



PATAULA CHARTER ACADEMY

Special Education Policies, Procedures, and Practices

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**WRITTEN PROCEDURES AND PROCESSES
 THAT SUPPORT THE IMPLEMENTATION
 OF THE
 INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)
 AND
 GEORGIA'S SPECIAL EDUCATION RULES
 IN PATAULA CHARTER ACADEMY**

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Area of General Supervision I: Identification Process

Pataula Charter Academy implements identification procedures and practices to ensure that ALL students suspected of having a disability receive a special education evaluation and services, if appropriate. The procedures and practices manual is located in the Special Education Directors office. It is also available on the school website at www.pataula.net.

State Board Rule: 160-4-7-.08 – Confidentiality of Personally Identifiable Information

Confidentiality

Confidentiality is one of the rights afforded to parents in the Parent Rights document (procedural safeguards). Confidentiality of educational records is a basic right shared by all children in public schools and their parents. These fundamental rights are described in the Family Educational Rights and Privacy Act (FERPA) of 1974, which applies to all students, not only those with disabilities. All system personnel, including contracted employees, are governed by confidentiality requirements and receive yearly training and information regarding the law. Written and dated parental consent must be obtained before personally identifiable information is disclosed to unauthorized individuals, organizations or agencies unless authorized to do so under FERPA.

Prior Written Notice (PWN)

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

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

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

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

Authorized Access to Records

All agencies and agents who have access to student records are listed below:

- Superintendent
- School Psychologist
- Speech/Language Pathologist
- Physical Therapist
- Occupational therapist
- Principals
- School Counselors
- Designated Administrators
- Special Education/General Education Teacher

Confidential information is stored in file cabinets and drawers that can be locked. The “official” file with original copies, is the file in the vault. Any persons reviewing Special Education records must fill out access sheet attached to students file. If student’s folder is removed from the Registrar’s office, the person must check out the folder with the sign out sheet in vault.

Student Records

For students enrolled in special education any reference to special education status documented in a student’s permanent records would place the record under the Individuals with Disabilities Education Act (IDEA) confidentiality requirements. It is mandated that reference to special education status be maintained in a separate supplemental file and not specifically by reference on the student’s permanent record/card. The permanent record/card indicates that a supplemental file does exist and should be reviewed. Such a designation would indicate to any review that additional information is available and should be considered before drawing any conclusions regarding that student’s record. Verbal references to a student’s special education program should be carefully restricted only to professional staff working with the student or professional staff working in the interests of the student. There will be no documentation that the student receives special education services on the official transcript, as well.

Records Management

All official Special Education Records are maintained at Pataula Charter Academy Board. All requests for records from transferring schools, Department of Juvenile Justice, parents, Social Security Administration, medical personnel, etc. are handled by the Registrar, when the appropriate Release of Information has been provided. Records will be sent to transferring schools as soon as the child withdraws from Pataula Charter Academy so that the student can be placed in the appropriate classes and receive the same services. All special education records will be sent from the Registrar. After the Registrar sends records, the Special Education Director will then exit the student from GO-IEP.

Amendment of Records at Parent’s Request

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

education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

Results of Hearing

If, as a result of the hearing, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the information will be amended accordingly and the parents will be informed in writing.

If, as a result of the hearing, the school decides the information is accurate and not misleading, or otherwise in violation of the privacy or other rights of the student, the system 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 school.

Any explanation placed in the records of the student will be maintained by Pataula Charter Academy as part of the records of the child as long as the record or contested portion thereof is maintained by the school. If the records of the child, or the contested portion thereof, are disclosed by the school to any party, the explanation will also be disclosed to the party.

Parent Consent

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

- Parents or eligible children;
- Other Pataula Charter Academy officials, including teachers, legally constituted cooperating agencies or other agencies providing shared services whom the system has determined to have legitimate educational interests.
- Officials of another school, school, 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;
- Authorized Federal, State or local representatives in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs. (The information is protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to above and must be destroyed when no longer needed.)
- 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;
- 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;
- 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;
- Accrediting organizations to carry out their accrediting functions;
- In compliance with a judicial order or a lawfully issued subpoena. Pataula Charter Academy will make a reasonable attempt to notify the child's parents of the judicial order or subpoena before releasing the records, unless the disclosure is in compliance with a Federal grand jury subpoena or other subpoena

issued for law enforcement purposes and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

- 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.
- The disclosure is information the school has designated as “directory information” and the school has given public notice to parents and eligible students of the types of personally identifiable information that the school has designated as directory information, a parent's or eligible student's right to refuse to let the school to designate any or all of those types of information about the student as directory information, and the period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information about the student designated as directory information.
- The Office for Civil Rights.
- Officials within the Department of Human Resources (DHR), Department of Corrections (DOC), Department of Juvenile Justice (DJJ) and Department of Labor (DOL) for the purpose of making appropriate educational decisions regarding placements.

Safeguards

Pataula Charter Academy protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction states. The superintendent or designee ensures the confidentiality of any personally identifiable information. Access of unauthorized persons to personally identifiable information without parent’s consent is forbidden. All persons collecting or using personally identifiable information has received training or instruction regarding department policies and procedures concerning personally identifiable information.

Destruction of information

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. Pataula Charter Academy does not destroy due process “official” special education information.

State Board Rule: 160-4-2-.32 Student Support Team (SST)
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Requirements for school SST

Prior to a student being referred for evaluation for Special Education eligibility, the student goes through various levels, or tiers, through the Response to Intervention Pyramid. Pataula Charter Academy has established procedures for implementing this pyramid. Prevention through intervention is stressed in all tiers. Tier I includes evidence-based instruction which is based on the Common Core Georgia Performance Standards. It includes effective school-wide behavior supports and differentiated instruction to promote higher levels of student engagement and achievement. Tier II interventions serve as standard intervention protocols for students in the school who require extended learning opportunities or students who are not making adequate progress and need additional interventions. If students are not making the expected levels of progress in Tier II, they are referred to the school’s Student Support Team which comprises Tier III. The Student Support Team includes, at a minimum, the referring teacher and at least two of the following participants, as appropriate to the needs of the student:

- Principal and/or Assistant Principal

- General education teacher
- Counselor
- Lead teacher
- School psychologist
- Curriculum Coach
- ESOL teacher
- Special education teacher
- Other appropriate personnel

Parents/guardians are invited to participate in all meetings of their child's Student Support Team and in the development of interventions for their child. Alternative strategies for increasing the student's academic, social, and/or behavioral performance are identified, reviewed, and implemented during the time the student is being served through the Student Support Team. The team will meet at prescribed intervals to review progress monitoring toward interventions, to devise more, or revise, original strategies. Minutes of each meeting along with outcomes of interventions and plans for the next strategies are kept. (For more information about the Pyramid of Intervention, a general education function, please refer to Pataula Charter Academy's Response to Intervention Handbook.)

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

If the student is referred directly for an evaluation, by-passing Tier III interventions, the Student Support Team committee fully documents the reason for the by-pass through written minutes. Interventions are provided and progress is monitored during the evaluation process.

State Board Rule: 160-4-70.03 – Child Find Procedures

The purpose of Child Find procedures is to identify, locate, and evaluate children and youth, birth to age 21, who are suspected of, or have a disability or developmental delay. Pataula Charter Academy serves children ages 5 through 21 that are enrolled in the school with identified special education needs.

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

- Parents/legal guardians/foster parents
- Other family members
- Physicians/health care providers
- Preschool programs
- School personnel
- Community agencies
- Others who are concerned about a child's development

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

A child should be referred when:

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

As described in the Student Support Team section of these guidelines and in Pataula Charter Academy Response to Intervention Handbook, student referrals are accompanied by documentation of scientific, research or evidence-based academic or behavioral interventions that demonstrate insufficient rate of progress. Student referrals must be accompanied by documentation of scientific, research or evidence based academic and/or behavioral interventions that have been implemented as designed for the appropriate period of time to show effect or lack of effect that demonstrates the child is not making sufficient rate of progress to meet age or State-approved grade-level standards within a reasonable time frame.

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

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

Initial Evaluation Referral Process/Parent Consent

The referral to Special Education is made by the RTI Coordinator. The Special Education Director sends the Permission to Evaluate form for parent signature. When the signature is obtained, the referral folder is forwarded to the School Psychologist. Accompanying the parental consent for evaluation form will include a list of areas to be assessed and Parent Rights in Special Education. If the parents of a child referred for special education evaluation refuse to give written consent for initial evaluation, Pataula Charter Academy may continue to pursue the evaluation by using due process procedures or mediation procedures.

Timeframes for Evaluation

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

The timeframe described above does not apply if:

- The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
- A child enrolls in a school of another system after the relevant timeline has begun, and prior to a determination by the child's previous school as to whether the child is a child with a disability. The exception applies only if the subsequent school is making sufficient progress to ensure a prompt completion of the evaluation and the parent and subsequent school 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, Pataula Charter Academy will document the exceptions.

The Referral Folder contains the following documentation:

- Signed Parental Consent for Evaluation
- Work samples highlighting student performance
- Student Support Team Minutes/Intervention Strategies/Progress Monitoring Results
- Hearing & Vision within one year

Comprehensive Evaluations

Pataula Charter Academy conducts a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability. In conducting an evaluation, Pataula Charter Academy:

- Uses a variety of evaluation tools and strategies to gather relevant academic, functional and developmental information about the child, including information provided by the parents that may assist in determining whether the child is a child with a disability; and the content of the child's individualized

education program including information related to enabling the child to be involved in and progress in the general curriculum.

- Does not use any single procedure as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child
- Uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors
- Assessments and other evaluation materials used at Pataula Charter Academy to assess a child under this section
 - Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
 - Are used for the purposes for which the evaluations or measures are valid and reliable;
 - Are administered by trained and knowledgeable personnel; and
 - Are administered in accordance with any instructions provided by the producer of the assessments.
- 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. Evaluation tools and strategies are used which provide relevant information that directly assists persons in determining the educational needs of the child.
- Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
- Assessment selection and administration is such that, when administered to a child with impaired sensory, manual or speaking skills, the results accurately reflect the child's aptitude or achievement level, or whatever other factors the assessment purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills, except where those skills are the factors which the assessment purports to measure.
- If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, i.e., the qualifications of the person administering the test or the method of test administration must be included in the evaluation report.
- In evaluating each child with a disability, the evaluation shall be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.
- Evaluations of children with disabilities who transfer to Pataula Charter Academy in the same school year are coordinated with those children's prior and subsequent schools, as necessary and expeditiously as possible, to ensure prompt completion of full evaluations.
- The evaluation of children referred because of learning and/or behavior problems is the responsibility of a multidisciplinary evaluation team. A qualified psychological examiner evaluates referred children who require a psychological and/or clinical evaluation.

Qualified Psychological Examiner Requirements

Initial evaluation results used for consideration of eligibility for special education, if not provided by a school psychologist with a valid S-5 (or higher) certificate in school psychology, shall be from one of the following: A psychologist licensed by the Georgia Board of Examiners of Psychologists and having training and experience in school psychology or child clinical psychology.

- A full-time graduate student in an approved, properly supervised school psychology or child clinical

psychology training program internship/practicum, who has completed a minimum of one year of approved appropriate graduate training.

- A Georgia Merit System employee who has a classification rating of psychologist, senior psychologist, or psychology program specialist.

Existing and Additional Data Reviewed

As part of the evaluation process, Pataula Charter Academy will review all existing evaluation data such as evaluations and information provided by the parents of the child, current classroom-based, local, or State assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the child's parents, the evaluation team will identify what additional data, if any, are needed to determine:

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

The 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 a free and appropriate public education (FAPE). However, Pataula Charter Academy provides the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals.

Procedures for Reevaluation

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

If the team decides a re-evaluation is appropriate, a Consent for Evaluation form will be signed by the parent at the meeting. Hearing/Vision screening will be requested, while other items will be collected: analyzed work samples and/or data in the area of suspected disability, progress/mastery toward goals and objectives, and any Progress Monitoring in the area(s) of concern. When all re-evaluation has been obtained, it is sent to the School Psychologist. Once the psychologist completes the evaluation, they will contact the school to set up a meeting to review the results and to develop a new Eligibility Report. If appropriate, the current IEP will be amended to reflect the new eligibility results, additional goals and objectives, etc., with important information supplied in the "Meeting Notes" section. The date of this IEP/Eligibility meeting will become the new eligibility date. All paperwork will be given to the parent and saved on-line.

