

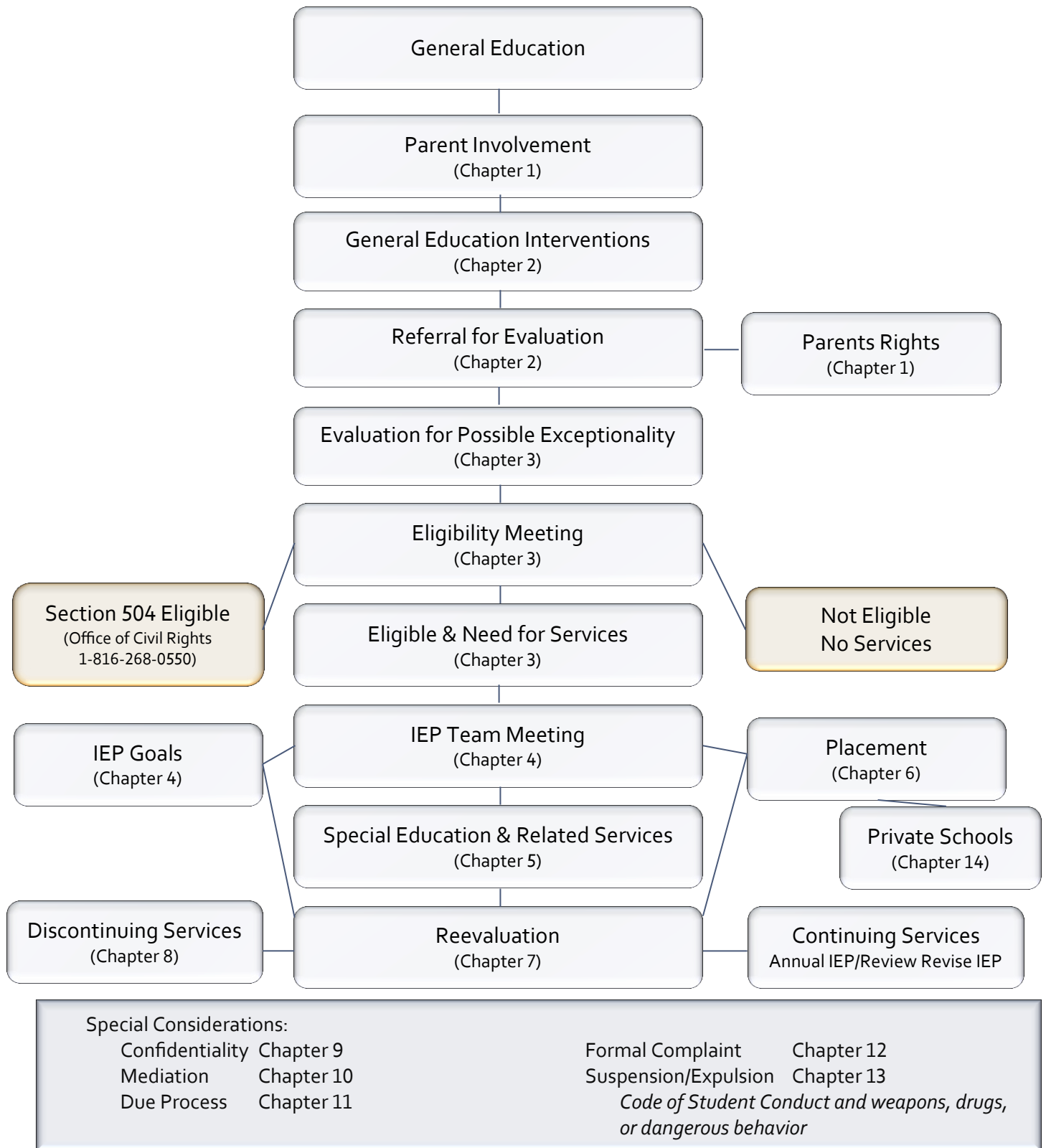
# Documentation of District Practices

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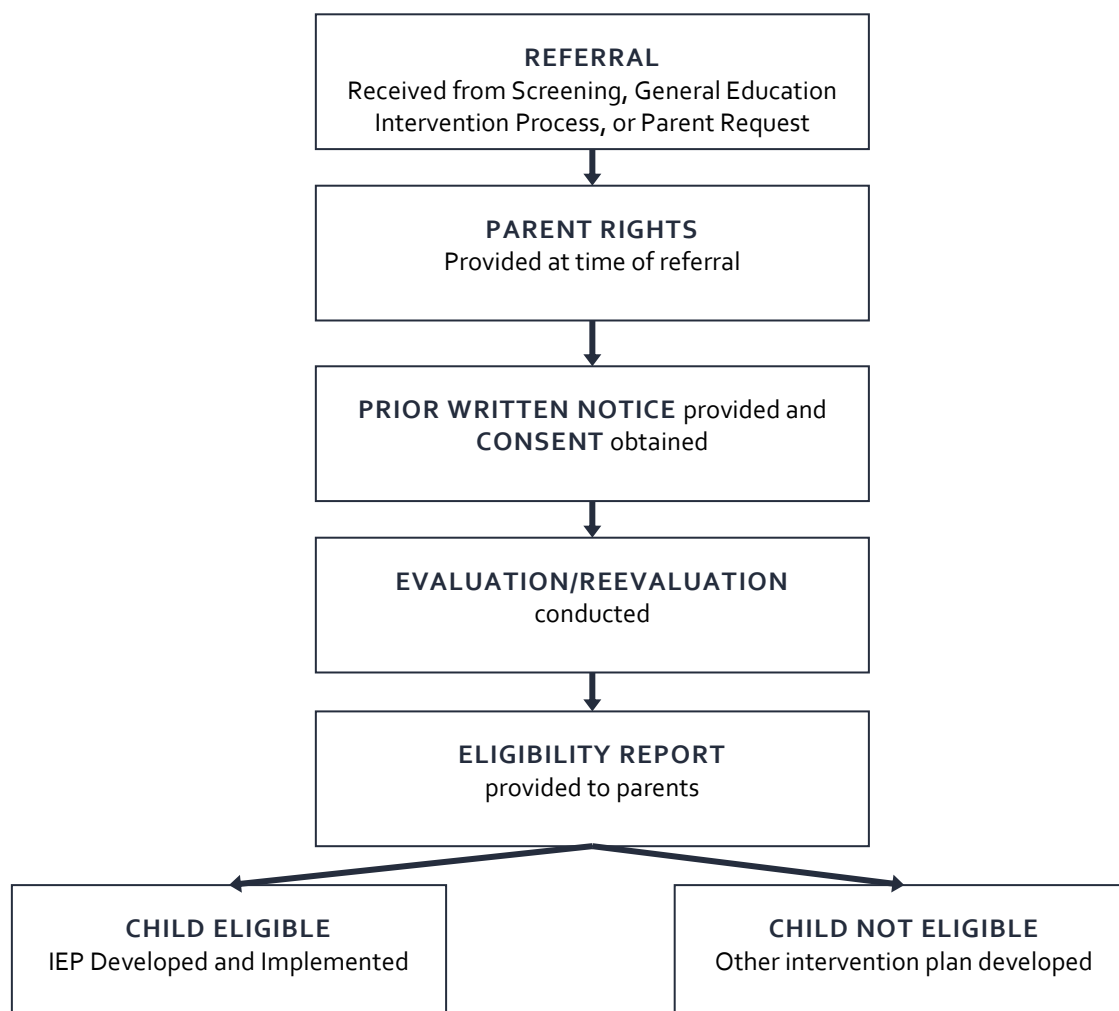
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# 1. Flow Charts

## SPECIAL EDUCATION PROCESS FLOW CHART



## INITIAL EVALUATION



### A. REFERRAL FOR INITIAL EVALUATION

Referrals for initial evaluation may come from a variety of sources. These include:

- Early Childhood Screening
- Part C Infant-Toddler Program
- General Education Intervention Team (if using an individual problem-solving team) or Grade/Content Area Collaborative Team (if using an MTSS process)
- Parents
- Self-referral by adult student

A referral for an initial evaluation is made whenever it is suspected that a child may be a child with an exceptionality. For a preschool child the referral may be a result of screening described in 91-40-7(b), or from a Part C Infant-Toddler program. A school age child would participate in general education interventions (GEI) prior to the referral. As a result of GEI, the school would have data-based documentation of repeated assessments of achievement at reasonable intervals, that indicate the instruction and educational interventions and strategies presented to the child in the general education setting were not adequate and indicated an evaluation for special education is appropriate (K.A.R. 91-40-7(b)(c); 34 C.F.R. 300.309(c)(1)). Additionally, a parent or adult student may request an evaluation at any time.

## 2. Forms

# What Form Do I Need?

## Information/Forms That Need to be Sent to the Student Records

### IEP Meeting

- Meeting Notification
- Staffing Notes
- IEP and MIS Teacher Information Page
- Notice and Consent for change in services/placement —if any change in services or placement was made or if any service was added or deleted

### Initial Evaluation

- General Education Intervention Documentation
- Consent for Evaluation
- Meeting Notification
- Evaluation Report
- Staffing
- Notice and Consent for Identification, Services, and Placement
- IEP--if placed and MIS Teacher Information Page

### Reevaluation

- Notice and Consent for Reevaluation
- Meeting Notification
- Staffing
- IEP--if placed and MIS Teacher Information
- Reevaluation
- Notice and Consent for Identification, Services and Placement—if changes were made

### Dismissal IEP Meeting

- Notice and Consent for Reevaluation
- Meeting Notification
- Staffing Notes
- Reevaluation
- Notice and Consent for Identification, Services and Placement
- MIS Teacher Information Page

### Graduation

- Meeting
- Staffing
- Notice and Consent for Identification, Services and Placement
- MIS Teacher Information Page

### Dismissal of a Related Service (e.g. PT, OT, SL, APE, SW)

- Meeting Notification – Contact DCEC administration with dismissal proposal along with 10 day notice of meeting.
- Staffing
- Notice and Consent for
- Reevaluation
- Notice and Consent for Identification, Services and Placement
- IEP and MIS Teacher Information Page

### All About Amending IEPs

Sometimes teams wish to make a change to an IEP but don't want to redraft the entire IEP. This is appropriate if the team wishes to revise only a small portion of the IEP and there is no need to review the entire IEP. When such an amendment between annual meetings occurs, the annual IEP date does NOT change. Contact DCEC administration with dismissal proposal along with 10 day notice of meeting.

THE PROCESS FOR DOING THIS IS AS FOLLOWS:

Paper Reduction Method - If parties (parent, classroom teacher, special education teacher, principal) agree to amend an IEP *without an IEP meeting*

- Use the IEP Amendment Form that can be found in WebKIDSS under the function pull-down  
Complete the text box and describe the change and indicate the date the change is to take  
All participants must sign the form — if parent participates via telephone, the parent does NOT sign the form (simply print the parent's name and indicate "via phone conference")  
Provide a copy of the form to
- Obtain parent consent on a Change in Placement/Services Consent form, if
- Send the Amendment Form to the MIS clerk, keeping a copy for
- Update the "Anticipated Services" chart in WebKIDSS, print a Teacher Information Page, and send to the MIS within 2 weeks.
- Do NOT change the "IEP date" on WebKIDSS as you have not changed the annual IEP due

Alternate Method — If a meeting is held to amend the IEP

- Follow the same procedures as above, *PLUS* the required paperwork for any IEP  
10-day parental meeting notice;  
All required participants at the meeting;  
Staffing notes

Important...consent is still required for changes in services or placement.

#### Progress Reports

- Progress reports must be provided at least as often as they are given to parents of students without exceptionalities, generally four times per year when grade cards are distributed.
- Progress reports should include a statement that says the student is or is not making adequate progress to reach the goal.
- The information in this statement should reflect data collected on progress since the baseline was obtained and use the same measurement method that was used to obtain the baseline.
- Progress reports **MUST** be completed on WebKIDSS.
- Progress reports must be sent to the MIS clerk within 2 weeks of the end of the quarter.

#### What NOT to Send

- Alternate assessments
- Teacher's working file
- Student work samples



### 3. Parent Rights / Procedural Safeguards

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## KANSAS STATE DEPARTMENT OF EDUCATION PARENT RIGHTS IN SPECIAL EDUCATION (Procedural Safeguards)

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Both you and the school share in your child's education. If you or the school has issues or concerns about your child's education, you and your child's teacher should openly discuss the issues. If you are not satisfied with these discussions, you should contact the special education director for your school district. We urge you to be actively involved in your child's education.

As parents of children who are, or may be, exceptional, you have certain rights or procedural safeguards under federal and state laws. These rights are listed in this *Procedural Safeguards Notice*. This list of your rights must be given to you in your native language or in a communication method you can understand. If you would like a more detailed explanation of these rights, please contact the principal at your child's school, a school administrator, the special education director, or the Kansas State Department of Education (KSDE), 900 SW Jackson St. Suite 620, Topeka, KS 66612; phone (800) 203-9462. Copies of these rights in Braille, audiotape, and other languages are available from your school upon request. For more information about your rights, you may ask for a copy of the Guide to Special Education from *Families Together, Inc.*: Wichita 1-888-815-6364 or (316) 945-7747 Voice/TTY; Garden City 1-888-820-6364 or (620) 276-6364 Voice/TTY; Topeka 1-800-264-6343 or (785) 233-4777; Kansas City 1-877-499-5369 or (913) 287-1970 or the Kansas State Department of Education (800) 203-9462. In addition, the Kansas Special Education Process Handbook is available on the Kansas State Department of Education website at [www.ksde.org](http://www.ksde.org).

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### Procedural Safeguards Notice

Revised August 2010

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The Individuals with Disabilities Education Improvement Act (IDEIA), the Federal law concerning the education of students with disabilities, requires schools to provide you, the parents of a child with a disability, with a notice containing a full explanation of the procedural safeguards available under IDEA and U.S. Department of Education regulations. A copy of this notice must be given to you only one time a school year, except that a copy must also be given to you: (1) upon initial referral or your request for evaluation; (2) upon receipt of your first State complaint under 34 CFR §§300.151 through 300.153 and upon receipt of your first due process complaint under §300.507 in a school year; (3) when a decision is made to take a disciplinary action against your child that constitutes a change of placement under §300.536; and (4) upon your request. [34 CFR §300.504(a)]

This procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148 (unilateral placement of a child in a private school at public expense), §§300.151 through 300.153 (State complaint procedures), §300.300 (parental consent), §§300.502 and 300.503 (IEE and prior written notice), §§300.505 through 300.518 (other procedural safeguards, e.g., mediation, due process complaints, resolution process, and impartial due process hearing), §§300.530 through 300.536 (procedural safeguards in Subpart E of the Part B regulations regarding disciplinary actions), and §§300.610 through 300.625 (confidentiality of information provisions in Subpart F).

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### Notice of State Imposed Requirements Not Required by Part B of the IDEA or Its Implementing Regulations

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Pursuant to federal regulations, at 34 C.F.R. 300.199(a)(2), this is written notice of additional state imposed requirements, that are not required by Part B of the IDEA or its implementing regulations. State Requirements are identified with an asterisk (\*) and will have citations to Kansas statutes and regulations, indicated by K.S.A or K.A.R.



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## GENERAL INFORMATION

### \*COMPARABLE AND AGE APPROPRIATE FACILITIES

#### K.A.R. 91-40-52(d)

All facilities for exceptional children must be comparable to those for non-exceptional children. In addition, all facilities for exceptional children must be age appropriate environments and each environment must be appropriate for the instructional program being provided.

