hearing to seek a favorable ruling to conduct an evaluation.

### **Timeline for Evaluation**

Once a child is referred for an evaluation by a parent or Student Support Team (SST) to determine if the child is a child with a disability, the initial evaluation:

- Must be completed within 60 calendar days of receiving parental consent for evaluation. Completion of the initial evaluation is defined as completion of the evaluation report(s). The Baker County School System is not required to make the eligibility determination during the 60-day initial evaluation timeline. However, the eligibility decision should be made within a reasonable period of time following the completion of the evaluation. As a



matter of best practice, within 10 calendar days of the completion of the evaluation report(s), an eligibility meeting should be held.

- Holiday periods and other circumstances when children are not in attendance for 5 consecutive school days shall not be counted toward the 60 calendar day timeline, including the weekend days before and after such holiday periods, if contiguous to the holidays.
- Any summer vacation period in which the majority of teachers are not under contract shall not be included in the 60-day timeline for evaluation. However, the Baker County School System is not prohibited from conducting evaluations over a summer vacation period.
  - Consent received 30 days or more prior to the end of the school year must be completed within the 60 calendar day evaluation timeframe.
  - Students who turn 3 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 timeframe described above does not apply to the Baker County School System if:

- The parent of a child repeatedly fails or refuses to produce the child for the evaluation.
- A child enrolls in a school of another school system after the relevant timeline in this Rule has begun and prior to a determination by the Baker County School System as to whether the child is a child with a disability.
  - An exception applies only if the Baker County School System is making sufficient progress to ensure a prompt completion of the evaluation and the parent and subsequent school system 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 Baker County School System shall document the exceptions.

### **Parental Consent for Evaluation**

The Baker County School System shall, after providing notice, obtain an informed consent from the parents of the child before the evaluation is conducted. The Baker County School System must make reasonable efforts to obtain informed consent from the parents. To meet the reasonable efforts requirement, the Baker County School System must document its attempts to obtain parental consent using procedures that may include:

- Detailed records of telephone calls made or attempted and the results of those calls.



- Copies of correspondence sent to the parents and any responses received.
- 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 refuse consent for the evaluation or the parents fail to respond to a request to provide consent, the Baker County School System 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 Baker County School System may not use the consent override procedures and 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 is not residing with the child's parent, the Baker County School System is not required to obtain informed consent from the parent for initial evaluation to determine whether the child is a child with a disability if:

- Despite reasonable efforts to do so, the Baker County School System 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.
- The rights of the parents to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

Parental consent is not required before:

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

## **Reevaluation**

The Baker County School System will ensure that a reevaluation of each child with a disability is conducted at least once every 3 years, unless the parent and the Baker County School System agree that a reevaluation is unnecessary:

- If the Baker County School System determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrants a reevaluation.
- 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 Baker County School System agree otherwise; and must occur at least once every 3 years, unless the parent and the Baker County School System agree that a re-evaluation is unnecessary.

The Baker County School System must obtain informed parental consent prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the Baker County School System can demonstrate that it has taken reasonable measure to obtain such consent and the child's parents failed to respond.

## **Evaluation Procedures**

1. Provide written notice.
  - a. The Baker County School System shall provide notice to the parents of a child suspected with a disability, in accordance with all notice requirements as described in Rule [160-4-7-.09](#) Procedural Safeguards/Parent Rights
2. Conduct evaluation.
  - a. In conducting an evaluation, the Baker County School System must:
    - i. 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:
      1. Whether the child is a child with a disability.
      2. 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)
    - ii. 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 education program for the child.
    - iii. Use of technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
3. Ensure that:
  - a. Assessments and other evaluation materials used to assess a child are:
    - i. Selected and administered so as not to be discriminatory on a racial or cultural basis.
    - ii. Provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.
    - iii. Used for the purposes for which the evaluations or measures are valid and reliable.
    - iv. Administered by trained and knowledgeable personnel.



- v. Administered in accordance with any instructions provided by the producer of the assessments.
- b. The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- c. Evaluation tools and strategies are used which provide relevant information that directly assists persons in determining the educational needs of the child.
- d. Assessments 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 intelligence quotient.
- e. 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.
- f. 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.
- g. In evaluating each child with a disability under this rule, 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.
- h. Evaluations of children with disabilities who transfer from one school system to another school system 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.
- i. The evaluation of children referred because of learning and/or behavior problems is the responsibility of a multidisciplinary team. For children who require a psychological and clinical evaluation, it will be conducted by a qualified psychological examiner.
  - i. Qualified psychological examiner requirements:
    - 1. Initial evaluation results used for consideration of eligibility for special education, if not provided by a school psychologist with a valid S-5 (or higher) certificate in school psychology, shall be from one of the following:
      - a. A psychologist licensed by the Georgia Board of Examiners of Psychologists and have training and experience in school psychology or child clinical psychology.

- b. 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.
    - c. A Georgia Merit System employee who has a classification rating of psychologist, senior psychologist, or psychology program specialist.
- 4. Review existing evaluation data.
  - a. As part of an initial evaluation (if appropriate) and as part of any reevaluation, the parent and other qualified professionals, as appropriate, must review existing evaluation data on the child, including:
    - i. Evaluations and information provided by the parents of the child.
    - ii. Current classroom-based, local, or State assessments and classroom-based observations.
    - iii. Observations by teachers and related services providers.
  - b. On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:
    - i. 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.
    - ii. The present levels of academic achievement and related developmental needs of the child.
    - iii. 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.
    - iv. 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.
  - c. The parent and other qualified professionals may conduct its review without a meeting.
  - d. The Baker County School System must administer such assessments and other evaluation measures as may be needed to produce the data identified.
  - e. Requirements of additional data are not needed:
    - i. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the Baker County School System:



1. 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.
  2. 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.
5. Evaluations before change in eligibility.
- a. The Baker County School System will evaluate a child with a disability before determining that the child is no longer a child with a disability using the eligibility form in GO IEP.
    - i. 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.
    - ii. However, the Baker County School System will 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.

### **Determination of Eligibility**

Upon completion of the administration of tests and other evaluation measures:

- A group of qualified professionals and the parents of the child (Eligibility Team) determines whether the child is a child with a disability and the educational needs of the child.
- The Baker County School System provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parents.

In making a determination of eligibility, a child will 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 component of reading instruction (as defined in section 1208(3) of ESEA).
- Lack of appropriate instruction in math.
- Limited English proficiency.
- If the child does not otherwise meet the program area eligibility criteria for a child with a disability.

Procedures for determining eligibility and educational need:

- 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, the Baker County School System 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.
- 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 affects educational performance (academic, functional and/or developmental) and the child needs special education and related services, an eligibility document and IEP must be developed for the child.

### **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with Evaluation and Reevaluation rule is monitored through:
  - Daily monitoring of GO IEP Dashboard by the Director of Special Education.
  - Weekly-Bi-weekly communication with School Psychologist by the Director of Special Education.
  - Review of eligibility documents by the Director of Special Education prior to finalization in GO IEP.
- Technical Assistance is provided to faculty, staff and administration who may need assistance with following the Evaluation and Reevaluation rule.



## Eligibility Determination and Categories of Eligibility State Rule [160-4-7-.05](#)

### Definitions

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

- [Autism Spectrum Disorder](#) (AUT)
- [Deaf-Blind](#) (D/B)
- [Deaf/Hard of Hearing](#) (D/HH)
- [Emotional and Behavior Disorder](#) (EBD)
- [Intellectual Disorder \(Mild, Moderate, Severe, Profound\)](#) (MID, MOID, SID, or PID)
- [Orthopedic Impairment](#) (OI)
- [Other Health Impairment](#) (OHI)
- [Significantly Developmental Delay](#) (SDD)
- [Specific Learning Disability](#) (SLD)
- [Speech-Language Impairment](#) (SI)
- [Visual Impairment](#) (VI)
- [Traumatic Brain Disorder](#) (TBI)

### Determination of Eligibility

Upon completion of the administration of assessments and other measures, a group of qualified professionals and the parents of the child (Eligibility Team) determine whether the child is a child with a disability and the educational needs of the child.

At minimum, the Eligibility Team should include:

- A representative of the school with the authority to make decisions regarding school resources (LEA).
- A general education teacher that works with the student in the identified area(s) of weakness.
- A special education teacher.
- An individual qualified to interpret and discuss evaluation results. In most cases, this is the school psychologist and/or direct service provider (SLP, OT, PT, etc...), but other qualified staff may serve in this role as well.
- The parent (adequate attempts to elicit meaningful parent input and gain parent participation should be made).



Other relevant personnel with information that may be helpful in the eligibility determination may also be a part of the Eligibility Team, in some cases, particularly in the case of older children, the child should serve as a Team member as well.

In interpreting data for the purpose of determining if a child is a child with a disability and the educational needs of the child, the Eligibility Team must:

1. 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, social or cultural backgrounds, and adaptive behavior.
2. Ensure that the information obtained from all sources is well documented and carefully considered.
3. Develop an IEP for the child in accordance with Rule [160-4-7-.06](#) 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.

### **Exclusionary Factors for Eligibility**

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

- Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in section 1208(3) of ESEA.
- Lack of appropriate instruction in mathematics.
- Limited English proficiency, or
- The child does not otherwise meet the eligibility criteria under this rule.

### **Documentation of Eligibility/Ineligibility**

An eligibility report which documents the area of disability shall be completed and placed in each child's special education folder.

This report shall be completed by the School Psychologist, in collaboration with the General Education Teacher, Special Education Teacher and the Director of Special Education.

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.



## **Eligibility Meetings**

The Director of Special Education will schedule and coordinate initial eligibility meetings. All required members (parent, LEA representative, school psychologist, general education teacher, and special education teacher) and additional personnel who can provide input for eligibility determination will be invited.

In the case of re-determination of eligibility, the student's case manager will schedule and coordinate the eligibility meeting.

- Parents will be notified of the meeting via written meeting notice, in addition to phone calls and/or emails.
- Parental Excusal form must be completed if a required participant is not in attendance or a is unable to stay for the length of the meeting.
- No individual may participate in the meeting unless they are listed on the meeting notice or the parent has given their consent.

## **Documents Provided to Parents**

The Baker County School System shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

## **Supervision and Monitoring of Eligibility Procedures**

- Each eligibility report is reviewed by the school psychologist and the Director of Special Education prior to finalization.
- Should errors be found while reviewing eligibility reports, technical assistance from the Director of Special Education is provided to special education staff.
  - If errors in eligibility are discovered within one year of evaluation, additional evaluations may be conducted to correct errors.
  - If errors in eligibility are discovered after one year of evaluation, a re-evaluation must be conducted.
- Professional Learning on how to complete eligibility reports will be provided to special education staff on a yearly basis, to new hires, and as new guidance from GaDOE is provided.