For those re-evaluation cases where the student was originally placed for Speech Impaired services only, but now has a suspected disability in academic areas, the Tier III/Student Support Team will manage all academic interventions/progress monitoring while the Speech/Language Pathologist continues the speech/language interventions. The Tier III/Student Support Team administrator will coordinate with the Speech/Language Pathologist when a Redetermination meeting is needed to discuss with parents the potential need for additional interventions or a referral for academic evaluation.

Eligibility and Initial Placement: An Overview

The Eligibility Report is the documentation that verifies if the student is or is not eligible for special education services. Led by the School Psychologist, a variety of people (special education teacher, general education teacher(s), parents, school administrators) take part in evaluating/interviewing/observing the student and documenting the results. An Eligibility Team Meeting to determine eligibility is required for all disability areas and convenes before an IEP (Individual Education Plan) is developed. It is the responsibility of the Special Education Director to insure that all evaluations and the Eligibility Team Meeting are scheduled and completed in a timely manner in order to meet state and federal-prescribed timelines. A copy of the Eligibility Report will be kept on file to be accessed by all Pataula Charter Academy employees who are given access rights based on their affiliation with the student, and will be given to the parents of the student at no cost.

The Eligibility Report is comprised of the following data:

- Student Identifying Information
- Case History (provides an overview picture of the child)
- Hearing and vision screening dates (conducted prior to administration of assessments). These screenings are completed within a year of the evaluation.
- Summary of interventions that were made PRIOR to referral (gives the committee a quick look at the interventions and adaption of content, methodology, and/or instructional delivery that have already occurred).
 - Initial eligibility – The committee lists the interventions provided for the child.
 - Reevaluation - The committee lists the specially designed instruction which includes: Adaption of Content, Methodology (specialized program), or Instructional Delivery. Additional areas of concern that have developed since the previous eligibility are also listed.
 - NOTE: There are occasional situations that are so compellingly appropriate for Special Education consideration that it would be unacceptable to delay needed services by having to go through Response to Intervention (RTI)/Student Support Team (SST) processes. The committee must review the information presented by the parents and school to determine if the intensity of the rare, unique situation warrants referral for immediate comprehensive special education evaluation and eligibility consideration. If it does, this section of the report is explained.
- Summary of Progress Monitoring data toward achieving standards (data about specific scientific research or evidence-based intervention(s) and accurate information on the progress monitoring data results for the intervention(s) implemented for an initial evaluation or the specially designed instruction for reevaluation are provided)
- Area(s) of difficulty
- Scientific, research, evidence based interventions which includes baseline performance and intervention data
- Results of District, State, and Benchmark assessments
- Individual student data
- Exclusionary Factors

- Decision-Making for Eligibility
- Summary of Considerations
- Determination of Eligibility
- Eligibility Team Information including the title, position, and name of the members present. (For Specific Learning Disability (SLD) eligibility, each eligibility team member must certify in writing whether the report reflects the member's conclusions. If it does not reflect the member's conclusion, the eligibility team member must submit a separate statement presenting the member's conclusions.)

Exclusionary Factors

Possible exclusion factors are discussed at length during the Student Support Team (Tier 3) process as to whether the factor had an impact on the child's educational progress. Exclusionary factors are considered in eligibility determinations. Each factor is considered for its impact or lack of impact on educational progress. The explanation describes why or why not a factor has influenced educational progress. Once the factors have been addressed, the team refers to the responses and to the eligibility criteria for each disability category.

Pataula Charter Academy utilizes the following guidance from the Georgia Department of Education when addressing each exclusionary factor:

- Lack of appropriate instruction in reading, math and written expression. The Eligibility Team discusses: Did the child have access to quality instruction and research-based curricula?
- Limited English Proficiency. It is very important to include an English Speakers of Other Languages (ESOL) staff member who is familiar with the child suspected of having a disability if the child being evaluated is an English Language Learner. A language profile for this child is necessary so that it specifically investigates the language proficiency in both the primary language and English.
- Cultural Factors. A child's culture should not be a determinant factor of a disability. Pataula Charter Academy obtains pertinent cultural information by interviewing key family members. All results obtained are then interpreted in relation to the child's dominant cultural influences.
- Environmental or economic disadvantage. A child's environment or economic disadvantage should not be a determinant factor for determination of a disability. The committee thoroughly examines family stressors that may be impacting educational progress to include homelessness, unemployment, extended illnesses, death in the family, divorce, pre-school experiences, a lack of books in the home or expectations of the family for the child.
- Atypical education history. The team discusses if the child has high levels of mobility and/or absenteeism which may have influenced the educational progress of the child.
- Visual, hearing, or motor disability. The committee analyzes information in order to rule out as source of difficulty when determining specific disabilities.
- Mutism, tongue thrust and dialectic. Mutism, tongue thrust behavior without associated speech sound impairment, and dialectic differences cannot be a speech language disorder. The committee analyzes information in order to rule out as source of difficulty when determining specific disabilities.

State Board Rule: 160-4-7-.05 – Eligibility Determination and Categories of Eligibility

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.
- Deafblind.
- Deaf/hard of hearing.
- Emotional and behavioral disorder.
- Intellectual disability (mild, moderate, severe, profound).
- Orthopedic impairment.
- Other health impairment.
- Significant developmental delay.
- Specific Learning disability.
- Speech-language impairment.
- Traumatic brain injury.
- Visual impairment.

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.

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. Student referrals must be preceded by evidenced-based academic and/or behavioral interventions.

Georgia Department of Education: Eligibility

AUTISM

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

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

The following evaluations and assessments shall be utilized to determine the presence of the characteristics of

Autism Spectrum Disorder:

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

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

- Developmental rates and sequences. A child exhibits delays, arrests, and/or Inconsistencies in the acquisition of motor, sensory, social, cognitive, or communication skills. Areas of precocious or advanced skill development may also be present, while other skills may develop at typical or extremely depressed rates. The order of skill acquisition frequently differs from typical developmental patterns.
- Social interaction and participation. A child displays difficulties and/or idiosyncratic differences in interacting with people and participating in events. Often a child is unable to establish and maintain reciprocal relationships with people. A child may seek consistency in environmental events to the point of exhibiting rigidity in routines.
- Communication (verbal and/or nonverbal). A child displays a basic deficit in the capacity to use verbal language for social communication, both receptively and expressively. Characteristics may involve both deviance and delay. Verbal language may be absent or if present, may lack usual communicative form, or the child may have a nonverbal communication impairment. Some children with autism may have good verbal language but have significant problems in the effective social or pragmatic use of communication.
- Sensory processing. A child may exhibit unusual, repetitive or unconventional responses to sensory stimuli of any kind. A child's responses may vary from low to high levels of sensitivity.
- Repertoire of activities and interests. A child may engage in repetitive activities and/or may display marked distress over changes, insistence on following routines and a persistent preoccupation with or attachment to objects. The capacity to use objects in an appropriate or functional manner may be absent, arrested, or delayed. A child may have difficulties displaying a range of interests and/or imaginative play. A child may exhibit stereotypical body movements.

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

DEAFBLIND

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

For a child to be determined eligible for placement in special programs for the Deafblind, the child shall have current optometric or ophthalmological examination and an audio logical evaluation, all administered by qualified professionals. Children who are deafblind shall have an audio logical evaluation administered by a certified/licensed audiologist annually, or more often if needed. The annual audio logical evaluation shall include, but is not limited to: an otoscopic inspection, unaided and aided pure tone and speech audiometry (as applicable), emittance testing, word recognition, hearing aid check and electro-acoustic analysis of the hearing aid (if amplified), and an analysis of a frequency modulated (FM) system check (if utilized). A comprehensive written report is required indicating the dates of the audio logical evaluation and a description of the results of the audio logical testing and amplification evaluation. In addition, the report should include a description of classroom environmental modifications which will assist the individualized education program (IEP) team in making instructional decisions, the child's ability to understand spoken language with and without amplification, and an interpretation of the results as they apply to the child in his or her classroom setting.

Children who are deafblind may receive educational services in classes with other disabled children; however, the class-size ratio for Deafblind shall be maintained.

DEAF AND HARD OF HEARING

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

- A child who is deaf can be characterized by the absence of enough measurable hearing (usually a pure tone average of 66-90+ decibels American National Standards Institute without amplification) such that the primary sensory input for communication may be other than the auditory channel.
- A child who is hard of hearing can be characterized by the absence of enough measurable hearing (usually a pure tone average range of 30-65 decibels American National Standards Institute without amplification) that the ability to communicate is adversely affected; however, the child who is hard of hearing typically relies upon the auditory channel as the primary sensory input for communication.

The eligibility report shall include audio logical, ontological and educational evaluation reports:

- Audio logical evaluations shall be provided with initial referral. Children who are deaf or hard of hearing shall have an audio logical evaluation administered by a certified/licensed audiologist annually, or more often if needed. The annual audio logical evaluation shall include, but is not limited to: an otoscopic inspection, unaided and aided pure tone and speech audiometry (as applicable), emittance testing, word recognition, hearing aid check and electro-acoustic analysis of the hearing aid (if amplified), an analysis of a frequency modulated (FM) system check (if utilized). A comprehensive written report shall be included in the audio logical evaluation. This written report shall include, but is not limited to: the date of the audio logical evaluation, description of the results of the audio logical testing, an amplification evaluation including the child's ability to understand spoken language with and without amplification, as well an interpretation of the results as they apply to the child in his or her classroom setting.
- An ontological evaluation report from appropriately licensed or certified personnel is required at the time of initial placement in the program for the deaf/hard of hearing. The ontological evaluation report is required as medical history pertinent to the absence of hearing. If such a report is not available upon initial placement, it shall be obtained within 90 days of placement. The initial or most recent ontological

evaluation result shall be summarized and that ontological evaluation report shall be attached to the eligibility report.

- A comprehensive educational assessment shall be used in the development of the child's individualized education program (IEP). The educational evaluation shall include assessment data from more than one measure and shall include, but is not limited to, information related to academic/achievement levels, receptive and expressive language abilities, receptive and expressive communication abilities, social and emotional adjustment and observational data relative to the child's overall classroom performance and functioning.
 - A psychological evaluation, using instruments appropriate for children who are deaf or hard of hearing, is recommended as part of the overall data when eligibility is being considered.
 - Children who exhibit a unilateral hearing loss may be considered for eligibility provided documentation exists that indicates academic or communicative deficits are the result of the hearing loss.

An evaluation of the communication needs of a child who is deaf or hard of hearing shall be considered in the program and class placement decisions. An evaluation of a child's communication needs shall include, but is not limited to: language and communication needs and abilities, opportunities for direct communication with peers and professional personnel in the child's preferred language and communication mode, severity of loss, educational abilities, academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

Any classroom to be used for a child who is deaf or hard of hearing shall be sound- treated and present an appropriate acoustical environment for the child. All placements, including regular education placements and desk arrangements within classrooms shall be made so that environmental noise and interruptions are minimized. Recommendation of the appropriate educational environment, including acoustical considerations, should be made by the IEP Team.

Each local education agency shall have written procedures to ensure the proper functioning of assistive amplification devices used by children who are deaf or hard of hearing. These procedures shall include the designated qualified responsible personnel, daily and ongoing schedules for checking equipment, as well as follow-up procedures.

In compliance with the rules of Georgia Board of Education Division for Exceptional Students, the following procedures will be followed:

- All students receiving services in the hearing impaired program and have amplification or other assistive devices, e.g., hearing aids, cochlear implants, auditory trainers, and/or frequency modulations (FM) systems equipment will have their equipment checked daily to insure proper functioning. The procedures of the daily listening and hearing aid check shall include the designated responsible personnel, daily and ongoing schedule for checking equipment, and follow-up procedures to be recorded daily on specified forms. Daily checks will be performed by the teacher, the student, or a designee. Documentation must be kept in the student's amplification folder. The teacher for the hearing impaired will work closely with the student's classroom teacher in recognizing signals from the student of the hearing aid that may indicate a problem. Students will be encouraged to take responsibility for caring for and maintaining their own hearing aids, cochlear implant, and/or FM system by reporting any problems to parents, hearing impaired teacher, regular classroom teachers, and/or the audiologist, checking batteries daily, and cleaning ear molds.
- An annual comprehensive audiometric evaluation is required for all students enrolled in the hearing

impaired program. This evaluation must be administered by a certified/licensed audiologist. The annual audiometric evaluation shall include, but is not limited to, the following:

- full hearing re-test,
- electroacoustic analysis of the hearing aid (if amplified)
- hearing aid check,
- aided sound field test results,
- an otoscope inspection,
- unaided and aided pure tone and speech audiometry (as applicable),
- emittance testing,
- a frequency modulated (FM) system check (if utilized), and
- a comprehensive written report summarizing data.