### \*EVALUATION PROCEDURES

#### K.A.R. 91-40-7(c)

A board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met:

1. School personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child;
2. School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met: (a) the child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel; (b) the child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction; (c) the assessment results were provided to the child's parent or parents; (d) the assessment results indicate that an evaluation is appropriate or
3. The parent of the child requests, and gives written consent for, an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.:

### \*EVALUATION REPORT

#### K.A.R. 91-40-10(a)

A written evaluation report is required after completion of any evaluation or re-evaluation, without regard to the suspected category of exceptionality

### PRIOR WRITTEN NOTICE

#### 34 CFR §300.503

##### Notice

Your school district must give you written notice (provide you certain information in writing), within a reasonable amount of time before it:

1. Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or
2. Refuses to initiate or to change the identification, evaluation, or educational placement of your child or the provision of FAPE to your child.

##### Content of notice

The written notice must:

1. Describe the action that your school district proposes or refuses to take;
2. Explain why your school district is proposing or refusing to take the action;
3. Describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
4. Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;

5. Tell you how you can obtain a description of the procedural safeguards if the action that your school district is proposing or refusing is not an initial referral for evaluation;
6. Include resources for you to contact for help in understanding Part B of IDEA;
7. Describe any other options that your child's individualized education program (IEP) Team considered and the reasons why those options were rejected; **and**
8. Provide a description of other reasons why your school district proposed or refused the action.

### **Notice in understandable language**

The notice must be:

1. Written in language understandable to the general public; **and**
2. Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your school district must ensure that:

1. The notice is translated for you orally or by other means in your native language or other mode of communication;
2. You understand the content of the notice; **and**
3. There is written evidence that the requirements in paragraphs 1 and 2 have been met.

### **NATIVE LANGUAGE**

#### **34 CFR §300.29**

*Native language*, when used regarding an individual who has limited English proficiency, means the following:

1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
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.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

### **ELECTRONIC MAIL**

#### **34 CFR §300.505**

If your school district offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

1. Prior written notice;
2. Procedural safeguards notice; **and**
3. Notices related to a due process complaint

### **\*CATEGORIES OF EXCEPTIONALITIES**

#### **K.S.A. 72-962(g)**

The categories of exceptionalities included in the Kansas special education laws and regulations include the category of "gifted" children who are of school age. .

### **\*POSTSECONDARY GOALS AND TRANSITION SERVICES**

#### **K.S.A. 72-987(c)(8) and K.A.R. 91-40-1(uuu)**

Beginning at age 14, and updated annually thereafter, the IEP of a child with a disability must include: (a) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related

to training, education, employment and where appropriate, independent living skills; and (b) the transition services, including appropriate courses of study, needed to assist the child in reaching the stated postsecondary goals.

## **PARENTAL CONSENT - DEFINITION**

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### **34 CFR §300.9**

#### **Consent**

*Consent* means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent.
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and**
3. You understand that the consent is voluntary on your part and that you may withdraw your consent at any time.

If you wish to revoke (cancel) your consent after your child has begun receiving special education and related services, you must do so in writing. Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent but before you withdrew it. In addition, the school district is not required to amend (change) your child's education records to remove any references that your child received special education and related services after your withdrawal of consent.

## **PARENTAL CONSENT**

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### **34 CFR §300.300**

#### **Consent for initial evaluation**

Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and obtaining your consent as described under the headings **Prior Written Notice** and **Parental Consent**.

Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.

Your consent for initial evaluation does not mean that you have also given your consent for the school district to start providing special education and related services to your child.

Your school district may not use your refusal to consent to one service or activity related to the initial evaluation as a basis for denying you or your child any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.

If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your school district may, but is not required to, seek to conduct an initial evaluation of your child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school district will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances.

#### **Special rules for initial evaluation of wards of the State**

*Ward of the State*, as used in IDEA, means a child who, as determined by the State where the child lives, is: 1. A foster child; 2. Considered a ward of the State under State law; **or** 3. In the custody of a public child welfare agency. (*Ward of the State* does not include a foster child who has a foster parent who meets the definition of a *parent* as used in IDEA.)

If a child is a ward of the State and is not living with his or her parent — The school district does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

1. Despite reasonable efforts to do so, the school district cannot find the child's parent;



2. The rights of the parents have been terminated in accordance with State law; or
3. A judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

### **Parental consent for services**

Your school district must obtain your informed consent before providing special education and related services to your child for the first time.

The school district must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent or later revoke (cancel) your consent in writing, your school district may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your child's IEP Team) may be provided to your child without your consent.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent or later revoke (cancel) your consent in writing and the school district does not provide your child with the special education and related services for which it sought your consent, your school district:

1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; and
2. Is not required to have an individualized education program (IEP) meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

If you revoke (cancel) your consent for all special education and related services in writing at any point after your child is first provided special education and related services, then the school district may not continue to provide such services, but must provide you with prior written notice, as described under the heading **Prior Written Notice**, before discontinuing those services.

### **Parental consent for reevaluations**

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

1. It took reasonable steps to obtain your consent for your child's reevaluation; and
2. You did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.

### **Documentation of reasonable efforts to obtain parental consent**

Your school must maintain documentation of reasonable efforts to obtain your consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the school district's attempts in these areas, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to you and any responses received; and
3. Detailed records of visits made to your home or place of employment and the results of those visits.

**Other consent requirements**

Your consent is not required before your school district may:

1. Review existing data as part of your child's evaluation or a reevaluation; or
2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children.

If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the school district may not use its dispute resolution procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and is not required to consider your child as eligible to receive equitable services (services made available to some parentally-placed private school children with disabilities).

**\*PARENTAL CONSENT FOR MATERIAL CHANGE IN SERVICES OR SUBSTANTIAL CHANGE IN PLACEMENT**

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K.S.A. 72-988(b)(6), K.S.A. 72-962(aa), K.S.A. 72-962(bb), K.A.R. 91-40-27(a)(3), K.A.R. 91-40-1(mm), and 91-40-1(sss)

A school district must obtain written parental consent before making a "material change in services" or a "substantial change in placement." A material change in services is an increase or decrease of 25 percent or more of the duration or frequency of a special education service, related service or supplementary aid or service specified on the IEP of an exceptional child. A substantial change in placement is the movement of an exceptional child, for more than 25 percent of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

**\*REVOCATION OF CONSENT FOR PARTICULAR SERVICES**

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K.A.R. 91-40-1(l)(3)(C) and K.A.R. 91-40-27(k)

Parents have the right to revoke consent to particular services or placements if the IEP team certifies in writing that the child does not need the service or placement for which consent is being revoked in order to receive a free appropriate public education.

**INDEPENDENT EDUCATIONAL EVALUATIONS**

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34 CFR §300.502

**General**

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your school district.

If you request an independent educational evaluation, the school district must provide you with information about where you may obtain an independent educational evaluation and about the school district's criteria that apply to independent educational evaluations.

**Definitions**

*Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

*Public expense* means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support [that](#) are available in the State to meet the requirements of Part B of the Act.

**Right to evaluation at public expense**

You have the right to an independent educational evaluation of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:

1. If you request an independent educational evaluation of your child at public expense, your school district must, without unnecessary delay, either: (a) File a due process complaint to request a

hearing to show that its evaluation of your child is appropriate; or (b) Provide an independent educational evaluation at public expense, unless the school district demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's criteria.

2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an independent educational evaluation, but not at public expense.
3. If you request an independent educational evaluation of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the independent educational evaluation of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.

You are entitled to only one independent educational evaluation of your child at public expense each time your school district conducts an evaluation of your child with which you disagree.

### **Parent-initiated evaluations**

If you obtain an independent educational evaluation of your child at public expense or you share with the school district an evaluation of your child that you obtained at private expense:

1. Your school district must consider the results of the evaluation of your child, if it meets the school district's criteria for independent educational evaluations, in any decision made with respect to the provision of a free appropriate public education (FAPE) to your child; **and**
2. You or your school district may present the evaluation as evidence at a due process hearing regarding your child.

### **Requests for evaluations by hearing officers**

If a hearing officer requests an independent educational evaluation of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

### **School district criteria**

If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an independent educational evaluation).

Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

## CONFIDENTIALITY OF INFORMATION

### DEFINITIONS

#### 34 CFR §300.611

As used under the heading Confidentiality of Information:

- *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- *Education records* means the type of records covered under the definition of “education records” in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).
- *Participating agency* means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.

### PERSONALLY IDENTIFIABLE

#### 34 CFR §300.32

*Personally identifiable* means information that includes:

- (a) Your child's name, your name as the parent, or the name of another family member;
- (b) Your child's address;
- (c) A personal identifier, such as your 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 your child with reasonable certainty.

### NOTICE TO PARENTS

#### 34 CFR §300.612

The State Educational Agency must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:

1. A description of the extent to which the notice is given in the native languages of the various population groups in the State;
2. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
3. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; **and**
4. A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations in 34 CFR Part 99.

Before any major activity to identify, locate, or evaluate children in need of special education and related services (also known as “child find”), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of these activities.

### ACCESS RIGHTS

#### 34 CFR §300.613

The participating agency must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your school district under Part B of IDEA. The participating agency must comply with your request to inspect and review any education records on your child without

unnecessary delay and before any meeting regarding an individualized education program (IEP), or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

Your right to inspect and review education records includes:

1. Your right to a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
2. Your right to request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
3. Your right to have your representative inspect and review the records.

The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

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## **RECORD OF ACCESS**

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### **34 CFR §300.614**

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

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## **RECORDS ON MORE THAN ONE CHILD**

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### **34 CFR §300.615**

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

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## **LIST OF TYPES AND LOCATIONS OF INFORMATION**

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### **34 CFR §300.616**

On request, each participating agency must provide you with a list of the types and locations of education records collected, maintained, or used by the agency.

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## **FEES**

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### **34 CFR §300.617**

Each participating agency may charge a fee for copies of records that are made for you under Part B of IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information under Part B of IDEA.

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## **AMENDMENT OF RECORDS AT PARENT'S REQUEST**

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### **34 CFR §300.618**

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of your right to a hearing as described under the heading

***Opportunity For a Hearing.***

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**OPPORTUNITY FOR A HEARING**

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**34 CFR §300.619**

The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

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**HEARING PROCEDURES**

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**34 CFR §300.621**

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA).

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**RESULT OF HEARING**

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**34 CFR §300.620**

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of your child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
2. If the participating agency discloses the records of your child or the challenged information to any party, the explanation must also be disclosed to that party.

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**CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION**

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**34 CFR §300.622**

Unless the information is contained in education records, and the disclosure is authorized without parental consent under the Family Educational Rights and Privacy Act (FERPA), your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the public school district where the private school is located and officials in the public school district where you reside.

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**SAFEGUARDS**

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**34 CFR §300.623**

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of IDEA and the Family Educational Rights and Privacy Act (FERPA).

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

### **DESTRUCTION OF INFORMATION**

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#### **34 CFR §300.624**

Your school district must inform you when personally identifiable information collected, maintained, or used under Part B of IDEA is no longer needed to provide educational services to your child.

The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

## STATE COMPLAINT PROCEDURES

### DIFFERENCES BETWEEN THE PROCEDURES FOR DUE PROCESS COMPLAINTS AND HEARINGS AND FOR STATE COMPLAINTS

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The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district, the State Educational Agency, or any other public agency. Only you or a school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child. While staff of the State Educational Agency generally must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended, an impartial hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar-days after the end of the resolution period, as described in this document under the heading Resolution Process, unless the hearing officer grants a specific extension of the timeline at your request or the school district's request. The State complaint and due process complaint, resolution and hearing procedures are described more fully below. The State Educational Agency must develop model forms to help you file a due process complaint and help you or other parties to file a State complaint as described under the heading **Model Forms**.

### ADOPTION OF STATE COMPLAINT PROCEDURES

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#### 34 CFR §300.151

##### General

Each State Educational Agency must have written procedures for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another State;
2. The filing of a complaint with the State Educational Agency;
3. Widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

##### Remedies for denial of appropriate services

In resolving a State complaint in which the State Educational Agency has found a failure to provide appropriate services, the State Educational Agency must address:

1. The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); **and**
2. Appropriate future provision of services for all children with disabilities.

### MINIMUM STATE COMPLAINT PROCEDURES

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#### 34 CFR §300.152

##### Time limit; minimum procedures

Each State Educational Agency must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the State Educational Agency determines that an investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the school district or other public agency with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; **and**



(b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;

4. Review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of IDEA; **and**
5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; **and** (b) the reasons for the State Educational Agency's final decision.

#### **Time extension; final decision; implementation**

The State Educational Agency's procedures described above also must:

1. Permit an extension of the 60 calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; **or** (b) you and the school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution, if available in the State.
2. Include procedures for effective implementation of the State Educational Agency's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; **and** (c) corrective actions to achieve compliance.

#### **State complaints and due process hearings**

If a written State complaint is received that is also the subject of a due process hearing as described under the heading ***Filing a Due Process Complaint***, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (for example, you and the school district), then the due process hearing decision is binding on that issue and the State Educational Agency must inform the complainant that the decision is binding.

A complaint alleging a school district's or other public agency's failure to implement a due process hearing decision must be resolved by the State Educational Agency.

### **FILING A STATE COMPLAINT**

#### **34 CFR §300.153**

An organization or individual may file a signed written State complaint under the procedures described above.

The State complaint must include:

1. A statement that a school district or other public agency has violated a requirement of Part B of IDEA or its implementing regulations in 34 CFR Part 300;
2. The facts on which the statement is based;
3. The signature and contact information for the party filing the complaint; and
4. If alleging violations regarding a specific child:
  - (a) The name of the child and address of the residence of the child;
  - (b) The name of the school the child is attending;
  - (c) 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;
  - (d) A description of the nature of the problem of the child, including facts relating to the problem; **and**

- (e) A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading ***Adoption of State Complaint Procedures***.

The party filing the State complaint must forward a copy of the complaint to the school district or other public agency serving the child at the same time the party files the complaint with the State Educational Agency.

## **DUE PROCESS COMPLAINT PROCEDURES**

### **FILING A DUE PROCESS COMPLAINT**

#### **34 CFR §300.507**

##### **General**

You or the school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child.

The due process complaint must allege a violation that happened not more than two years before you or the school district knew or should have known about the alleged action that forms the basis of the due process complaint.

The above timeline does not apply to you if you could not file a due process complaint within the timeline because:

1. The school district specifically misrepresented that it had resolved the issues identified in the complaint; or
2. The school district withheld information from you that it was required to provide you under Part B of IDEA.

##### **Information for parents**

The school district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district file a due process complaint.

### **DUE PROCESS COMPLAINT**

#### **34 CFR §300.508**

##### **General**

In order to request a hearing, you or the school district (or your attorney or the school district's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential.

Whoever files the complaint must also provide the State Educational Agency with a copy of the complaint.

##### **Content of the complaint**

The due process complaint must include:

1. The name of the child;
2. The address of the child's residence;
3. The name of the child's school;
4. If the child is a homeless child or youth, the child's contact information and the name of the child's school;
5. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; and
6. A proposed resolution of the problem to the extent known and available to the complaining party (you or the school district) at the time.

##### **Notice required before a hearing on a due process complaint**

You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district's attorney) files a due process complaint that includes the information listed above.

**Sufficiency of complaint**

In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the school district) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification that the receiving party (you or the school district) considers a due process complaint insufficient, the hearing officer must decide if the due process complaint meets the requirements listed above, and notify you and the school district in writing immediately.

