

# Individuals with Disabilities Education Act

## An Overview

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# History of IDEA

Prior to 1975, the educational needs of millions of children with disabilities were not being met because:

- Lack of appropriate educational services
- Lack of adequate resources to provide appropriate services
- Children with disabilities were being excluded from school and/or from being educated with peers
- Disabilities went undiagnosed

In 1975, Congress passed the Education for All Handicapped Children Act, which was renamed in 1990 as the Individuals with Disabilities Education Act (IDEA).

Latest revision in 2009



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# IDEA Regulations 2006

## Part 300: Assistance to States

- Subpart A - General Provisions
- Subpart B - State Eligibility
- Subpart C – Local Educational Agency Eligibility
- Subpart D - Evaluations and IEPs
- Subpart E - Due Process Procedures
- Subpart F - Monitoring, Confidentiality
- Subpart G – Allotments, Grants, Use of Funds
- Subpart H – Preschool Grants for Children with Disabilities

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# Subpart A: General Provisions

## PURPOSE

To ensure that all children with disabilities(CWD) have available to them a **free appropriate public education (FAPE)** that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.

- To insure the rights of children with disabilities and their parents
- To assist in the provision of education for all children with disabilities
- To assess and ensure effectiveness of efforts to educate

## DEFINITION OF TERMS

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# Subpart B – State Eligibility

FAPE Requirements

Assistive Tech

Extended School Year

Program options

Child Find

LRE (Least Restrictive Environment)

Transition of children to preschool programs

Children in Private Schools

# Free Appropriate Public Education (FAPE)

Special education and related services that:

- Are provided at public expense
- Include an appropriate pre-school, elementary school, or secondary school education
- Are provided in conformity with an individualized education program (IEP)
- Meet the standards of the State Education Agency



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# Assistive Technology

Assistive technology devices and/or services are made available to a child with a disability if required as part of the child's:

- Special education
- Related services
- Supplemental aids and services

On a case-by-case basis, the IEP team can determine that a child needs access to school-purchased AT at home or in other settings.



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# Extended School Year (ESY)

Individualized special education and related services that are provided to a child with a disability beyond the normal school year.

- In accordance with the IEP
- Not just in summer
- At no cost to the parent

Must be provided only if the IEP team determines that services are required for the provision of FAPE.

Considerations: severity of disability, regression of skills over breaks, lack of progress on IEP goals, emerging skills, transitional needs



## ESY is NOT:

- Tutoring, summer school, child care or enrichment programs.
- Limited to certain groups of students or activities.
- Limited to a specific time frame, such as summer.
- Decided by one person. It's an IEP team decision!
- Determined by only one measure.



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# Least Restrictive Environment (LRE)

- To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled.
- Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes cannot be achieved – even with supplemental aids and services.



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# Child Find

All children with disabilities in the state who are in need of special education and related services are identified, located, and evaluated.

- Public School
- Private School
- Homeless
- Highly mobile (i.e., migrants)
- Wards of the State

# Transition of Children to Preschool Programs



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- Transition from Babies Can't Wait services on or before their 3<sup>rd</sup> birthday
- CWDs ages 3-5- not yet eligible for state-funded kindergarten

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# Subpart C: Local Educational Agency (LEA) Eligibility

Must have policies, procedures, and programs that are consistent with the state policies and procedures

- Use of funds
- Personnel development
- Purchase of Instructional Materials
- Charter Schools
- Early Intervening Services (primarily grades K-3)



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# Subpart D : Evaluations, Eligibility Determinations, IEPs, and Educational Placements

Parental Consent

Evaluations and Reevaluations

Eligibility Determination

IEPs

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# Parental Consent

## ONLY REQUIRED BEFORE:

- Conducting an initial evaluation to determine if the child qualifies as a child with a disability
- Conducting any reevaluation of a child with a disability
- Providing initial special education and related services to a child with a disability

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# Interventions prior to referral

- Student must have received scientific, research or evidence based academic or behavioral interventions that have been implemented as designed for the appropriate period of time to show effect or lack of effect
- Demonstrates that the child is not making sufficient rate of progress to meet age or state approved grade-level standards within a reasonable time

\*RTI data can be collected at the same time that the evaluations are being completed if there are compelling reasons - districts cannot use RTI to delay or deny a parent request





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# Initial Evaluations

- Must have signed parental consent (not the same as consent for Special Education services)
- Full evaluation – all areas of suspected disability including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities
- Conducted within 60 days of receiving parental consent for evaluation
- Using a variety of assessment tools
- In native language

# Evaluation

Evaluated as having one or more of the following disabilities:

- Autism
- Intellectual disability (mild, moderate, severe, profound)
- Hearing Impairment
- Speech or Language Impairment
- Visual Impairment
- Emotional and Behavioral Disorder
- Orthopedic Impairment
- Traumatic Brain Injury
- Other Health Impairment
- Specific Learning Disability
- Deaf-Blindness
- Significant Developmental Delay

***AND, BY REASON THEREOF, NEED SPECIAL EDUCATION (SPECIALIZED INSTRUCTION) AND RELATED SERVICES.***



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# \* GaDOE State Rule



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## Autism Evaluations and Assessments

- Comprehensive psychological evaluation
- Assessment of educational performance
- Communication evaluation - verbal and non-verbal communication, prosody (intonation and rhythm), and pragmatic language
- Behavioral evaluations – social interaction and participation, peer and adult interactions, capacity to relate to others, stereotypical behaviors, resistance to change, atypical responses to sensory stimuli, persistent preoccupations with or attachments to objects
- Developmental history – developmental differences and delays, and age of onset

# Reevaluations

At least once every 3 years, not more than once per school year.