EMOTIONAL AND BEHAVIORAL DISORDER

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

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

A student with an Emotional and Behavioral Disorder (EBD) is a student who exhibits one or more of the above emotionally based characteristics of sufficient duration, frequency and intensity that it/they interfere(s) significantly with educational performance to the degree that provision of special educational services is necessary. The student's difficulty is emotionally based and cannot be adequately explained by intellectual, cultural, sensory or general health factors.

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

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

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

- Lack of appropriate instruction in reading, including the essential components of reading instruction;
- Lack of appropriate instruction in math;
- Lack of appropriate instruction in writing;
- Limited English proficiency;

- Visual, hearing or motor disability;
- Intellectual disabilities;
- Cultural factors;
- Environmental or economic disadvantage; or
- Atypical education history (multiple school attendance, lack of attendance, etc.).

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

INTELLECTUAL DISABILITIES

Intellectual disabilities refer to significantly sub-average general intellectual functioning which exists concurrently with deficits in adaptive behavior that adversely affect educational performance and is manifested during the developmental period. Intellectual disability does not include conditions primarily due to a sensory or physical impairment, traumatic brain injury, autism spectrum disorders, severe multiple impairments, cultural influences or a history of inconsistent and/or inadequate educational programming.

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

- All IQ scores defining eligibility for children with intellectual disabilities shall be interpreted as a range of scores encompassed by not more than one standard error of measurement below and above the obtained score. The standard error of measurement for a test may be found in the technical data section of the test manual.
- Any final determination of the level of intellectual functioning shall be based on multiple sources of information and shall include more than one formal measure of intelligence administered by a qualified psychological examiner. There may be children with IQ scores below 70 who do not need special education. Interpretation of results should take into account factors that may affect test performance such as socioeconomic status, native language, and cultural background and associated disabilities in communication, sensory or motor areas.
 - Significantly sub-average intellectual functioning must be verified through a written summary of at least one structured observation that demonstrates the child's inability to progress in a typical, age appropriate manner and with consideration for culturally relevant information, medical and education history.

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

- The child demonstrates significantly sub-average adaptive behavior in school and home, and, if appropriate, community environments. These limitations in adaptive behavior shall be established through the use of standardized adaptive behavior measures normed on the general population, including people with disabilities and people without disabilities. On these standardized measures, significant limitations in adaptive behavior are operationally defined as performance that is at Least two standard deviations below the mean of either (a) one of the following three types of adaptive behavior: conceptual, social, or practical, or (b) an overall (composite) score on a standardized measure of conceptual, social, and practical

skills. Documentation must include information from at least two sources. The first source shall be someone from the local school who knows the child and the second source shall be someone who knows the child outside of the school environment such as a parent, guardian, or person acting as a parent.

- Interpretation of results should consider the child's cultural background, socioeconomic status and any associated disabilities that may limit or impact the results of the adaptive behavior measures.

Deficits in intellectual functioning and adaptive behavior must have existed prior to age 18.

A child must not be determined to be a child with an Intellectual Disability if the determinant factor for that determination is:

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

A child may be classified as having an intellectual disability (at one of the levels listed below) when a comprehensive evaluation indicates deficits in both intellectual functioning and adaptive behavior. Intellectual functioning and adaptive behavior shall be considered equally in any determination that a child is eligible for services in the area of intellectual disability. A comprehensive educational evaluation shall be administered to determine present levels of academic functioning. The report shall be prepared for each child to provide an adequate description of the data collected and explicit pre-referral interventions prior to evaluation and to explain why the child is eligible for services in a program for children with intellectual disabilities. In situations where discrepancies exist between test score results from intellectual functioning, adaptive behavior and academic achievement, the eligibility report must contain a statement of specific factors considered which resulted in the decision of the eligibility team. Eligibility teams must establish that any limits in performance are not primarily due to the exclusionary factors and must document this in the eligibility report:

A child may be classified as having an intellectual disability at one of the levels listed below:

MILD INTELLECTUAL DISABILITY (MID)

- Intellectual functioning ranging between an upper limit of approximately 70 to a lower limit of approximately 55; and
- Deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, Learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age level and cultural group, as determined by clinical judgment.

MODERATE INTELLECTUAL DISABILITY (MOID)

- Intellectual functioning ranging from an upper limit of approximately 55 to a lower limit of approximately 40; and
- Deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, Learning, personal independence or social responsibility, and especially school performance that is expected of the individual's age- level and cultural group as determined by clinical judgment.

SEVERE INTELLECTUAL DISABILITY (SID)

- Intellectual functioning ranging from an upper limit of approximately 40 to a lower limit of approximately 25; and
- Deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, Learning, personal independence or social responsibility and especially school performance that is expected of the individual's age- level and cultural group as determined by clinical judgment.

PROFOUND INTELLECTUAL DISABILITY (PID)

- Intellectual functioning below approximately 25; and
- Deficits in adaptive behavior that significantly limit a child's effectiveness in meeting the standards of maturation, Learning, personal independence or social responsibility and especially school performance that is expected of the child's age-level and cultural group, as determined by clinical judgment.

ORTHOPEDIC IMPAIRMENT

Orthopedic impairment refers to a child whose severe orthopedic impairments adversely affects their educational performance to the degree that the child requires special education. This term may include:

- Impairment caused by congenital anomalies, e.g., deformity or absence of some limb.
- Impairment caused by disease (poliomyelitis, osteogenesis imperfect, muscular dystrophy, bone tuberculosis, etc.)
- Impairment from other causes, e.g., cerebral palsy, amputations, and fractures or burns that cause contractures.

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

Evaluation for initial eligibility shall include the following.

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

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

OTHER HEALTH IMPAIRED

Other Health Impairment means having limited strength, vitality or alertness including a heightened alertness to

environmental stimuli, that results in limited alertness with respect to the educational environment, that:

- is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficient hyperactivity disorder, diabetes, epilepsy, or heart condition, hemophilia, Lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and Tourette Syndrome, and
- adversely affects a student's educational performance
- is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficient hyperactivity disorder, diabetes, epilepsy, or heart condition, hemophilia, Lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and Tourette Syndrome, and
- adversely affects a student's educational performance.

SIGNIFICANTLY DEVELOPMENTAL DELAY

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

Initial eligibility must be established, and an IEP in place, on or before the child's seventh birthday. Significant Developmental Delay (SDD) eligibility is determined by assessing a child in each of the five skill areas of adaptive development, cognition, communication, physical development (gross and fine motor), and social/emotional development. Any child who scores at least 2 standard deviations below the mean in one or more of the five areas or 1½ standard deviations below the mean in two or more areas shall meet eligibility for SDD.

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

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

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

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

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

determined.

Specific Learning Disability

Specific Learning Disability is defined as a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not apply to children who have Learning problems that are primarily the result of visual, hearing or motor disabilities, intellectual disabilities, emotional or behavioral disorders, environmental, cultural or economic disadvantage.

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

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

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

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

- At least two current (within twelve months) assessments such as the results of the CRCT or other state-required assessment, norm-referenced achievement tests or benchmarks indicating performance that does not meet expectations for State-approved grade-level standards;
- Information from the teacher related to routine classroom instruction and monitoring of the child's performance. The report must document the child's academic performance and behavior in the areas of difficulty.
- Results from supplementary instruction that has been or is being provided:

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

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

Deficits in basic psychological processes typically include problems in attending, discrimination/perception, organization, short-term memory, long-term memory, conceptualization/reasoning, executive functioning, processing speed, and phonological deficits. Once a deficit in basic psychological processes is documented, there shall be evidence that the processing deficit has impaired the child's mastery of the academic tasks required in the regular curriculum. Though there may exist a pattern of strengths and weaknesses, evidence must be included documenting that the processing deficits are relevant to the child's academic underachievement as determined by appropriate assessments that are provided to the child in his/her native language. Though a child may be performing below age or State-approved grade level standards, the results of progress monitoring must indicate that the child is not making the expected progress toward established benchmarks. This is indicated by comparing the child's rate of progress toward attainment of grade level standards.

Underachievement exists when the child exhibits a pattern of strengths and weakness in performance, achievement, or both, relative to age, State-approved grade level standard and intellectual development and when a child does not achieve adequately toward attainment of grade level standards in one or more of the

following areas:

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

Progress monitoring includes the data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting child progress during instruction. When reviewing progress monitoring data, those students that exhibit a positive response to the research validated instruction being provided cannot be considered as having a specific learning disability even though they may show deficits on achievement tests in the specified areas. In addition, children whose achievement in classroom academics indicates performance that is commensurate with pervasive weaknesses that are not indicative of a pattern of strengths and weaknesses may not be considered as having a specific learning disability.

One group member responsible for determining specific learning disability must conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent for special education evaluation is obtained. The observation of the child is conducted in the learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty. The observation must include information from the routine classroom instruction and monitoring of the child's performance.

The determination of whether a child suspected of having a Specific Learning Disability is a child with a disability must be made by the child's parents and a team of qualified professionals that must include:

- The child's regular teacher; or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age;
- A highly qualified certified special education teacher; and
- A minimum of one other professional qualified to conduct individual diagnostic assessments in the areas of speech and language, academic achievement, intellectual development, or social-emotional development and interpret assessment and intervention data (such as school psychologist, reading teacher, or educational therapist). Determination of the required group member should be based on the data being reviewed and the child's individual needs.

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

SPEECH-LANGUAGE IMPAIRMENT

Speech or language impairment refers to a communication disorder, such as stuttering, impaired articulation,

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

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

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

Language Impairment - impaired comprehension and/or use of spoken language which may also impair written and/or other symbol systems and is negatively impacting the child's ability to participate in the classroom environment. The impairment may involve, in any combination, the form of language (phonology, morphology, and syntax), the content of language (semantics) and/or the use of language in communication (pragmatics) that is adversely affecting the child's educational performance. The term language impairment does not include:

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

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

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

- Anxiety disorders (e.g. selective mutism)
- Differences that are the direct result of regional, dialectic, and/or cultural differences

- Differences related to medical issues not directly related to the vocal mechanism (e.g. laryngitis, allergies, asthma, laryngopharyngeal reflux (e.g. acid reflux of the throat, colds, abnormal tonsils or adenoids, short-term vocal abuse or misuse, neurological pathology)
- Vocal impairments that are found to be the direct result of or symptom of a medical condition unless the impairment impacts the child's performance in the educational environment and is amenable to improvement with therapeutic intervention.

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

- Documentation of the child's response to prior evidenced-based interventions prior to referral for a comprehensive evaluation.]
- A comprehensive evaluation shall be performed by a certified or licensed Speech- Language Pathologist (SLP) for consideration of speech-language eligibility. Following receipt of a clear hearing and vision screening and medical clearance for voice (as appropriate) this evaluation consists of an initial screening of the child's speech sounds, language, fluency, voice, oral motor competency, academic, behavioral, and functional skills using either formal or informal assessment procedures to assist in determining if the child is a child with a disability An in-depth evaluation of each area suspected of being impaired, using at least one formal test and/or procedure.
- A full and individual initial evaluation for each area suspected of being a disability must be provided and considered prior to the child's eligibility for speech-language services. This may include assessments in the areas of health (e.g. ENT, otolaryngologist, ophthalmologist, and optometrist), vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.
- The evaluation is sufficient to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been referred or classified.
- Children with voice/resonance impairment must have a medical evaluation to rule out physical structure etiology by a medical specialist either prior to a comprehensive evaluation or as part of a comprehensive evaluation. The presence of a medical condition (e.g., vocal nodules, polyps) does not necessitate the provision of voice therapy as special education or related service nor does a prescription for voice therapy from a medical doctor. A written order from a medical practitioner is a medical opinion regarding the medical evaluation or treatment that a patient should receive. When directed to a school, these medical orders should be considered by the team as a part of the eligibility process. The team, not a medical practitioner, determines the need for an evaluation for special education services based on documented adverse effect of the voice impairment on the child's educational performance.
- A variety of assessment tools and strategies must be used to gather relevant functional, developmental and academic information about the child, including information provided by the parent. Information from the evaluation is used to determine whether the child is a child with a disability and the content of the child's IEP including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities)

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

- The Speech-Language Pathologist determines the presence or absence of speech-language impairment based on Georgia rules and regulations for special education
- Documentation of an adverse effect of the impairment on the child's educational performance
- The team determines that the child is a child with a disability and is eligible for special education and appropriate specialized instruction needed to access the student's curriculum.
- Eligibility shall be determined based on the documented results of at least two or more measures or

procedures, at least one of which must be formal, administered in the area of impairment and documentation of adverse effect.