**Complaint amendment**

You or the school district may make changes to the complaint only if:

1. The other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described under the heading **Resolution Process**; or
2. By no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.

If the complaining party (you or the school district) makes changes to the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.

**Local educational agency (LEA) or school district response to a due process complaint**

If the school district has not sent a prior written notice to you, as described under the heading **Prior Written Notice**, regarding the subject matter contained in your due process complaint, the school district must, within 10 calendar days of receiving the due process complaint, send to you a response that includes:

1. An explanation of why the school district proposed or refused to take the action raised in the due process complaint;
2. A description of other options that your child's individualized education program (IEP) Team considered and the reasons why those options were rejected;
3. A description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; and
4. A description of the other factors that are relevant to the school district's proposed or refused action.

Providing the information in items 1-4 above does not prevent the school district from asserting that your due process complaint was insufficient.

**Other party response to a due process complaint**

Except as stated under the sub-heading immediately above, **Local educational agency (LEA) or school district response to a due process complaint**, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.

**MODEL FORMS****34 CFR §300.509**

The State Educational Agency must develop model forms to help you to file a due process complaint and to help you and other parties to file a State complaint. However, your State or the school district may not require the use of these model forms. In fact, you can use the model form or another appropriate form, so long as it contains the required information for filing a due process complaint or a State complaint.

## **MEDIATION**

### **34 CFR §300.506**

#### **General**

The school district must develop procedures that make mediation available to allow you and the school district to resolve disagreements involving any matter under Part B of IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of IDEA, whether or not you have filed a due process complaint to request a due process hearing as described under the heading ***Filing a Due Process Complaint***.

#### **Requirements**

The procedures must ensure that the mediation process:

1. Is voluntary on your part and the school district's part;
2. Is not used to deny or delay your right to a due process hearing, or to deny any other rights provided under Part B of IDEA; **and**
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

The school district may develop procedures that offer parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to you, with a disinterested party:

1. Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State; **and**
2. Who would explain the benefits of, and encourage the use of, the mediation process to you.

The State must keep a list of people who are qualified mediators and know the laws and regulations relating to the provision of special education and related services. The State Educational Agency must select mediators on a random, rotational, or other impartial basis.

The State is responsible for the costs of the mediation process, including the costs of meetings.

Each meeting in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the school district.

If you and the school district resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and:

1. States that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding (court case); **and**
2. Is signed by both you and a representative of the school district who has the authority to bind the school district.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.

Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part B of IDEA.

#### **Impartiality of mediator**

The mediator:

1. May not be an employee of the State Educational Agency or the school district that is involved in the education or care of your child; **and**
2. Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school district or State agency solely because he or she is paid by the agency or school district to serve as a mediator.

## **RESOLUTION PROCESS**

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### **34 CFR §300.510**

#### **Resolution meeting**

Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the school district must convene a meeting with you and the relevant member or members of the individualized education program (IEP) Team who have specific knowledge of the facts identified in your due process complaint. The meeting:

1. Must include a representative of the school district who has decision-making authority on behalf of the school district; **and**
2. May not include an attorney of the school district unless you are accompanied by an attorney.

You and the school district determine the relevant members of the IEP Team to attend the meeting.

The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district has the opportunity to resolve the dispute.

The resolution meeting is not necessary if:

1. You and the school district agree in writing to waive the meeting; **or**
2. You and the school district agree to use the mediation process, as described under the heading **Mediation**.

#### **Resolution period**

If the school district has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.

The 45-calendar-day timeline for issuing a final due process hearing decision, as described under the heading, **Hearing Decisions**, begins at the expiration of the 30-calendar-day resolution period, with certain exceptions for adjustments made to the 30-calendar-day resolution period, as described below.

Except where you and the school district have both agreed to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

If after making reasonable efforts and documenting such efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30-calendar-day resolution period, request that a hearing officer dismiss your due process complaint. Documentation of such efforts must include a record of the school district's attempts to arrange a mutually agreed upon time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to you and any responses received; and
3. Detailed records of visits made to your home or place of employment and the results of those visits.

If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint **or** fails to participate in the resolution meeting, you may ask a hearing officer to begin the 45-calendar-day due process hearing timeline.

#### **Adjustments to the 30-calendar-day resolution period**

If you and the school district agree in writing to waive the resolution meeting, then the 45-calendar-day timeline for the due process hearing starts the next day.

After the start of mediation or the resolution meeting and before the end of the 30-calendar-day resolution period, if you and the school district agree in writing that no agreement is possible, then the 45-calendar-day timeline for the due process hearing starts the next day.

If you and the school district agree to use the mediation process but have not yet reached agreement, at the end of the 30-calendar-day resolution period the mediation process may be continued until an agreement is reached if both parties agree to the continuation in writing. However, if either you or the school district withdraws from the mediation process during this continuation period, then the 45-calendar-day timeline for the due process hearing starts the next day.

**Written settlement agreement**

If a resolution to the dispute is reached at the resolution meeting, you and the school district must enter into a legally binding agreement that is:

1. Signed by you and a representative of the school district who has the authority to bind the school district; **and**
2. Enforceable in any State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States or by the State Educational Agency, if your State has another mechanism or procedures that permit parties to seek enforcement of resolution agreements.

**Agreement review period**

If you and the school district enter into an agreement as a result of a resolution meeting, either party (you or the school district) may void the agreement within 3 business days of the time that both you and the school district signed the agreement.

## HEARINGS ON DUE PROCESS COMPLAINTS

### IMPARTIAL DUE PROCESS HEARING

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34 CFR §300.511 & K.A.R. 91-40-29(b)

#### General

Whenever a due process complaint is filed, you or the school district involved in the dispute must have an opportunity for an impartial due process hearing, as described in the ***Due Process Complaint*** and ***Resolution Process*** sections.

#### Impartial hearing officer

At a minimum, a hearing officer:

1. Must not be an employee of the State Educational Agency or the school district that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer;
2. Must not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
3. Must be knowledgeable and understand the provisions of IDEA, Federal and State regulations pertaining to IDEA, and legal interpretations of IDEA by Federal and State courts; **and**
4. Must have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.
5. \*To initially qualify as a due process hearing officer or as a state review officer, a person must be a licensed attorney in good standing in the state in which the person is licensed to practice law. K.A.R. 91-40-29(b)

Each school district must keep a list of those persons who serve as hearing officers that includes a statement of the qualifications of each hearing officer.

#### Subject matter of due process hearing

The party (you or the school district) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.

#### Timeline for requesting a hearing

You or the school district must request an impartial hearing on a due process complaint within two years of the date you or the school district knew or should have known about the issue addressed in the complaint.

#### Exceptions to the timeline

The above timeline does not apply to you if you could not file a due process complaint because:

1. The school district specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; **or**
2. The school district withheld information from you that it was required to provide to you under Part B of IDEA.

### HEARING RIGHTS

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34 CFR §300.512

#### General

You have the right to represent yourself at a due process hearing (including a hearing related to disciplinary procedures) or an appeal with a hearing to receive additional evidence, as described under



the subheading, ***Appeal of decisions; impartial review***. In addition, any party to a hearing has the right to:

1. Be accompanied and advised by an attorney and/or persons with special knowledge or training regarding the problems of children with disabilities;
2. Be represented at the hearing by an attorney;
3. Present evidence and confront, cross-examine, and require the attendance of witnesses;
4. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
5. Obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
6. Obtain written, or, at your option, electronic findings of fact and decisions.

#### **Additional disclosure of information**

At least five business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.

A hearing officer or review officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

#### **Parental rights at hearings**

You must be given the right to:

1. Have your child present at the hearing;
2. Open the hearing to the public; **and**
3. Have the record of the hearing, the findings of fact, and decisions provided to you at no cost.

### **HEARING DECISIONS**

#### **34 CFR §300.513**

##### **Decision of the hearing officer**

A hearing officer's decision on whether your child received a free appropriate public education (FAPE) must be based on evidence and arguments that directly relate to FAPE.

In matters alleging a procedural violation (such as "an incomplete IEP Team"), a hearing officer may find that your child did not receive FAPE only if the procedural violations:

1. Interfered with your child's right to a free appropriate public education (FAPE);
2. Significantly interfered with your opportunity to participate in the decision-making process regarding the provision of a free appropriate public education (FAPE) to your child; **or**
3. Caused your child to be deprived of an educational benefit.

None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school district to comply with the requirements in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536).

None of the provisions under the headings: ***Filing a Due Process Complaint; Due Process Complaint; Model Forms; Resolution Process; Impartial Due Process Hearing; Hearing Rights; and Hearing Decisions*** (34 CFR §§300.507 through 300.513), can affect your right to file an appeal of the due process hearing decision with the State Educational Agency.

**Separate request for a due process hearing**

Nothing in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.

**Findings and decision provided to the advisory panel and general public**

The State Educational Agency or the school district, (whichever was responsible for your hearing) after deleting any personally identifiable information, must:

1. Provide the findings and decisions in the due process hearing or appeal to the State special education advisory panel; **and**
2. Make those findings and decisions available to the public.

## APPEALS

### FINALITY OF DECISION; APPEAL; IMPARTIAL REVIEW

#### 34 CFR §300.514 & K.A.R. 91-40-51(f)

##### Finality of hearing decision

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the decision to the State Educational Agency.

\*The state complaint procedures include the right of a parent or a school district to appeal the findings or conclusions of a complaint report. K.A.R. 91-40-51(f)

##### Appeal of decisions; impartial review

If a party (you or the school district) is aggrieved (harmed) by the findings and decision in the hearing, an appeal may be brought to the State Educational Agency.

If there is an appeal, the State Educational Agency must conduct an impartial review of the findings and decision appealed. The official conducting the review must:

1. Examine the entire hearing record;
2. Ensure that the procedures at the hearing were consistent with the requirements of due process;
3. Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights described under the heading **Hearing Rights** apply;
4. Give the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
5. Make an independent decision on completion of the review; and
6. Give you and the school district a copy of the written, or, at your option, electronic findings of fact and decisions.

##### Findings and decision provided to the advisory panel and general public

The State Educational Agency, after deleting any personally identifiable information, must:

1. Provide the findings and decisions of the appeal to the State special education advisory panel; and
2. Make those findings and decisions available to the public.

##### Finality of review decision

The decision made by the reviewing official is final unless you or the school district brings a civil action, as described under the heading **Civil Actions, Including the Time Period in Which to File Those Actions**.

### TIMELINES AND CONVENIENCE OF HEARINGS AND REVIEWS

#### 34 CFR §300.515

The school district must ensure that not later than 45 calendar days after the expiration of the 30-calendar-day period for resolution meetings or, as described under the sub-heading **Adjustments to the 30-calendar-day resolution period**, not later than 45 calendar days after the expiration of the adjusted time period:

1. A final decision is reached in the hearing; and
2. A copy of the decision is mailed to you and the school district.

The State Educational Agency must ensure that not later than 30 calendar days after the receipt of a request for a review:

1. A final decision is reached in the review; **and**
2. A copy of the decision is mailed to you and the school district.

A hearing or reviewing officer may grant specific extensions of time beyond the periods described above (45 calendar days for a hearing decision and 30 calendar days for a review decision) if you or the school district make a request for a specific extension of the timeline.

Each hearing and review involving oral arguments must be conducted at a time and place that is reasonably convenient to you and your child.

## **CIVIL ACTIONS, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS**

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### **34 CFR §300.516**

#### **General**

Any party (you or the school district) who does not agree with the findings and decision in the State-level review has the right to bring a civil action with respect to the matter that was the subject of the due process hearing (including a hearing relating to disciplinary procedures). The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.

#### **Time limitation**

\*The party (you or the school district) bringing the action shall have 30 calendar days from the date of the decision of the State review official to file a civil action (K.S.A. 72-974(d)).

#### **Additional procedures**

In any civil action, the court:

1. Receives the records of the administrative proceedings;
2. Hears additional evidence at your request or at the school district's request; **and**
3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

Under appropriate circumstances, judicial relief may include reimbursement of private school tuition and compensatory education services.

#### **Jurisdiction of district courts**

The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

#### **Rule of construction**

Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), 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 Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you must first use the available administrative remedies under IDEA (i.e., the due process complaint; resolution process, including the resolution meeting; and impartial due process hearing procedures) before going directly into court.

## **THE CHILD'S PLACEMENT WHILE THE DUE PROCESS COMPLAINT AND HEARING ARE PENDING**

### **34 CFR §300.518**

Except as provided below under the heading **PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES**, once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the State or school district agree otherwise, your child must remain in his or her current educational placement.

If the due process complaint involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.

If the due process complaint involves an application for initial services under Part B of IDEA for a child who is transitioning from being served under Part C of IDEA to Part B of IDEA and who is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of IDEA and you consent for your child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon).

If a State review official in an administrative appeal proceeding agrees with you that a change of placement is appropriate, that placement must be treated as your child's current educational placement where your child will remain while waiting for the decision of any impartial due process hearing or court proceeding.

## **ATTORNEYS' FEES**

### **34 CFR §300.517**

#### **General**

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you, if you prevail (win).

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency or school district, to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; or (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency or school district, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding (hearing).

#### **Award of fees**

A court awards reasonable attorneys' fees as follows:

1. Fees 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.
2. Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of IDEA for services performed after a written offer of settlement is made to you if:
  - a. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
  - b. The offer is not accepted within 10 calendar days; and

- c. The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

3. Fees may not be awarded relating to any meeting of the individualized education program (IEP) Team unless the meeting is held as a result of an administrative proceeding or court action.
4. Fees also may not be awarded for a mediation as described under the heading Mediation.

A resolution meeting, as described under the heading **Resolution Process**, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of IDEA, if the court finds that:

1. You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
2. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
3. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
4. The attorney representing you did not provide to the school district the appropriate information in the due process request notice as described under the heading **Due Process Complaint**.

However, the court may not reduce fees if the court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of IDEA.

# PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES

## AUTHORITY OF SCHOOL PERSONNEL

### 34 CFR §300.530

#### Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

#### General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, 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, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see the heading ***Change of Placement Because of Disciplinary Removals*** for the definition).

Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading **Services**.

#### Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see the subheading ***Manifestation determination***) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's IEP Team determines the interim alternative educational setting for such services.

#### Services

The school district is not required to provide services to a child with a disability or a child without a disability who has been removed from his or her current placement for **10 school days or less** in that school year.

A child with a disability who is removed from the child's current placement for **more than 10 school days** and the behavior is not a manifestation of the child's disability (see subheading, ***Manifestation determination***) or who is removed under special circumstances (see the subheading, ***Special circumstances***) must:

1. Continue to receive educational services (have available a free appropriate public education), so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP; **and**
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** in that same school year, and **if** the current removal is for **10 school days** in a row or less **and** if the removal is not a change of placement (see definition below), **then** school officials, including a regular education administrator; the director of special education or the director's designee or designees; and a special education teacher of the child (K.A.R. 91-40-33(b)), determine the extent to which services are

needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see the heading, ***Change of Placement Because of Disciplinary Removals***), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP.

### **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 student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district, you, and other relevant members of the IEP Team (as determined by you and the school district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by you to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
2. If the conduct in question was the direct result of the school district's failure to implement the child's IEP.

If the school district, you, and other relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school district, you, and other relevant members of the child's IEP Team determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate action to remedy those deficiencies.

### **Determination that behavior was a manifestation of the child's disability**

If the school district, you, and other relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

1. Conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; **or**
2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading ***Special circumstances***, the school district must return your child to the placement from which your child was removed, unless you and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

### **Special circumstances**

Whether or not the behavior was a manifestation of your child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for not more than 45 school days, if your child:

1. Carries a weapon (see the definition below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district;
2. Knowingly has or uses illegal drugs (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district; **or**
3. Has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district.