## **Private Schools/Home School State Rule [160-4-7-.13](#)**

### **LEA Privately Placed or Referred Students**

The Baker County School System must ensure that a child with a disability who is placed in or referred to a private school or facility by the Baker County School System as a means of providing special education and related services:

- Is provided special education and related services in conformance with an IEP/Individualized Education Program at no cost to the parents.
- Is provided an education that meets the standards that apply to education provided by the GaDOE and the Baker County School System.
- Has all of the rights of a child with a disability who is served by the Baker County School System.

### **Parentally Placed when FAPE is an Issue**

If the Baker County School System made a free appropriate public education (FAPE) available to a child and that child's parents elect to place the child in a private school, the Baker County School System is not required to pay for the cost of the education, including special education and related services. However, these students must be included in Child Find activities, and if eligible, will receive services via a service plan provided at no cost to the parent.

Disagreements about FAPE, the availability of a program appropriate for the child and the question of financial responsibility are subject to the procedural safeguards provided in Procedural Safeguards/Parent Rights rule.

### **Provision of Written Notice by Parent**

At least 10 business days prior to the removal of the child from the Baker County School System, the parent must give written notice to the Baker County School System that they are rejecting the placement proposed by the Baker County School System to provide a FAPE to the child.

### **Reimbursement and Limitations of Reimbursement**

If the parents of a child with a disability, who previously received special education and related services in the Baker County School System, enroll the child in a private preschool, elementary school or secondary school without the consent of or referral by the Baker County School System, a court or administrative law judge (ALJ) may require the Baker County School System to reimburse the parents for the cost of that enrollment if the court/ALJ finds that the Baker County 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 a court/ALJ even if it does not meet the state standards that apply to education provided by the State or the Baker County School System.



The cost of reimbursement 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 Baker County School System, the parents did not inform the IEP Team that they were rejecting the placement proposed by the Baker County 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.
- At least 10 business days prior to the removal of the child from the Baker County School System, the parents did not give written notice to the Baker County School System that they were rejecting the placement proposed by the Baker County 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 Baker County School System, the Baker County School 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.
- Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

### **Exception to Limitations of Reimbursement**

The cost of reimbursement must not be reduced or denied for a parent's failure to provide the notice to the Baker County School System 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.
- The provision of notice would likely result in physical harm to the child.

The cost of reimbursement may, in the discretion of the court/ALJ, not be reduced or denied for a parent's failure to provide the notice to the Baker County School System if:

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

### **Parentally-Placed Private School Children with Disabilities/Home Schooled Students**

As used in this part, the term "parentally-placed private school children with disabilities" means children with disabilities enrolled by their parents in private schools, including religious, schools or facilities when the provision of a FAPE is not an issue.

The term does not include private school children with disabilities placed by the Baker County School System as a means of providing special education and related services.



Children who are home schooled within the jurisdiction of the Baker County School System are also considered parentally-placed private school students for the purpose of this rule.

### **Child Find**

The Baker County School System shall locate, identify and evaluate all private school children with disabilities (including out of state students) enrolled by their parents in private, including religious, elementary and secondary schools located in the Baker County School District in accordance with Child Find. The Child Find activities utilized to comply with this requirement must be comparable to activities undertaken for children with disabilities enrolled in the Baker County School System.

The Child Find process must be designed to ensure the equitable participation of parentally-placed private school children and to provide an accurate count of children with disabilities.

The Baker County School System shall consult with appropriate representatives of private school children with disabilities to carry out Child Find activities; the 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.

### **Provision of Services**

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 IDEA** by providing children with special education and related services.

A **service plan** is developed and implemented for each private school child with a disability who has been designated to receive special education and related services by the Baker County School System in which the private school is located.

The Baker County School System maintains its records and provides to the GADOE the following information related to parentally-placed private school children:

- The number of children evaluated.
- The number of children determined to be children with disabilities.
- The number of children served.

To meet the requirements for provision of services, the Baker County School System shall adhere to the following guidelines regarding expenditures:

- For children ages 3-21, the Baker County School System must expend an amount that is the same proportion of the Baker County School System's total Part B of IDEA flow through funding as the number of private school children with disabilities, ages 3-21, residing in Baker County is to the total number of children with disabilities, ages 3-21, in Baker County.



- For children ages 3-5, the Baker County School System will expend an amount that is the same proportion of the Baker County School System's IDEA preschool funding as the number of private school children with disabilities, ages 3-5, residing in Baker County is to the total number of children with disabilities, ages 3-5, in Baker County.
  - Children ages 3-5 are considered to be parentally-placed private school children when they are enrolled by their parents in a private school that meets the definition of elementary school to include having a kindergarten program.
- If the Baker County School System has not expended for equitable services all of the funds required by the end of the fiscal year, the Baker County School System will obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.
- Expenditures for Child Find activities will not be considered in determining whether the Baker County School System has met these requirements.
- The Baker County School System will consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities who reside in Baker County.
  - The Baker County School System will ensure that the child count is conducted each year.
  - This count will be used to determine the amount the Baker County School System will spend on providing special education and related services to private school children with disabilities in the following fiscal year.
- State and local funds may supplement and in no case supplant the proportionate amount of federal funds required to be expended for parentally-placed private school children with disabilities.

## **Consultation**

To ensure timely and meaningful consultation, the Baker County School System will consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

- The Child Find process, including how parentally-placed private school children suspected of having a disability can participate equitably and how the parents, teachers and private school officials will be informed of the process.
- The determination of the proportionate share of federal funds available to serve parentally-placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated.
- The consultation process among the Baker County School System, private school officials, and representatives of parents of parentally-placed private school children with disabilities,



including how the process will operate throughout the school year to ensure that parentally-placed private school children with disabilities identified can meaningfully participate in special education and related services.

- How, where and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of the types of services, how services will be apportioned if funds are insufficient to serve all parentally-placed private school children and how and when those decisions will be made.
- How, if the Baker County School System disagrees with the views of the private school officials on the provision of services or the types of services, the Baker County School System will provide to the private school officials a written explanation of the reasons why the Baker County School System chose not to provide services directly or through a contract.

Private school representatives and parents of parentally-placed private school children with disabilities will be contacted by the Director of Special Education to schedule consultation.

Consultation will occur yearly, as well as on an as needed basis.

### **Written Affirmation**

When timely and meaningful consultation has occurred, the Baker County School System will obtain written affirmation signed by representatives of participating private schools. If the representatives of the participating private schools do not provide the affirmation within a reasonable period of time, the Baker County School System will forward documentation of the consultation process to the GADOE.

### **Compliance**

A private school official has the right to submit a complaint to the GADOE that the Baker County School System did not engage in consultation that was meaningful or timely or did not give due consideration to the views of the private school officials.

This complaint must be submitted through the Formal Complaint Process identified in Rule (12) Dispute Resolution.

If the private school is dissatisfied with the decision of the GADOE, the official may submit the complaint to the USDOE and the GADOE must forward a copy of the appropriate documentation.

### **Equitable Services Determination**

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.



The Baker County School System makes the final decision 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.

A Services Plan will be completed for each private school child with disabilities who will receive special education and related services provided by the Baker County School System.

The Baker County School System will then:

- Initiate and conduct meetings to develop, review and revise a Services Plan for the child.
- **Ensure that a representative of the private school attends each meeting.** If the representative cannot attend, the Baker County School System will use other measures to ensure participation, including individual or conference telephone calls.
  - Private school representatives will be contacted by the Director of Special Education.
  - Parents will be invited via meeting notice, telephone call and/or email by the Director of Special Education.

### **Equitable Services Provision**

Services provided to private school children with disabilities must 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.

Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

Each parentally-placed private school child with disabilities who has been designated to receive special education and related services shall have a Services Plan that describes the specific special education and related services that the Baker County School System will provide to the child.

- The Services Plan must, to the extent appropriate, provide a statement of the special education and related services and supplementary aids and services to be provided to the child.
- The Services Plan must be in effect at the beginning of each school year and must be developed, reviewed and revised periodically, but not less than annually.

Services may be provided by:

- Employees of the Baker County School System
- Through contract by the Baker County School System with an individual, organization, association, agency or other entity.



**Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment will be secular, neutral, and non-ideological.**

### **Location of Services**

Services provided to private school children with disabilities may be provided on site at the child's private school, including a religious school, to the extent consistent with law.

If it is necessary for the child to benefit from or participate in the services provided under his/her Services Plan, the private school children with disabilities must be provided transportation according to the following:

- From the child's school or home to a site other than the private school.
- From the services site to the private school, or to the child's home, depending on the timing of the services.
- The Baker County School System is not required to provide transportation from the child's home to the private school.
- The cost of transportation may be included in calculating whether the Baker County School System has met the requirements of proportionate funding in this rule.

### **Complaints**

The procedural safeguards outlined in Rule [160-4-7-.09](#) Procedural Safeguards/Parents Rights do not apply to complaints that the Baker County School System has failed to meet requirements of this rule, including the provision of services indicated on the child's Services Plan except that:

- The procedural safeguards outlined in rule [160-4-7-.09](#) Procedural Safeguards/Parents Rights do apply to complaints that the Baker County School System has failed to meet the requirements of Child Find, of this Rule, including the requirements in Rule [160-4-7-.05](#) Eligibility Determination and Criteria. Child Find complaints must be filed with the Baker County School System in which the private school is located and a copy must be forwarded to GADOE.
- The formal complaint procedures contained in Rule [160-4-7-.12](#) Dispute Resolution (a) Complaints do apply to complaints that the Baker County School System has failed to meet the requirements of equitable and timely consultation.

### **Requirement that Funds Not Benefit a Private School**

The Baker County School System may not use IDEA Part B flow-through or federal preschool funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

The Baker County School System shall use funds provided under IDEA to meet the special education and related services needs of children enrolled in private schools but not for:



- The needs of the private school.
- The general needs of the children enrolled in the private school.

The Baker County School System may use IDEA Part B flow-through or federal preschool funds to provide personnel in a private school to the extent necessary to provide services under this rule to private school children with disabilities if those services are not normally provided by the private school.

- In order to provide services to private school children with disabilities as described in this rule, the Baker County School System may use IDEA Part B flow-through or federal preschool funds to pay for the services of an employee of a private school if the employee performs the series outside of his or her regular hours of duty and under the supervision and control of the Baker County School System.

The Baker County School System may not use IDEA Part B funds for classes that are organized separately on the basis of school enrollment or religion of the children if:

- The classes are at the same site.
- The classes include children enrolled in public schools and children enrolled in private schools.

### **Property, Equipment and Supplies**

The Baker County School System must control and administer the funds used to provide special education and related services and hold title to and administer materials, equipment and property purchased with those funds.

The Baker County School System:

- May place equipment and supplies in a private school for the period of time needed for the program.
- Must ensure 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.
- Shall remove equipment and supplies from a private 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.

No funds under IDEA Part B may be used for repairs, minor remodeling, or construction of private school facilities.