A speech-language disorder does not exist if:

- Environmental, cultural, or economic disadvantage cannot be ruled out as primary factors causing the impairment; or
- A child exhibits inconsistent, situational, transitory or developmentally appropriate speech-language difficulties that children experience at various times and to various degrees.
- Because children who have communication difficulties do not necessarily have speech or language impairments, the speech-language program may not be the appropriate service delivery model to adequately meet the child's educational needs. For this reason, all children who are suspected of having communication problems shall be the subject of a Student Support Team (SST) to problem solve and implement strategies to determine and limit the adverse effect on the child's educational performance.
- For nonverbal or verbally limited children and those with autism and/or significant intellectual, sensory, or physical disabilities, a multidisciplinary team of professionals shall provide a functional communication assessment of the child to determine eligibility for speech-language services. The multidisciplinary team shall consist of professionals appropriately related to the child's area of disability.
- A child is eligible for placement in a speech-language program if, following a comprehensive evaluation; the child demonstrates impairment in one or more of the following areas: speech sound, fluency, voice or language that negatively impacts the child's ability to participate in the classroom environment. The present adverse effect of the speech-language impairment on the child's progress in the curriculum, including social and/or emotional growth, must be documented in writing and used to assist in determining eligibility.

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

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

TRAUMATIC BRAIN INJURY

Traumatic Brain Injury (TBI) refers to an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects the child's educational performance. The term applies to open or closed head injuries resulting in impairments which are immediate or delayed in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, speech and information processing. The term does not apply to brain injuries that are congenital or degenerative in nature, brain injuries induced by birth trauma.

Evaluation for eligibility shall include the following.

- A summary of the child's pre-injury functioning status. This information may be available through previous formal evaluations, developmental assessments, achievement tests, classroom observations and/or grade reports.
- Verification of the TBI through the following:
 - A medical evaluation report from a licensed doctor of medicine indicating that TBI has occurred recently or in the past, or
 - Documentation of TBI from another appropriate source, such as health department or social services

- reports, or parents' medical bills/records.
- A neuropsychological, psychological or psychoeducational evaluation that addresses the impact of the TBI on the following areas of functioning:
 - Cognitive - this includes areas such as memory, attention, reasoning, abstract thinking, judgment, problem solving, speed of information processing, cognitive endurance, organization, receptive and expressive language and speed of language recall.
 - Social/Behavioral - this includes areas such as awareness of self and others, interaction with others, response to social rules, emotional responses to everyday situations and adaptive behavior.
 - Physical/Motor - this includes areas such as hearing and vision acuity, speech production, eye-hand coordination, mobility and physical endurance.
- Deficits in one or more of the above areas that have resulted from the TBI and adversely affect the child's educational performance shall be documented.

The identification of Traumatic Brain Injury (TBI) for educational programming does not dictate a specific service or placement. The child with TBI shall be served by any appropriately certified teacher in any educational program, as specified in the child's Individualized Education Program (IEP) Team minutes.

VISUAL IMPAIRMENT

A child with a visual impairment is one whose vision, even with correction, adversely impacts a child's educational performance. Examples are children whose visual impairments may result from congenital defects, eye diseases, or injuries to the eye. The term includes both visual impairment and blindness as follows:

- Blind refers to a child whose visual acuity is 20/200 or less in the better eye after correction or who has a limitation in the field of vision that subtends an angle of 20 degrees. Some children who are legally blind have useful vision and may read print.
- Visually impaired refers to a child whose visual acuity falls within the range of 20/70 to 20/200 in the better eye after correction or who have a limitation in the field of vision that adversely impacts educational progress.
 - Progressive visual disorders: Children, whose current visual acuity is greater than 20/70, but who have a medically indicated expectation of visual deterioration may be considered for vision impaired eligibility based on documentation of the visual deterioration from the child's optometrist or ophthalmologist.

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

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

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

- if the student is under the age of 8 and/or has a severe cognitive and/or physical disability that would make the use of low vision aids unfeasible, a functional vision evaluation may be used instead of a low vision evaluation to establish eligibility.
 - The low vision evaluation should be completed by age 10 for children who do not have one during eligibility determination prior to age 8 unless other circumstances apply.
 - The low vision evaluation is often difficult to schedule within the 60-day timeline, therefore, if children meet all other eligibility requirements, the eligibility report shall document the date of

the scheduled upcoming low vision evaluation and the team may proceed with the eligibility decision.

- Once the low vision evaluation has occurred the eligibility information shall be updated, and as appropriate, the IEP.
 - The low vision evaluation must occur within 120 days of receipt of parental consent to evaluate to determine eligibility for visual impairment.

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

- Educational assessments may include cognitive levels, academic achievement, and reading ability
 - Educational assessments related to vision must be completed by a teacher certified in the area of visual impairments.
- In some cases, comprehensive psychological evaluations may be indicated and must be completed by appropriately certified personnel.

Braille instruction is always considered critical to appropriate education for a child who is blind. Children identified with visual impairments shall be evaluated to determine the need for braille skills. The evaluation will include the present and future needs for braille instruction or the use of braille. For children for whom braille instruction and use is indicated, the individualized education program (IEP) shall include the following:

- Results obtained from the evaluation conducted for the purpose of determining the need for Braille skills;
- How instruction in braille will be implemented as the primary mode for Learning through integration with other classroom activities;
- Date on which braille instruction will commence;
- The length of the period of instruction and the frequency and duration of each instructional session; and
- The level of competency in braille reading and writing to be achieved by the end of the period and the objective assessment measures to be used.
- For those children for whom braille instruction is not indicated, the IEP shall include a statement with supporting documentation that indicate the absences of braille instruction will not impair the child's ability to read and write effectively.

Related Services

The current federal regulations found at Title 34, Section 300.34, Code of Federal Regulations (CFR), define related services as services required to assist a child with a disability to benefit from special education. Students who are found eligible to receive services under the thirteen special education disability categories can be considered for related services. Related services mean transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and include

- audio logical services;
- psychological services;
- speech-language pathology;
- physical therapy;
- occupational therapy;
- social work services;
- counseling services, including rehabilitation services;
- orientation and mobility services;
- interpreting services;
- school nurse services;

- medical services for diagnostic or evaluation purposes;
- recreation, including therapeutic recreation;
- early identification and assessment;
- parent training; and
- transportation.

To determine what special education services and/or related services will be provided to the child, the IEP team looks at the child's present levels of academic and functional performance, assessment results, measurable annual goals, and, if appropriate, the short term objectives or benchmarks that are included in the IEP. Any services should

- be based on the unique needs and abilities of the child and,
- help the child advance appropriately toward attaining his or her annual goals.

IDEA refers to related services and supplementary aids and services that are "based on peer reviewed research to the extent 'practicable.'" This means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to educational activities and programs, which refers to those services and supports that are proven through research data to improve student learning. Related services may be documented in the IEP in several areas, including

- the recommended special education and related services section,
- the supplementary aids and services section, or
- the instructional accommodations or modifications section.

Area of General Supervision II: Services and Support

State Board Rule: 160-4-7-.07 – Least Restrictive Environment

LRE Requirements: Written Policies and Procedures

Pataula Charter Academy has written 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 classes, separate schooling or other removal of children with disabilities from the regular class environment occurs 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.

Annual IEP Placement Determination

In determining the educational placement of a child with a disability, Pataula Charter Academy ensures that the placement decision 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 is made in conformity with the LRE provisions contained in this rule.

The child's placement is determined at least annually and is based on the child's IEP. 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.

Full Continuum of Alternative Placements/Location of Services

Pataula Charter Academy ensures that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. This continuum includes the alternative placements listed in the definition of special education (instruction in regular classes, special classes, home instruction, and instruction in hospitals and institutions); and makes provision for supplementary services (such as a separate class or itinerant instruction) to be provided in conjunction with regular class placement.

Placements include:

- General education classroom with age-appropriate non-disabled peers, if required by the IEP:
 - Additional supportive services
 - The child remains in regular classroom with supplementary aids and services provided to the teacher and/or child to implement the IEP. The services provided may be from personnel such as paraprofessionals, interpreters, or others.
 - Direct services
 - The child remains in the regular classroom with direct services from special education personnel on a consultative, collaborative, or co-teaching basis.
- Instruction outside the general classroom for individuals or small groups.
- Separate day school or program.
- Home-Based instruction may be used as a short-term placement option on occasions when the parent and school agree at an IEP meeting with the following considerations:
 - A free and appropriate public education (FAPE) is provided and includes access to the general

- curriculum and an opportunity to make progress toward the goals and objectives included in the IEP;
- home-based services must be reviewed no less than quarterly by the IEP team; and
- all IEPs that require home-based placements will include a reintegration plan for returning to the school setting.
- Residential placement in-state or out-of-state.
- Hospital/homebound instruction program (HHB) is used for students with disabilities who are placed in a special education program and have a medically diagnosed condition that will significantly interfere with their education and requires them to be restricted to their home or a hospital for a period of time. Pataula Charter Academy provides hospital/homebound instruction to students with disabilities, under the requirements found in Georgia rule 160-4-2-.31 Hospital Homebound Services.

Pataula Charter Academy ensures that each child with a disability participates with nondisabled children in the extracurricular services and activities (including meals, recess periods, and other services and activities) to the maximum extent appropriate to the needs of that child. The school ensures 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. Nonacademic and extracurricular services may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, 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. Pataula Charter Academy ensures that supplementary aides and services determined appropriate by the IEP team are provided in order to allow children with disabilities an equitable opportunity for participation in nonacademic and extracurricular activities.

State Board Rule: 160-4-7-.10 – Discipline

Relationship of General Code of Conduct to IEP

The Code of Student Conduct for Pataula Charter Academy applies to all children unless a child's Individualized Education Program (IEP) specifically provides otherwise. Pataula Charter Academy ensures 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

Pataula Charter Academy personnel 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, such as in-school suspension or out-of-school 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 that 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 school 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, 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 the student with a disability must continue to receive his/her free and appropriate public education.

The conduct must be determined to be a manifestation of the child's disability if the school, the parent, and relevant members of the child's IEP Team determine that the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or the conduct in question was the direct result of the LEA's failure to implement the IEP. If the school, the parent, and the relevant members of the child's IEP Team determine that the conduct in question was a direct result of the failure of the school to implement the IEP, the system will take immediate steps to remedy those deficiencies.

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 conduct, the LEA, the parent, and the relevant members of the child's IEP team must hold a Manifestation Determination Meeting. The IEP team must review all relevant information in the child's file including the IEP, teacher observations, and any relevant information from the parents to determine if the violation was a direct correlation of the student's disability. If Pataula Charter Academy, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability or that the conduct in question was a direct result of the LEA's failure to implement the IEP, the IEP Team will either

conduct a Functional Behavioral Assessment (unless a Functional Behavioral Assessment conducted before the behavior that resulted in the change of placement occurred is already in place and found to be effective) and implement a Behavioral Intervention Plan for the child; or if a Behavioral Intervention Plan already has been developed, review the Behavioral Intervention Plan, and modify it, as necessary, to address the behavior, and (except as provided in the Special Circumstances described below), return the child to the placement from which the child was removed, unless the parent and the school 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 (determined by the IEP Team) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

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

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 Pataula Charter Academy Code of Conduct, the school will notify the parents of that decision, and provide the parents the Procedural Safeguards Notice/Parent Rights in Special Education.

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination under this Rule, or if Pataula Charter Academy 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. If the Administrative Law Judge or hearing officer determines that the removal of the child was a violation of his rights or that the child's behavior was a manifestation of the child's disability, the Administrative Law Judge of Hearing Officer can 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 it is determined 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 school believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

When an appeal has been made by either the parent or the school, 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 school agree otherwise.

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 school 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. The school 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:

- 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;
- The parent of the child requested an evaluation of the child;
- The teacher of the child or other personnel of the school expressed specific concerns about a pattern of

behavior demonstrated by the child directly to school personnel.

The school 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 based on special education eligibility rules. If the school 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.

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 will be conducted in an expedited manner. Until the evaluation is complete, 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 school and the information provided by the parents, the school will provide special education and related services.

Referral to Law Enforcement and Judicial Authorities

Nothing in the State Board of Education rules regarding discipline for a student with disabilities prohibits Pataula Charter Academy 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. When the school does report a crime committed by a child with a disability, it must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime, but only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

Change of Placement due to Disciplinary Removal

For purposes of removals of a child with a disability from the child's current educational placement under the State Board of Education discipline rule, a change in placement occurs if:

- The removal is for more than 10 consecutive school days, or
- The child has been subjected to a series of removals that constitute a pattern
 - Because the series of removals total more than 10 school days in a school year;
 - Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and;
 - 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 school 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.