Can be a full or partial evaluation (work samples, observations, grades, present levels of functioning)

Must be conducted before determining that the child is no longer a child with a disability.

# Parent Participation in IEP Meetings

- Notification early enough to attend
- Purpose of meeting clearly defined
- Mutually agreed upon time and place
- Notification of who will attend (student must be invited beginning age 16)
- Provided a copy of developed IEP

*\* A meeting can be held without the parent in attendance if the public agency cannot convince the parent that they should attend.*

# Individualized Educational Programs (IEPs)



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**Designed to Meet Unique Needs and Prepare for Further Education, Employment, and Independent Living**

Must include:

- Present Level of academic achievement and functional performance
- Measurable annual goals that enable the child to be involved and make progress in the general curriculum
- Description of how progress on annual goals will be measured
- Statement of Special Education, Related Services, and Supplemental aids and Services to be provided in order for the child to
  - Advance toward attaining annual goals
  - Be involved in the general curriculum
  - Be educated with SWDs and non-disabled children
- Accommodations necessary to measure academic achievement
- Transition services no later than the IEP in effect when the child turns 16
- Transfer of rights at the age of majority in the state - 18 in Georgia

# IEP TEAM

- Parent
- Child (or steps to ensure that child's interests are considered)
- Not less than one Regular Ed teacher
- Not less than one Special Ed teacher
- A representative of the public agency who can supervise the provision of specially designed instruction to meet unique needs, knowledgeable about the general curriculum and availability of resources
- Person who can interpret evaluation results
- At parent or public agency discretion, other individuals who have knowledge or special expertise regarding the child
- Transition services participants when appropriate

# Letter of Excusal

A member of the IEP team may be excused from all or part of the IEP meeting if:

- The parent consents to the excusal in writing
- The member submits input into the development of the IEP in writing prior to the meeting





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# Least Restrictive Environment (LRE) Requirements

- To the maximum extent appropriate, children with disabilities are educated with children who are nondisabled
- Removal from regular education settings occurs only if the nature or severity of the disability is such that education in regular classes cannot be achieved, even with use of supplemental aids and services
- The child is educated in the school he or she would attend if non-disabled unless the IEP requires another arrangement
- The child is not removed from education in age-appropriate classrooms solely because of the need for modifications in the general education curriculum.



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# Program Options

Each public school must ensure that SWDs have available to them the variety of educational programs and services that are available to non-disabled children, including art, music, industrial arts, consumer and homemaking education, and vocational education.

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# Placement Options for Preschoolers

- Regular education early childhood program in the public school or community (Head Start, Ga Pre-K, public or private daycare, etc.)
- Regular early education program with supplemental aids and services
- Regular early education program with direct services provided by special education personnel using a consultative, collaborative or co-teaching model
- Separate special education program housed in a public school or community-based setting
- Program provided in the home as a natural environment



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# Placement Options for School-Aged Children

- General Education classroom with age-appropriate peers
  - Additional supportive services
- Instruction outside the general classroom for individuals and small groups
- Separate day school or program
- Home-based instruction – short term option when parents and LEA agree
  - Can still have access to general education curriculum
  - Services must be reviewed no less than **quarterly** by the IEP team
  - Placement must include a **reintegration plan** for returning to the school setting
- Residential Placement
- Hospital/homebound instruction program



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# Nonacademic Services

- Provision of supplemental aids and services determined appropriate and necessary by the IEP team to provide nonacademic and extracurricular services and activities needed for children with disabilities to have full educational opportunity
- May include transportation, recreational activities, school-sponsored clubs and athletics and referrals to agencies that provide assistance to individuals with disabilities.

# Physical Education



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Physical Education is defined as the development of:

- physical and motor skills
- fundamental motor skills and patterns (throwing, catching, walking, running)
- skills in aquatics, dance, and individual and group games and sports

Students with Disabilities (SWDs) must be afforded the opportunity to participate in PE programs available to non-disabled students unless:

- enrolled full time in a separate facility
- need for specially designed PE as defined in the IEP

Adapted PE - adapted or modified so that it is as appropriate for the person with a disability as it is for a person without a disability.