## **AREA OF GENERAL SUPERVISION II: Services and Supports**

- **State Rule: [160-4-7-.07 Least Restrictive Environment](#)**
- **State Rule: [160-4-7-.10 Discipline](#)**
- **State Rule: [160-4-7-.06 Individualized Education Program \(IEP\)](#)**
- **State Rule: [160-4-7-.14 Personnel, Facilities and Caseloads](#)**
- **State Rule [160-4-7-.15 Georgia Network for Educational and Therapeutic Support \(GNETS\)](#)**



## **Least Restrictive Environment** **State Rule [160-4-7-.07](#)**

### **LRE Requirements**

The Baker County School System shall have policies and procedures to ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities in Georgia shall be educated with children who are not disabled.

Special cases, 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.

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

- Teaching Georgia Standards of Excellence effectively, holding the same challenging expectations that have been established for all children;
- Preparing children with disabilities to lead productive and independent adult lives, to the maximum extent possible;
- Providing opportunities for parents to participate meaningfully in the education of their children at school and at home;
- Providing effective special education and related services;
- Providing supplementary aids and services so children with disabilities can learn in regular education setting whenever appropriate; and
- Providing regular education teachers with professional learning to ensure that children with disabilities receive appropriate accommodations or modifications and are not removed from regular education settings because accommodations or modification are not being provided.

### **Annual IEP Placement Determination**

In determining the educational placement of a child with a disability, including a preschool child with a disability, the Baker County School System must ensure that the placement decision:

1. Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
2. Is made in conformity with the LRE provisions contained in this rule.

The child's placement is determined at least annually, 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.

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.

The IEP and the LRE may be amended at any time to meet specific needs of the student.

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

The following questions are to be considered in determining how to apply the LRE mandate of the IDEA:

1. What modifications or accommodations must take place in the general classroom in order to educate a particular child with disabilities?
2. What supplementary aids and services for a disabled child must be provided in order to accommodate a particular child with disabilities in a general education setting?
3. Are the modifications, accommodations and the supplemental aids in a general classroom reasonable under all circumstances?
4. Will the effort to educate a disabled student in the general classroom require a substantial and disproportionate amount of time for the classroom teacher?
5. Will the modifications or accommodations in curriculum in the general classroom produce more than a few benefits for a particular disabled student?
6. Is the curriculum in the general education setting, even when modified substantially, appropriate for the particular needs of a child with disabilities in terms of how the student learns and the skills the student needs to acquire?
7. Will the student be able to participate in most class activities?
8. Will inclusion offer the student only an opportunity to associate with non-disabled peers?
9. Will the opportunity for interaction with non-disabled students alone be sufficient grounds for mainstreaming when balanced with the benefits of special education in a separate program?

### **Full Continuum of Alternative Placements/Location of Services**

The Baker County School System will ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

The above continuum must:



1. Include the alternative placements listed in the definition of special education (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
2. Make provision for supplementary services (such as resource room or itinerant instruction) to be provide in conjunction with regular class placement.

### **Preschool Placements**

1. 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:
  - a. Additional support 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.
  - b. Direct services
    - i. The child remains in a regular early childhood program with direct services from special education personnel utilizing consultative, collaborative or coteaching model.
    - ii. 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.
2. Placements for children not attending a regular early childhood program:
  - a. 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;
  - b. A program provided at home as a natural environment;
  - c. A program provided through service providers in their offices; or
  - d. Any combination of the above and/or other settings based on the child's IEP.

### **School Age Placements**

The following school age placements are available within the Baker County School System:

1. General education classroom with age-appropriate non-disabled peers, if required by the IEP:
  - a. Additional supportive services. The child remains in the regular classroom with supplementary aids and services provided to the teacher and/or child to implement the IEP.
  - b. Direct services. The child remains in the regular classroom with direct services from special education personnel on a consultative, collaborative, or co-teaching basis.
2. Instruction outside the general classroom for individuals or small groups.
3. Separate day school or program.



4. Home-based instruction may be used as a short-term placement option on occasions when the parent and the Baker County School System agree at an IEP meeting with the following considerations:
  - a. 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;
  - b. Home-based services will be reviewed no less than quarterly by the IEP team; and
  - c. All IEPs that require home-based placements will include a reintegration plan for returning to the school setting.
5. Residential placement in-state or out-of-state.
6. 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. The Baker County School System shall provide hospital/homebound instruction to students with disabilities, under the requirements found in Georgia rule [160-4-2-.31](#) Hospital Homebound Services.

The continuum of alternative placements is available for students meeting eligibility for services. This continuum includes general classes, special classes/resource rooms, special schools, instruction in hospitals and institutions, and home instruction. Provisions for supplementary aids, services, and supports such as resource rooms or specialized instruction in small group are also available.

### **Non-academic and Extracurricular Settings**

Extracurricular services and activities, including meals, recess periods, and other services and activities, the Baker County School System 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 Baker County School System 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.

The Baker County School System 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.

Nonacademic and extracurricular services may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the Baker County School System, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.



### **Children in Public or Private Institutions**

The Baker County School System shall assure that no child with a disability placed by the Baker County School System in a public or private institution is denied access to an education in the LRE, except for those students in adult prisons as described in [160-4-7-.02](#) Free and Appropriate Public Education.

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

The Baker County School System will carry out activities to ensure that all teachers and administrators are fully informed about their responsibilities for implementing LRE; and are provide with technical assistance and training necessary to assist them in this effort.

### **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with the LRE rule is monitored through:
  - Director of Special Education attending every IEP and Eligibility meeting.
  - Director of Special Education reviewing IEPs and Eligibilities before finalization
- Technical Assistance is provided to faculty, staff and administration who may need assistance with following the LRE rule.



## **Discipline**

**State Rule: [160-4-7-.10](#)**

### **Relationship of General Code of Conduct to IEP**

According to Georgia school laws, the Baker County School System is given the responsibility to develop appropriate and legally based disciplinary procedures.

The code of student conduct shall apply to all children unless a child's individualized education program (IEP) specifically provides otherwise.

The Baker County School System shall 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 child management, discipline and suspension/expulsion upon the child's entry into a special education program or at the annual IEP review.

### **Interim Alternative Settings and 10-day Rule**

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this rule, is appropriate for a child with a disability who violates a code of student conduct.

School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in the same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under this rule).

After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal, the Baker County School System will provide services to the extent required under this rule.

For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability under this rule, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities except as provided:

- A child with a disability who is removed from his or her current placement for more than 10 consecutive school days must:
  1. Continue to receive educational services as provided in Rule [160-4-7-.02](#) Free and Appropriate Public Education, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and



2. Receive, as appropriate, a functional behavior assessment and behavioral intervention services and modifications as set forth in the behavioral intervention plan and IEP, where appropriate, that are designed to address the behavior violation so it does not recur.
3. The Baker County School System is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are provided to a child without disabilities who has been similarly removed.
4. After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is not for more than 10 consecutive school days and is 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 education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.
5. If the removal is for more than 10 consecutive school days or is a change in placement because of disciplinary removals, the child's IEP Team determines appropriate services needed in order to provide a free, appropriate public education, so as to enable the child to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.
6. The services required may be provided in an interim alternative educational setting.

### **Manifestation Determination**

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 Baker County School System, the parent and the relevant members of the child's IEP Team (as determined by the parent and the Baker County School System) 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:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
2. If the conduct in question was the direct result of the Baker County School System's failure to implement the IEP.

The conduct must be determined to be a manifestation of the child's disability if the Baker County School System, 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 Baker County School System's failure to implement the IEP.



If the Baker County School System, 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 Baker County School System to implement the IEP the Baker County School System must take steps to remedy those deficiencies.

The Manifestation Determination Review will be initiated by the Director of Special Education, who will invite all participants and complete all required documentation. Should the parent not attend the meeting, the Director of Special Education will communicate the outcome of the meeting to the parent.

### **Functional Behavior Assessment and Behavior Intervention Plan**

If the Baker County School System, 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:

1. Conduct a functional behavior assessment, unless the Baker County School System had conducted a functional behavior assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior, and except as provided below, return the child to the placement from which the child was removed, unless the parent and the Baker County School System agree to a change of placement as part of the modification of the behavioral intervention plan.

### **Special Circumstances**

School personnel may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability if the child:

1. 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 Baker County School System;
2. 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 Baker County School System; or
3. 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 Baker County School System

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



## **Notification**

On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of child conduct, the Baker County School System will notify the parents of that decision, and provide the parents the procedural safeguards notice described in Rule [160-4-7-.09](#) Procedural Safeguards.

Notification will be made by the Director of Special Education via phone, as well as in writing via certified mail.

## **Appeal**

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination under this Rule, or if the Baker County School System 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. The hearing is requested by filing a due process hearing request pursuant to Rule [160-4-7-.12](#) Dispute Resolution.

An administrative law judge or hearing officer under Rule [160-4-7-.12](#) Dispute Resolution hears the facts and makes a determination regarding an appeal under the disagreement.

- In making a determination under this Rule, the administrative law judge or hearing officer may:
  - a. Return the child with a disability to the placement from which the child was removed if the administrative law judge or hearing officer determines that the removal was a violation of the Rule or that the child's behavior was a manifestation of the child's disability; or
  - b. 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 administrative law judge or hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These appeal procedures may be repeated if the Baker County School System believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a hearing is requested, the parents or the Baker County School System must have an opportunity for an impartial due process hearing consistent with Rule [160-4-7-.12](#) Dispute Resolution, except when:

1. The State is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The administrative law judge or hearing officer must make a determination within 10 school days after the hearing.



2. Unless the parents and the Baker County School System agree in writing to waive the resolution meeting described in Rule [160-4-7-.12](#) Dispute Resolution or agree to use the mediation process described in the same rule:
  - a. A resolution meeting must occur within 7 days of receiving notice of the due process hearing request/complaint; and
  - b. The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process hearing/complaint.
  - c. The decisions on expedited due process hearings are appealable consistent with Rule [160-4-7-.12](#) Dispute Resolution.

### **Placement During Appeals**

When an appeal under this rule has been made by either the parent or the Baker County School System, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or hearing officer or until the expiration of the 45 school day time period provided for in this Rule, section 5, Special Circumstances, whichever comes first, unless the parent and the Baker County School System agree otherwise.

### **Protections for Children Not Yet Eligible for Special Education**

A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this Rule if the Baker County School System had knowledge (as determined in accordance with this Rule) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

1. The Baker County School System must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred-
  - a. The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or a teacher of the child, that the child is in need of special education and related services;
  - b. The parent of the child requested an evaluation of the child pursuant to Rule [160-4-7-.04](#) Eligibility Determinations and Criteria; or
  - c. The teacher of the child or other personnel of the Baker County School System expressed specific concerns about a pattern of behavior demonstrated by the child directly to the Director of Special Education of the Baker County School System or to other supervisory personnel of the Baker County School System.
2. The Baker County School System 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 as described in Rule [160-4-7-.04](#) Eligibility Determinations and Criteria.