## Definitions

*Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

*Illegal drug* means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

*Serious bodily injury* has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

*Weapon* has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

## Notification

On the date it makes the decision to make a removal that is a change of placement of your child because of a violation of a code of student conduct, the school district must notify you of that decision, and provide you with a procedural safeguards notice.

## CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS

### 34 CFR §300.536

A removal of your child with a disability from your child’s current educational placement is a **change of placement** if:

1. The removal is for more than 10 school days in a row; **or**
2. Your child has been subjected to a series of removals that constitute a pattern because:
  - a. The series of removals total more than 10 school days in a school year;
  - b. Your child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and
  - c. Of such additional factors as the length of each removal, the total amount of time your child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district and, if challenged, is subject to review through due process and judicial proceedings.

## DETERMINATION OF SETTING

### 34 CFR § 300.531

The individualized education program (IEP) Team determines the interim alternative educational setting for removals that are **changes of placement**, and removals under the subheadings **Additional authority** and **Special circumstances**.

## APPEAL

### 34 CFR § 300.532

#### General

You may file a due process complaint (see the heading **Due Process Complaint Procedures**) to request a due process hearing if you disagree with:

1. Any decision regarding placement made under these discipline provisions; **or**
2. The manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

**Authority of hearing officer**

A hearing officer that meets the requirements described under the subheading **Impartial hearing officer** must conduct the due process hearing and make a decision. The hearing officer may:

1. Return your child with a disability to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading **Authority of School Personnel**, or that your child's behavior was a manifestation of your child's disability; **or**
2. Order a change of placement of your child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school district believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

Whenever you or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings **Due Process Complaint Procedures, Hearings on Due Process Complaints**, and **Appeal of decisions; impartial review**, except as follows:

1. The State Educational Agency or school district must arrange for an expedited due process hearing, which must occur within **20** school days of the date the hearing is requested and must result in a determination within **10** school days after the hearing.
2. Unless you and the school district agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within **seven** calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within **15** calendar days of receipt of the due process complaint.
3. A State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but except for the timelines, those rules must be consistent with the rules in this document regarding due process hearings.

You or the school district may appeal the decision in an expedited due process hearing in the same way as for decisions in other due process hearings (see the heading **Appeal**).

**PLACEMENT DURING APPEALS****34 CFR §300.533**

When, as described above, you or the school district file a due process complaint related to disciplinary matters, your child must (unless you and the State Educational Agency or school district agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading **Authority of School Personnel**, whichever occurs first.

**PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES****34 CFR §300.534****General**

If your child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that your child was a child with a disability, then your child may assert any of the protections described in this notice.

**Basis of knowledge for disciplinary matters**

A school district will be deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

1. You expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or to your child's teacher that your child is in need of special education and related services;
2. You requested an evaluation related to eligibility for special education and related services under Part B of IDEA; or
3. Your child's teacher or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the school district's director of special education or to other supervisory personnel of the school district.

### **Exception**

A school district would not be deemed to have such knowledge if:

1. You have not allowed an evaluation of your child or have refused special education services; or
2. Your child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

### **Conditions that apply if there is no basis of knowledge**

If prior to taking disciplinary measures against your child, a school district does not have knowledge that your child is a child with a disability, as described above under the sub-headings ***Basis of knowledge for disciplinary matters*** and ***Exception***, your child may be subjected to the disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.

However, if a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by you, the school district must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.

## **REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES**

### **34 CFR §300.535**

Part B of IDEA does not:

1. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
2. Prevent State law enforcement and 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.

### **Transmittal of records**

If a school district reports a crime committed by a child with a disability, the school district:

1. Must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and
2. May transmit copies of the child's special education and disciplinary records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA).

## REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

### FEDERAL REQUIREMENTS FOR CHILDREN VOLUNTARILY ENROLLED IN PRIVATE SCHOOLS

#### 34 CFR §300.131 through 34 CFR §144

Part B of IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made a free appropriate public education (FAPE) available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.

### \*STATE REQUIREMENTS FOR CHILDREN VOLUNTARILY ENROLLED IN PRIVATE SCHOOLS

#### K.S.A. 72-5393 and K.A.R. 91-40-43, 91-40-45, 91-40-46 and 91-40-47

Children with exceptionalities attending private schools have a right to receive a Free Appropriate Public Education (FAPE), through an IEP, from the school district where the student and parent reside, upon request. However, in consultation with the parent or guardian of the child and with officials of the private school, the school district determines the site for the provision of special education and related services.

- If services are provided at the public school, the public school must provide transportation from the child's private school or home to the site where the child receives services and from the site where the child receives services to the child's private school or home.
- If the services are provided at the private school, the cost of providing the services may be limited to the average cost to the school district for the provision of the same services in the public schools.

The school district is not required to provide services, including transportation, outside the boundaries of the school district.

Parents of private school children who are receiving special education and related services in accordance with an IEP may request special education mediation or initiate a special education due process hearing.

### WHEN FAPE IS AT ISSUE

#### 34 CFR §300.148

##### Reimbursement for private school placement

If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the agency to reimburse you for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education (FAPE) available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the State Educational Agency and school districts.

##### Limitation on reimbursement

The cost of reimbursement described in the paragraph above may be reduced or denied:

1. If: (a) At the most recent individualized education program (IEP) meeting that you attended prior to your removal of your child from the public school, you did not inform the IEP Team that you were rejecting the placement proposed by the school district to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day)

prior to your removal of your child from the public school, you did not give written notice to the school district of that information;

2. If, prior to your removal of your child from the public school, the school district provided prior written notice to you of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; **or**
3. Upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement:

1. Must not be reduced or denied for failure to provide the notice if: (a) The school prevented you from providing the notice; (b) You had not received notice of your responsibility to provide the notice described above; or (c) Compliance with the requirements above would likely result in physical harm to your child; **and**
2. May, in the discretion of the court or a hearing officer, not be reduced or denied for your failure to provide the required notice if: (a) You are not literate or cannot write in English; or (b) Compliance with the above requirement would likely result in serious emotional harm to your child.

## 4. Confidentiality

## Confidentiality

Confidentiality of educational records is a basic right of all students and their parents in public schools. These rights are described in the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended (2006). Educational records may include, but are not limited to:

- Academic work completed and level of achievement
- Attendance data
- Scores and test protocols of standardized intelligence, aptitude, and psychological tests
- Interest inventory results
- Health data
- Family background information
- Information from teachers or counselors
- Observations and verified reports of serious or recurrent behavior patterns
- IEPs
- Documentation of notice and consent

Under certain circumstances, a teacher's working file would not be considered to be part of the child's record. FERPA regulation 34 C.F.R. 99.3, states that the term, "education records", does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record."

Emails regarding specifics about students (behavior, etc.) are not for the sole purpose of the maker, therefore are considered to be part of the student's educational records and may be requested.

### Federal and State Requirements:

Each school shall annually notify parents of their rights under FERPA. This notice must inform parents or adult students that they have the right to:

- Inspect and review the student's education records;
- Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;

- Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA and Sec. 99.31 authorize disclosure without consent; and
- File a complaint under Sec.99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of FERPA.

The notice must also include all of the following:

The procedure for exercising the right to inspect and review education records.

The procedure for requesting amendment of records.

To ensure protection of education records, the school district must:

Obtain written consent before disclosing personally identifiable information to unauthorized individuals. A parent must provide consent if the child is under 18 years of age.

Designate and train a records manager to assure security of confidential records for students with exceptionalities.

Keep a record or log of all parties obtaining access to education records, including the name of the party, the date access took place, and the purpose of the authorized use.

Maintain for public inspection a current listing of names and position of employees who may have access to personally identifiable information.

Ensure that, if any record includes information on more than one student, a parent of a child must have the right to inspect and review only the information relating to his or her child, or to be informed of that specific information.

Ensure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality of personally identifiable information. The district must maintain a record of the training provided, the person or persons providing the training, dates of the training, those attending, and subjects covered.

Provide a parent, upon request, a list of the types and locations of records collected, maintained, or used by the district.



Respond to any reasonable request made by the parent for an explanation and interpretation of a record.

Provide a parent, upon request, access to the child's records, and under certain circumstances, a copy of the records. Most districts copy records for parents without charge. However, the law does allow for fees for copies of records made for a parent if the fee does not prevent a parent from exercising the right to inspect and review those records. A fee may not be charged to search for or retrieve information.

(Adapted from KSDE Process Handbook, 2011)

Each district within the DCEC should have a FERPA notice available to provide to parents on an annual basis.

Teachers may provide a copy of the IEP to parents at their request.

All special education records are kept in the file room at the DCEC office and may be obtained by parents upon request. DCEC personnel may direct parents to the appropriate DCEC administrator, who will inform them of the correct procedure to obtain these records.

Noncustodial parents have a right to obtain the educational records of their children unless the custodial parent has provided a court order stating that they no longer have parental rights.

When discarding any document containing personally identifiable information, the document must be shredded to protect confidentiality. If access to a shredder is not available, the items may be brought to the DCEC for shredding. Each staff member is responsible for shredding the material.

## **5. Child Find**

## Child Find

### Public Notice for Child Find

Information is provided to the public concerning the availability of special education services for exceptional children, including procedures for accessing these services. This notice is provided on a regular basis throughout the year through a variety of methods. *An "Availability of Services" document is provided yearly to each district to be published in their district newsletter. DCEC also distributes brochures about available services to community agencies (such as Head Start, schools, churches, doctor's offices, grocery stores, and other common locations).*

### Screening for Children From 3 to Age 5

Kansas' regulations require each school district to implement screening procedures that meet the following requirements.

For children younger than five years of age, observations, instruments, measures, and techniques that disclose any potential disabilities or developmental delays that indicate a need for evaluation, including hearing and vision screening.

Implement procedures ensuring the early identification and assessment of disabilities in children.

Areas screened include:

Communication

Cognitive development

Social-emotional development

Self-help/adaptive behavior

Physical development

The team will make a referral for an initial evaluation if the results of the screening indicate a potential developmental delay or disability.

Children who are transitioning from the Part C Infant-Toddler Program are not required to participate in a Part B screening process at age 3. For children receiving Part C services who may need an initial evaluation to determine eligibility for Part B special education services, the Part C Infant-Toddler Program may make a referral to the DCEC. The referral is to be made at least 90 calendar days prior to the child's third birthday.

(Adapted from the KSDE Process Handbook, 2011)

*DCEC has designated a liaison working with the Tiny K Agency. Matt Peterson is the Tiny K liaison. This will allow for a more efficient and effective method to ensure children's services do not lapse, and needs are being met in the most appropriate setting.*

The DCEC has identified a team that includes the following personnel for the purpose of screening and initial evaluations for children 3 to school age.

ECSE teacher

Speech/Language Therapist

Occupational Therapist (when needed)

Physical therapist (when needed)

School Psychologist (when needed)

#### Screening for School-aged Children

The General Education Intervention process is utilized for screening school-aged children. Please refer to the GEI / MTSS section for specific information.

## **Availability of Services for Students with Special Needs**

Your local school district and all public schools in Kansas provide free special education services for eligible exceptional children ages 3 through 21 or high school graduation. Parents are encouraged to seek assistance from teachers, principals or other professionals if they have questions regarding their child's progress in school. Children with autism, emotional disturbance, giftedness, hearing impairments, specific learning disabilities, intellectual disability, orthopedic impairments, other health impairments, speech or language impairments, traumatic brain injuries, or visual impairments may be found to be eligible and in need of special education or related services. In addition, children ages 3 through 9 who are experiencing developmental delays may also need these services. The related services needed might include audiology, assistive technology, counseling services, early identification and assessment, medical services for diagnostic or evaluation purposes, occupational therapy, orientation and mobility services, physical therapy rehabilitation counseling, school health services, school psychological services, special education administration, speech and language services, and transportation.

Special education is not meant for all children experiencing problems in development or in their schoolwork. Some students who are experiencing difficulty benefit more from the individual attention of a general education classroom teacher, the guidance counselor, and, or course, concerned parents. Your school district makes an effort to screen students for possible disabilities by carefully monitoring their progress on daily work and on achievement tests. Special education professionals, as part of school student improvement teams, sometime work with regular education teachers and students to help solve problems students experience in learning. When classroom interventions are not successful, a referral for a comprehensive evaluation is made. In addition, free screening clinics for children ages three to five are held on a regular basis in the area, and any parent with a concern is welcome to bring their child to be screened. School counselors, psychologists and social workers, are available to visit with teachers and parents regarding any concerns they might have. Parents who are concerned that their child may have an undetected disability are asked to notify the principal of the child's school in writing of the concerns.

Parents and their exceptional children have a number of rights under the law with regards to special education. For each of these rights, there are certain responsibilities both for parents and for the school. The school system is responsible for safeguarding children's rights, including the right to benefit from the regular curriculum, to receive educational services in the least restrictive environment, and the right to participate in nonacademic and extracurricular activities. In addition, the school system is responsible for obtaining parental consent before evaluating a child or providing him/her special education services, for maintaining the confidentiality of all personal information regarding the child, and for making all educational records available to the parents. Parents should assist the school system by keeping them informed of things that affect the child's education, attending conferences concerning their child's education program, and by keeping the lines of communication open. Together, parents and school personnel can help children grow and develop into capable adults.

Your school district is a member of the Doniphan County Special Education Cooperative (DCEC), an interlocal, that enables three school districts in Doniphan County to collaborate in the provision of special education services.

Official records for all students receiving special education services in Doniphan County are maintained at the DCEC administrative office at 135 S. Main in Troy, KS 66087. Special education teachers maintain files in their classroom on students with whom they are working. In addition, school psychologists keep files in their offices on students who have been referred for evaluation. Any parent of a student or a student who has reached age 18 has the right to review these records without unnecessary delay. This right includes having someone explain documents in the records, obtaining copies of the records at a reasonable or no cost, and allowing a representative of the parent (with signed permission) to examine records. In cases where records might contain information on more than one student, the parts pertaining to other students will be deleted. Upon request, the DCEC discloses educational records without consent to officials of another

school district in which a student seeks or intends to enroll, as allowed by federal law.

Anyone who wishes further information concerning services for exceptional students may contact the Doniphan County Special Education Cooperative office in Troy at (785) 982-4204. Information is available also through the Kansas State Department of Education at (785)296-3869, or the "Make A Difference" Hot Line at 1-800-332-6262.

PUBLIC NOTICE  
SPECIAL EDUCATION CHILD FIND

Doniphan County Education Cooperative #616  
135 S. Main St., P.O. Box 399  
Troy, KS 66087

SEARCH TO FIND CHILDREN IN NEED  
OF SPECIAL EDUCATION

The Doniphan County Education Cooperative #616 is seeking to identify every student from birth through age 21 who lives within the boundaries of Doniphan County who has developmental delays or maybe in need of special education. If you have a child or know of a child who you think has developmental delays or special needs contact: Doniphan County Education Coop. at 785-982-4204.

Areas of special education include: birth through age two (infant-toddler), early childhood - disability, developmentally delayed, visual impairments including blindness, hearing impairments including deafness, deaf-blindness, autism, traumatic brain injury, emotional disturbance, specific learning disabilities, Intellectual disability, multiple disabilities, orthopedic impairments, other health impairments, speech or language impairments, and gifted.

