

Senate Bill 480

By: Senators Anavitarte of the 31st, Miller of the 49th, Halpern of the 39th, Payne of the 54th, Dugan of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, relating to educational programs under Quality Basic Education, so as to provide
3 for a Special Education Services Bill of Rights; to provide for a statement of rights of parents
4 of children who are or may be eligible for special education and related services under state
5 and federal law; to require local educational agencies to post such rights on their public
6 website with links to Department of Education resources; to provide for a short title; to
7 provide for definitions; to provide for related matters; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
12 relating to educational programs under Quality Basic Education, is amended in Code Section
13 20-2-152, relating to special education services, by adding a new subsection to read as
14 follows:

15 "(e)(1) This subsection shall be known and may be cited as the 'Special Education
16 Services Bill of Rights.'

17 (2) As used in this subsection, the term:

18 (A) 'Consent' means a parent has been fully informed in his or her native language or
19 other mode of communication, such as sign language, braille, or oral communication,
20 of all relevant information about the action for which such parent is giving consent; the
21 parent understands and agrees in writing to that described action, and the consent
22 describes that action and lists the records, if any, that will be released and to whom; and
23 the parent understands that the consent is voluntary on his or her part and may be
24 withdrawn at any time; provided, however, that such withdrawal of consent does not
25 negate an action that occurred after the parent gave consent and before her or she
26 withdrew it.

27 (B) 'Education records' means records that are directly related to a student and
28 maintained by an LEA or other educational agency or institution or by a party acting
29 on behalf of such LEA or other educational agency or institution; provided, however,
30 that such term shall not include certain records as provided by law, including, but not
31 limited to, records that are kept in the sole possession of the maker, are used only as a
32 personal memory aid, and are not accessible or revealed to any other person except a
33 temporary substitute for the maker of the record; certain records of the law enforcement
34 unit of an educational agency; and grades on peer-graded papers before they are
35 collected and recorded by a teacher.

36 (C) 'Local Educational Agency' or 'LEA' means local school systems and charter
37 schools designated by the State of Georgia to provide special education and related
38 services to eligible children.

39 (D) 'Parent' means a person who has legal authority to act on behalf of a minor child
40 and shall include the child's biological or adoptive parent or foster parent; a guardian
41 authorized to make educational decisions for the child; a person with whom the child
42 lives who is acting in the place of a biological or adoptive parent, including, but not
43 limited to, a grandparent, stepparent, or other relative; an individual who is legally
44 responsible for the child's welfare; or a duly designated surrogate.

45 (3) Parents of children who receive or may be eligible for special education and related
46 services have rights under state and federal law, including, but not limited to, this Code
47 section, the federal Individuals with Disabilities Education Act, 20 U.S.C. Section 1400,
48 et seq. (IDEA), and Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C.
49 Section 701, et seq. Such rights include, but are not limited to, the following:

50 '(1) The right for your child to receive a free appropriate public education (FAPE);

51 (2) The right to receive certain notices from the LEA relating to your child's
52 education, including, but not limited to, notice of the following:

53 (a) Your rights as a parent, including, but not limited to, a full explanation of all
54 procedural safeguards available to you;

55 (b) Your child's eligibility for special education and related services;

56 (c) What special education and related services your child will receive and in what
57 settings such services will be provided;

58 (d) The LEA's intention to initiate, change, or refuse to initiate or change the
59 identification, evaluation, placement, or provision of free appropriate public
60 education to your child; provided, however, that such notice shall be provided
61 before the LEA initiates, changes, or refuses to initiate or change the identification,
62 evaluation, placement, or provision of free appropriate public education to your
63 child; and

64 (e) Each evaluation procedure, test, assessment, record, or report the LEA has used
65 as a basis for any LEA-proposed action or basis for refusal;

66 (3) The right to request a full and complete evaluation of your child by the LEA to
67 determine if your child has a disability and is eligible for special education and related
68 services in school; to have your child evaluated in all areas of a suspected disability
69 and in accordance with procedures provided under the federal Individuals with
70 Disabilities Education Act (IDEA) and rules promulgated by the State Board of
71 Education; to require that your child be evaluated at least once every three years.

72 subject to certain conditions and exceptions; to disagree with the LEA's evaluation
73 and request an independent evaluation at public expense, subject to certain conditions;
74 to refuse to consent to the evaluation of your child, subject to certain exceptions; and
75 to refuse to consent to special education and related services offered for your child;
76 (4) The right to participate as a member of the team that develops your child's
77 Individualized Education Program (IEP); to be invited to and attend meetings about
78 your child, including, but not limited to, meetings to address eligibility of your child
79 to receive special education and related services; Individualized Education Program
80 (IEP) team meetings, evaluation meetings, reevaluation meetings, and placement
81 meetings; to have such meetings held at a time and place mutually convenient to you
82 and the other members of the IEP team; and the right to excuse or not excuse
83 members of the IEP team from attending an IEP team meeting;
84 (5) The right to have your child with a disability taught in classrooms and participate
85 in all school programs and activities with other children without disabilities, of the
86 same age and grade, to the greatest extent appropriate for your child, and to have LEA
87 personnel make accommodations and modifications so that your child can participate
88 in all school programs and activities to the greatest extent appropriate;
89 (6) The right to have your child assessed using tests and procedures that do not reach
90 wrong conclusions because of your child's disability or ethnic background;
91 (7) The right to have the LEA follow certain procedures if your child with a disability
92 exhibits behaviors that cause the IEP team to find other settings or ways to educate
93 your child;
94 (8) The right to inspect, review, and understand your child's education records; to
95 receive copies of your child's education records from the LEA; to have your child's
96 education records interpreted or explained to you; to add information, comments,
97 data, or other relevant information to your child's education records; to request that
98 something in your child's education records be removed; to be notified before your

99 child's education records are destroyed; and to give permission to allow a person
100 acting on your behalf to review and inspect your child's education records;
101 (9) The right to have the confidentiality of your child's education records protected
102 and maintained; to restrict access to your child's education records such that only
103 those persons who have your permission, LEA personnel involved in your child's
104 education, and certain others under limited authorizations provided by law may have
105 access to your child's education records;
106 (10) The right to request a mediation or a due process hearing if you disagree with
107 what the LEA has planned for your child with a disability and, subject to certain
108 conditions, to have your child 'stay put' in his or her current placement pending the
109 outcome of such mediation or due process hearing;
110 (11) The right to file a formal written complaint with the Department of Education
111 to conduct an investigation about any concerns, problems, or disagreements related
112 to your child's education under the federal Individuals with Disabilities Education Act
113 (IDEA) and rules promulgated by the State Board of Education;
114 (12) The right to educate your child in a private school; provided, however, that such
115 private school education shall not be at public expenses, subject to certain exceptions;
116 (13) The right to remove your child with a disability from his or her special education
117 program and related services at any time; and
118 (14) The right to receive information regarding your rights, including, but not limited
119 to, the contents of the documents you are asked to sign, in a language that you
120 understand.'
121 (4) Each LEA shall post the provisions of paragraph (3) of this subsection, accompanied
122 by the definitions included in paragraph (2) of this subsection, in a prominent location on
123 its public website and shall include relevant links to the Department of Education's
124 website, including, but not limited to, the homepage of the Department of Education's
125 Division for Special Education Services and Supports or its equivalent."

126

SECTION 2.

127 All laws and parts of laws in conflict with this Act are repealed.