# Children with Disabilities Enrolled by their Parents in Private Schools



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- No individual entitlement to special education and related services
- LEAs are required to spend a proportionate share of federal IDEA funds to provide education and related services to eligible children with disabilities
- Based on an annual count of the number of parentally-placed CWDs
- Services Plan describes the specific education and related services that the LEA will provide
- When proportionate share dollars are used up, services end

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# Subpart E: Procedural Safeguards and Due Process Procedures



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- Parental consent for initial evaluation and placement
- Opportunity to examine records
- Opportunity to participate in meetings
- Ability to request an Independent Educational Evaluation (IEE) if in disagreement with an evaluation obtained by the public agency
- IEP team consideration of evaluation results obtained at private expense
- Prior written notice of proposals to change, or refusal to change, the identification, evaluation, or educational placement of the SWD
- Opportunity to present and resolve complaints through State and Due Process complaint procedures





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# Dispute Resolution Process

**Goal:** Provide resolutions in disputes between parents and districts over the rights and services afforded to students with disabilities and their families

**First Recommendation:** Contact the special education administrator in the district to assist in working out the differences.

**When a resolution cannot be worked out locally,** other processes are guaranteed to students with disabilities under IDEA. These include: (1) mediation, (2) formal complaint, and (3) a due process hearing.

# Legally-Mandated Dispute Resolution Processes under the IDEA

- Mediation
- Formal Written Complaints
- Due Process Hearing Requests  
Resolution Sessions

# Mediation

## What is it?

A voluntary process that brings parents and school districts together to resolve their disagreements through the use of a skilled, impartial mediator.

## Who can initiate it?

Parents or districts

## What is the time limit for requesting?

None specified



# Mediation

## What issues can be resolved?

Any matter under IDEA and the state special education rules

## Who resolves the issues?

Parent and districts with a mediator

## How are the issues resolved?

Solution must be in a written mediation agreement signed by both parties

## Legally binding



# Formal Complaints

## What is it?

A written complaint to the GaDOE alleging violations by the district that need to be investigated

## Who can initiate it?

Any person or organization

## What is the time limit for filing?

One year from the date of the alleged violation



# Formal Complaints



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## What issues can be resolved?

Alleged violation of IDEA and state special education rules

## Who resolves the issues?

GaDOE Division for Special Education Services and Supports

## How are the issues resolved?

Contracted investigator conducts investigation and interviews all relevant parties

The GaDOE issues a written decision containing findings of facts and conclusions within 60 days of filing unless extended for exceptional circumstances



# Due Process Hearing Request

## What is it?

A written document used to request a formal hearing before an administrative law judge (ALJ)

## Who can initiate it?

Parents or districts

## What is the time limit?

Two years from when the parties knew or should have known of the alleged problem



# Due Process Hearing Request

## What issues can be resolved?

Any matter related to the identification, evaluation, or educational placement, or provision of a free appropriate public education (FAPE) to the child

## Who resolves the issues?

An administrative law judge (ALJ)

## How are the issues resolved?

The ALJ issues a written decision within 45 days (unless extension granted) after considering pleadings and evidence (including witness testimony) in a formal, judicial hearing





# What information is available on the GaDOE website?

## Overview Link

Dispute Resolution Comparison Chart

## Formal Complaints, Mediation, and Due Process Hearing Links

Forms and FAQs

## Due Process Hearing Decisions (FY 2001-2014)

## Dispute Resolution Parent Guides (Mediation, Written State Complaints, Due Process Complaints/Hearings, Resolution Meetings)

English and Spanish

# PARENT RIGHTS

Links on GaDOE website:



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- **Full Parent Rights**  
Arabic, Chinese, English, Japanese, Korean, Spanish, Vietnamese
- **Parent Information Fact Sheets**
- **Special Education Parent Supports and Legal Aid Providers**
- **Parent Videos**
  - Parent Rights - English and Spanish
  - Parent Notice/Consent/Confidentiality
  - Evaluations and IEEs
  - LRE
  - Private School Placement
  - Discipline Procedures/Rights
  - Dispute Resolution
  - Surrogate Parent/Transfer of Rights



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# State Advisory Panel

**Composed of individuals involved in, or concerned with the education of SWDs including:**

- Parents
- Individuals with disabilities
- Teachers
- State and local education officials
- Representatives of Institutions of Higher Education
- Representatives of private and public charter schools
- Representatives of vocational, community, or business organizations concerned with transition services
- Representatives from child welfare agency responsible for foster care
- Representatives from state juvenile and adult corrections agencies

**Majority of members must be individuals with disabilities or parents of children with disabilities (ages birth through 26)**



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# Duties of State Advisory Panel

- Advise the SEA (State Education Agency) of unmet needs of CWDs in the state
- Comment publicly on rules or regulations proposed by the State
- Advise the SEA in developing evaluations and reporting data
- Advise the SEA in developing corrective action plans to address findings identified in Federal monitoring reports
- Advise the SEA in developing and implementing policies related to coordination of services for CWDs

# Other Provisions Required for State Eligibility



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- **Suspension and expulsion rates** – The SEA must examine data disaggregated by race and ethnicity to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of SWDs.
- **Over-identification and disproportionality** – The SEA must have policies and procedures designed to prevent the over-identification or disproportionate representation by race and ethnicity of SWDs with a particular impairment



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# Transfer of Parental Rights at Age of Majority

Age 18 in Georgia

All rights accorded to the parents transfer to the child

*Guardian appointment must be obtained through probate court -  
schools will require evidence.*

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## Contact information:

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