Protection for Children Not Yet Eligible

If a child has not been identified as a student with a disability and the district has no knowledge of a child's disability, he/she is not given consideration as a child with a disability. However, if the child who has violated the code of conduct has a parent, teacher, or administrator who have expressed concerns about the child's behavior,

or a parent has requested an evaluation for services the child must be given consideration as a child with a disability. Also, if the school knows a child has a disability before the behavior that caused the disciplinary action occurred, then the student would have provisions as a student with disabilities. If the parent had not allowed an evaluation or refused services, then the student does not have provisions as a student with an IEP. If a request for an evaluation is made during the time a student is subjected to disciplinary measures, school authorities determine placement until the evaluation is complete.

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

Procedures for IEP Development

An Individualized Education Program (IEP) must be developed for every disabled student who is or will be receiving special education services. This IEP becomes the important document that insures the special education student is provided appropriate educational services based on his/her special needs. The IEP is not a binding contract, for which the school is responsible if the student does not achieve the growth projected in the goals and objectives. However, it assures that the school will provide the special education and related services as outlined in the IEP. Additionally, any changes in special education and/or related services for a student are documented in the IEP. The parents/guardians are notified of the proposed date, time and location of each IEP meeting in order to give them sufficient time to make arrangements to attend or to contact the school to reschedule the meeting. The parents are sent written notice on the Meeting Notification Form regarding the meeting date and time. The school must give the parents every opportunity for a convenient, mutually agreed upon meeting time as well as the option to reschedule so that the parents may attend.

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

The IEP Team Meeting provides an opportunity for all stakeholders involved in the education of the student to meet to determine eligibility as well as discuss appropriate options to meet the individual educational needs of that student. Required members of the IEP Team include the general education teacher, the special education teacher, and the parents (unless they indicate the meeting should proceed without their presence). Other people may be invited to the team meeting at the request of the school and/or parents (such as related services providers, counselors, the school psychologist, administration, etc.) The student, as appropriate is invited to his/her IEP meeting at any time; however, students at age 14 and above attend their IEP meetings. If the student does not meet eligibility for a special education program, regular education options are discussed, and the student is referred back to the Student Support Team for follow-up and continuing interventions, as needed.

If the Placement Committee recommends that a student be placed in any special education program, a Parental Consent for Placement will be signed before services are initiated. If the parent is not present, the student's case manager will send the parent a copy of the eligibility report, the IEP, psychological report, parental rights and Consent for Placement form by mail for review and signature, following up with a telephone call to insure understanding. If the parent did not attend the IEP meeting where eligibility and placement were decided, the date for initiation of services must be at least 10 days from the date of the IEP meeting in order to allow proper notice and opportunity for the parent(s) to respond (assuming the parent agrees to the placement and signs the Consent for Placement form).

IEP Considerations

In developing an IEP for a student, each IEP Team must consider:

1. The strengths of the child;

2. The concerns of the parents for enhancing the education of the child;
3. The results of the most recent evaluation of the child;
4. The results of state or school assessments;
5. The academic, developmental, and functional needs of the child;
6. For a child whose behavior impedes his or her learning or that of others, the use of positive behavioral interventions and supports to address the behavior in the IEP or behavioral intervention plan;
7. For a child with limited English proficiency, the language needs of the child as they relate to his or her IEP;
8. For a child who is blind or visually impaired, instruction in Braille and the use of Braille (unless, after appropriate evaluation, the IEP Team determines that the instruction and use of Braille is not appropriate for the child);
9. The communication needs of the child who is deaf or hard of hearing;
10. The need for assistive technology devices or services; and
11. The need for Extended School Year (ESY) services, and the goals that are being extended or modified to deliver FAPE and specific services, time, provider, and location if ESY services are needed to deliver FAPE.

Components of the Individual Education Program (IEP)

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

- A statement of the child's present levels of academic achievement and functional performance, including:
 - How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
- 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; and
 - Meet each of the child's other educational needs that result from the child's disability;
- For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;
- A description of:
 - How the child's progress toward meeting the annual goals will be measured; and
 - When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, **concurrent with the issuance of report cards**) will be provided;
- 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; and
 - To be educated and participate with other children with disabilities and nondisabled children in academic, nonacademic and extracurricular activities;
- 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;
- 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; and
 - 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; and
 - The particular alternate assessment selected is appropriate for the child; and
 - 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.
- 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.
- Beginning not later than entry into ninth grade or by age 16, whichever comes first, or younger if determined appropriate by the IEP Team and updated annually, the IEP must include information about Transition Services:
 - Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - The transition services (including courses of study) needed to assist the student in reaching those goals. Transition Services Participants: Pataula Charter Academy invites the student with a disability to attend the student’s IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP Team meeting, the school will take other steps to ensure that the student’s preferences and interests are considered. To the extent appropriate, with the consent of the parents or the adult student who has reached the age of 18, in implementing the transition requirements, the school will invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. (The determination of the knowledge or special expertise of this person must be made by the party (parents or school) who invited the individual to be a member of the IEP Team.)
 - Beginning not later than one year before the student reaches age 18, the IEP must include a statement that the student has been informed of the student’s rights under Part B of the IDEA, if any, which will transfer to the student on reaching age 18. (This section is known as the Transfer of Rights.)

Job Responsibilities-Special Education Teacher

The role of the special education teacher encompasses a broad range of responsibilities, extending from the individual student, to the classroom, to the school as a faculty member, and into the community at large. The responsibilities of the special education teacher include:

1) Develop and maintain IEPs

- Follow procedures for writing IEPs
- Know your students’ IEPs!
- Make sure IEPs are fully implemented—double check services, accommodations, etc.
- Review IEPs on an on-going basis—reviewed once annually, but may need to be amended during the school year
- Maintain a current IEP for each child on your caseload

2) Maintain student records in a secure location

- Within each student’s file should be:
 - Current IEP, including BIP & Transition Plan, if applicable
 - Current psychological report and Reevaluation Conference documentation
- Keep track of student progress to make sure current placement & IEP are appropriate. Collect data.

- 3) Document parent/guardian/surrogate contacts
 - All contact with parent(s)/guardian(s)/surrogate(s) for IEP meetings should be documented in the IEP (phone calls, home or work site visits, written notice, e-mail, etc.)
- 4) Evaluate student progress
 - Use progress monitoring (teacher folders) to report progress on each student's IEP goals/objectives.
 - Report progress in GO-IEP on IEP goals/objectives when report cards are issued (every 6 weeks) & send home to parents.
 - Reminder: progress monitoring is a DUE PROCESS requirement.
- 5) Complete referrals for reevaluation
 - Eligibility determination must be completed every 3 years.
 - Teachers are responsible for gathering the needed referral information for students on their caseload.
 - Referral information should be completed and given to the Special Education Director.
- 6) Attends due process meetings
 - Attendance is required at all IEP meetings for students on your caseload
 - Bring appropriate paperwork
- 7) Beginning of every school term
 - Inform general education teachers (PE, Art, Music, paraprofessionals working with the student, etc.) of the accommodations and modifications necessary for the students with IEPs in their classroom.
 - Inform other school personnel, such as bus drivers, of modifications/accommodations and/or Behavior Intervention Plan when necessary to meet the needs of the student.
 - In addition, general education teachers must be informed of their responsibilities related to the IEP and have access to the student's IEP. (Make a copy for each general education teacher that serves your students)
 - Provide information to new teachers if the student's schedule changes.
- 8) Prepare Paperwork in a timely, efficient, & accurate manner

Job Responsibilities-Special Education Paraprofessional

The role of the special education paraprofessional is vital to the overall functioning of the special education program in the classroom, school, and in the school district. The responsibilities of the special education paraprofessional include:

1) Supportive of instruction

- Supports whole group instruction
- Monitors students and redirects off-task students
- Provides individual assistance to students when needed
- Assists with individualized instruction
- Tutors individual and/or small groups of students
- Prepares student-specific materials and adapt as necessary
- Implements and reinforces teacher-developed instruction
- Implements AT interventions under direction of special education teacher
- Provides acceleration or remediation of instruction
- Supports implementation of accommodations

2) Interacting with students

- Exhibits patience and kindness toward students
- Models appropriate communication skills for students
- Treats students with respect
- Disciplines students with fairness and equity, according to the special education teacher's guidelines
- Assists students with toileting, feeding, and/or other physical care

3) Interacting with adults

- Participates in team meetings when requested
- Responds respectfully and tactfully to others
- Maintains a professional attitude & works cooperatively with others
- Follows directions of supervisor

4) Improving knowledge base

- Attends and participates in assigned workshops and training
- Applies information learned in training to the job
- Demonstrates initiative in learning new tasks

5) Monitoring students

- Observes, records, and charts student's behavioral responses in the classroom
- Reports unusual changes in student behavior to supervising teacher

6) Ethics

- Confidentiality is maintained at all times
- Complies with all local, state, and federal regulations and policies

7) Additional expectations

- Maintains prompt and regular attendance
- Uses appropriate communication skills, both written and oral
- Limits taking care of personal business during work hours
- Maintains a professional appearance in dress and grooming
- Assists in routine classroom housekeeping duties

- Exhibits time on task and hardworking attitude.
- Exhibits flexibility and a cooperative attitude.

8) For a variety of reasons, paraprofessionals should not perform the following tasks:

- Design or develop instruction
- Develop lesson plans
- Determine student grades
- Conduct formal assessments
- Contact parents (Do not discuss a student's education with a parent at any time. The supervising teacher is in charge of all parent contact.)

Supervision of Students by Paraprofessionals

Paraprofessionals work under the direction of certified school personnel. When a teacher must leave the classroom, paraprofessionals are to be left under the direction of another certified employee who is in close proximity to the paraprofessional and students.

When on Community Based Instruction, the paraprofessional remains under the direction of the supervising

teacher, even when that teacher is in another location. Teachers will ensure that paraprofessionals know appropriate steps involving supervision of students.

Information to Discuss with Paraprofessionals

- 1) Reminder--- School System Policy—do not eat or drink in front of students during the regular school day, except in the lunchroom. All school employees are expected to exhibit a professional demeanor and to set positive examples for students.
- 2) All correspondence with parents should be made by the supervising teacher. Paraprofessionals should notify supervising teacher of any circumstances they feel need to be addressed. It then becomes the responsibility of the supervising teacher to correspond with the proper individuals. This alleviates the necessity of a paraprofessional dealing with potential problems, which may arise from any communication.
- 3) Students, as a part of their learning experience, may assist paraprofessionals in various aspects of the paraprofessional’s responsibilities. Students in this situation should be closely monitored.
- 4) If a paraprofessional leaves the vicinity, the supervising teacher should be made aware. This may change the actions a teacher takes should an emergency situation arise. Even if a paraprofessional is leaving at a scheduled time, some comment or gesture should be acknowledged by the teacher to ensure awareness of the impending departure.
- 5) Keep lines of communication open by discussing what has been going on with students and in classrooms. Discuss what works and what does not. Don’t hold back, it only makes it harder in the long run.

Annual Review

The IEP must be reviewed annually. Procedures for initiating the Annual Review are the same as the process for creating the original IEP:

- The student’s Case Manager will send a Notice of IEP Meeting to the parents **ten days prior** to the projected review date. The projected review date must occur before the end date of the current IEP, so case managers are encouraged to begin working with parents to arrange a mutually-agreed upon date well before the ending date. All required attendees are invited, along with other stakeholders invited by the parent or the school. The parents will be given the names in writing of all members invited to the Annual Review.
- At the Annual Review meeting, the current IEP, including mastery/progress toward goals/objectives is reviewed by the committee and a new IEP is developed based on the student’s Present Level of Performance. A copy of the new IEP is sent home with the parents if they are in attendance, or mailed if they are not present. (NOTE: The Parental Consent for Placement is required to be signed only once, at the time of the initial placement, even though the program or location of program may change.)

IEP Amendments

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

Definition of the 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. Pataula Charter Academy ensures that each IEP Team meeting includes the following participants:

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

Excusal of IEP Team Member

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

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

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

Parent Participation in IEP: Notification and Invitation

Pataula Charter Academy ensures that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually agreed upon time and place.

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

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

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

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

A copy of the IEP is provided to the parents at no cost in either hard copy or digital format, depending on the desire of the parent.

Pataula Charter Academy ensures that the parents of each child with a disability are members of any group that makes decisions on the child's educational placement.

