

160-4-7-.21 DEFINITIONS.

(1) Accommodation – Changes in instruction that enable children to demonstrate their abilities in the classroom or assessment/test setting. Accommodations are designed to provide equity, not advantage, for children with disabilities. Accommodations include assistive technology as well as alterations to presentation, response, scheduling, or settings. When used appropriately, they reduce or even eliminate the effects of a child’s disability; but do not reduce or lower the standards or expectations for content. Accommodations, that are appropriate for assessments do not invalidate assessment results.

(2) Adult student - A student with a disability, age 18 or older, to whom rights have transferred under the IDEA 2004 and Georgia Rule.

(3) Age of majority - The age at which, by law, a child assumes the responsibilities of an adult. In Georgia, the age of majority is 18.

(4) Alternate assessment - An assessment aligned with alternate achievement standards for children with the most significant cognitive disabilities designed by the State and required in lieu of regular Statewide assessments, when determined necessary by the child’s IEP team. .

(5) Assistive technology device - Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device. [34 C.F.R. § 300.5]

(6) Assistive technology service - Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child. [34 C.F.R. § 300.6]

(7) Behavioral intervention plan (BIP) - A plan for a child with disabilities, included in the IEP when appropriate, which uses positive behavior interventions, supports and other strategies to address challenging behaviors and enables the child to learn socially appropriate and responsible behavior in school and/or educational settings.

(8) Braille - A tactile system of reading and writing, used by children who have blindness or visual impairments, with an official code composed of Braille characters or cells that consist of various patterns of raised dots that correspond to alphabetic letters, punctuation marks and other symbols.

(9) Charter school - Has the meaning given the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA). [34 C.F.R. § 300.7]

(10) Child with a disability – In general,

(a) Refers to a child evaluated as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, or deaf-blindness and who needs special education and related services. If it is determined, through an appropriate evaluation, that a child has one of the above disabilities identified but only needs a related service and not special education, the child **is not** a child with a disability. If the related service required by the child is considered special education rather than a related service, the child would be determined to be a child with a disability. [34 C.F.R. § 300.8(a)(1) – (2)]

(b) A child with a disability aged three through nine (or any subset of that age range, including ages three through five) experiencing developmental delays, may include a child -

1. Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

2. Who, by reason thereof, needs special education and related service. [34 C.F.R. § 300.8(b)(1) – (2)]

(11) Consent means that –

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). [34 C.F.R. § 300.9]

(12) Core academic subjects - Refers to English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. [34 C.F.R. § 300.10]

(13) Day; business day; school day -

(a) Day is calendar day unless otherwise indicated as business day or school day.

(b) Business day refers to Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day).

(c) School day equates to any day, including a partial day that children are in attendance at school for instructional purposes. School day has the same meaning for all children in school, including children with and without disabilities. [34 C.F.R. § 300.11]

(14) Elementary school - A nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education and contains any grade below four and does not contain any grade above grade eight. O.C.G.A. § 20-2-291(c) [34 C.F.R. § 300.13]

(15) Eligibility Team - A group of qualified professionals and the parent of the child, which determines whether the child is a child with a disability and determines the educational needs of the child. [34 C.F.R. § 300.306(a)(1)]

(16) Evaluation - Procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. [34 C.F.R. § 300.15]

(17) Evaluation report - A summary of evaluation results obtained in the process of collecting information to determine if a child is a child with a disability and the educational needs of the child. The evaluation reports will vary from child to child,

depending on the types of evaluations completed. An eligibility report or written statement of reevaluation considerations may serve as an evaluation report.

(18) Excess costs - Those costs that are in excess of the average annual per-child expenditure in a LEA during the preceding school year for an elementary school or secondary school child, as may be appropriate, and that must be computed after deducting amounts received under Part B of IDEA, Part A of Title I of the ESEA and Parts A and B of Title III of the ESEA. Any state or local funds expended for programs that would qualify for assistance under any of the parts described in this section, but excluding any amounts for capital outlay or debt service. [34 C.F.R. § 300.16]

(19) Free appropriate public education (FAPE) - Special education and related services that –

(a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the standards of the State, including the requirements of this part;

(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements IDEA 2004. [34 C.F.R. § 300.17]

(20) Functional behavioral assessment (FBA) - A systematic process for defining a child's specific behavior and determining the reason why (function or purpose) the behavior is occurring. The FBA process includes examination of the contextual variables (antecedents and consequences) of the behavior, environmental components, and other information related to the behavior. The purpose of conducting an FBA is to determine whether a Behavioral Intervention Plan should be developed.