3. If the Baker County School System does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors.
4. 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 determined to be a child with a disability, taking into consideration information from the evaluation conducted by the Baker County School System and the information provided by the parents, the Baker County School System must provide special education and related services and follow the State Discipline Rule.

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

Nothing in this Rule prohibits the Baker County School System from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement or judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

The Baker County School System 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 crime is reported.

The Baker County School System 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.

### **Change of Placement Because of Disciplinary Removal**

For purposes of removal of a child with a disability from the child's current educational placement under this Rule, a change in placement occurs if:

1. The removal is for more than 10 consecutive school days, or
2. The child has been subjected to a series of removals that constitute a pattern-
  - a. Because the series of removals total more than 10 school days in a school year;
  - b. Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and;
  - c. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

The Baker County School System determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.



- This determination is subject to review through due process hearings and judicial proceedings.

### **Disciplinary Actions of 10 School Days or Less:**

When a student with a disability is suspended for 3 days the case manager must develop a Behavior Intervention Plan for those students who do not already have one in their IEP. The case manager will notify the Principal, Assistant Principal and Special Education Director when the plan has been developed. For those students that already have a BIP in place the plan must be revised if needed.

If a student is suspended up to 5 days; the case manager must notify school administration and Special Education Director to conduct a review of that student's discipline record. The Special Education Director will meet with the school's administration for monitoring.

### **Disciplinary Action Beyond 10 Days/Continuation of Services:**

After a student has been removed for 10 school days in the same year, and a subsequent removal is for more than 10 consecutive days and is a change in placement, then the system personnel and at least one of the student's teachers determine the extent of services needed so that the student can continue to participate in the general education curriculum, although in another setting and progress toward meeting the goals outlined in the student's IEP.

The case manager assigned to the suspended student must keep attendance records and submit to the Special Education Director.

### **Tracking Number of Days of Suspension:**

Administrators will, upon receiving discipline referrals, check Infinite Campus to determine if a student is a student with a disability.

The administrator will notify the appropriate special education staff of the suspension of the student with a disability.

The Special Education Director will track discipline reports in Infinite Campus and consult with building level administrator on student suspensions as they occur.

### **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with the Discipline rule is monitored through:
  - The Director of Special Education will be notified of all disciplinary incidences involving students with disabilities.
- Technical Assistance is provided to faculty, staff and administration who may need assistance with following the LRE rule.



## **Individualized Education Program** **State Rule [160-4-7-.06](#)**

### **Definition of IEP Team**

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 Baker County School System shall ensure that each IEP Team meeting includes the following participants:

1. The parent(s) of the child.
2. Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment).
  - a. A regular education teacher of a child with a disability must, to the extent appropriate, participate in the development of the IEP of the child, including determination of:
    - i. Appropriate positive behavioral interventions and supports and other strategies for the child.
    - ii. Supplementary aids and services, accommodations, program modifications, and support for school personnel.
3. Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child.
4. A representative of the Baker County School System who:
  - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities.
  - b. Is knowledgeable about the general education curriculum.
  - c. Is knowledgeable about the availability of resources of the Baker County School System.
5. An individual who can interpret the instructional implications of evaluation results.
  - a. This may be a regular education teacher, special education teacher, Baker County School System representative, or other individual who has knowledge or special expertise regarding the child.
6. At the discretion of the parent or the Baker County School System, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.
  - a. The determination of the knowledge or special expertise of any individual must be made by the party (parents or the Baker County School System) who invited the individual to be a member of the IEP Team.
7. Whenever appropriate, the child with a disability.



## **IEP Team Attendance**

A member of the IEP Team is not required attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the Baker County 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 Baker County School System consent to the excusal.
- 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 2-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 BCW service coordinator or other representatives of BCW to assist with the smooth transition of services.

## **Required Sections of the IEP**

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

1. A statement of the child's **present levels of academic achievement and functional performance (PLAAFP)**, including:
  - **Results of the initial or most recent evaluation and results of state and district assessments.** This may include:
    - A summary of formal assessments from the psychological report and/or speech-language evaluation.
    - Results from required Statewide assessments.
    - District benchmark assessments.
    - Informal assessments and other progress monitoring data (academic and behavior).
  - A description of the student's **academic, developmental and/or functional strengths.** Functional performance must be stated even if the student is functioning with age appropriate skill. Consider the following:
    - Attendance records
    - Discipline records
    - Classroom observations
    - Performance or progress monitoring data
    - Student work samples
    - Teacher-made tests or other achievement tests



- Grades
  - Related services observations/progress/assessments
  - Transition assessments
  - Parent input
- A description of the student's **academic, developmental and/or functional needs (weaknesses)**. Consider each area of identified disability. Functional performance must be stated even if the student is functioning with age appropriate skill. Consider the following:
- Attendance records
  - Discipline records
  - Classroom observations
  - Performance or progress monitoring data
  - Student work samples
  - Teacher-made tests or other achievement tests
  - Grades
  - Related services observations/progress/assessments
  - Transition assessments
  - Parent input
- **A complete statement of the parental concerns regarding their child's education.** If the parent does not participate in the IEP meeting, the IEP Team must obtain information from the parent to include in the IEP or document previous concerns that have been communicated by the parent (parent-teacher conferences, notes on progress reports/report cards, notes on discipline reports, phone calls, etc.).
- **A description of the impact of the disability on the child's involvement and progress in the general education curriculum.** Describe the ways in which the student's disabilities (consider all identified areas of disability) will affect the student's involvement and progress in the general education curriculum. Also include statements that address each major area of the curriculum that are impacted by the student's disability (do not include accommodations and placement information).
- 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:
- 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.
  - Meet each of the child's other educational needs that result from the child's disability.
3. For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of **benchmarks or short-term objectives**.

4. A description of:
  - **How the child's progress toward meeting the annual goals will be measured.**
  - When **periodic reports on the progress** the child is making toward meeting the annual goals will be provided (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards).
    - Progress reports will be sent home every 4.5 weeks, report cards every 9 weeks
5. A statement of the **special education and related services** and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
  - To advance appropriately toward attaining the annual goals.
  - To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.
  - To be educated and participate with other children with disabilities and nondisabled children in academic, nonacademic and extracurricular activities.
6. 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.
7. A statement of any individual appropriate **accommodations** that are necessary to measure the academic achievement and functional performance of the child **on State and districtwide assessments.**
  - If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why:
    - The child cannot participate in the regular assessment.
    - The particular alternate assessment selected is appropriate for the child.
    - 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.
  - IEP Teams must select for each assessment only those accommodations that do not invalidate the score according to state standards.
8. The projected date for the beginning of the services and program modifications and the anticipated frequency, location and duration of those services and program modifications.

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

- The strengths of the child.
- The concerns of the parents for enhancing the education of their child.
  - A complete statement of the parental concerns regarding their child's education may be obtained during the IEP meeting. If the parent does not participate in the IEP



meeting, the IEP Team must obtain information from the parent to include in the IEP or document previous concerns that have been communicated by the parent (parent-teacher conferences, notes on progress reports/report cards, notes on discipline reports, phone calls, etc..).

- The results of the initial or most recent evaluation of the child.
- The results, as appropriate, of the child's Statewide or districtwide assessments.
- The academic, developmental and functional needs of the child.
- **Special factors:**
  - In the case of a child whose behavior impedes the child's learning or that of others, consider the use of possible behavioral interventions and supports and other strategies, to address that behavior in the IEP or behavioral intervention plan.
  - 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.
  - 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 uses of Braille is not appropriate for the child.
  - 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.
- Whether the child needs **assistive technology devices and services**.
- The need for **Extended School Year Services (ESY)**.
  - The Baker County School System must ensure that extended school year services (ESY) are available as necessary to provide FAPE. ESY services must be provided only if a child's IEP Team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. The Baker County School System shall not limit ESY services to a particular disability category or unilaterally limit the type, amount and duration of those services.
    - The IEP Team shall determine if ESY services are needed as part of the child's FAPE. In doing so, it shall consider the individual needs of the child.
    - If the IEP Team determines that ESY shall be provided, it shall:
      - Indicate which goals are being extended or modified to deliver FAPE.
      - State the specific services needed, the amount of time for each service, the beginning and ending dates for the services and the services provider and location.



- The Baker County School System shall provide ESY services as required by the child's IEP and all necessary transportation at no cost to the parent.

### **Transition Services**

Beginning no later than entry into ninth grade or by age 16, whichever comes first, or younger if determined appropriate by the IEP Team and update annually, the IEP must include:

- Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.
- Transition services (including courses of study) needed to assist the student in reaching these goals.
  - Students are given an interest survey to determine career interests.
  - Students are given the opportunity to sign up for GVRA services.
  - Students participate in ASPIRE.

### **Transition Services Participants**

The Baker County School System must invite 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 Baker County School System must 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 Baker County School System must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

If a participating agency, other than the Baker County School System, fails to provide the transition services described in the IEP, the Baker County School System must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

- Nothing in this part relieves any participating agency, including the State vocational rehabilitation agency, of the responsibility to provide or pay for any transition services that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

### **Transfer of Rights**

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 IDEA, if any, which will transfer to the student on reaching age 18.



## **Parent Participation**

The Baker County School System shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough (no less than 10 days before the meeting) 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 shall indicate:

- The purpose of the meeting
- Time
- Location
- Participants who will be in attendance
- The parents' right to invite other individuals who, in their opinion, have knowledge or special expertise regarding their child, including related services personnel.
- The parents' 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 if their child was previously served by BCW.

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 Baker County 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 Baker County School System must use other methods to ensure parent participation, including individual or conference telephone calls or video conferences.

- A meeting may be conducted without the parents in attendance.
  - In this case, the Baker County School System must keep a record of its attempts to arrange a mutually agreed on time and place such as:
    - Detailed records of telephone calls made or attempted and the results of those calls.
    - Copies of correspondence sent to the parents and any responses received.
    - Detailed records and results of visits made to the home or place of employment and the results of those visits.



The Baker County School System must 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.

The Baker County School System shall provide a copy of the IEP to the parents at no cost.

The Baker County School System shall ensure that the parents of each child with a disability are members of any group that makes decisions on the child's educational placement.

### **IEP/IFSP**

At the beginning of each school year, the Baker County School System must have a **current** (within one year) IEP in effect, for each child with a disability within its jurisdiction.

In the case of a child with a disability aged 3-5, an IEP or IFSP shall be in place. If the IFSP is utilized, it must be:

- Consistent with the Georgia rule for IEPs
- Agreed to by the Baker County School System and the child's parents.

The Baker County School System must:

- Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP.
- Obtain written informed consent from the parents if the parents choose an IFSP.

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.

Special education and related services are made available to the child in accordance with the child's IEP as soon as possible following the development of the IEP.

The Baker County School System must ensure that:

- **The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other services provider who is responsible for its implementation.**
- Each teacher and provider is informed of:
  - His or her specific responsibilities related to implementing the child's IEP.
  - The specific accommodations, modifications and supports that must be provided for the child in accordance with the IEP.