When the IEP Must be in Effect

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

Pataula Charter Academy ensures that:

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

Accessibility of Child's IEP to Teachers and Others

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

Inter and Intra-State Transfer of Students with IEPs

Pataula Charter Academy's post-lottery enrollment form asks parents to indicate if the child has an existing IEP. Further, every transferring student from a Georgia public school to Pataula Charter Academy will be checked through the SLDS system in order to determine if he/she received special education services from the transferring school. If either measure indicated the student has an active IEP, records will be requested from that school. Records will also be requested from students outside of Georgia. Once received, the records will be reviewed by

the Special Education Director in order to determine the presence of all required information and documentation. While waiting on a new IEP meeting, the student will be placed in the appropriate program(s) based on records from the transferring school. The Special Education Director will review all records and dates and enter the information into the student information system and/or online IEP. Within sixty (60) days of the transfer or receipt of records, the Special Education Director will set up a time to meet with the student's IEP team and a new Pataula Charter Academy IEP will be developed, following the review of the transferring IEP and eligibility information. A new Pataula Charter Academy's Consent for Placement form will be signed at the IEP meeting and parents will be provided with a copy of Parent's Rights in Special Education.

IEPs for Children who Transfer to Pataula Charter Academy from Another Georgia System:

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

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

IEPs for children who transfer from another state:

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

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

FERPA and Transmittal of Records

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

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

the school 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, Pataula Charter Academy ensures that the child's IEP Team is informed of those changes. The amendment will be posted to the Student Information System (Infinite Campus) in the Georgia On-Line IEP, to which all appropriate school personnel have access.

The parents will receive a copy of the amendment either in paper or digital (depending on the desires of the parents) format.

Dismissals

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

State Board Rule: 160-4-7-.14 -- Personnel, Facilities, and Caseloads

Maintenance of Credentials for Professional Employees

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

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.

The required standard credential for all personnel providing educational interpreting for children who are deaf or hard of hearing at Pataula Charter Academy, 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 advanced interpreting skills and qualifications through a current Educational Interpreter Performance Assessments (EIPA) rating of Level 3 .5 or higher. (The EIPA rating cannot be more than five years old.)

Classroom Size and Appropriateness

Pataula Charter Academy provides classrooms 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 individual children to be served. The school follows the Georgia Department of Education policy as a safeguard to prevent placing children with disabilities in classrooms that are too small, have visual or auditory distractions or do not have items necessary to provide appropriate instruction.

Maximum Class Size and Caseload by Eligibility Category

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

Area of General Supervision III: Student Progress

State Board Rule: 160-4-7-.02 – Free Appropriate Public Education (FAPE)

Free Appropriate Public Education (FAPE)

All children with disabilities between the ages of 5 through 21 who are enrolled in Pataula Charter Academy are entitled to a free appropriate public education (FAPE), including children with disabilities who have been suspended or expelled from school. If a student is receiving special education services upon reaching age 22, Pataula Charter Academy will serve the student until the end of the semester in which the student turns 22. Pataula Charter Academy will stop providing services on the date of the 22nd birthday or the last school day prior to the birthdate if the birthday falls during the summer, weekend, or school holiday. It is the goal of Pataula Charter Academy to secure the successful transition of students to their desired post-school outcomes and will collaborate to complete that transition by age 22. The adult student and parents will be notified that no individual entitlement to FAPE or other rights under IDEA are afforded the adult student after age 22.

FAPE will no longer be provided by Pataula Charter Academy upon a student graduating from school with a general education diploma. This rule will be reviewed at the annual review prior to the student graduating and/or at the Summary of Performance meeting.

Transfer of Rights

At age 18, students become their own educational decision makers, unless a court decides they are not able to make these decisions. On or before the student's 17th birthday, the school is to inform the parents and the student, that at age 18, the student attains the age of majority in Georgia and will become his or her own educational decision maker. This is done during the IEP meeting. The school may also inform parents of other options or where to get more information about guardianships, powers of attorney and any other options. Beginning at age 18, the school is to send all notices to both the parent and the student, but the student will provide informed written consent for any action requested by the system. When the student turns 18, he or she becomes the educational decision maker, but the parents retain the rights to all notices of meetings, notices of changes in program or placement, and notices of evaluations while the student is eligible under the IDEA.

Exception to FAPE

The obligation to make FAPE available to all children with disabilities does not apply to adult students aged 18 through 21, who, in the last educational placement, prior to their incarceration in an adult correctional facility:

- We're not actually identified as being a child with a disability;
- Did not have an IEP in effect; and
- Graduates from high school with a regular high school diploma. (This constitutes a change in placement, requiring written prior notice.)

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

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

- Have graduated from high school but have not been awarded a 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 educational development credential (GED).

Delay of Services Not Allowed

Pataula Charter Academy ensures that there will be 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.

Medicaid Reimbursement

Pataula Charter Academy may file for and receive reimbursement from Medicaid for Medicaid-eligible students receiving Medicaid-billable services performed by school staff; however, the school will not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE. Furthermore, Pataula Charter Academy will 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 the school will not use a child’s benefits under a public benefits or insurance program if that use would:

- Decrease available lifetime coverage or any other insured benefit;
- 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;
- Increase premiums or lead to the discontinuation of benefits or insurance; or
- Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenses.

Pataula Charter Academy obtains 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. The parental consent to access a child’s or parent’s public benefits or insurance:

- Specifies the personally identifiable information that may be disclosed 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
- Specifies that the parent understands and agrees that the school may access the child’s or parent’s public benefits or insurance to pay for services provided under IDEA.

Prior to accessing a child’s or parent’s public benefits or insurance for the first time, and annually thereafter, the school will provide written notification to the child’s parents that includes:

- A statement of parental consent provisions
- A statement of the “no cost” provisions
- A statement that the parents have the right 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
- A statement that the withdrawal of consent or refusal to provide consent to disclose personally identifiable information to the agency responsible for the administration of Georgia’s public benefits or

insurance program does not relieve the school of its responsibility to ensure that all required services are provided at no cost to the parents.

Notice to Parents Regarding Use of Private Insurance Benefits

With regard to services required to provide FAPE to an eligible child, Pataula Charter Academy may access the parent's private insurance proceeds only if the parents provide consent. Each time the school proposes to access the parents' private insurance proceeds, it must:

- Obtain parental consent; and
- Inform the parents that their refusal to permit the school to access their private insurance does not relieve the school of its responsibility to ensure that all required services are provided at no cost to the parents.

Accessible Instructional Materials

Pataula Charter Academy provides 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 system takes 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.

Print instructional materials include textbooks and related core materials that are required by the school for use by children in the classroom. 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. 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.

Children who are blind or print disabled include:

- 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.
- Children whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.
- Children certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.
- 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.

Assistive Technology

Children with disabilities who require assistive technology in order to receive a free appropriate public education (FAPE) are eligible for assistive technology devices or services, or both, as a part of the child's special education, related services, or supplemental aids and services. Each IEP Team considers whether or not a child requires assistive technology devices and services in order to receive a free appropriate public education (FAPE). Each IEP written at Pataula Charter Academy indicates 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 in the IEP.

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 is conducted by a multidisciplinary team of professionals knowledgeable about assistive technology devices in the technology areas being assessed. The child and family are also included in this evaluation process. The evaluation results 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 is included in the child's IEP. If assistive technology is required for the child to participate in system-wide or state-wide testing, the need for technology is documented in the appropriate section of the IEP and provided to the child.

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 will be provided to the child at no cost to the parent. The need for assistive technology in the non-school settings will also be documented in the child's IEP.

Extracurricular Activities Accessibility

Pataula Charter Academy takes steps, including the provision of supplementary aids and services that have been determined to be 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 local education agency referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school and assistance in making outside employment available.)

Access to Physical Education and Specially Designed Physical Education

Pataula Charter Academy ensures that:

- General Physical education services, specially designed if necessary, are made available to every child with a disability receiving FAPE, unless the school enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.
- Each child with a disability is afforded the opportunity to participate in the regular physical education program available to nondisabled children unless:
 - The child needs specially designed physical education, as prescribed in the child's IEP, which is a Related Service: Adapted PE. (If specially designed physical education is prescribed in a child's IEP, Pataula Charter Academy provides the services directly or makes arrangements for those services to be provided through other public or private programs.)

Programming options and equal access

Pataula Charter Academy ensures 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 school system, including art, physical education, and Career, Technical and Agricultural Education.

Prohibition on Mandatory Medication

Pataula Charter Academy prohibits personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation or receiving services.

Nothing in the paragraph 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.

Area of General Supervision IV: Parent Engagement

Pataula Charter Academy provides an appropriate continuum of services to facilitate parent engagement as a means of improving results for students with disabilities.

State Board Rule: 160-4-7-.09 -- Procedural Safeguards and Parent Rights

Parent Rights Document

The Parent Rights in Special Education (Parent Rights) notice provides the foundation for ensuring that a child with a disability has access to a free and appropriate public education (FAPE). The Parent Rights notice provides parents with the opportunity to understand their rights, the rights of their child and the procedures for resolving differences. This document will also help to facilitate communication between parents and system personnel. The Parent Rights brochure is given to parents at a minimum of once per year. This brochure should be given to parents when they are asked to sign a Consent for Evaluation form, a Consent for Placement form, and at the initial IEP meeting and each IEP annual review meeting.

The term "Procedural Safeguards Notice" also refers to the document commonly identified as "Parent Rights" which are given to parents at least one time per school year. A copy is also 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 local educational agency 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; and
- Upon request by the parent

Parents/Guardians may elect to receive the Procedural Safeguard/Parent Rights notice by electronic mail, an option made available to all parents/guardians by Pataula Charter Academy.

Pataula Charter Academy provides a full explanation of all procedural safeguards/parents' rights available to the parent(s) before the local education agency proposes to initiate or change the identification, evaluation or educational placement of a child or the provision of a FAPE to the child. The communication to the parent(s) includes a description of the action proposed or refused by the local education agency, an explanation of why the local education agency proposes or refuses to take the action, and a description of any options the school considered and the reasons why those options were rejected. Communication to the parent(s) includes a description of each evaluation procedure, assessment, record or report the local education agency used as a basis for the proposed or refused action. Also included shall be a description of any other factors which are relevant to the local education agency's proposal or refusal, a statement that the parent(s) of a child with a disability has protection under the procedural safeguards/parents' rights, a statement of the means by which a copy of the procedural safeguards/parents' rights may be obtained, and information providing sources to contact for assistance in understanding the procedural safeguards/parents' rights.

In most cases, the above Notice requirements is addressed by providing the parent(s) with a copy of documents

such as the Consent to Evaluate, Consent for Placement, consent for accessing a child's or parent's public benefits or insurance, evaluation report, eligibility report, invitation to a meeting, the full individualized education program (IEP) (with minutes, if taken), and/or other relevant documents, as appropriate. However, there may be circumstances when a parent makes a request but these items have not yet been generated for the child. In such a case, the local education agency will respond to the request through an alternative manner, such as through a letter to the parent(s), which provides all of the required elements identified in the paragraph above.

NOTE: Graduation from high school with a regular education diploma constitutes a change in placement and requires written prior notice, in accordance with information above.

Pataula Charter Academy ensures that the notice required in this rule

- Will be written in language understandable to the general public.
- Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- If the native language or other mode of communication of the parent is not a written language, Pataula Charter Academy will take steps to ensure the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
 - The school ensures that the parent understands the content of the notice; and
 - That there is written evidence that the requirements have been met.

Contents of Parent Rights

The content of the notice includes 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; and
 - 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; and
- Notice provided in a language understandable to the parents.

Parent Opportunity to Review Records

Pataula Charter Academy provides 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. These rights include the right to a response from the local education agency to reasonable requests for explanations and interpretations of the records, the right to request the local education agency to provide copies of the records and the right to have a representative of the parent to inspect and review the records. The local education agency may presume that the parent has these rights unless the school has been advised that the parent does not have the authority due to State law governing, guardianship, separation and divorce.

- All rights of parents to examine education records shall transfer to the child at age 18.
- Participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education (FAPE) to such child.
- Obtain an independent educational evaluation of the child.

Parent Participation in Meetings

The parents of a child with a disability are 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 local education agency 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 local education agency personnel engage in to develop a proposal or to respond to the parent's proposal that will be discussed at a later meeting. The school 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 local education agency 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 local education agency is unable to obtain their participation in the decision. In this case, the local education agency must have a record of its attempts to ensure their involvement, including information that is consistent with State Board of Education Rule 160-4-7-.06 Individualized Education Program. The local education agency makes 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.

Pataula Charter Academy provide notice consistent with Rule 160-4-7-.06 (11) (a) to ensure that parents of children with disabilities have the opportunity to participate in meetings described above.

Independent educational evaluation

When a parent of a student with a disability disagrees with an evaluation conducted by Pataula Charter Academy, the parent has the right to request that Pataula Charter Academy fund an independent educational evaluation. An Independent Educational Evaluation is an evaluation conducted by a qualified examiner who is not an employee of the School. Any results obtained through this independent evaluation must be considered by the School in any eligibility or placement decision. School-level administrators and teachers are asked to notify the Superintendent IMMEDIATELY upon request of an independent educational evaluation by a parent. The School is under strict time constraints once a parent makes this request.