Parents are advised that all special education services are designed to offer the utmost in education opportunities for each qualifying student, as well as to provide assistance and support in the areas of physical, mental, emotional, and social growth. State and federal laws are followed in providing each student with a free appropriate public education in the least restrictive environment. Call: 785-982-4204 if you have a child or know of a child who may need special education services.

Kansas Regulations (K.A.R. 91-40-7 (b) require each school district to implement procedures to ensure the early identification of children birth to 5 years of age who may be experiencing developmental delays in the areas of:

Communication

Cognitive Development

Social/Emotional

Self-help/Adaptive

Motor Development (fine and gross)

Vision/Hearing

## 6. General Education Interventions



# General Education Interventions (GEI)

Component	Characteristics
<b>Child Find:</b> Procedures ensuring the early identification of students enrolled in public school including screening and intervention for students ages five through 21.	Intervene early for each student who is presenting academic or behavioral concerns. Utilizes observations, instruments, measures and techniques that may disclose any potential exceptionality.
<b>General Education Interventions:</b> Except in rare cases, interventions and strategies are implemented to support each student's presenting academic or behavioral concerns, and only when the student's progress indicates a potential exceptionality should the student be moved into initial evaluation for special education.	School personnel have data-based documentation which indicate an evaluation is appropriate, or School personnel have data-based documentation that general education interventions and strategies would be inadequate to address the areas of concern for the child.
<b>Data-based Documentation of General Education Interventions:</b> Includes specific data as evidence the student's needs are beyond what general education can provide and an evaluation is appropriate.	Specific Documentation: <ul style="list-style-type: none"> <li>that appropriate instruction was provided to the student,</li> <li>what educational interventions and strategies have been implemented,</li> <li>the results of repeated assessments of achievement which reflect the formal assessment of the student's progress during instruction,</li> <li>that parents have been provided the results the results indicate an evaluation is appropriate</li> </ul>
<b>Documentation when using School-Wide (Rt1) approach to General Education Interventions:</b> In Kansas, schools may use either a school-wide multi-tiered model of support or an individual student problem-solving approach to carry out GEI. Schools utilizing the school-wide approach need to ensure that additional parent notification occurred.	Documents that parents were notified about: <ul style="list-style-type: none"> <li>the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided,</li> <li>the strategies for increasing the student's rate of learning, and</li> <li>the parents' right to request an evaluation.</li> </ul> <p>It is recommended to schools that utilize a school-wide approach that they publish information about their system. Some ways to accomplish this additional requirement might include providing information to parents through methods such as:</p> <ul style="list-style-type: none"> <li>Brochures that describe the school's system of supports</li> <li>School or student handbooks</li> <li>Annual child find notifications</li> </ul>

## **7. Eligibility**

# Eligibility

After the evaluation is completed, the evaluation team meets to decide if the results of the evaluation show that the student is eligible for special education services. No one measure can be used as the only evidence to decide if a student is eligible. For example, an IQ test score cannot be the only source of information used to say that a student meets the requirements as an exceptional student.

The student's parents are to be invited to be part of the team making this decision. They may attend the meeting or have their opinions given by another person or a team member. The team provides the parents a copy of the evaluation report and the documentation of determination of eligibility.

The Kansas special education law considers that a child is eligible if they:

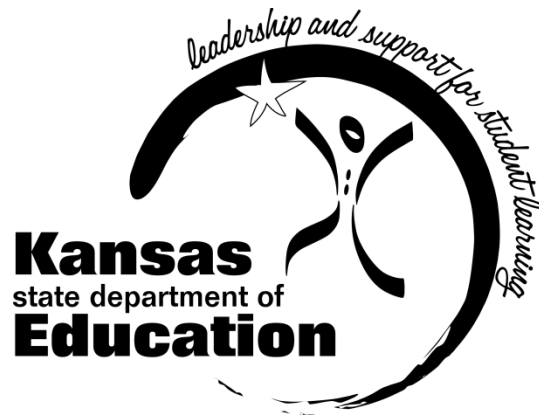
(1) meet the requirements of one or more of the exceptionalities including:

- Intellectual disability,  
hearing impairments (including deafness),  
speech or language impairments,  
visual impairments (including blindness),  
serious emotional disturbance (emotional disturbance),  
orthopedic impairments,  
autism,  
traumatic brain injury,  
other health impairments,  
specific learning disabilities,  
developmental delay ages 3-9,  
giftedness; and

(2) as a result of having an exceptionality, need special education and related services.

If the evaluation results show that the student is a student with an exceptionality, the team must also decide if the student needs special education services. A student may be a student with disabilities or giftedness, but may not need special education services. These students may still need some special help. In such cases, they may have their needs met through accommodations to the general education curriculum. If the student has a disability, s/he may qualify for services under Section 504.

A team made up of parents and qualified professionals, make the decision about eligibility. No one person can decide if the student is eligible for special education services. If the student's learning problems are primarily from a lack of instruction in reading or math, or limited English ability, the student is not eligible for special education services. In those situations, the team should suggest what other services or programs might help the student.



# Eligibility Indicators

## August, 2018

Version 5.4 (a revision to the November, 2016 version)

The most current version of this document may be downloaded at <http://www.ksde.org> on the Special Education Resources page.

This guidance document will continue to be a working document and will be periodically updated based on input from its use in the field.

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	<p>Kansas State Department of Education Landon State Office Building 900 SW Jackson St., Suite 600 Topeka, Kansas 66612-1212 <a href="http://www.ksde.org">www.ksde.org</a></p>		<p><b>KANSAS COMMISSIONER OF EDUCATION</b> Dr. Randy Watson (785) 296-3202</p>		<p><b>DIVISION OF LEARNING SERVICES</b> Brad Neuenswander Deputy Commissioner (785) 296-2304</p>		<p><b>DIVISION OF FISCAL AND ADMINISTRATIVE SERVICES</b> Dale M. Dennis Deputy Commissioner (785) 296-3871</p>
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JULY 2015

# Introduction

This document contains information about initial evaluation, including appropriate sources of data, eligibility determination, and includes Federal and State definitions of each exceptionality area as defined by the Individuals with Disabilities Education Act (IDEA). It also provides information regarding exclusionary factors that must be considered and examples of indicators of eligibility to assist school personnel as they make decisions. The purpose of the document is to provide guidance to evaluation teams as they seek to address the two-prong test of eligibility when determining if a child is eligible for special education. These examples of indicators are not an exhaustive list, but provide guidance for evaluation teams. For further guidance and a more complete discussion of the initial evaluation process, see Chapter 3 in the *Kansas Special Education Process Handbook*. This important resource may be viewed and downloaded by accessing the Special Education Resources page at <http://www.ksde.org>

## Eligibility Determination

The initial evaluation must include a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information. This includes information provided by the parent that may assist in determining whether the child is a child with an exceptionality, the educational needs of the child, and the content of the child's individualized education program (IEP), including information related to enabling the child to be involved, and progress in the general education curriculum or, for preschool children, to participate in appropriate activities (K.S.A. 72-986(b)(1)). The *Kansas Special Education Process Handbook* outlines two methods of evaluation, (i) "the child's response to scientific research-based intervention" and (ii) "a pattern of strengths and weaknesses", which are outlined in federal regulations with regard to the identification of children with specific learning disabilities. However, in Kansas, both are also appropriate to be used to determine eligibility for any of the areas of exceptionality. Regardless of the method chosen, evaluation teams will use existing and/or new data that comes from a variety of sources. The richest source of this information comes from the data collected in the provision of interventions. Interventions typically occur as a part of the General Education Intervention (GEI) process, but may also be collected from interventions conducted during the initial evaluation process.

When interpreting evaluation data from either of the two methods of evaluation for the purpose of making an eligibility determination, the team must ensure (1) that the child meets the definition of one of the categories of exceptionality and, (2) as a result of that exceptionality, needs special education and related services (KAR 91-40-1(k)(w); 34 CFR 300.8). This is known as the two-prong test of eligibility. If a child meets the definition of an exceptionality category, but does not need special education and related services, s/he will not be determined to be eligible. If the child has a need for special education and related services, but does not meet the definition of an exceptionality category, s/he will not be determined to be eligible. In the case of a child who is found to have a disability, but does not need special education and related services, a referral for a Section 504 evaluation may be considered.

### **Prong 1: Determining Whether the Child is a *Child with an Exceptionality***

"Exceptional children" means children with disabilities and children identified as gifted (KAR 91-40-1 (w)). "Child with a disability" means the following: (1) a child evaluated as having intellectual disability, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services; and (2) for children ages three through nine, a child who is experiencing developmental delays and, by reason thereof, needs special education and related services ((KAR 91-40-1 (k); CFR 300.8).

When considering the first prong of the two-prong test of eligibility, the team reviews the initial evaluation and other data to determine whether or not the child is a child with an exceptionality. To do this, team members compare the data about the child to see if there is a match to one of the exceptionality categories defined in the regulations. However, even when the data points to a particular area of exceptionality, there are exclusionary factors that must be examined before determining the child is a child with an exceptionality.

Regulations are very clear with regard to the fact that a child must NOT be determined to be a child with an exceptionality if:

(a) the determinant factor is:

- Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of Elementary and Secondary Education Act (ESEA) as explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies); or
- Lack of appropriate instruction in math; or
- Limited English proficiency; and

(b) the child does not otherwise meet the eligibility criteria as a child with an exceptionality (KSA 72-986(f); KAR 91-40-10(c); 34 CFR 300.306(b)).

In addition to these exclusionary factors which apply to all categories of disability, there are exclusionary factors specific to certain disabilities that must also be ruled out. Those factors are contained in this document and guidance is provided to assist teams in their evaluation of these factors as they determine eligibility.

If the evaluation data indicate there is a match with a particular category of exceptionality and the team has ruled out the presence of any exclusionary factors, the team may determine that the child meets one of the requirements of eligibility as a child with an exceptionality (Prong 1 of the test of eligibility). If there is not a match or exclusionary factors are present, the team must determine that the child does not meet the eligibility of a child with an exceptionality. However, being gifted or having a disability does not necessarily qualify a child for special education services. Thus teams must also consider the component of the definition which states: "and who, by reason thereof, needs special education and related services."

## **Prong 2: Determining Whether the Child Needs Special Education [Specially Designed Instruction] and Related Services**

The second prong of the test of eligibility is to determine whether or not the child needs special education and related services as a result of the exceptionality. It is helpful for teams to remember that by definition special education means specially designed instruction (KAR 91-40-1(kkk); 34 CFR 300.39(a)(1)), and, that specially designed instruction means adapting the content, methodology, or delivery of instruction to address the unique needs of a child that result from the child's exceptionality to ensure access of the child to the general education curriculum in order to meet the educational standards that apply to all children (KAR 91-40-1 (III); 34 CFR 300.39(b)(3)(i)-(ii)). This implies that in order to have a need for special education, the child has specific needs which are so unique as to require specially designed instruction in order to access and progress in the general education curriculum.

Kansas regulations at KAR 91-40-7(c)(1-2), require that prior to referral for an initial evaluation the school must have data-based documentation of the following: (1) having provided appropriate instruction to the child in regular education settings that was delivered by qualified personnel; (2) repeatedly assessing the child's academic achievement at reasonable intervals which reflect formal assessment of the child's progress during instruction; (3) having provided the assessment results to the child's parents; and (4) the assessment results indicate an evaluation is appropriate. The data collected prior to referral must be documented as indicated above and, if the child goes on for evaluation, that data becomes an integral part of the eligibility determination of need. Whether the school is implementing a system of multi-tier system of supports or uses an individual problem solving approach (e.g. Student Improvement Team, Student Assistance Team, CARE, etc.) to carry out interventions and document the child's progress, the school will have data regarding the child's needs related to the intensity of instruction and supports required for the child to be successful.

The team must review the evaluation data in such a way as to understand the extent of the child's needs with regard to specially designed instruction. Teams should be able to use the data to describe the intensity of the support needed to assist the child in accessing and progressing in the general education curriculum. It is only through this discussion that the team can determine whether or not the child's need for having adapted content, methodology, or delivery of instruction is so great that it cannot be provided without the support of special education.

If the team determines that the child's need for having adapted content, methodology, or delivery of instruction is so great that it cannot be provided in regular education without the support of special education, the team may determine that the child needs special education and related services (Prong 2 of the eligibility test). If the data suggest the child's needs for instruction can be provided within regular education without the support of special education and related services, the team must determine that the child is not in need of special education and related services.

## **Eligibility, Labels, and Services**

Once a child is identified as a child with a disability, determination of services to be provided are based on the child's needs, not on the child's label. In other words, children do not need to be identified with a label for each related service they receive. For example, a child with a learning disability does not need to have a secondary label as emotionally disturbed to receive counseling for emotional issues (see Gifted section for specifics of how this applies to students identified). For children determined to be eligible for special education and related services as a child with an exceptionality, the Present Levels of Academic Achievement and Functional Performance (PLAAFPs) of the IEP should contain the evaluation information that describes the child's needs. The

PLAAFPs must include information regarding academic achievement, functional performance, and the impact of the exceptionality on the child's ability to access and progress in the general education curriculum.

## Autism

KAR 91-40-1

(f) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three but not necessarily so, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

<b>Exclusionary Criteria:</b> A child must NOT be determined to be a child with an exceptionality if <b>the determinant factor</b> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading (fluency including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data. For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data. For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	Evidence shows that the child's learning difficulties are not due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.
<ul style="list-style-type: none"> <li>The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.</li> </ul>	The team should rule out the presence of an emotional disturbance. If the data the team collects matches the indicators for emotional disturbance, the child should be identified as a child with an emotional disturbance rather than a child with autism.



## Prong 1: Does the child exhibit an exceptionality?

### Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Evidence of a developmental disability significantly affecting verbal communication
  - Measures, record reviews, interviews, and/or observations indicate child's skills in verbal communication are significantly different from peers.
  - Abnormal volume, pitch, intonation, rate, rhythm, stress, prosody
  - Limited ability to convey a range of emotions via words
2. Evidence of a developmental disability significantly affecting nonverbal communication
  - Measures, record reviews, interviews, and/or observations indicate child's skills in nonverbal communication are significantly different from peers.
  - Impairments in social use of eye contact
  - Impairment in the use and understanding of body postures and gestures
  - Limited ability to convey a range of emotions via expressions, tone of voice, gestures
  - Inability to coordinate eye contact or body language with words or gestures
3. Evidence of a developmental disability significantly affecting social interaction
  - Measures, record reviews, interviews, and/or observations indicate child's skills in social interaction are significantly different from peers.
  - Abnormal social approaches
  - Failure of normal back and forth conversation
  - Reduced sharing of interests, emotions/affect
  - Lack of initiation of social interaction
  - Poor social imitation
  - Inability to take another person's perspective (for children with a chronological age above 4 years)
  - Difficulties adjusting behavior to social contexts
  - Difficulties in sharing imaginative play
  - Difficulties in making friends
  - Absence of interest in others
4. Evidence of adverse effect on educational performance
  - Measures, record reviews, interviews and/or observations indicate that the child's condition adversely impacts his/her educational performance.

### Other Supporting Information

- Measures, record reviews, interviews, and/or observations provide information which substantiates child characteristics such as engagement in repetitive activities and stereotyped movements; resistance to environmental change or change in daily routines; and unusual responses to sensory experiences which are significantly different than peers.
- Records contain medical information or a *Diagnostic and Statistical Manual of Mental Disorders (DSM)* diagnosis (by appropriately trained and qualified diagnostician) that substantiates the elements of the Kansas definition. A diagnosis should be considered as supporting information. However, a diagnosis is not required, nor necessarily determinative, in eligibility decisions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Progress monitoring data indicate intense or sustained resources needed in order for child to demonstrate adequate progress.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.
- Progress monitoring data show that the child's behavior of concern is resistant to targeted supplemental and intensive interventions to address communication, social interaction, and/or academic skills.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Developmental Delay (age 9 and younger)

KAR 91-40-1

(q) "Developmental delay" means such a deviation from average development in one or more of the following developmental areas that special education and related services are required:

- (A) Physical;
- (B) cognitive;
- (C) adaptive behavior;
- (D) communication; or,
- (E) social or emotional development

The deviation from average development shall be documented and measured by appropriate diagnostic instruments and procedures.