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

If a child with a disability transfers to the Baker County School System in the same school year within Georgia, the Baker County School System (in consultation with parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous school system) until the Baker County School System either:

- Adopts the child's IEP from the previous school system.
- Develops, adopts and implements a new IEP that meets the IEP requirements of this Rule.

If a child with a disability (who had an IEP that was in effect in a school system in another State) transfers to Georgia within the same school year, the Baker County School System (in consultation with the parent) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous school system) until the Baker County School System:

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

### **FERPA and Transmittal of Records**

The Baker County School System will take reasonable steps to promptly obtain the child's records, including the IEP, 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-FERPA (which does not require prior parental consent to disclose education records to official of another school where the student seeks or intends to enroll).

The previous school system in which the child was enrolled must take reasonable steps to promptly respond to the request from the Baker County School System.

### **Review and Revision of the IEP**

The Baker County School System will ensure that the IEP Team:

- Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.
- Reviews 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.



- Other matters.

To the extent possible, the Baker County School System will encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

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

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.

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 Baker County School System.

- 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 Baker County 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, the Baker County School System will ensure that the child's IEP Team is informed of those changes.
  - A parent will be provided with a revised copy of the IEP with the amendments incorporated.

To the extent possible, the Baker County School System will encourage consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

In conducting a review of the child's IEP, the IEP Team must consider special factors mentioned 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.

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

The IEP Team of a child with a disability who is convicted as an adult and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.



The IEP requirements in this Rule and the LRE requirements do not apply with respect to the modifications described above.

## **Construction**

Nothing in this Rule shall be construed to require that additional information be included in a child's IEP beyond what is explicitly required or that the IEP Team is required to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

## **Roles and Responsibilities**

- LEA Representative (Director of Special Education)
  - Prior to the meeting
    - Ensures that the case manager has gathered all necessary data for IEP development and has drafted the IEP prior to the meeting.
  - During the meeting
    - Ensures that due process procedures and other procedural safeguards are followed.
    - Facilitates group decision making, and if necessary, makes a determination and states the district's position when the IEP team cannot agree.
  - After the meeting
    - Coordinates any follow-up referrals for additional evaluations or related services recommended by the IEP Team.
    - Provides support for, and ensures the implementation of, the IEP team's decisions and the IEP after the meeting through follow-up with the case manager and other service providers.
- Case Manager
  - Prior to the meeting
    - Schedules the IEP meeting in coordination with the Director of Special Education and the parent.
    - Completes the prior written meeting notice and sends the notification to the parent and other meeting participants
    - Obtains Parent Consent for Excusal from Meeting as needed.
    - Reviews any evaluations of the student, gathers data from the teachers or other service providers to prepare a draft IEP.
    - Prepares the draft IEP.
    - Notifies the Director of Special Education to review the draft IEP no less than 5 days prior to the scheduled meeting.
  - During the meeting
    - Makes introductions of the team members.
    - States the purpose and sets the agenda of the meeting.
    - Presents parental rights document and explains parental rights as needed.



- Facilitates all discussions for each section of the IEP giving each participant the opportunity to contribute to the development of the IEP.
- Completes the final IEP adding to the draft that was prepared prior to the meeting.
- Ensures that the parent receives a copy of the final IEP document.
- After the meeting
  - Ensures that all IEP documents are complete.
  - Provides all teachers and service providers with the new IEP and communicate how these individuals may access the IEP.
  - Ensures implementation of the IEP and gathers progress monitoring data.
- Special Education Teacher (not the Case Manager)
  - Prior to the meeting
    - Indicates availability to attend meeting.
  - During the meeting
    - Participates by contributing to discussion regarding the present function of the student, presenting any analyzed data collected (student work samples, observations, benchmark assessments, etc...) and contributes to the development of IEP goals and objectives as well as service recommendations.
  - After the meeting
    - Ensures implementation of the IEP and gathers progress monitoring data.
- General Education Teacher
  - Prior to the meeting
    - Indicates availability to attend meeting
  - During the meeting
    - Participates by contributing to discussion regarding the present functioning of the student in relation to access of the general education curriculum presenting any analyzed data collected (student work samples, observations, benchmark assessments, etc...) and contributes to the development of IEP goals and objectives as well as service recommendations.
  - After the meeting
    - Ensures implementation of the IEP and gathers progress monitoring data.



## **Supervision and Monitoring**

- All IEPs will be reviewed by the Director of Special Education prior to finalization.
- The Director of Special Education will randomly select an IEP for each Case Manager for compliance on a quarterly basis.
- Technical Assistance from the Director of Special Education will be provided to staff with IEP errors.
- Professional Learning on how to complete IEPs will be provided to special education staff on a yearly basis and as new guidance is released by GaDOE.



**Personnel, Facilities and Caseloads**  
**State Rule [160-4-7-.14](#)**

Unless otherwise specified under program areas, the following shall apply:

**Maintenance of Current Credentials for Professional Employees**

Maintenance of current credentials shall be the ongoing responsibility of any professional employed by or under contract with the Baker County School System. Maintenance of records of current credentials shall be the ongoing responsibility of the Baker County School System.

The Baker County School System will recruit, hire, train and retain an adequate supply of highly qualified (certified or licensed) personnel, including special education, related services and leadership personnel, to meet the needs of children with disabilities. [34 C.F.R. § 300.156(d)].

Related service personnel who deliver services in their discipline or profession must maintain current State approved or recognized certification, licensing, registration or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services and these related service personnel must have not had certification or licensure requirements waived on an emergency, temporary or provisional basis. [34 C.F.R. § 300.156(b)(2)].

1. The required standard credential for all personnel providing educational interpreting for children who are deaf or hard of hearing in the Baker County School System, 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 Assessment (EIPA) rating of Level 3.5 or higher. The EIPA rating cannot be more than five years old.
2. Maintenance of current credentials will be the ongoing responsibility of any educational interpreter employed by the Baker County School System for purposes of educational interpreting for children who are deaf or hard of hearing. Maintenance of records of current credentials will be the ongoing responsibility of the Baker County School System, and current credentials of educational interpreters must be filed with other personnel records (e.g., teacher certification credentials).



**Classroom Size and Appropriateness**

The Baker County School System will provide a classroom of suitable size, in a distraction free area, 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 the individual children to be served. GADOE has established this policy as a safeguard to prevent placing children with disabilities in classroom that are too small, have visual or auditory distractions or do not have items necessary to provide appropriate instruction.

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

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

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

	Maximum Class Size	Caseload
Full Day	8	16
Part Day	12	16
Community (C)	-	32



## Class Sizes and Caseloads

Program Area	Delivery	Max. w/o Para.	Max. with Para.	Caseload
<b>Intellectual Disabilities</b>				
Mild	SC	10	13	14
	R	10	13	26
Moderate	SC	NA	11	11
Severe	SC	NA	7	7
Profound	SC	NA	6	6
<b>Emotional &amp; Behavioral Disorders</b>	SC	8	11	12
	R	7	10	26
<b>Specific Learning Disabilities</b>	SC	12	16	16
	R	8	10	26
<b>Visual Impairments</b>	SC	NA	6	7
	R	3	4	13
<b>Deaf/Hard of Hearing</b>	SC	6	8	8
	R	3	4	11
<b>Deaf-Blind</b>	SC	NA	6	7
<b>Speech-Language Impairments</b>	SC	11	15	15
	R	7	NA	55
<b>Orthopedic Impairments</b>	SC	NA	11	11
	R	4	5	15

See Rule [160-5-1-08](#) (Class Size) for specifics.

The Baker County School System is a Strategic Waiver System.

Note:

1. Each paraprofessional (para) is equivalent to 1/3 teacher and affects individual class size, caseload and system average proportionately. Three paras are the maximum number that can be used to increase the maximum class size for any special education class.
2. If children from different programs/delivery models are within the same segment, the class size shall be determined by the program/delivery model with the smallest class size. The caseloads shall be determined by averaging the respective caseloads.
3. The placement of children with autism, traumatic brain injury, or other health impairments, and significant developmental delays (grades K and above) in the above program areas will not change class sizes.
4. Children, with an IEP designating the service location for the delivery of goals and objectives to be the regular classroom environment, shall be reported in their special education program category of instruction as provided in a:
  - a. Team/Collaborative Model; or
  - b. Consultative Model



## **Georgia Network for Educational and Therapeutic Supports (GNETS) State Rule [160-4-7-.15](#)**

### **GNETS Purpose and Services**

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

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

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

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

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

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



## **Consideration for GNETS Services**

Consideration for GNETS services is determined by the student's IEP Team using the criteria set forth in SBOE Rule [160-4-7-.06](#)

IEP Teams considering recommendation of GNETS services will follow the notice requirements of SBOE Rule [160-4-7-.06](#). The IEP meeting will include a GNETS director or his/her designee.

An individual student is considered for GNETS services only if his or her IEP Team recommends GNETS services based on the existence of all of the following, which will be documented in the student's education record:

1. Documentation that indicated evidence of annual IEP review, progress monitoring data aligned with IEP goals, documentation indicating prior services were delivered in a lesser restrictive environment and the student's inability to receive FAPE in that environment.
2. A Functional Behavioral Assessment (FBA) and /or Behavior Intervention Plan (BIP) administered within the past year.
3. Documentation that a comprehensive reevaluation has been completed within the last 3 years.

## **Continuum of GNETS Service Delivery and Environments**

The IEP Team must determine that GNETS services are necessary for students to receive FAPE. Removal from the general education setting will occur only when the nature or severity of students' social, emotional and/or behavioral challenges are such that education in a general education setting with the use of supplementary services and intensive individualized interventions cannot be achieved.

The IEP Team will consider the various setting in which GNETS services may be delivered and determine whether the individual student is likely to receive FAPE in each environment, beginning with the least restrictive setting.

The GNETS continuum of services by environment may be delivered as follows:

1. Services provided in the general education setting in the student's Zone School or other public school.
2. Services provided in the student's Zoned School or other public school setting by way of a "pull out" from the general education setting for part of the school day.
3. Services provided in the student's Zoned School or other public school for part of the school day in a setting dedicated to GNETS.
4. Services provided in the student's Zoned School or other public school for the full school day, in a setting dedicated to GNETS.
5. Services provided in a facility dedicated to GNETS for part of the school day.
6. Services provided in a facility dedicated to GNETS for the full school day.