As used in this section, independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the local education agency responsible for the education of the child with a disability in question. As used in this section, public expense means that the local education agency 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 local education agency, subject to the conditions in paragraphs described below:

- If a parent requests an independent educational evaluation at public expense, the local education agency 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 local education agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria
- If the final decision is that the local education agency'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 local education agency 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 local education agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating an impartial due process hearing to defend the local education agency's evaluation.
- Pataula Charter Academy will provide to the parents, upon request, information about where an independent educational evaluation may be obtained and the local education agency's criteria applicable for independent educational evaluations.

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

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

If the administrative law judge or hearing officer conducting the impartial due process hearing requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense. Whenever the state or local education agency 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 local education agency uses when it initiates an evaluation. Except for the criteria described in this Rule, a local education agency may not impose conditions or timelines 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 local education agency conducts an evaluation with which the parent disagrees.

Parent Consent

At a minimum, informed parental consent is 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.
- Accessing a child's or parent's public benefits or insurance for the first time as described in State Board of Education Rule 160-4-7-.02.

Pataula Charter Academy makes 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, Pataula Charter Academy 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 local education agency 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 does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the local education agency may, but is not required to pursue, the initial evaluation by utilizing the procedural safeguards of mediation or due process hearings. The local education agency does not violate its obligations under Child Find if it declines to pursue the evaluation.

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

Pataula Charter Academy obtains informed parental consent prior to conducting a re-evaluation of a child with a disability. Except for an initial evaluation, initial placement, and re-evaluation, consent is not required as a condition of any benefit to the parent(s) or child. If the parent refuses to consent to the re-evaluation, Pataula Charter Academy may, but is not required to, pursue the re-evaluation by using the consent override procedures by accessing the mediation or due process hearing procedures. The school does not violate its obligation if it declines to pursue the re-evaluation.

The school 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 a part of an evaluation or re-evaluation; or
- Administering a test or other evaluation that is administered to all children unless consent is required of parents of all children.

The school 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 local education agency.

Parent Refusal for Consent/Revocation

Parents have the right to request to revoke the consent for placement of their child with disabilities. If a parent requests to revoke consent, then the school must notify the Superintendent so that all steps of Prior Written Notice are followed. The IEP Team, along with a system representative, will meet with the parent to discuss this request. Often the parent may not understand all ramifications of this choice, so the process should be explained to the parents so that they understand the rights that they would be giving up when revoking consent. The following information is given to the parent of the child requesting revocation of special education services:

- Upon parent request, all Special Education services would be eliminated for this student. These services include special transportation, other related services such as Occupational Therapy and Physical Therapy, benefits from other public and private programs, testing accommodations, and provision of assistive technology.
- This revocation may impact the student's high school graduation requirements and diploma options.
- The Individual Education Program (IEP) developed for this student and his/her eligibility/re-determination report has deemed him or her eligible for Special Education and in need of services.
- By revoking Consent for Placement, the parent would be giving up the procedural safeguards available under the Individuals with Disabilities Education Act (IDEA).
- The revocation of parental Consent for Placement means that Pataula Charter Academy is not deemed to have "knowledge of disability" under IDEA and that all rules and timelines for student discipline (including suspension, expulsion, and manifestation) that apply to general education students would apply to this student.

The parent is not allowed to revoke "partial" consent for only some of the services provided by the IEP. If the parent and Pataula Charter Academy disagree about whether a Free and Appropriate Public Education (FAPE) would be provided with or without the provision of a service, the parent may use the due process procedures outlined in Special Education Parental Rights to obtain a ruling regarding the services. Consent for services is for consent for special education.

Parental Training and Awareness

Parents may be provided assistance:

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

State Board Rule: 160-4-7-.12 -- Dispute Resolution

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 Pataula Charter Academy has violated requirements of the Individuals with Disabilities Education Act (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 school at the same time the party files the complaint with the Georgia Department of Education (GaDOE).
- The complaint shall be reviewed and investigated as necessary and appropriate action taken within 60 calendar days of its receipt by the Georgia Department of Education (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 a part of an impartial due process hearing, the portions of the complaint that are not a part of that hearing shall be resolved, following the time limits and procedures described in this rule. The portions of the complaint which are also the subject of an impartial due process hearing shall be set aside pending the conclusion of the hearing
- 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 Georgia Department of Education (GaDOE). However, a complaint alleging the local education agency 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 Georgia Department of Education (GaDOE) and the local school, 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 procedure is outlined in the Pataula Charter Academy Student, Parent, or Guardian Complaints Policy
- Complaints from any organization or individual shall be signed and addressed in writing to: Director, Division for Special Education Services Georgia Department of Education 1870 Twin Towers East Atlanta, Georgia 30334-5010

Mediation Process

Pataula Charter Academy ensures that procedures are established and implemented to allow parties to disputes involving any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE) to resolve such disputes through a mediation process.

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

- Mediation shall be available and offered upon each receipt of a complaint or a due process hearing request.
- The procedures shall ensure that the mediation process:
 - Is voluntary on the part of the parties;
 - 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
 - Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- The school 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 who would explain the benefits of and encourage the use of the mediation process to the parents.
- The Georgia Department of Education 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.
 - An individual who serves as a mediator may not be an employee of the Georgia Department of Education or the school that is involved in the education or care of the child; and
 - Mediators must not have a personal or professional interest that conflicts with the person's objectivity.
 - A person who otherwise qualifies as a mediator is not an employee of the school, or a State agency solely because he or she is paid by the Georgia Department of Education 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:
 - 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
 - Is signed by both the parent and a representative of the school with the authority to bind the school;
 - The written signed mediation agreement is enforceable in any state court of competent jurisdiction, in a district court of the United States or through the State Complaint Process.

Impartial Due Process Hearings

The impartial due process hearing is designed to provide a parent or school an avenue for resolving differences with regard to the identification, evaluation, placement or provision of a free and appropriate public education (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 school knew or should have known about the alleged action that forms the basis of the due process hearing request.
 - 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
 - The school district's withholding of information from the parent that was required to be provided to the parent.

- Due process hearings 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 school must inform the parents of low-cost or no cost legal and other relevant services available if the parent requests the information or whenever a due process request is received by the school.
- Due Process Request Procedures are as follows:
 - 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 school, the party must provide a copy to the Superintendent of Pataula Charter Academy at the same time it provides it to the State.
 - Either party, or the attorney representing either party, may file the due process hearing request.
 - The state and the parties shall keep the content of the due process request confidential.
 - The content of the complaint must include:
 - The name of the child;
 - The address of the residence of the child;
 - The name of the school and the school the child is attending;
 - For a homeless child, the contact information for the child and the name of the school and school the child is attending;
 - A description of the nature of the problem of the child relating to the proposed or refused initiation or change in the identification, evaluation, placement or provision of a free appropriate public education (FAPE) including the facts relating to the problem;
 - A proposed resolution to the problem to the extent known and available to the party at the time.
 - A hearing may not occur until the party or the attorney representing the party files a request that meets the requirements stated above.
 - 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.
 - Within five 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.
 - A party may amend its due process request only if:
 - 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
 - The administrative law judge or hearing officer grants permission not later than five days prior to the beginning of the hearing
 - If an amended due process hearing request is appropriately filed, the timelines for the resolution meeting and the resolution period begin again.
 - The school's response to a due process hearing request:
 - If the school has not sent prior written notice regarding the subject matter of the due process hearing request to the parent, the school must within ten days of receiving the due process hearing request, send to the parent a response that includes:
 - An explanation of why the school 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 school used as the basis for the proposed or refused action; a

description of the other factors that are relevant to the school's proposed or refused action.

- The school's response does not preclude the system from asserting that the parent's due process request is insufficient.
- 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.
- Resolution process: Within 15 days of receiving a parent's due process hearing request and prior to the initiation of a due process hearing, the school 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:
 - Includes a representative of the school who has decision-making authority on behalf of the school; and
 - May not include an attorney for the school unless the parent is accompanied by an attorney.
 - The parent and the school determine the relevant members of the IEP Team to attend the meeting.
 - 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 school has the opportunity to resolve the dispute that is the basis of the request for a due process hearing.
 - The resolution meeting need not be held if the parent and the school agree in writing to waive the meeting; or the parent and the school agree to use mediation to attempt to resolve the due process hearing request.
- The resolution period: If the school 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.
 - 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.
 - If the school is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in the State Board of Education rule, the school 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 school 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.
 - 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:
 - Both parties agree in writing to waive the resolution meeting;
 - 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;
 - If both parties agree in writing to continue the mediation at the end of the resolution period, but later, the parent or school 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 school who has the authority to bind the school.
 - 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.

- If the parties execute an agreement, a party may void the agreement within three business days of the agreement's execution.
- The impartial administrative law judge or hearing officer. At a minimum, an administrative law judge or hearing officer:
 - Must not be an employee of the Georgia Department of Education or the school that is involved in the education or care of the child;
 - A person who otherwise qualifies to conduct a hearing is not an employee of the Georgia Department of Education or its representatives solely because he or she is paid by Georgia Department of Education to serve as an administrative law judge or hearing officer.
 - Must not be a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;
 - Must not be previously familiar with the student or the parents/guardian/surrogate unless through previous administrative procedures;
 - Must not be previously personally familiar with the specific program or services of the school at issue in the hearing. 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 specific school 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;
 - 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.
 - 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;
 - Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
 - Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.
 - The Georgia Department of Education or its representatives must keep a list of the persons who serve as administrative law judges or hearing officers. The list must include a statement of the qualifications of each of those persons.
- Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process hearing request, unless the other party agrees otherwise.
- Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their due process hearing request within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process request.
 - Exceptions to the timeline. The timeline does not apply to a parent if the parent was prevented from filing a due process hearing request due to specific misrepresentations by the school that it had resolved the problem

forming the basis of the due process hearing request; or the school's 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:
 - Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
 - Present evidence and confront, cross-examine, and compel the attendance of witnesses;
 - 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;
 - Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing;
 - Obtain written, or, at the option of the parents, electronic findings of fact and decisions.
 - 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.
 - 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.
 - The calculation of business days under this section for the purposes of disclosure shall be calculated in accordance with the Georgia Civil Practice Act.
 - Obtain a list of all potential witnesses at least five business days before the hearing. If the witness list, due to its length or other factors, does not reasonably disclose the potential witnesses in the hearing, any party or the administrative law judge on his/her own motion may require a party to amend his/her witness list to include only the names of such persons who may actually testify and the general thrust of their testimony.
- The parties may agree to settle the matters in dispute at any time whereupon the ALJ, upon written request, shall enter an order dismissing the matter.
 - 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.
 - Any motion for voluntary dismissal filed pursuant to this subsection shall include a statement of the reason(s) for requesting dismissal.
 - Within five (5) days after service of the motion for voluntary dismissal pursuant to this subsection, the opposing party may file a response to the motion for voluntary dismissal.
 - 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.
 - 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 administrative law judge or hearing officer shall retain the discretion to modify and apply this general principle to conform with the requirements of law and justice in individual cases under unique or unusual circumstances as determined by the administrative law judge or hearing officer.
- Parents involved in hearings must be given the right to:
 - Have the child who is the subject of the hearing present;
 - Open the hearing to the public; and
 - 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.
 - In matters alleging a procedural violation, an administrative law judge or hearing officer may find that a child did not receive a free and appropriate public education (FAPE) only if the procedural inadequacies:
 - Impeded the child's right to a free and appropriate public education
 - Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a free and appropriate public education to the parent's child; or
 - Caused a deprivation of educational benefit.
 - Nothing in this paragraph shall be construed to preclude an administrative law judge or hearing officer from ordering the school 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 Georgia Department of Education, after deleting any personally identifiable information, must transmit the findings and decisions to the State advisory panel and make those findings and decisions available to the public.
- A decision made in a due process hearing is final, except that any party involved in the hearing may appeal the decision under the provisions in paragraph(s) below.
- The Georgia Department of Education must ensure that not later than 45 days after the expiration of the 30-day resolution period or the adjusted resolution time periods that:
 - A final decision is reached in the hearing; and
 - A copy of the decision is mailed to each of the parties.
 - An administrative law judge or hearing officer may grant specific extensions of time beyond the periods set out in this rule at the request of either party. The hearing officer or administrative law judge must notify the parties in its written order granting the extension of the new date by which the decision shall be provided
 - Each hearing must be conducted at a time and place that is reasonably convenient to the parents and child involved
- Civil Action. Any party aggrieved by the findings and decision made by an administrative law judge or hearing officer has the right to bring a civil action with

respect to the due process hearing request notice requesting a due process hearing. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

- The party bringing the action shall have 90 days from the date of the decision of the administrative law judge or hearing officer to file a civil action.
- In any civil action, the court:
 - Receives the records of the administrative proceedings directly from the administrative law judge or hearing officer;
 - Hears additional evidence at the request of a party; and
 - 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 the IDEA without regard to the amount in controversy.
- Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the IDEA, the procedures under IDEA must be exhausted to the same extent as would be required had the action been brought under the IDEA
- Attorneys' fees. In any action or proceeding brought under the due process hearing provisions of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the prevailing party who is the parent of a child with a disability; or
- To a prevailing party who is the Georgia Department of Education or the school 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 Georgia Department of Education or school 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 provisions of the IDEA. This does not preclude a public agency from using funds under Part B of the IDEA for conducting an action or proceeding under section 615 of the IDEA.
- 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:

- 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;
- The offer is not accepted within 10 days; and
- 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.
 - 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. (eye) 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:
 - The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
 - The amount of attorney's fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
 - The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or The attorney representing the parent did not provide to the local education agency the appropriate information in the due process hearing request notice.
- The provisions of paragraph (dd) of this section do not apply if the court finds that the State or local education agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of IDEA.
- Child's status during proceedings. Except as noted in the State Board of Education 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 school 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 school is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education

and related services, the school must provide those special education and related services that are not in dispute between the parent and the school.