## Exclusionary Criteria:

A child must NOT be determined to be a child with an exceptionality if the determinant factor is:

Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are not due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, chronic absenteeism, etc.</p>

**Prong 1: Does the child exhibit an exceptionality?****Indicators**

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Records indicate child is age 9 or under.
2. Performance is significantly below developmental expectations on a criterion referenced instrument in one or more developmental areas. The developmental areas include: (1) Physical; (2) cognitive; (3) adaptive behavior; (4) communication; or (5) social or emotional development.
  - Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit and systematic instructional interventions.
  - Performance is significantly below normative sample on a standardized assessment in one or more developmental areas.
  - Performance is significantly lower than peers on one or more benchmark assessments, curricular objectives, or state assessments.
  - Measures, record reviews, interviews, and/or observations demonstrate significant deviation from average development in one or more developmental areas.

For a child three to five years old, who is not yet enrolled in kindergarten:

- Measures, record reviews, interviews, and/or observations demonstrate significant deviation from average development in one or more developmental areas.
- Performance is significantly below normative sample on a standardized assessment in one or more developmental areas.
- Performance is significantly lower than peers on one or more curriculum based assessment, criterion referenced assessment, and/or performance assessment.

## Prong 2: Does the child need special education [specially designed instruction] and related services?

### Indicators

- Progress monitoring data indicate intense or sustained resources needed in order for child to:
  - physically negotiate and manipulate the environment, or
  - understand age appropriate information, reason, and solve problems, or
  - exhibit developmentally appropriate adaptive skills, such as self-care, home living, community use, self-direction, health and safety, and functional academics, or
  - convey and comprehend communication and social intent, or
  - positively impact relationships with peers and adults, or
  - initiate, respond to, and maintain positive social relationships, or
  - meet behavioral expectations (e.g., following directions, rules, and routines).
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more developmental areas.
- Progress monitoring data show low rate of growth in areas of concern despite provision of increasingly intense, explicit instructional interventions to address communication, social interaction, and/or academic skills.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten

- Data collected through interviews with caregivers, observations in the natural environment, and assessments indicates intense or sustained resources needed in order for child to:
  - physically negotiate and manipulate the environment, or
  - understand age appropriate information, reason, and solve problems, or
  - exhibit developmentally appropriate adaptive skills such as self-care, home living, community use, self-direction, health and safety, and functional academics, or
  - convey and comprehend communication and social intent, or
  - positively impact relationships with peers and adults, or
  - initiate, respond to, and maintain positive social relationships, or
  - meet behavioral expectations (e.g., following directions, rules, and routines).
- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Despite extra support, the child continues to make minimal or no progress.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Emotional Disturbance

KAR 91-40-1

(v) "Emotional disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (1) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (3) inappropriate types of behavior or feelings under normal circumstances;
- (4) a general pervasive mood of unhappiness or depression; or
- (5) a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia, but shall not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring data indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observations in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring data indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observations in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also, consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality.</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>
<ul style="list-style-type: none"> <li>The child may not be socially maladjusted, unless it is determined that he/she also has an emotional disturbance.</li> </ul>	<p>Courts have interpreted social maladjustment to mean a conduct disorder. Teams should review records to rule out that the child has been identified as a child having a conduct disorder, unless other evidence that the child also has an emotional disturbance exists.</p>

### Prong 1: Does the child exhibit an exceptionality?

#### Indicators

For meeting this prong of eligibility the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Characteristics of Emotional Disturbance.
  - Measures, record reviews, interviews, and/or observations indicate levels of physical symptoms or fears which are different from peers and are correlated with school problems.
  - Measures, record reviews, interviews, and/or observations indicate child exhibits inappropriate behaviors or feelings under normal circumstances.
  - Measures, record reviews, interviews, and/or observations indicate an inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
  - Measures, record reviews, interviews, and/or observations indicate a pervasive mood of unhappiness or depression.
2. Evidence that characteristics have been exhibited over a long period of time.
  - Measures, record reviews, interviews, and/or observations indicate that emotional difficulties have been exhibited over a long period of time.
3. Evidence that characteristics are exhibited to marked degree.
  - Measures indicate behavioral and emotional characteristics are exhibited to a marked degree when compared to peers.
4. Evidence that behavior adversely affects educational performance.
  - Measures, record reviews, interviews, and/or observations indicate that emotional characteristics are adversely affecting the child's educational performance. Educational performance includes academic performance as well as the ability to function within the learning environment such as appropriate participation in large group, small group, or individual learning settings.
  - Measures, record reviews, interviews, and/or observations indicate an inability to learn that cannot be explained by intellectual, sensory, or health factors.
  - Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit and systematic instructional interventions.

#### Other Supporting Information

Records document a *Diagnostic and Statistical Manual of Mental Disorders (DSM)* diagnosis (by appropriately trained and qualified diagnostician) that substantiates the elements of the Kansas definition. A medical diagnosis should be considered as supporting information. However, a diagnosis is not required, nor necessarily determinative, in eligibility decisions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Progress monitoring data indicate intense or sustained resources are needed in order for child to demonstrate adequate progress.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.
- Modifications of instruction, curriculum, and the environment have not adequately addressed the behaviors, feelings, relationships, moods, fears, or physical symptoms that adversely affect the child's educational performance.
- Progress monitoring data displayed on charts or graphs show low rate of improvement in the behavior of concern despite provision of increasingly intense, explicit and systematic instructional interventions.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.

For a child three to five years old, who is not yet enrolled in kindergarten

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.



# Gifted

KAR 91-40-1

(bb) "Gifted" means performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience and environment.

Prong 1: Does the child exhibit an exceptionality? Indicators	
For meeting this prong of eligibility the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:	
1.	<p>Evidence of performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields</p> <ul style="list-style-type: none"><li>• Measures, record reviews, interviews, and/or observations indicate child demonstrates superior reasoning and problem solving ability.</li><li>• Progress monitoring indicates child's skill level in one or more academic areas is much above that of peers.</li><li>• Grade Point Average, classroom assessments, portfolios, or rubrics indicate significant excellence in academics.</li><li>• District, state, and national assessments indicate significant excellence in academics.</li><li>• A rank of not less than the 95th percentile on national norms on a standardized, norm-referenced achievement test in one or more of the academic fields (mathematics, language arts (including reading), science, and social science), or evidence that such test scores do not adequately reflect the child's excellence in academics. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience.</li><li>• College entrance exams indicate significant excellence in academics.</li><li>• Pre-tests consistently indicate child has already mastered end of unit/curricular objectives prior to instruction.</li></ul>
2.	<p>Evidence of being due to intellectual ability</p> <ul style="list-style-type: none"><li>• Measures, record reviews, interviews, and/or observations indicate child shows persistent intellectual curiosity and asks searching questions.</li><li>• Measures, record reviews, interviews, and/or observations indicate child shows initiative and originality in intellectual work.</li><li>• Ease of task completion indicates a significantly high level of intellectual ability.</li><li>• Rate of acquisition and retention indicate a significantly high level of intellectual ability.</li><li>• Products from home or school indicate a significantly high level of intellectual ability.</li><li>• A composite rank of not less than the 97th percentile on an individually administered, standardized, norm-referenced test of intellectual ability, or evidence that the child's standardized, intelligence test score does not adequately reflect the child's high intellectual potential. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience.</li></ul>
3.	<p>Evidenced that when compared to others of similar age, experience and environment</p> <ul style="list-style-type: none"><li>• Multiple characteristics of giftedness exhibited when interventions provide adaptations, enrichment, or acceleration as compared to peers, with consideration given to cultural or linguistic differences.</li><li>• Persistence to task and generalization of knowledge gained indicate a remarkably high level of accomplishment.</li><li>• Coursework analysis indicates a significantly high level of intellectual ability and excellence in academics when provided with interventions.</li><li>• Performance significantly higher than peers in one or more areas on benchmark assessments, curricular objectives, or state assessments, with consideration given to cultural or linguistic differences.</li></ul>

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Progress monitoring data indicate intense or sustained resources needed in order for child to demonstrate appropriate progress.
- Evidence of mastery of successive levels of instructional objectives or course requirements indicates the need for intensive adaptations or acceleration.
- Progress monitoring data show that differentiated instruction and targeted interventions are insufficient for child to demonstrate appropriate progress.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum at appropriate levels of instruction.
- Intensive changes or modifications needed in instruction, curriculum, grouping, assignments, etc. for the child to demonstrate appropriate progress.
- Evidence of child's frustration with enriched instructional environments indicates the need for intensive adaptations or acceleration.
- General education interventions such as alternative course selections or cross-age grouping are insufficient to support the child's progress.

**NOTE:**

A child may be found eligible as having both giftedness as defined by KAR 91-40-1 and as having a disability area under IDEA. The child must meet the eligibility criteria for both the disability and giftedness. If a child is identified for both gifted and a disability, the disability should be entered as the primary exceptionality in the MIS system.

Children who are identified as both a child with a disability and gifted may receive any related services for which there is a documented need. Children identified only as gifted may receive only the related services of counseling services, parent counseling, school psychological services, school social work services, and transportation. Even if the child shows a weakness in an area (such as written language), the child cannot be provided with a related service to address the weakness unless the child meets the eligibility criteria for a disability under IDEA.

# Intellectual Disability

KAR 91-40-1

(oo) "Intellectual Disability" means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

<b>Exclusionary Criteria:</b> A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency; and</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>

### Prong 1: Does the child exhibit an exceptionality?

#### Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Information relating to sub-average general intellectual functioning
  - Rate of learning, as measured by progress monitoring, is markedly different from peers.
  - Child's score is significantly below the mean on an individually administered, standardized, norm-referenced test of intellectual ability, with consideration given to cultural or linguistic differences.
2. Information related to deficits in adaptive behavior
  - Measures, records, interviews, and/or observations indicate significant deficits across adaptive behavior areas, such as conceptual skills, social skills, and practical skills, with consideration given to cultural or linguistic differences.
3. Information related to initial occurrence during the developmental period
  - Measures, records and/or interviews indicate deficits in adaptive behavior and low intellectual functioning were manifested during the developmental period.
  - Measures, records, interviews, and/or observations indicate adaptive behavior deficits have occurred over an extended period of time.
4. Evidence of Adverse Effects on Educational Performance
  - Measures, records, interviews, and/or observations indicate child's level of educational performance has been significantly below age or state-approved grade level standards.
  - Performance is significantly below age or state-approved grade level standards when measured on benchmark assessments, curricular objectives, or state assessments.
  - Measures of academic achievement indicate significant delays across subject areas, with consideration given to cultural or linguistic differences.

#### Other Supporting Information

Record reviews show *Diagnostic and Statistical Manual of Mental Disorders (DSM)* diagnosis (by clinical psychologist or other appropriately trained and qualified diagnostician) that substantiates the elements of the Kansas definition. A medical diagnosis should be considered as supporting information. However, a diagnosis is not required, nor necessarily determinative, in eligibility decisions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Despite modifications in instruction, curriculum and environment, child's rate of learning is significantly less than peers.
- Despite modifications in instruction, curriculum and environment, child's educational performance in various age appropriate environments is significantly below age or state-approved grade level standards.
- Despite modifications in instruction, curriculum and environment, child's adaptive behavior skills in various age appropriate environments is significantly delayed from peers.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten.

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Learning Disability

KAR 91-40-1

(mmm) "Specific learning disability" means a disorder in one of more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term shall not include learning problems that are primarily the result of any of the following: (1) Visual, hearing, or motor, disabilities; (2) Intellectual Disability; (3) emotional disturbance; or (4) environmental, cultural, or economic disadvantage.

KAR 91-40-11

(b)(1) A group evaluating a child for a specific learning disability may determine that the child has such a disability only if the following conditions are met:

(A) The child does not achieve adequately for the child's age or meet state-approved grade-level standards, if any, in one or more of the following areas, when the child is provided with learning experiences and instruction appropriate for the child's age and grade level: (i) Oral expression; (ii) listening comprehension; (iii) written expression; (iv) basic reading skill; (v) reading fluency skills; (vi) reading comprehension; (vii) mathematics calculation; and (viii) mathematics problem solving; and

(B)(i) The child does not make sufficient progress to meet age or state-approved grade level standards in one of more of the areas identified in paragraph (b)(1)(A) when using a process based on the child's response to scientific, research-based intervention; or (ii) the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards, or intellectual development that is determined by the group conducting the evaluation to be relevant to the identification of a specific learning disability, using appropriate assessments.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>

<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>
<p>The determinant factor for why the child does not achieve adequately for the child's age or does not make sufficient progress to meet age or State-approved grade level standards, or exhibits a pattern of strengths and weaknesses, is not primarily the result of:</p> <ul style="list-style-type: none"> <li>A visual, hearing or motor disability;</li> <li>emotional disturbance;</li> <li>cultural factors;</li> <li>environmental or economic disadvantage;</li> <li>limited English proficiency; or</li> <li>intellectual disability</li> </ul>	<p>Evidence shows that child information does not match indicators for visual, hearing, or motor disability, intellectual disability, or emotional disturbance indicating the presence of another disability is not the primary cause of learning problems. However, it should be recognized that learning disabilities can co-exist with other types of disabilities (i.e., co-morbidity).</p> <p>If any other factors (cultural, environmental or economic disadvantage, or limited English proficiency) are an issue for the child being evaluated, provide evidence that the child was provided with appropriate accommodations and interventions to address them. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, these factors are ruled out as the primary cause.</p>

### Prong 1: Does the child exhibit an exceptionality?

#### Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Observational Data

- Observation in the child's learning environment (which must include the general education classroom) provides evidence of the child's performance and behavior in the area of difficulty. [Note: This is required for all evaluations of children suspected of having a learning disability.]

2. The child does not achieve adequately for the child's age or meet state-approved grade-level standards.

- Progress monitoring data indicates the child exhibits both a (1) low level of performance (after appropriate interventions) when compared to peers and (2) low rate of growth/rate of improvement (after appropriate interventions) when compared to peers.
- Data indicates a pattern that show a consistent weakness in a process related to the achievement delay and a relative strength in a process unrelated to the achievement delay.
- Measures of achievement in basic reading skills, reading fluency skills, and/or reading comprehension is significantly below age or state-approved grade level standards.
- Measures of achievement in math calculation or math problem-solving are significantly below age or state-approved grade level standards.
- Measures of achievement in written expression are significantly below age or state-approved grade level standards.
- Measures of oral expression and/or listening comprehension indicate child performance is significantly below age or state-approved grade level standards.
- Interviews indicate child demonstrates a high level of understanding during oral discussions but lacks mastery of basic skills.
- Performance is significantly below age or state-approved grade level standards on one or more benchmark assessments, curricular objectives, or state assessments.

3. Evidence of provision of learning experiences and instruction appropriate for the child's age and grade level.

- Records of intervention indicate appropriate instructional decisions based on child data.
- Progress monitoring data displayed on charts or graphs show low rate of growth/improvement in at least one achievement domain despite provision of increasingly intense, explicit and systematic instructional interventions.