(21) Homeless children - Has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 *et seq.* [34 C.F.R. § 300.19]

(22) Include - The items named are not all of the possible items that are covered, whether like or unlike the ones named. [34 C.F.R. § 300.20]

(23) Individualized education program (IEP) - A written statement for a child with a disability that is developed, reviewed, and revised in accordance with IDEA 2004. [34 C.F.R. § 300.22]

(24) Individualized education program team (IEP Team) - A group of individuals defined in Rule 160-4-7-.06 Individualized Education Program that is responsible for

developing, reviewing, or revising an IEP for a child with a disability. [34 C.F.R. § 300.23]

(25) Individualized family service plan (IFSP) - A written plan for services to an infant or toddler in the Part C Babies Can't Wait early intervention program that may be used in the Part B preschool program until an IEP is written, if the IFSP meets all the requirements of the IEP. [34 C.F.R. § 300.24]

(26) Infant or toddler with a disability - (a) An individual under three years of age who needs early intervention services because the individual -

1. Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

2. Has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay. [34 C.F.R. § 300.25]

(27) Limited English proficient - Has the meaning given the term in section 9101(25) of the ESEA. [34 C.F.R. § 300.27]

(28) Local educational agency (LEA) – A public board of education or other public authority legally constituted within Georgia for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in the State as an administrative agency for its public elementary schools or secondary schools. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public nonprofit charter school that is established as a LEA under State law. [34 C.F.R. § 300.28]

(29) Modifications - Alterations that change, lower, or reduce learning expectations. Modifications can increase the gap between the achievement of students with disabilities and expectations for proficiency at a particular grade level. Consistent use of modifications could adversely affect students throughout their educational career. Modifications in Statewide assessments may invalidate the results.

(30) Native language - (a) When used with respect to an individual who is limited English proficient, means the following:

1. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in (a) 2.

2. In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

(b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication). [34 C.F.R. § 300.29]

(31) Parent - (a) Refers to-

1. A biological or adoptive parent of a child;
2. A foster parent;
3. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
5. A surrogate parent who has been appointed.

(b) Except as provided in paragraph (c) below, the biological or adoptive parent must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(c) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent." [34 C.F.R. § 300.30]

(32) Parent training and information center - A center assisted under sections 671 or 672 of IDEA. [34 C.F.R. § 300.31]

(33) Part B - Section of IDEA 2004 that relates to the assistance to states for the education of children with disabilities who are ages 3 through 21. Part B is administered by the Georgia Department of Education and carried out by LEAs and other public agencies.

(34) Part C - Section of IDEA 2004 that relates to the assistance to states for the education of children with disabilities and the early intervention programs for infants and toddlers, ages birth through 2, with disabilities. In Georgia, Part C is administered by the Department of Human Resources, Division of Public Health as the Babies Can't Wait program.

(35) Personally identifiable - Information that contains-

- (a) The name of the child, the child's parent, or other family member;
- (b) The address of the child;
- (c) A personal identifier, such as the child's social security number or student number; or
- (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. [34 C.F.R. § 300.32]

(36) Related services -

(a) General. Related services means 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 includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

1. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

2. Nothing in paragraph ((b)(1)) -

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE;

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly, as required.

(c) Individual related services terms defined. The terms used in this definition are defined as follows:

1. Audiology includes -

- (i) Identification of children with hearing loss;
- (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
- (iv) Creation and administration of programs for prevention of hearing loss;
- (v) Counseling and guidance of children, parents, and teachers regarding hearing loss;
and
- (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

2. Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

3. Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

4. Interpreting services includes -

- (i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and
- (ii) Special interpreting services for children who are deaf-blind.

5. Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

6. Occupational therapy – skilled services and interventions provided by a qualified occupational therapist/occupational therapy assistant that includes:

- (i) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation related to the student's ability to perform school related tasks as independently as possible by evaluating and establishing goals to address deficits in the following areas, as appropriate based on a student's individualized needs: fine and gross motor skills, sensorimotor skills, visual motor/perceptual skills, social integration,

activities of daily living, feeding, positioning, and sensory processing and regulation for alertness/attention.

(ii) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(iii) Preventing, through skilled intervention, initial or further impairment or loss of function.

(iv) Providing education and training of school personnel to support and monitor occupational therapy programs such as sensory diet, positioning, and feeding.