- If the administrative law judge or hearing officer in a due process hearing conducted by the State agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the school and the parents.

Amended January 11, 2016

State Board Rule: 160-4-7-.17 – Required Reports

The Georgia Department of Education, as the SEA, is required to report annually to the United States Department of Education and the general public the performance of each LEA on the targets of the state's performance plan. To do so, the Georgia Department of Education must collect data from each LEA, including state charter schools. The data the Georgia Department of Education collects from LEAs includes demographics, student indicators, test results, and administrative indicators. Generally, the Georgia Department of Education collects this information through the FTE-reporting process and Student Record data collection; however, to collect data regarding the LEA's progress on specific targets, each LEA must complete and submit data through the Consolidated Application or stand-alone data collections in the Georgia Department of Education's secure data portal. State charter schools must be sure to follow the specific instructions in submitting data to the Georgia Department of Education. Failure to provide complete and accurate data or failure to abide by the timelines and deadlines for doing so can drastically affect the reporting for a school and can result in the misappropriation, or lack thereof, of federal funding.

Using the data provided to it by the LEAs, the Georgia Department of Education will compile reports and make determinations as to each LEA's compliance with IDEA. In addition to a state charter school's progress towards meeting the targets in the state performance plan, GaDOE will also calculate and repropose the state charter school's compliance with IDEA's maintenance and effort requirement, disproportionality, student environments, postsecondary outcomes, and preschool transition. Each LEA will receive an annual determination from the Georgia Department of Education based upon the LEA's performance indicators. The annual determination a state charter school receives will guide the level of intervention and assistance that the Georgia Department of Education will provide the state charter school.

SEA Monitoring

General Supervisory Authority IDEA requires each SEA to be ultimately responsible to ensure that children with disabilities receive FAPE in accordance with IDEA. As a result, the Georgia Department of Education has general supervisory authority over all compliance matters regarding students with disabilities receiving special education and related services. This means that the Georgia Department of Education may take any steps authorized by law to ensure a state charter school complies with IDEA. The Georgia Department of Education may conduct onsite monitoring or a record review of a state charter school and require the state charter school to complete corrective action steps to achieve compliance with IDEA. The Georgia Department of Education may also withhold state or federal funding or direct the use of such funding for specific efforts to comply with IDEA. In extreme circumstances, the Georgia Department of Education can provide direct services to students with disabilities and withhold funding that would have been provided to the LEA of those students to offset the cost of providing direct services.

Georgia's Continuous Improvement Monitoring Process (GCIMP)

In addition to its general supervisory authority, the Georgia Department of Education must develop and utilize a process for monitoring and evaluating LEA compliance with IDEA. As a result, the Georgia Department of Education developed Georgia's Continuous Improvement Monitoring Process (GCIMP) to offer state-wide improvement and focused assistance to meet the needs of students with disabilities. GCIMP uses many different components, including the State Performance Plan and the LEA's performance, LEA fiscal management, and

monitoring activities to identify state and LEA needs. Each LEA is monitored through a tiered approach ranging from data review to compliance agreements and focused monitoring. The Georgia Department of Education provides targeted technical assistance, professional learning, as well as incentives and sanctions through GCIMP. State charter schools, as LEAs, will be treated by the Georgia Department of Education as any other LEA through GCIMP.

IDEA Fiscal Requirements

IDEA provides several fiscal requirements that are applicable to IDEA funds. Local educational agencies (LEAs) must maintain the state/local special education financial effort previously provided. LEAs may not use IDEA funds to supplant or replace state or local funds unless the LEA meets MOE requirements.

Maintenance of Effort

A local educational agency (LEA) may receive IDEA funds only if the Georgia Department of Education (Department) determines that the LEA has maintained the level of funding from the preceding fiscal year on the basis of aggregate expenditures of state and local special education funds or on a per pupil expenditure basis:

- The Department will test aggregate expenditures of state and local funds to determine whether the MOE standard is met. If the Department determines that the LEA has met the MOE requirement based on aggregate state/local special education expenditures, no further calculations are required.
- If the LEA does not meet the MOE requirement based on aggregate expenditures of state /local special education funds, a per pupil amount is calculated by the Program Manager.

If an LEA fails to meet the MOE standard for the aggregate and per pupil expenditures of state and local special education funds, the LEA may reduce the level of expenditures where such reduction is attributable to one or more of the following MOE exceptions:

- the voluntary departure, by retirement or otherwise, of special education personnel;
- the termination of the LEA's obligation to provide a program to a student with a disability that is an exceptionally costly program because the student has left the LEA, reached the maximum age, or no longer needs the program;
- the termination of costly expenditures for equipment; and/or,
- the amount of the 50% reduction in local effort if the LEA's initial allocation was greater than the previous year's allocation. The "Exception to the Local MOE" form must be copied, completed, and placed in the Upload File in the Program Information tab before the IDEA budget can be reviewed and approved. If the LEA does not meet the MOE requirement with the above exceptions, the LEA must reimburse the difference to the state with non-federal funds.

Excess Cost

IDEA funds provided to LEAs may be used only to pay the excess costs of providing special education and related services to children with disabilities. Excess costs are those costs for the education of an elementary or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year for an elementary or secondary school student. An LEA must spend at least the average annual per student expenditure on the education of an elementary or secondary school student with a disability before IDEA funds can be used to pay the excess costs of providing special education and related services. The LEA is required to compute the minimum average amount separately for students with disabilities in its elementary and secondary schools (34 CFR 300.16). This amount is calculated by the Department based on the most current expenditure reports. The combined enrollments may not be used to compute this average.

Supplement NOT Supplant

A local educational agency (LEA) may use IDEA funds only to supplement and not supplant federal, state, and local funds. However, if the LEA meets or exceeds its level of state/local expenditures for special education and related services from year to year, either in total or per pupil, then IDEA funds are, in fact, supplementing those state/local expenditures.

An LEA presumed to be in violation of the supplement not supplant requirement in IDEA will be required to document that the MOE standard has not been met prior to the presumption being tested. It is important to remember, however, that any determination about supplanting is very case specific; this makes it difficult to provide general guidelines without examining the details of the situation. OMB Circular A-133 Compliance supplement presumes supplanting has occurred if federal funds are used to provide services that

- were required to be made available under other federal, state, or local laws;
- were provided with non-federal funds in prior years; or
- were provided to IDEA participating children, if those same services are provided with non-federal funds to non-IDEA children.

An LEA may rebut a supplanting determination if it can demonstrate it would not have provided services if the federal funds were unavailable. An LEA should consider maintaining documentation, including (but not limited to)

- fiscal or programmatic documentation to confirm that, in the absence of IDEA, Part B funds, the LEA would have eliminated the services in question;
- state or local legislative or local board action; and/or
- budget histories and other data.

Budget

Each year a state charter school must complete a comprehensive plan for providing services under IDEA as part of the Consolidated Application. A portion of this plan includes a budget that will be reviewed and approved by the Georgia Department of Education. All expenditures of IDEA funds must be consistent with the budget approved by the Georgia Department of Education.

Other Expenditure Requirements

A state charter school may use up to 15% of its IDEA funds to develop a coordinated early intervening services (CEIS) program for regular education students who are not identified as needing special education or related services but who need additional academic and behavioral support to succeed in the general education environment. The CEIS should have an emphasis on Kindergarten through 3rd grade. A state charter school that received a determination of significant disproportionality based on race or ethnicity in its identification, placement, or discipline of students with disabilities must reserve the maximum 15% of IDEA funds for CEIS to serve students in those groups significantly disproportionate. A state charter school must reserve a proportionate share of its IDEA funding for services to be provided to parentally-placed in private schools and home schools. No child that is parentally-placed in a private or home school is individually entitled to services through the state charter school, but the state charter school must provide special education services to such students as a whole. In other words, the state charter school may determine the nature and amount of services it will provide and may cease to provide those services once the proportionate share is exhausted. The calculation of the proportionate share is completed through the Consolidated Application and will vary depending on the number of children that are parentally-placed in private or home schools.

Special Education Discretionary Grants

In addition to formula allocations under IDEA, state charter schools may apply to the Georgia Department of Education for additional funding to serve special education students. These discretionary grants are designated for specific purposes, and often the state charter school will need to apply for the funding on an annual basis using the timeline and deadlines established by the Georgia Department of Education. Many of the discretionary grants are awarded on a reimbursement basis and require specific documentation to be submitted to the Georgia Department of Education before the state charter school will have access to the funds.

Federal Grant for High-Cost Students

Because state charter schools must provide each student with a disability FAPE without regard to the cost or if the services needed by the student are traditionally provided by the school, a state charter school may receive a student whose special needs present an economic burden for the school. To help offset the sometimes high cost of providing the special education and related services needed to provide a student FAPE, state charter schools, as an LEA, may apply for additional funding from the Georgia Department of Education. If the state charter school serves a special education student whose needs require the school to expend more than three times the state average per pupil expenditure, the state charter school may apply for the grant for high-cost students. The state average per pupil expenditure is calculated annually, but three times that expenditure is usually approximately \$27,000.

State charter schools that serve high-cost students must apply for the additional grant funding through an application process administered by the Georgia Department of Education. The state charter school should expect to provide documentation to verify the services the school provides, such as service contracts, invoices, payment records, payroll records, and the child's IEP. Funds received through the high-cost grant must only be used for providing the direct special education and related services as identified in that child's IEP. The funds that are received through the high-cost grant cannot be used for medical services that are reimbursable under a student's Medicaid plan. The total amount of funding available under the high-cost grant is limited. As a result, specific grant awards will vary depending on the state's needs as a whole. Typically, an LEA, including a state charter school, will receive additional funding under the high-cost grant to cover only a portion of the cost to provide required services to high-cost students. As a result, a state charter school should not expect the high-cost grant funding to provide for all the services a high-cost student needs, and the state charter school must be prepared to provide required services using other supplemental funding.

State Grant for Residential and Reintegration Services

In situations in which a state charter school must place a student in a residential setting to ensure the student receives FAPE, the state charter school may apply for additional funding through the Georgia Department of Education to offset the cost of the residential placement. The student's placement in the residential facility must be made by the student's IEP Team in accordance with IDEA. Additionally, the residential facility must be a facility that is approved by the Georgia Department of Education as meeting certain criteria consistent with state standards. The state charter school remains responsible for ensuring the implementation of the student's IEP even though the student is served through a residential facility.

State charter schools that serve a student in a residential placement must apply for the additional grant funding through an application process administered by the Georgia Department of Education. The state charter school

should expect to provide documentation to verify the residential services, such as service contracts, invoices, payment records, and the child's IEP. Funds received through the residential and reintegration grant must only be used for providing the direct special education and related services as identified in that child's IEP. As part of the application process, the state charter school must have a plan to reintegrate and transition the student to a less-restrictive setting.

The total amount of funding available under the residential and reintegration is limited. As a result, specific grant awards will vary depending on the state's needs as a whole. Typically, an LEA, including a state charter school, will receive additional funding under the residential and reintegration grant to cover only a portion of the cost to provide required services to students in residential placements. As a result, a state charter school should not expect the residential and reintegration grant funding to provide for all the services a student in a residential placement needs, and the state charter school must be prepared to provide required services using other supplemental funding.