#### Other Supporting Information

Record reviews show *Diagnostic and Statistical Manual of Mental Disorders (DSM)* diagnosis (by an appropriately trained and qualified diagnostician) of learning disability or previous identification as having a learning disability or other diagnosis of perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, dyscalculia, dysgraphia, or developmental aphasia. A medical diagnosis should be considered as supporting information. However, a diagnosis is not required, nor necessarily determinative, in eligibility decisions.



**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Progress monitoring data indicate intense or sustained resources needed in order for child to demonstrate adequate progress.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.
- Despite modifications of instruction, curriculum, and environment, progress monitoring data show variability across academic performance areas.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten.

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

**NOTE:**

**Dyslexia is a Specific Learning Disability**

In recent years, much debate has occurred regarding dyslexia and whether or not it is disability covered under the IDEA and in Kansas. The IDEA as well as Kansas statute and regulations recognize dyslexia as a disability as stated within the definition of Specific Learning Disability.

There is no requirement for the administration of any specific test, including intelligence tests, tests of psychological processes, or norm referenced tests of achievement in order to identify a child as a child with a learning disability. "The [U.S.] Department [of Education] does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD." Federal Register Vol 71, No. 156 / Monday August 14, 2006/ Rules and Regulations, page 46651

KSDE's guidance is that the use of IQ-Achievement Discrepancy to identify a child as a child with a learning disability is an inappropriate practice.

# Multiple Disabilities

KAR 91-40-1

(pp) "Multiple disabilities" means coexisting impairments, the combination of which causes such severe educational needs that those needs cannot be accommodated in special education programs solely for one of the impairments. The term shall not include deaf-blindness.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data. For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data. For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>
<ul style="list-style-type: none"> <li>The term shall not apply if a child's educational performance is adversely affected primarily because the child is a child with deaf-blindness</li> </ul>	<p>The team should rule out the presence of deaf-blindness. If the data the team collects match the indicators for deaf-blindness, the child should be identified as a child with deaf-blindness rather than a child with multiple disabilities.</p>

<b>Prong 1: Does the child exhibit an exceptionality?</b> <b>Indicators</b> For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:
<ol style="list-style-type: none"> <li>1. Evidence of co-existing impairments <ul style="list-style-type: none"> <li>• Record review and/or Interviews indicate the presence of co-existing impairments.</li> </ul> </li> <li>2. Evidence that an educational program for solely one impairment is insufficient <ul style="list-style-type: none"> <li>• Measures of educational performance indicate that the combination of which causes such severe educational needs that those needs cannot be accommodated in special education programs solely for one of the impairments.</li> </ul> </li> </ol>
<b>Other Supporting Information</b> Records contain medical information which provides evidence of multiple disabilities.
<b>Prong 2: Does the child need special education [specially designed instruction] and related services?</b> <b>Indicators</b> <ul style="list-style-type: none"> <li>• Despite modifications in instruction, curriculum, and environment, child's educational performance in various age appropriate environments is significantly delayed from peers.</li> <li>• Despite modifications in instruction, curriculum, and environment, child's adaptive behavior skills in various age appropriate environments is significantly delayed from peers.</li> <li>• Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.</li> <li>• Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.</li> <li>• Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.</li> <li>• The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.</li> <li>• Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.</li> <li>• Measures, record review, interviews, and observations show that coexisting impairments adversely affect the child's participation and progress in the general curriculum or participation in age-appropriate activities.</li> <li>• Information from multiple sources of data indicates that the child exhibits a combination of impairments which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.</li> </ul> <p>For a child three to five years old, who is not yet enrolled in kindergarten</p> <ul style="list-style-type: none"> <li>• Data indicate that a need for intense or sustained resources exists across settings, people, or situations.</li> <li>• Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.</li> </ul>

# Orthopedic Impairment

KAR 91-40-1

(tt) "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance and includes impairments caused by any of the following: 1) congenital anomaly, such as clubfoot or absence of a limb; 2) disease, such as poliomyelitis or bone tuberculosis; and 3) other causes, such as cerebral palsy, amputation, and fractures or burns that cause contractures.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <b><u>the determinant factor</u></b> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>

**Prong 1: Does the child exhibit an exceptionality?****Indicators**

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following categories:

1. Records contain medical information which provides evidence of orthopedic impairment.
  - Records contain information substantiating an impairment caused by: congenital anomaly, such as clubfoot or absence of a limb; disease, such as poliomyelitis or bone tuberculosis; and, other causes such as cerebral palsy, amputation, and fractures or burns that cause contractures.
  - Records and/or interviews indicate a history of orthopedic impairment.
2. Records, interviews, observations, and/or tests show that the child's educational performance is much below that of peers.
  - Records, interviews, observations, and/or tests show that the child's orthopedic condition adversely impacts his/her educational performance.
  - Measures of motor skills indicate the child's skills are much below that of peers.
  - Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit and systematic instructional interventions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?****Indicators**

- Despite modifications in instruction, curriculum, and environment, child's rate of learning is significantly less than peers.
- Despite modifications in instruction, curriculum, and environment, child's educational performance in various age appropriate environments is significantly delayed from peers.
- Despite modifications in instruction, curriculum, and environment, child's adaptive behavior skills in various age appropriate environments are significantly delayed from peers.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten.

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Other Health Impairment

KAR 91-40-1

(uu) "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 and that meets the following criteria: 1) is due to chronic or acute health problems, including asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and 2) adversely affects a child's educational performance.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum include explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>

**Prong 1: Does the child exhibit an exceptionality?****Indicators**

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Records contain medical information which document chronic or acute health problems including: asthma; attention deficit disorder or attention deficit hyperactivity disorder; diabetes; epilepsy; heart condition; hemophilia; lead poisoning; leukemia; nephritis; rheumatic fever; sickle cell anemia; or Tourette syndrome.
  - Measures, record review, interviews, observations, and/or tests show the child's strength, vitality, or alertness is/are significantly different from peers.
  - Measures, record review, interviews, observations, and/or tests show the child demonstrates limited alertness with respect to the educational environment.
2. Measures, record review, interviews, observations, and/or tests show that the child's condition adversely impacts his/her educational performance.
  - Measure, record review, interviews, observations, and/or tests show that the child's educational performance is much below that of peers.
  - Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit and systematic instructional interventions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?****Indicators**

- Despite modifications in instruction, curriculum, and environment, child's rate of learning is significantly less than peers.
- Despite modifications in instruction, curriculum, and environment, child's educational performance in various age appropriate environments is significantly delayed from peers.
- Providing modifications in instruction, curriculum, and environment does not alleviate adverse effects on child's educational performance due to differences in strength, vitality, or alertness.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten.

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Sensory Impairments

KAR 91-40-1

(dd) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that does not constitute deafness as defined in this regulation.

(p) "Deafness" means a hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification, and adversely affects the child's educational performance.

(uuu) "Visual impairment" means an impairment in vision that, even with corrections, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(g) "Blindness" means a visual impairment that requires dependence on tactile and auditory media for learning

(o) "Deaf-blindness" means the combination of hearing and visual impairments that causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for the hearing impaired or the visually impaired.

## THE FOLLOWING EXCLUSIONARY CRITERIA APPLY TO HEARING IMPAIRMENT, DEAFNESS, VISUAL IMPAIRMENT, BLINDNESS, AND DEAF-BLINDNESS

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data. For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data. For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also, consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>



## THE FOLLOWING INDICATORS APPLY TO Hearing Impairment/Deafness

### Prong 1: Does the child exhibit an exceptionality?

#### Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Records contain information which provides evidence of hearing impairment/deafness.
  - Measures of hearing impairment indicate the following:
    - a chronic or progressive condition exists which interferes with the auditory learning mode (permanent or fluctuating)
    - congenital malformations of the auricle (e.g., absence of a pinna or ear canal opening) that results in a hearing loss
    - the hearing loss is not severe enough to constitute deafness
  - Measures of deafness indicate the following:
    - hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification
    - congenital malformations of the auricle (e.g., absence of a pinna or ear canal opening) that results in deafness
2. Adverse effect on educational performance
  - Measures, record reviews, interviews and/or observations indicate that the child's condition adversely impacts his/her educational performance.

#### Other Supporting Information

Records contain medical information which provides evidence that the child is deaf or hearing impaired. Examples include:

- Documentation of Auditory Processing Disorder (APD), also referred to as Central Auditory Processing Disorder (CAPD), or evidence of difficulty in processing and interpreting auditory stimuli which often results from a problem in the brainstem or cerebral cortex.
- Auditory Neuropathy Spectrum Disorder (ANSD) or evidence of a disorder in which sound enters the inner ear normally, but the transmission of signals from the inner ear to the brain is impaired or virtually absent.
- Functional Deafness or evidence that the structures of the ear are present and working; however, the child does not attend, respond, localize, or process sound; (a) to receive information from the environment; (b) accurately interpret information about the environment; and/or (c) to accurately interpret meaning from sound to information provided linguistically with or without amplification.

A diagnosis should be considered as supporting information. However, a diagnosis is not required, nor necessarily determinative, in eligibility decisions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- The hearing loss limits full auditory access to educational program, impacts educational performance, and/or prohibits the child from reaching full non-verbal cognitive potential. For example, the child exhibits an impairment of spoken or signed articulation, phonology, voice and/or fluency and/or receptive and/or expressive language (spoken or signed) delay, including in syntax, pragmatics, semantics, morphology, and/or vocabulary.
- Despite modifications in instruction, curriculum, and environment, the child's rate of learning is significantly less than his/her peers.
- Despite modifications in instruction, curriculum, and environment, the child's educational performance in various age appropriate environments is significantly delayed from his/her peers.
- Progress monitoring data indicate intense or sustained resources (e.g. specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss) are needed in order for the child to demonstrate adequate progress.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data result of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

## THE FOLLOWING INDICATORS APPLY TO Blindness/Visual Impairment

### Prong 1: Does the child exhibit an exceptionality?

#### Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Records contain information which provides evidence of blindness/visual impairment.
  - Measures of blindness indicate the following:
    - a visual impairment that requires dependence on tactile and auditory media for learning
    - a chronic condition exists which interferes with the visual learning mode
    - ocular motor deficit (e.g., muscle imbalance)
    - any other vision condition that, even with correction, adversely affects a child's educational performance
  - Measures of visual impairment indicate the following:
    - a chronic or progressive condition exists which interferes with the visual learning mode
    - ocular motor deficit (e.g., muscle imbalance)
    - anophthalmus (absence of actual eyeball in one eye)
    - any other vision condition that, even with correction, adversely affects a child's educational performance
2. Measures, record review, interviews, observations, and/or tests show that the child's impairment adversely impacts his/her educational performance.
  - Information from multiple sources of data indicates that the child exhibits a visual impairment, whether permanent, fluctuating or progressive, that adversely affects his/her educational performance.
  - Evidence of any other vision condition that results in impairment that, even with correction, adversely affects a child's educational performance

#### Other supporting information

Records contain medical information which provides evidence of blindness and/or visual impairment or a progressive condition diagnosed by an appropriately trained and qualified ophthalmologist or optometrist, such as documentation of Cortical Visual Impairment (CVI) or evidence that the visual structures are present and working; however, the child does not track, localize, or process vision to receive information from the environment or accurately interpret information about the environment. A diagnosis should be considered as supporting information. However, a diagnosis is not required, nor necessarily determinative, in eligibility decisions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Information from multiple sources of data indicates that the child exhibits a visual impairment that, even with correction, adversely affects his/her educational performance.
- Documentation that vision losses are such that the child cannot be provided services appropriately in the general education classroom without specific assistance, modifications, adaptations, or supports necessary to accommodate the visual loss.
- Measures, record review, interviews, observations, and/or tests show that the child's educational performance is much below that of his/her peers.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Despite modifications in instruction, curriculum, and environment, child's rate of learning is significantly less than his/her peers.
- Despite modifications in instruction, curriculum, and environment, child's educational performance in various age appropriate environments is significantly delayed from his/her peers.
- Progress monitoring data indicate intense or sustained resources (e.g. specific assistance, modifications, adaptations, or supports necessary to accommodate the visual loss) are needed in order for child to demonstrate adequate progress.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data results of increasingly customized and individually tailored instruction, and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

**THE FOLLOWING INDICATORS APPLY TO  
Deaf-Blindness**

**Prong 1: Does the child exhibit an exceptionality?**  
Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Records contain information which provides evidence of hearing impairment/deafness.
  - Measures of hearing impairment indicate the following:
    - a chronic or progressive condition exists which interferes with the auditory learning mode (permanent or fluctuating)
    - congenital malformations of the auricle (e.g., absence of a pinna or ear canal opening) that results in a hearing loss
    - does not constitute deafness
  - Measures of deafness indicate the following:
    - hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification
    - congenital malformations of the auricle (e.g., absence of a pinna or ear canal opening) that results in deafness
2. Records contain information which provides evidence of blindness/visual impairment.
  - Measures of blindness indicate the following:
    - a visual impairment that requires dependence on tactile and auditory media for learning
    - a chronic condition exists which interferes with the visual learning mode
    - ocular motor deficit (e.g., muscle imbalance)
  - Measures of visual impairment indicate the following:
    - a chronic or progressive condition exists which interferes with the visual learning mode
    - ocular motor deficit (e.g., muscle imbalance)
    - anophthalmus (absence of actual eyeball in one eye)
3. Measures of educational performance that indicate:
  - The child exhibits a combination of hearing and visual impairments so severe that communication, developmental and educational needs that the child has cannot be accommodated in special education programs solely for children who are hearing impaired or visually impaired.

**Other Supporting Information**

Records contain medication information which provides evidence of deaf-blindness. See other supporting information under the categories of Visual Impairment/Blindness and Hearing Impairment/Deafness.

**Prong 2: Does the child need special education [specially designed instruction] and related services?**

**Indicators**

- Despite modifications in instruction, curriculum, and environment, children's educational performance in various age-appropriate environments is significantly delayed from peers.
- Progress monitoring data indicate intense or sustained resources (e.g., specific assistance, modifications, adaptations, or supports necessary to accommodate both sensory losses) are needed in order for child to demonstrate adequate progress.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.
- Progress monitoring data indicate intense or sustained resources (e.g., specific assistance, modifications, adaptations, or supports necessary to accommodate both sensory losses) are needed in order for child to demonstrate adequate progress.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.

For a child three to five years old, who is not yet enrolled in kindergarten

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Speech or Language Impairment

KAR 91-40-1

(III) "Speech or language impairment" means a communication disorder, including stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>

**Prong 1: Does the child exhibit an exceptionality?****Indicators**

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Measures, record review, interview, observations, and/or assessments indicate child's voice, fluency, speech sounds, or language skills are not commensurate with age appropriate expectations.
  - Measures, record review, interview, observations, and/or assessments indicate child's communication skill level is much below that of peers.
  - Measures, record review, interview, observations, and/or assessments indicate child's communication skills have impacted development in other areas, e.g., social-emotional, cognitive.
  - Performance significantly lower than peers on measures of language which are related to curricular performance.
2. Information from multiple sources of data indicates that the child exhibits stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects educational performance.
  - Measures, record review, interview, observations, and/or assessments indicate child's voice, fluency, speech sounds, or language skills have an adverse effect on the child's educational performance.
  - Records and interviews indicate a history of academic difficulty relative to communication skills.
  - Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit and systematic instructional interventions.