7. Orientation and mobility services –

(i) Services provided to blind or visually impaired children by qualified personnel to enable those children to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) Includes teaching children the following, as appropriate:

(I) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(II) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(III) To understand and use remaining vision and distance low vision aids; and

(IV) Other concepts, techniques, and tools.

8. Parent counseling and training means:

(i) Assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

9. Physical therapy means services provided by a qualified physical therapist to include:

(i) Improving, developing, or restoring function and participation that have been impaired related to the student's ability to perform educational and related tasks as independently as possible;

(ii) Physical therapy in school settings supports the purpose of IDEA

to advance "further education, employment and independent living" of children with disabilities and addresses the students' goals for the educational environment.

(iii) School based physical therapy is a related service provided when it is required in order to assist a child with a disability to benefit from special education as determined by a student's IEP team.

(iv) Physical therapy provided in educational environments supports children's ability to function, access, and participate safely in all school environments. Physical therapists address issues involving safe access, balance, strength, motor skills, coordination, ambulation, transfers, safe mobility, and general independence as they relate to tasks required in educational environments. Physical therapists assist in providing equipment for students who need support for posture, positioning, proper structural alignment, class participation, and activities of daily living during school activities. This includes providing consult or training services to teaching staff and other personnel on behalf of students for training and monitoring physical therapy programs and equipment.

(v) Prevention, through prompt skilled intervention, initial or further impairment or loss of function and participation.

10. Psychological services includes -

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(vi) Assisting in developing positive behavioral intervention strategies.

11. Recreation includes -

(i) Assessment of leisure function;

- (ii) Therapeutic recreation services;
- (iii) Recreation programs in schools and community agencies; and
- (iv) Leisure education.

12. Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a child with a disability. The term also includes vocational rehabilitation services provided to a child with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

13. School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

14. Social work services in schools includes -

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

15. Speech-language pathology services includes -

- (i) Identification of children with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

16. Transportation includes -

(i) Travel to and from school and between schools;

(ii) Travel in and around school buildings; and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. [34 C.F.R. § 300.34]

(37) Scientifically-based research (SBR) - Research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to core academic development, instruction, and difficulties; and includes research that: (a) employs systematic, empirical methods that draw on observation or experiment; (b) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; (c) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and (d) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review. [Section 9101(37) of ESEA; 34 C.F.R. § 300.35]

(38) Secondary school - A nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12. State law defines “middle school” as a school which contains no grade below grade four and no grade above grade eight. State law defines “high school” as a school which contains any grade above grade eight. O.C.G.A. § 20-2-291(c). [34 C.F.R. § 300.36]

(39) Special education - (a) General.

1. Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including -

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

2. Special education includes each of the following, if the services otherwise meet the requirements of (a) 1 —

(i) Speech-language pathology services is considered special education and a related service under State standards;

(ii) Travel training; and

(iii) Vocational education.

(b) Individual special education terms defined. The terms in this definition are defined as follows:

1. At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled children or their parents as a part of the regular education program.

2. Physical education means the development of physical and motor fitness, fundamental motor skills and patterns and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). It includes special physical education, adapted physical education, movement education, and motor development.

3. Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction -

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

4. Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to -

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

5. Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

6. Vocational and technical education means organized educational activities that offer a sequence of courses that -

(i) Provides individuals with the rigorous and challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers

(other than careers requiring a Master's or doctoral degree) in current or emerging employment sectors;

(ii) May include the provision of skills or courses necessary to enroll in a sequence of courses that meet the requirements of this subparagraph; and

(iii) Provides, at the postsecondary level, for a 1- year certificate, an associate degree, or industry-recognized credential; and

(iv) Includes competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, or an individual. [34 C.F.R. § 300.39]

(40) State educational agency (SEA) - The agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools. [34 C.F.R. § 300.41]

(41) Supplementary aids and services - Aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with the requirements for a Free and Appropriate Public Education. [34 C.F.R. § 300.42]

(42) Transition services - (a) A coordinated set of activities for a child with a disability that –

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

2. Is based on the individual child's needs, taking into account the child's strengths, preferences and interests; and includes instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and if appropriate, acquisition of daily living skills and functional vocational evaluation.

(b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education. [34 C.F.R. § 300.43]

(43) Universal design - Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002. [34 C.F.R. § 300.44]

(44) Ward of the State - (a) A child who is a foster child; a ward of the State; or in the custody of the Department of Human Resources.

(b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent. [34 C.F.R. § 300.45]

(45) This rule shall become effective July 1, 2007.

Authority O.C.G.A. § 20-2-152; 20-2-240; 20-2-291.

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