

160-4-7-.19 SERVICES FOR AGENCY-PLACED STUDENTS

(1) PURPOSE.

(a) This Rule is designed to provide access for students who are placed by the Department of Human Services (DHS), Department of Behavioral Health and Developmental Disabilities (DBHDD) or the Department of Juvenile Justice (DJJ) in one of the DBHDD-operated facilities or in contracted facilities and any child who is a patient in a facility licensed by the State of Georgia to deliver intermediate care services, to an appropriate educational program designed to meet the needs of the student.

(2) DEFINITIONS.

(a) DHS or DBHDD contracted facility – a facility that is contracted by DHS or DBHDD to serve clients placed by DHS or DBHDD. This includes public and private facilities for which DHS or DBHDD contracts on a client-by-client basis for a residential placement for an individual client.

(b) DJJ contracted facility – a facility that is contracted by DJJ to serve clients placed by DJJ. This includes public and private facilities for which DJJ contracts on a client-by-client basis for a residential placement for an individual client.

(c) DHS or DBHDD operated facility – a facility that is operated by DHS or DBHDD to serve clients placed by DHS or DBHDD. This includes the regional hospital and outdoor therapeutic programs.

(d) For purposes of these rules, students placed by DHS or DBHDD in DHS or DBHDD- operated or contracted facilities and students placed by DJJ in DJJ-contracted facilities are eligible for education services in the LEA in which the facility is located.

1. A child is considered to be in the physical or legal custody of DHS, DBHDD or DJJ or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement and the child has been admitted or placed according to an individualized treatment or service plan of DHS or DBHDD.

(e) For purposes of these rules, the following students shall NOT be subject to these rules:

1. Students in a Department of Juvenile Justice (DJJ) Youth Development Center, regardless of custody status.

2. Students in Department of Corrections (DOC) facilities, regardless of custody status.

(3) REQUIREMENTS.

(a) Notice.

1. Students with or without disabilities.

(i) For a student placed by DHS or DBHDD in a DHS or DBHDD contracted or operated facility or a student placed by DJJ in a DJJ contracted facility, the custodian of or the placing agency for the child shall notify in writing the LEA in which the facility is located at least five days in advance of the move, unless an emergency prohibits said custodian or placing agency from so doing. The LEA's responsibility shall be in effect once the student is physically present within the geographical area served by the LEA.

(b) Transfer of records. Transfer of education records and educationally related records by a LEA, DHS, DBHDD or DJJ does not require signed parental/guardian consent. However, the parents/guardians shall be notified and, upon request, receive a copy of all transmitted information. The DHS/DBHDD/DJJ facility shall furnish to the LEA the medical and educational records in the possession of the DHS/DBHDD /DJJ facility pertaining to any such student, except where consent of a parent or legal guardian is required to authorize the release of any such records, in which event DHS/DBHDD/DJJ shall obtain such consent from the parent or guardian prior to such release. When the custodian of or placing agency for any child notifies a LEA that a child is to be moved into that LEA, such LEA shall request the transfer of the educational records of the child from the appropriate District or facility no later than ten days after receiving notification.

(c) Educational meetings.

1. Students without disabilities.

(i) After the receipt of the records and within a period of five calendar days, the LEA superintendent or designee shall schedule an educational planning meeting with a DHS or DBHDD and facility representative. A record of the meeting shall be maintained by the LEA for documentation. If a determination is made to refer to special education for further evaluation, the procedures outlined for students with disabilities shall be followed. The LEA, with input from DHS or DBHDD and facility staff, shall have the responsibility for the determination of eligibility for students identified as IDEA eligible.

2. Students with disabilities.

(i) Within five calendar days of receipt of records the LEA shall contact the DHS or DBHDD facility and conduct an IEP meeting. If the student is in the custody of DHS or DBHDD, a surrogate parent shall be appointed.

(ii) In the event that the parents/guardians are unavailable to participate in the IEP development and an IEP has been developed by the LEA, a surrogate, as appropriate, shall be appointed (in accordance with Rule 160-4-7.11 Surrogate) to represent the student at IEP/placement meetings as long as the student resides at the DHS or DBHDD facility. The LEA shall document attempts to notify the parent(s)/guardian(s) and the LEA shall document that a copy of the IEP has been forwarded to the current address of

the parents/guardian although the parents/guardians have been unresponsive or unavailable.

(iii) The LEA shall assume the responsibility for scheduling and conducting the IEP meeting. The meeting shall follow all State Board of Education rules for special education.

(iv) The LEA shall provide a free appropriate public education, including services comparable to those described in the previously held IEP, until such time as the LEA adopts the previously held IEP or develops, adopts, and implements a new IEP. Based on needs addressed in the IEP, determination shall be made as to where service shall be provided.

(v) In the event that a student is placed for a limited, specified time that is considered short-term (under 60 calendar days), the responsible LEA shall provide a free appropriate public education, including services comparable to those described in the previously held IEP, until such time as the LEA adopts the previously held IEP or develops, adopts, and implements a new IEP.

(vi) When the IEP Committee determines that the least restrictive environment (LRE) for a student is the DHS or DBHDD facility, the LEA shall continue to have oversight responsibility for the educational program.

(4) This rule shall become effective March 31, 2010.

Authority O.C.G.A. § 20-2-133; 20-2-150; 20-2-152; 20-2-168.

Adopted: March 11, 2010

Effective: March 31, 2010