## LEA Duties and Responsibilities

The Baker County School System shall:

1. Ensure that FAPE is delivered to students recommended for GNETS services in the least restrictive environment (LRE).
2. Convene IEP Team meetings as required by State Board of Education Rule [160-4-7-.06](#)
3. Conduct FBAs/BIPs for any student considered for GNETS services in accordance with (3)(c)(2) of this rule.
4. Collaborate with the GNETS to determine opportunities for students to have access to general education activities.
5. Provide transportation to and from a GNETS, as required, including transportation to and from home/school for students receiving GNETS series for part of the school day and for students participating in extracurricular activities.
6. Maintain and report student record data in accordance with State Board of Education Rule [160-5-1-.07](#) and GaDOE guidance.
7. Provide student outcome assessments and other relevant data to GNETS director or designee.
8. Monitor student IEP goals annually to determine students' progress and access to services in a lesser restrictive environment.
9. Upon request, provide ongoing professional learning opportunities and best practices, in conjunction with GNETS Administration, for teachers to support students who exhibit social, emotional and/or behavioral challenges.
10. Allocate supports and resources, which may include in-kind services to GNETS, to facilitate flexible models of service delivery and best practices for equitable educational support as appropriate.
11. To the maximum extent possible, collaborate with community services providers to deliver mental health services and/or family support in students' Zoned schools.
12. Collaborate with GNETS to examine student records and discuss the coordination of service provisions for students being considered for GNETS in accordance with [34 CFR §300.501\(2\)\(3\)](#)
13. Provide GNETS staff access to longitudinal data for all students receiving GNETS services to ensure teachers can access records for students included on their rosters.
14. Submit student schedules to the GaDOE with the GNETS code.
15. Monitor facilities for safety and accessibility for students served by GNETS and report identified concerns to all key stakeholders such as fiscal agents, GNETS directors and any other appropriate parties.



## **AREA OF GENERAL SUPERVISION III: Student Progress**

- **State Rule: [160-4-7-.02 Free Appropriate Public Education \(FAPE\)](#)**



**Free Appropriate Public Education (FAPE)**  
**State Rule: [160-4-7-.02](#)**

**FAPE Inclusive for Students Aged 3-21: Full Educational Opportunity**

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 [160-4-7-.10](#) Discipline.

The Baker County School System has in effect policies and procedures to demonstrate that the Baker County School System 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.

**FAPE for Students Aged 22**

If a student is receiving services upon reaching age 22, the Baker County School Systems has a written procedure that identifies a process for completing services to which the adult student has been previously entitled. The Baker County School System shall state in writing that the goal is to secure 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 Baker County School System 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 Baker County School System 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 Provision by 3<sup>rd</sup> Birthday**

The Baker County School System will ensure that:

1. The obligation to make FAPE available to each eligible child residing in the Baker County School System 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**

The Baker County School System will 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.

The determination that a child described above is eligible under this part, must be made on an individual basis by the group responsible for making eligibility decisions within the Baker County School System.



## Limitations

The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

1. Adult students aged 18-21, who, in the last educational placement, prior to their **incarceration in adult correctional facility**:
  - a. Were not actually identified as being a child with a disability;
  - b. Did not have an IEP in effect; and
  - c. 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 18-21, who:
  - a. 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;
  - b. Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability; or
  - c. Have graduated from high school but have not been awarded a regular high school diploma.

The Baker County School System must assure that the information it has provided is current and accurate.

## Definition of Regular High School Diploma

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 education development credential (GED).

**The Baker County School System 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.

For children with disabilities who are covered by public benefits or insurance:

1. The Baker County School System 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.
  - a. With regard to services required to provide FAPE, the Baker County School System 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;
  - b. The Baker County School System 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
- c. The Baker County School System may not use a child's 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 Baker County School System 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:
    - a. 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
    - b. Specify that the parent understands and agrees that the Baker County School System 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 Baker County School System shall provide written notification to the child's parents consistent with [34 C.F.R. § 300.503\(c\)](#) that includes:
    - a. A statement of parental consent provisions in [34 C.F.R. § 300.154\(d\)\(2\)\(iv\)\(A\)-\(B\)](#);
    - b. A statement of the "no cost" provisions in [34 C.F.R. 300.154\(d\)\(2\)\(i\)-\(iii\)](#);
    - c. 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
    - d. 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 Baker County School System of its responsibility to ensure that all required services are provided at no cost to the parents.



In regards to children with disabilities who are covered by private insurance:

1. With regard to services required to provide FAPE to an eligible child, the Baker County School System may access the parents' private insurance proceeds only if the parents provide consent.
2. Each time the Baker County School System proposes to access the parents' private insurance proceeds, the Baker County School System must-
  - a. Obtain parental consent; and
  - b. Inform the parents that their refusal to permit the Baker County School System

### **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.

### **Provision of Accessible Instructional Materials**

The Baker County School System 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. The Baker County School System 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 Baker County School System 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.
  - a. 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:
  - a. 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 of visual field subtends an angular distance no greater than 20 degrees.
  - b. Children whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.
  - c. Children certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.



- d. 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:
  - a. 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).
  - b. 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.

In order to insure the timely provision of high quality, accessible instructional materials to children who are blind and other print disabled, the Baker County School System must adopt the National Instructional Materials Accessibility Standards (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.

The Baker County School System coordinates 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. The Baker County School System must provide written assurances to the GaDOE regarding their intention to coordinate with the NIMAC.
3. 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. The Baker County School System may also purchase instructional materials from the textbook publishers that are produced in or may be rendered in a specialized format.

If the Baker County School System chooses not to coordinate with the NIMAC, assurances must be made to the GaDOE that the Baker County School System will provide accessible instructional



materials to children who are blind or other print disabled in a timely manner. The Baker County School System 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. If the Baker County School System does not coordinate with the NIMAC, it 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. The Baker County School System 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.

The Baker County School System is also responsible for providing accessible materials to children who require instructional materials in accessible formats, but do not qualify for the materials under the definition of blind and other print disabled or who need materials that cannot be produced from NIMAS.

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**

Children with disabilities who require assistive technology in order to receive a 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.

Each IEP Team will consider whether or not a child requires assistive technology devices and services in order to receive a 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.

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 will also be included in this evaluation process. The evaluation should result in recommendations for assistive technology devices and services, if required.

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.
3. If the IEP Team determines that the child with a disability requires school-purchased 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.

### **FAPE and Extended School Year (ESY)**

The Baker County School System 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 Baker County School System will not-
  - a. Limit ESY services to particular categories of disability; or
  - b. Unilaterally limit the type, amount, or duration of those services.

The term ESY services means special education and related services that-

1. Are provided to a child with a disability:
  - a. Beyond the normal school year of the Baker County School System;
  - b. In accordance with the child's IEP;
  - c. At no cost to the parents of the child;
  - d. Meet the standards of the State.

### **Extracurricular Activities Accessibility**

The Baker County School System will 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.

Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the Baker County School System, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the Baker County School System and assistance in making outside employment available.



## **Access to Physical Education and Specially Designed Physical Education**

The Baker County School System will ensure that its public schools comply with the following:

1. Physical Education services specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the Baker County School System enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.
2. Each child with a disability will be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless-
  - a. The child is enrolled full time in a separate facility; or
  - b. The child needs specially designed physical education, as prescribed in the child's IEP.
3. If specially designed physical education is prescribed in a child's IEP, the Baker County School System will provide the services directly or make arrangements for those services to be provided through other public or private programs.
4. If the Baker County School System is responsible for the education of a child with a disability who is enrolled in a separate facility will ensure that the child receives appropriate physical education services in compliance with this Rule.

## **Services to Public Charter Schools that are not LEAs**

Children with disabilities who attend public charter schools and their parents retain all rights to a FAPE as described in the Rule.

The Baker County School System will ensure that charter schools that are public schools of the System must-

1. Serve children with disabilities attending those charter schools in the same manner as the System 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 System 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 System provides funds to the System's other public schools, including proportional distribution based on relative enrollment of children with disabilities.

## **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.

## **Programming Options and Equal Access**

The Baker County School System shall take 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 System, including art, music, and Career, Technical and Agricultural Education.

### **Hearing Equipment Checks**

The Baker County School System will ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

The Baker County School System will ensure that the external components of surgically implanted medical devices are functioning properly. The System is not responsible for the post-surgical maintenance, programming or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

### **Prohibition of Mandatory Medication**

The Baker County School System will 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 \(c\)\)](#).

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.

### **Best Practice**

The Baker County School System:

- Offers professional learning to faculty, staff, and administration on a yearly basis, as new staff is hired, and/or as needed throughout the course of the school year.
- Compliance with the FAPE rule is monitored through:
  - Director of Special Education attending every IEP and Eligibility meeting.
  - Director of Special Education reviewing IEPs and Eligibilities before finalization.
- Technical Assistance is provided to faculty, staff and administration who may need assistance with following the FAPE rule.



## **AREA OF GENERAL SUPERVISION IV: Parent Engagement**

- **State Rule:** [160-4-7-.09 Procedural Safeguards and Parent Rights](#)
- **State Rule:** [160-4-7-.11 Surrogate Parent](#)
- **State Rule:** [160-4-7-.12 Dispute Resolution](#)



## **Procedural Safeguards and Parent Rights** **State Rule [160-4-7-.09](#)**

### **When Parent Rights Must Be Provided to Parents**

The term “procedural Safeguards Notice” also refers to the document commonly identified as “Parents 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:

- Upon initial referral or parent request for evaluation.
- Upon receipt of the first state complaint in a school year.
- Upon receipt of the first request for a due process hearing in a school year.
- Upon notification by the Baker County School System 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.
- Prior to accessing a child’s or parent’s public benefits or insurance for the first time.
- Upon request by the parent.

The State and the Baker County School System may place a copy of the Procedural Safeguards/Parents Rights on its web site.

### **Content of Parent Rights**

The content of the notice must include a full explanation of all the procedural safeguards available relating to:

- Independent educational evaluations.
- Prior written notice.
- Parental consent.
- Access to education records.
- Opportunity to present and resolve complaints through the State complaint procedures and a due process hearing including:
  - The time period in which to file a complaint or due process hearing.
  - The opportunity for the agency to resolve the complaint.
  - 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.
- The availability of mediation.
- The child’s placement during the pendency of any due process hearing.
- Procedures for children who are subject to placement in an interim alternative educational setting.
- Requirements for unilateral placement by parents of children in private school at public expense.
- Due process hearings, including requirements for disclosure of evaluation results and recommendations.
- Appeals of due process hearings, including the time period in which to file those actions.
- Attorneys’ fees.



- Notice provided in a language understandable to the parents.

### **Parental Opportunity to Review Records**

The Baker County School System establishes and maintains procedures to provide an opportunity for the parents of a child with a disability to:

- Inspect and review all education records relating to the identification, evaluation, educational placement and provision of FAPE to the child.
- Participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to such child.
- Obtain an independent educational evaluation of the child.

The Baker County School System establishes and maintains procedures to ensure that parents:

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

The Baker County School System establishes and maintains 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 the Baker County School System to reasonable requests for explanations and interpretations of the records.
- The right to request the Baker County School System to provide copies of the records.
- The right to have a representative of the parent to inspect and review the records.

All rights of parent to examine education records shall transfer to the child at age 18, consistent with Rule [160-4-7-.08](#) Confidentiality of Personally Identifiable Information.

The Baker County School System may presume that the parent has these rights unless the Baker County School System has been advised that the parent does not have the authority due to State law governing, guardianship, separation and divorce.



## **Parental Participation in Meetings**

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.

A meeting does not include informal or unscheduled conversations involving Baker County School personnel and does not include conversations on issues such as teaching methodology, lesson plans or coordination of service provision.

A meeting also does not include preparatory activities that Baker County School personnel engage in to develop a proposal or to respond to the parent's proposal that will be discussed at a later meeting.

The Baker County School System 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.

- 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 Baker County School System shall use other methods to ensure their participation, including individual or conference telephone calls or video conferencing.
- A placement decision may be made by a group without the involvement of the parent(s) if the Baker County School System is unable to obtain their participation in the decision. In this case, the Baker County School System must have a record of its attempts to ensure their involvement, including information that is consistent with Rule [160-4-7-.06](#) Individualized Education Program.

The Baker County School System will 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.

- The Baker County School System will provide notice consistent with Rule [160-4-7-.06](#) Individualized Education Program to ensure that parents of children with disabilities have the opportunity to participate in meetings describe above.

## **Independent Educational Evaluation**

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the Baker County School System responsible for the education of the child with a disability in question.

Public expense means that the Baker County School System pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parents.



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 the Baker County School System.

- If a parent requests an independent educational evaluation at public expense, the Baker County School System 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 the Baker County School System demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.
- If the final decision is that the Baker County School System's evaluation is appropriate, the parent(s) still has/have the right to an independent educational evaluation but not at public expense.
- If a parent requests an independent educational evaluation, the Baker County School System may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the Baker County School System may not unreasonably delay either providing the independent educational evaluation at public expense or initiating an impartial due process hearing to defend the Baker County School System evaluation.
- The Baker County School System must provide to the parents, upon request, information about where an independent educational evaluation may be obtained and the Baker County School System's criteria applicable for independent educational evaluations.

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

- Will be considered by the Baker County School System, if it meets State and district criteria, in any decision made with respect to the provision of a FAPE to the child.
- May be presented by either party as evidence at an impartial due process hearing under the Rules regarding that child.

If the administrative law judge or hearing officer conducting the impartial due process hearing requests in independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense.

Whenever the State or the Baker County School System 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 district uses when it initiates an evaluation, Except for the criteria described in this Rule, the Baker County School System may not impose conditions or timeline related to obtaining an independent educational evaluation at public expense.



A parent is entitled to only one independent education evaluation at public expense each time the Baker County School System conducts an evaluation with which the parent disagrees.

Within 10 days of receipt of a written request from the parent, the Director of Special Education will provide the parent with a list of evaluators within the geographic area.

### **Parental Consent**

At a minimum, informed parental consent shall be obtained before:

- Conducting an initial evaluation to determine if the child qualifies as a child with a disability.
- Conducting any re-evaluation of a child with a disability.
- Providing initial special education and related services to a child with a disability.
  - Consent to provide special education and related services is the consent for any special education and related services described in the IEP to provide FAPE.
  - Annual decisions about what services are to be provided are made through the IEP process and are not part of this consent requirement.
- Disclosing personally identifiable information under conditions described in Rule [160-4-7-.08](#) Confidentiality of Personally Identifiable Information
- Accessing a child's or parent's public benefits or insurance for the first time as described in Rule [160-4-7-.02](#) FAPE

Except for an initial evaluation, initial placement, and reevaluation, consent is not required as a condition of any benefit to the parent(s) or child.

Consent for initial evaluation will not be construed as consent for initial provision of special education and related services.

The Baker County School System 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.

For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the Baker County School System 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:

- Despite reasonable efforts to do so, the Baker County School System 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.



- 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.

If the parent of a child in public school or seeking to enroll in public school does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the Baker County School System may, but is not required to pursue, the initial evaluation by utilizing the procedural safeguards of mediation or due process hearings.

- The Baker County School System does not violate its obligations under Child Find if it declines to pursue the evaluation.

The Baker County School System 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.

If the parents of a child fail to respond or refuse to consent to services, the Baker County School System may not utilize the procedural safeguards of mediation or a due process hearing in order to obtain agreement that service may be provided.

- If the parents of the child do not provide consent for the initial provision of special education and related services, or the parents fail to respond to a request to provide consent for the initial provision of special education and related services, the Baker County School System will not be considered in violation of the requirement to make FAPE available to the child for which consent was sought.
- The Baker County School System is not required to convene an IEP Team meeting or develop an IEP for the child for whom consent was requested.

The Baker County School System will obtain informed parental consent prior to conducting a reevaluation of a child with a disability.

- If the parent refuses to consent to the reevaluation, the Baker County School System may, but is not required to, pursue the reevaluation by using the consent override procedures by accessing the mediation or due process hearing procedures.
  - The Baker County School System does not violate its obligation if it declines to pursue the reevaluation.
- The Baker County School System need not obtain informed parental consent if it can demonstrate that:
  - It made reasonable efforts to obtain such consent.
  - The child's parents failed to respond.
- Parental consent is not required before:
  - Reviewing existing data as part of an evaluation or reevaluation.



- Administering a test or other evaluation that is administered to all children unless consent is required of parents of all children.

The Baker County School System may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit or activity of the Baker County School System.

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, the Baker County School System may not use the consent override procedures described in this rule.

- The Baker County School System is not required to consider the child as eligible for services.
- To meet the reasonable efforts requirement in the consent section of this rule, the Baker County School System will document its attempts to obtain parental consent.

### **Parent Refusal for Consent/Revocation**

A parent may revoke consent for the receipt of special education and related services once the child is initially provided special education and related services.

Revocation of consent to provide special education and related services is for ALL special education and related services, not individual services.

The intent to withdraw the child from special education and related services must be made in writing by the parent to the Baker County School System.

The Baker County School System 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 this rule.

The Baker County School System may not use the procedures of mediation or due process hearings to override the withdrawal of consent.

The Baker County School System will not be in violation of the responsibility to provide a FAPE to a child with a disability because of the failure to provide further special education and related services.

The Baker County School System is not required to convene an IEP meeting for a child whose consent to receive special education and related services has been revoked.

Subsequent referrals for special education and related services shall be considered an initial evaluation and subject to the sixty-day evaluation time period.



The Baker County School System 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**

Parents will be provided assistance:

- To understand the special needs of their child and information about child development.
- To acquire the necessary skills to support the implementation of their child's IEP if determined by the IEP Team as a related service.



## **Surrogate Parents** **State Rule [160-4-7-.11](#)**

### **Efforts to Locate Parents**

In the case of a child who is a ward of the State, the surrogate parent alternative may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements of this section.

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 paragraph (4)(a)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of this section.

### **Appointment of Surrogate**

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 the Baker County School System when:

1. No parent can be identified;
2. The Baker County School System, after reasonable efforts, cannot locate the parents;
3. The child is a ward of the State under the laws of Georgia; or
4. The child is an unaccompanied homeless youth as defined in section [726\(6\) of the McKinney Vento Homeless Assistance Act](#).

The Baker County School System 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.

The Baker County School System shall maintain a list of eligible persons to serve as surrogate parents.

### **Criteria for Surrogate Parent Selection**

The Baker County School System must ensure that a person selected as a surrogate parent-

1. Is not an employee of the GaDOE, the Baker County School System or any other agency that is involved in the education or care of the child;
2. Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents;
3. Has knowledge and skills that ensure adequate representation of the child

A person otherwise qualified to be a surrogate parent under this section is not an employee of the Baker County School System solely because he or she is paid by the Baker County School System to serve as a surrogate parent.



## **Surrogate Parent Responsibilities**

The surrogate parent may represent the child in all matters relating to-

1. The identification, evaluation and educational placement of the child; and
2. The provision of FAPE to the child.

An 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.



## **Dispute Resolution**

### **State Rule [160-4-7-.12](#)**

#### **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 the Baker County School System 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.

The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.

The party filing the complaint must forward a copy of the complaint to the Baker County School System at the same time the party files the complaint with the GaDOE.

The complaint shall be reviewed and investigated as necessary and appropriate action taken within 60 calendar days of its receipt by the GaDOE.

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 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.

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 the Baker County School System's failure to implement an impartial due process hearing decision shall be resolved, following the time limit and procedures described in this rule.

Through activities of the GaDOE and the Baker County School System, 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.



The complaint procedures 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, GA 30334-5010

2. The party filing the complaint must forward a copy of the complaint to the Baker County School System serving the child at the same time the party file the complaint with the State. The complaint should be forwarded to the Superintendent of the Special Education Director of the Baker County School System.
3. The complaint shall include a statement that the State or the Baker County School System 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 of 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 the Baker County School System in writing and request a response within 10 business days from the public agency directly involved.
  - a. The Baker County School System shall respond directly in writing and shall describe any explanation and/or actions relevant to the allegations.
  - b. Copies of all correspondence shall be sent to the parties involved that include the complainant, the GaDOE, and the Baker County School System. 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 file the complaint and the Baker County School System 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, the Baker County School System 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 the Baker County School System'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 the Baker County School System 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 the Baker County School System and the complainant that address each allegation in the complaint and includes findings of fact and conclusions and the reasons for the final decision.
    - a. 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.
    - b. If the complaint findings indicate a failure to provide appropriate services, the complaint resolution process will address how the Baker County School System is to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other correction action appropriate to the needs of the child and to the future provision of services for all students with disabilities.
    - c. GaDOE must not make any final determination that the Baker County School System is not eligible for assistance under part B of the Act without first giving the Baker County School System reasonable notice and an opportunity for a hearing under [34 C.F.R. § 76.401\(d\)](#). GaDOE's hearing process can be found in Rule [160-5-2-.02](#) Withholding 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 Baker County School System agree to extend the time to engage in mediation, or to engage in other alternative means of dispute resolution.

Complaints that the Baker County School System 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.



## **Mediation Process**

The Baker County School System 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 FAPE to resolve such disputes through a medication process.

The mediation process shall be available on request of either party to resolve disputes.

Medication shall be available and offered upon each receipt of a complaint or a due process hearing request.

The procedures shall ensure that the medication 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.

The Baker County School System 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.

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 the Baker County School System that is involved in the education or care of the child; and
2. Mediators must not have a personal or professional interest that conflicts with the person's objectivity.
  - a. A person who otherwise qualifies as a mediator is not an employee of the Baker County School System or State agency solely because he or she is paid by the GaDOE to serve as a mediator.

The State shall bear the cost of the mediation process.

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.



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 the Baker County School System with the authority to bind the Baker County School System.
3. The written and 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.

### **Impartial Due Process Hearings**

The impartial due process hearing is designed to provide a parent or the Baker County School System an avenue for resolving differences with regard to the identification, evaluation, placement or provision of a FAPE to a child with a disability.

The due process hearing request must allege a violation that occurred not more than two years before the date the parent or the Baker County School System knew or should have known about the alleged action that forms the basis of the due process hearing request.

1. The timeline does not apply to a parent if the parent was prevented from filing a due process complaint due to specific misrepresentations by the school district that it had resolved the problem forming the basis of the complaint; or
2. The school district's withholding of information from the parent that was required to be provided to the parent.

Due process hearing are provided at no cost to either party; however, each party is responsible for his, her, or its costs associated with hiring legal counsel or expert witnesses unless a court awards the recovery of such costs to the prevailing party.

The Baker County School System must inform the parents of low-cost or no cost legal and other relevant services available if the parent request the information or whenever a due process request is received by the Baker County School System.

Due Process Request Procedures are as follows:

1. The party filing a due process hearing request must provide a copy to the other party and the state. When the party filing a due process hearing request is not the Baker County School System, the party must provide a copy to the Baker County School System's Superintendent at the same time it provides it to the State.
2. Either party, or the attorney representing either party, may file the due process hearing request.
3. The state and the parties shall keep the content of the due process request confidential.
4. The content of the complaint must include:



- a. The name of the child;
  - b. The address of the residence of the child;
  - c. The name of the school and the LEA the child is attending;
    - i. For a homeless child, the contact information for the child and the name of the school and LEA the child is attending;
  - d. A description of the nature of the problem of the child relating to the proposed or reused initiation or change in the identification, evaluation, placement or provision of a FAPE including the facts relating to the problem;
  - e. A proposed resolution to the problem to the extent known and available to the party at the time.
5. A hearing may not occur until the party or the attorney representing the party files a request that meets the requirements stated above.
6. The request for the due process hearing must be deemed sufficient unless the receiving party notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process request that the receiving party does not believe the request meets the requirements above.
- a. Within 5 days of receipt of notification of alleged insufficiency, the administrative law judge or hearing officer must make a determination on the face of the due process request of whether it meets the requirements and must immediately notify the parties in writing of that determination.
7. A party may amend its due process request only if:
- a. The other party consents in writing to the amendment and is given the opportunity to resolve the due process request through mediation or a resolution meeting; or
  - b. The administrative law judge or hearing officer grants permission not later than five days prior to the beginning of the hearing.
  - c. If an amended due process hearing request is appropriately filed, the timelines for the resolution meeting and the resolution period begin again.
8. The Baker County School System's response to a due process hearing request.
- a. If the Baker County School System has not sent prior written notice regarding the subject matter of the due process hearing request to the parent, the Baker County School System must within ten days of receiving the due process hearing request, send to the parent a response that includes:
    - i. An explanation of why the Baker County School System proposed or refused to take action; a description of other options that the IEP team considered and the reasons why these options were rejected; a description of each evaluation procedure, assessment, record, or report the Baker County School System used as the basis for the proposed or refused action; a description of the other factors that are relevant to the Baker County School System's proposed or refused action.



9. The Baker County School System's response does not preclude the Baker County School System from asserting that the parent's due process request is insufficient.
10. Unless responded to as above, any party receiving a due process hearing request must send to the other party within ten days a response that specifically addresses the issues raised in the due process hearing request.

Within 15 days of receiving a parent's due process hearing request and prior to the initiation of a due process hearing, the Baker County School System must convene a meeting with the parent and relevant members of the IEP Team who have knowledge of the facts identified in the due process request that:

1. Includes a representative of the Baker County School System who has decision-making authority on behalf of the Baker County School System; and
2. May not include an attorney for the District unless the parent is accompanied by an attorney.
3. The parent and the Baker County School System determine the relevant members of the IEP Team to attend the meeting.
4. The purpose of the meeting is for the parent of the child to discuss the due process hearing request, and the facts that form the basis of the request, so that the Baker County School System has the opportunity to resolve the dispute that is the basis of the request for a due process hearing.
5. The resolution meeting need not be held if the parent and the Baker County School System agree in writing to waive the meeting; or the parent and the Baker County School System agree to use mediation to attempt to resolve the due process hearing request.

If the Baker County School System has not resolved the due process hearing request to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

1. The failure or refusal of the parent to participate in the resolution meeting shall delay the timelines for the resolution process and the due process hearing until the meeting is held, unless the parties have agreed to waive the resolution meeting or to participate in mediation.
2. If the Baker County School System is unable to obtain the participation of the parent in the resolution meetings after reasonable efforts have been made (and documented using the procedures in Rule [160-4-7-.06\(11\)\(d\)](#)), the Baker County School System may at the conclusion of the 30-day resolution period, request that an administrative law judge or hearing officer dismiss the parent's due process hearing request.

If the Baker County School System fails to hold the resolution meeting within 15 days of receiving notice of a parent's due process hearing request or fails to participate in the resolution meeting, the parent may seek the intervention of an administrative law judge or hearing officer to begin the due process hearing timeline.



The timeline for issuing a decision in a due process hearing begins at the expiration of the 30-day resolution period, unless an adjustment to the 30-day resolution period is necessary.

1. The 45-day timeline for the due process hearing starts the day after the administrative law judge or hearing officer has been informed of one of the following events:
  - a. Both parties agree in writing to waive the resolution meeting;
  - b. After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;
  - c. If both parties agree in writing to continue the mediation at the end of the resolution period, but later, the parent or the Baker County School System withdraws from mediation.

If a resolution to the dispute is reached at the resolution meeting, the parties must execute a legally binding agreement that is signed by both the parent and a representative of the Baker County School System who has the authority to bind the Baker County School System;

1. The agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States, or through the State Complaint Process.
2. If the parties execute an agreement, a party may void the agreement within three business days of the agreement's execution.

At a minimum, an administrative law judge or hearing officer:

1. Must not be an employee of the GaDOE or the Baker County School System.
  - a. A person who otherwise qualified to conduct a hearing is not an employee of the GaDOE or its representative solely because he or she is paid by GaDOE to serve as an administrative law judge or hearing officer.
2. Must not be a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;
3. Must not be previously familiar with the student or the parents/guardian/surrogate unless through previous administrative procedures;
4. Must not be previously personally familiar with the specific program or services of the Baker County School System. Information arising solely from previous due process hearings shall not impair an administrative law judge's impartiality, but information or personal knowledge from other sources about the Baker County School System or family, including the education or employment of the administrative law judge's family shall impair that particular individual's impartiality in the particular case;
5. When any factor or event may impair or appear to impair the impartiality of the administrative law judge, such factors shall be timely disclosed to all parties.
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 state of the qualifications of each of those persons.

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.

A parent or agency must request an impartial hearing on their due process hearing request within two year 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. 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 Baer County School System that it had resolved the problem forming the basis of the due process hearing request; or the Baker County School System withholding of information from the parent that was required to be provided to the parent.

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.
  - a. 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 reasonable 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.

The parties may agree to settle 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 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 ALJ 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.

The party seeking relief shall bear the burden of persuasion with the evidence at the administrative hearing. The ALJ 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 ALJ or hearing officer.

Parents involved in hearing 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;
3. Have the record of the hearing and the findings of fact and decisions provided at no cost to parents.

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 ALJ or hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:
  - a. Impeded the child's right to a FAPE;
  - b. Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or
  - c. Caused a deprivation of educational benefit.



- i. Nothing in this paragraph shall be construed to preclude an ALJ or hearing officer from ordering the Baker County School System to comply with procedural requirements.

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.

The GaDOE, after deleting any personally identifiable information, must transmit the findings and decisions to the State advisor panel and make those finding and decisions available to the public.

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 the paragraph(s) below.

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 ALJ 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 ALJ 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.

Any party aggrieved by the findings and decision made by an ALJ 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 ALJ or hearing officer to file a civil action.
2. In any civil action, the court:
  - a. Receives the records of the administrative proceedings directly from the ALJ or hearing officer.
  - b. Hears additional evidence wat the request of a party; and
  - c. Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

The district courts of the United States have jurisdiction of actions brought under section 615 of IDEA without regard to the amount in controversy.



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 DIEA.

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 to a prevailing party who is the GaDOE or the Baker County School System 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 to a prevailing GaDOE or the Baker County School System 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.

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 provision 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.

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.

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.
  - a. 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.



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.

1. The provisions of this paragraph do not apply if the court finds that the State or the Baker County School System unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of IDEA.

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.

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 attorneys' 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 the Baker County School System the appropriate information in the due process hearing request notice.

Except as noted in the 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 the Baker County School System and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

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.

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, the Baker County School System is not required to provide 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, the Baker County School System must provide those special education and related services that are not in dispute between the parent and the Baker County School System.



If the ALJ 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 the Baker County School System and the parents.



## **AREA OF GENERAL SUPERVISION V: College Readiness**

- **State House Bill:** [400 Bridge Law](#)
- **State Rule:** [160-4-7-.21 Definitions](#)



## **Bridge Law**

**State House Bill: [400](#)**

### **Sixth, Seventh and Eighth Grade Students**

Beginning with the 2010-2011 school year, students in the sixth, seventh and eighth grades will be provided:

1. Counseling
2. Advisement
3. Career awareness
4. Career interest inventories
5. Information to assist them in evaluating their academic skills and career interests.

### **Individual Graduation Plan for 8<sup>th</sup> Grade Students**

Before the end of the second semester of the eighth grade, students will develop an individual graduation plan in consultation with their parents, guardians, or individuals appointed by the parents or guardians to serve as their designee.

### **High School Students**

High School students will be provided guidance, advisement and counseling annually that will enable them to successfully complete their individual graduation plans, preparing them for a seamless transition to postsecondary study, further training, or employment.

### **Individual Graduation Plan**

An individual graduation plan shall:

1. Include rigorous academic core subjects and focused work in mathematics and science or in humanities, fine arts, and foreign language or sequenced career pathway course work;
2. Incorporate provisions of a student's Individualized Education Program (IEP), where applicable (State Rule: [160-4-7-.06](#) Transition Services)
3. Align educational and broad career goals and a student's course of study;
4. Be based on the student's selected academic and career focus area as approved by the student's parent or guardian;
5. Include experience based, career oriented learning experiences which may include, but not be limited to internships, apprenticeships, mentoring, co-op education, and service learning;
6. Include opportunities for postsecondary studies through articulation, dual enrollment and joint enrollment;
7. Be flexible to allow change in the course of study but be sufficiently structured to meet graduation requirements and qualify the student for admission to postsecondary education; and
8. Be approved by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser.



An individual graduation plan shall be reviewed annually, and revised, if appropriate, upon approval by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser.

An individual graduation plan may be changed at any time throughout a student's high school career upon approval by the student and the student's parent of guardian with guidance from the student's school counselor or teacher adviser.



**Definitions**

**State Rule: [160-4-7-.21](#)**



## **AREA OF GENERAL SUPERVISION VI**

### **General Supervision**

- The Baker County School System's Special Education Policies and Procedures Manual is made available to all stakeholders through the Baker County School System website.
- Faculty, Staff and Administration are provided training on a yearly basis, as well as when updates are made, as to how to access the manual.
- Special Education Staff participate in monthly meetings in which policies, procedures, and compliant practices are reviewed and new guidance is provided. This may also be done via email.