**Prong 2: Does the child need special education [specially designed instruction] and related services?****Indicators**

- Despite modifications in instruction, curriculum, and environment, child's rate of learning is significantly less than peers.
- Despite modifications in instruction, curriculum, and environment, child's educational performance in various age appropriate environments is significantly delayed from peers.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the child needs specially designed instruction to access the general curriculum.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten.

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.



# Traumatic Brain Injury

KAR 91-40-1

(sss) "Traumatic brain injury" means 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 educational performance. The term shall apply to open or closed head injuries resulting in impairments in one or more areas, including the following: (1) cognition; (2) language; (3) memory; (4) attention; (5) reasoning; (6) abstract thinking; (7) judgment; (8) problem-solving; (9) sensory, perceptual and motor abilities; (10) psychosocial behavior; (11) physical functions; (12) information processing; and (13) speech. The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.

Exclusionary Criteria:	
A child must NOT be determined to be a child with an exceptionality if <u>the determinant factor</u> is:	
Exclusionary Factor	How to Evaluate
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 9215(c) of ESEA);</li> </ul>	<p>Evidence shows that the child's previous reading instruction and curriculum included explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from: (a) an evaluation of the school's basal curriculum and supplemental materials, (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials, and (c) records of intervention and progress monitoring indicating appropriate instructional adjustments based on child data.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	<p>Evidence shows that the child's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the child actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider "appropriate instruction" as the child's participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child's natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.</p>
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	<p>If the child being evaluated is an English Language Learner, show evidence that the child was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the child's native language, amount of time in the country, level of education in the child's native country, etc. Also consider whether the child's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the child's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> <li>and the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	<p>Evidence shows that the child's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, chronic absenteeism, etc.</p>
<ul style="list-style-type: none"> <li>The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.</li> </ul>	<p>The term TBI is not used for a person who is born with a brain injury. It also is not used for brain injuries that happen during birth. Evidence is provided that the brain injury was sustained after some period of normal development.</p>
<ul style="list-style-type: none"> <li>The term shall not include brain injuries that are the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.</li> </ul>	<p>The term TBI is not used for a person who sustained a brain injury as a result of a brain tumor, brain infection, cerebral vascular accident (stroke), or poisoning. Evidence is provided that the brain injury sustained was not caused by these conditions. (Note: Children with these conditions may meet eligibility requirements under the category of "Other Health Impaired".)</p>

**Prong 1: Does the child exhibit an exceptionality?****Indicators**

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following numbered categories:

1. Record review, interview, observation, and/or tests indicates that the child has an acquired injury to the brain (applies to both open or closed head injuries, including near drowning) caused by an external physical force that has resulted in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance.
  - Record review, interviews, observations, and/or tests in one or more areas (cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech) indicate child's skill level is much below that of peers.
  - Record review and/or interview indicates the brain injury is not congenital or degenerative or induced by birth trauma.
  - Record review and/or interview indicate the brain injury is not the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.
2. Record review, interview, observation, and/or tests indicate the injury adversely affects the child's educational performance.
  - Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.

**Other Supporting Information**

Records contain medical information which provides evidence of traumatic brain injury.

**Prong 2: Does the child need special education [specially designed instruction] and related services?****Indicators**

- Despite modifications in instruction, curriculum, and environment, child's rate of learning is significantly less than peers.
- Despite modifications in instruction, curriculum, and environment, child's educational performance in various age appropriate environments is significantly delayed from peers.
- Progress monitoring data indicate intense or sustained resources are needed to support interventions (e.g. specific assistance, modifications, adaptations, or other supports) necessary to accommodate the needs resulting from the injury.
- Despite modifications of instruction, curriculum, and environment, the child does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas.
- Progress monitoring data displayed on charts or graphs show low rate of growth in educational performance despite provision of increasingly intense, explicit instructional interventions.
- The interventions needed to obtain an adequate level of performance or adequate learning rate are too demanding to be implemented with integrity without special education and related services.
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the child does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

For a child three to five years old, who is not yet enrolled in kindergarten.

- Data indicate that a need for intense or sustained resources exists across settings, people, or situations.
- Data indicate that the disability has a substantial negative impact on the child's ability to participate in age appropriate activities.

# Reporting Requirements

When the initial evaluation and eligibility determination are completed, the evaluation team must prepare a written evaluation/eligibility report. The report must include not only the evaluation results, but also document the eligibility determination.

The evaluation report serves as the documentation of the child's eligibility. The evaluation report and the documentation of eligibility must be provided, at no cost, to the parent (KAR 91-40-10(b); 34 CFR 300.306(a)(2)). There are specific requirements for reporting the eligibility determination (KAR 91-40-10(a), (e); 34 CFR 300.311). The report must include a statement of:

- a. whether the child is a child with an exceptionality;
- b. the basis for making the determination;
- c. the relevant behavior noted during the observation of the child (and for LD the relationship of that behavior to the child's academic functioning); and
- d. the educationally relevant medical findings, if any;
- e. and for a child determined to have a learning disability, the report must also include documentation of the following:
  - (i) the child does not achieve adequately for the child's age or to meet State-approved grade-level standards when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards,
  - (ii) AND
    - the child does not make sufficient progress to meet age or State-approved grade-level standards when using a process based on the child's response to scientific, research-based intervention;
  - OR
    - the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development.
  - (iii) The determinate factor for why the child does not achieve adequately for the child's age or does not make sufficient progress to meet age or State-approved grade level standards, or exhibits a pattern of strengths and weaknesses, is not primarily the result of:
    - a visual, hearing or motor disability;
    - intellectual disability;
    - emotional disturbance;
    - cultural factors;
    - environmental or economic disadvantage; or
    - limited English proficiency.
  - (iv) If the child has participated in a process that assesses the child's response to scientific, research-based intervention, the report must also document
    - the instructional strategies used; and
    - the student-centered data collected.Documentation that the child's parents were notified about the process, including the following information:
    - the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
    - strategies for increasing the child's rate of learning; and
    - the parent's right to request an evaluation (K.A.R. 91-40-10(e), (f); K.A.R. 91-40-9(a)(2)(3); 34 C.F.R. 300.309(a)(3); 34 C.F.R. 300.311(a)).
- f. Signatures of each team member indicating whether the report reflects their conclusion. If it does not reflect the team member's conclusion, the team member must submit a separate statement presenting his/her conclusion. However, this requirement, that each team member provide a signature on the report indicating whether the report reflects their decision or submit a separate statement presenting their conclusion, does not apply to parents.

Note:

It is not required that the specific category of exceptionality be identified on any special education forms that parents would see. Specifying the exceptionality label is required only for the MIS data report.

## 8. The IEP / IEP Development

## The IEP

### *Parents Rights*

Must be provided to parents at least once per year

Upon initial evaluation

First request for due process

When requested by parent

Documentation is required whenever parent rights are provided

### *Notice of Meeting*

Parents must be given a 10-day written notice of IEP meetings.

Parents may waive this right if date agreed upon is within the 10-day window.

Manifestation determination meetings do not require a 10-day notice.

### *Assessments*

The IEP must include a statement of any individual appropriate accommodations necessary to measure the academic achievement and functional performance of the child.

For students participating in the DLM, a goal **MUST** be written for that content area (reading &/or math).

For students participating in the DLM, the IEP must include:

- A statement of why the particular assessment selected is appropriate for the child

### *IEP Team Membership*

Parent(s)

Not less than one general education teacher of the child (if the child is or may be participating in regular education environment)

Not less than one special education teacher or special education provider of the child

School representative that is qualified to provide or supervise the provision of specially designed instruction, knowledgeable about the general education curriculum, knowledgeable about the availability of resources of the local education agency (usually an administrator)

An individual who can interpret the instructional implications of evaluation results

Other individuals who have knowledge or special expertise regarding the child

Whenever appropriate, the child with an exceptionality (MUST be invited if transition will be considered)

A representative of a participating agency that is likely to be responsible for providing or paying for transition services must be invited.

For early childhood transition, the parents may request that an invitation to the initial IEP meeting also include the Part C service coordinator or other representatives of the Part C system.

### *Considerations*

Documentation must be provided that consideration has been given to the following:

Strengths of the child

Concerns of the parents

Results of the most recent evaluation

Academic, developmental, and functional needs of the child

Behavior

Limited English proficiency

Communication needs

Assistive technology needs

Needs related to visual and hearing impairments

### *Present Levels of Academic Achievement and Functional Performance*

The IEP must document:

How the child's disability affects the child's involvement and progress in the general education curriculum

For preschool children, how the disability affects the child's participation in appropriate activities

Baseline data for any identified need that will be addressed through a measurable annual goal

**IMPORTANT NOTE: Grades are not to be used as baseline data.**

*Measurable annual goals*

Goals (both academic and functional) should:

Meet needs that result from the disability to enable the child to be involved in and make progress in the general education curriculum

Meet the child's other educational needs that result from the child's disability

A measurable annual goal identifies the:

Behavior

Criteria

Condition

Time frame

*Objectives and Benchmarks*

Objectives and benchmarks are only required if the child is participating in the Alternate Assessment.

*Progress Reports*

The IEP must:

Contain a description of how the child's progress toward meeting the annual goals will be measured. A goal written correctly with the four parts will meet this requirement.

Indicate when periodic reports on the progress child is making toward meeting the annual goals will be provided.

*Statement of Services*

The IEP must contain a statement of the special education and related services and supplementary aids and services (including accommodations), and a statement of the program modifications or supports for school personnel that will be provided to the child including:

Projected date for beginning of all services and modifications

Frequency, location and duration of all services and modifications

Explanation of the extent to which the child will not participate with non-disabled children in the regular class

### *Secondary Transition*

Secondary Transition Services must include:

No later than the first IEP to be in effect when the child is 14,

- Appropriate measurable postsecondary goals based on age appropriate transition assessments related to training/education, employment and where appropriate, independent living skills; and
- The transition services including appropriate courses of study needed to assist the child in reaching the postsecondary goals; and

Beginning at age 16, a statement of transition services including, when appropriate, a statement of the interagency responsibilities or any needed linkages

Beginning at age 17, the IEP team must inform the student and the parents that at the age of majority under state law (18 in Kansas), the rights under IDEA will transfer to the student.

(Adapted from "IEP Guidance", Project Spot, 2005)

### *IEP Meeting Expectations*

Case manager will:

- schedule the IEP meeting with parents
- send notice to parents
- invite all applicable staff (nurse, teachers, administrator, etc)
- complete informal testing to gather information on current levels of performance
- complete formal testing, if applicable
- gather input from the team
- contact school psychologist if concerns arise during testing or while gathering information from the team



- develop goals (as well as benchmarks or objectives if student takes the alternate assessment) based on current levels
- complete all IEP forms on WebKIDSS
- write DRAFT at the top of the IEP until the meeting is concluded and the parent has given consent
- share the draft IEP with team members prior to the scheduled meeting
- make changes as needed in draft during the IEP meeting
- enter those changes on the IEP in the KIDSS system
- provide copy of final IEP to parents within one week after staffing and send it to the appropriate MIS clerk within two weeks
- offer the parents a copy of their parent's rights and make sure that they understand them

### *TIP Information*

Any changes in services and/or student personal information must be changed as soon as it is known in the KIDSS system.

Print out a copy of the TIP page, highlight changes, and send to the MIS clerk within one week of those changes.

Include ALL required information on the TIP.

Make sure that on the TIP page the neighborhood building and the responsible building are correct. They will BE THE SAME unless a student is attending a private school.

The LAST page of the IEP is where the attendance building is documented and may be different than the neighborhood and responsible building (e.g., a student is attending a program not available in their home school that is located in a building other than their home school).

### *Tips for the TIPS pages*

Demographics/Parents/School Data Page + Anticipated Services Chart Teacher Information Pages (TIP)

What needs to be updated at least annually on the Demographic page?

Student's grade level

Possibly the responsible and neighborhood building (these should be the same unless the student is attending a private school)

Student's personal information (address, phone numbers, etc.)

What needs to be updated at least annually on the Anticipated Services page?

At the annual IEP meeting, any changes in services, service dates & service providers must be made.

Check that the services and providers match

Check the attendance building. A student may be attending a different building than their neighborhood building.

If a student is on an approved transfer and not attending a building due to a particular program, the responsible, neighborhood, and attendance building will be the same.

Where can I find what codes to use?

Codes for the TIP pages may be found in the Online User Manual for WebKIDSS. Do yourself a favor and print out a copy. You will find instructions for accessing and copying the online manual in the IEP documents / forms section.

### *Special Education Services*

All services for school-aged students are to be for 36 weeks in the narrative section of the IEP

Make sure that the IEP states that services are 36 weeks in the narrative section of the IEP

Goals are to be written for 36 weeks.

Most IEPs will have a start date and end date that are different than the beginning and ending of the school year. If services will be different from one year to the next, this MUST be addressed in the narrative section of the IEP under "special education services" (e.g., on the narrative section — "During the current school year, the student will receive 60 minutes of inclusion services. During the current school year, the student will receive 120 minutes of inclusion services."). Also address this on the TIP page.

The IEP is a legal document and therefore staff must be extremely careful to ensure that all information contained in that document is up-to-date and correct. Your resources for assistance with any questions regarding IEP accuracy are:

The school psychologist

The DCEC administration

MIS Clerk

# IEP Development

Component	Characteristics
Present Levels of Academic Achievement and Functional Performance (PLAAFP/PLEP): Is the way that student needs are identified and prioritized and establishes baseline performance in order to develop an individualized and meaningful plan for students.	<p>Must contain a description of student's current performance.</p> <p>Must contain a description of student's performance in the general curriculum including how the student's exceptionality affects the involvement and progress in the general education curriculum including functional performance.</p> <p>Provides baseline data for each identified need addressed by a goal.</p>
Measurable Annual Goals: Describe the anticipated progress that will result from specially designed instruction that a student will receive.	<p>Is based on data contained in the PLEP. Has 4 components:</p> <ul style="list-style-type: none"> <li>○ Behavior <ul style="list-style-type: none"> <li>○ Condition</li> <li>○ Criteria</li> <li>○ Timeframe</li> </ul> </li> </ul> <p>Can pass the "Stranger Test"</p>
<p>Short-Term Objectives and Benchmarks: Specify intermediate progress toward Measurable Annual Goal that allows you to determine whether the student's progress is sufficient to meet the Measurable Annual Goal.</p> <p>*Note: Only required for students participating in the Alternate Assessment or the Kansas Assessment with Multiple Measures (KAMM).</p>	<p>Short-Term Objective</p> <ul style="list-style-type: none"> <li>• Sequential, progress, intermediate measure o progress toward the annual goal.</li> <li>• A restatement of the goal with a different criterion.</li> </ul> <p>Benchmarks</p> <ul style="list-style-type: none"> <li>• Are milestones that describe the skills to be learned.</li> </ul> <p>Are distinct skills that are often independent of each other but must be combined to meet the goal.</p> <p>Are used when progress is not easily quantified and is based on task analysis.</p>
Progress Report: Allows you to judge progress achieved by the student and to inform the parents of their child's progress toward meeting the annual goals.	<p>Must report progress using the same measurement method used in the Goal and Short-Term Objectives/Benchmarks, if used.</p> <p>Will provide baseline data for next year's IEP.</p>
Amendments: Changes to the IEP after an annual review can be made by the entire IEP team or as allowed by your local education agency in accordance with IEP team attendance and excusal requirements within IDEA 04.	<p>Reasons for changes between annual IEP meetings include:</p> <ol style="list-style-type: none"> <li>1) Lack of expected progress toward the annual goals and in the general education curriculum</li> <li>2) Results of reevaluation</li> <li>3) Information provided by the parents</li> <li>4) Child's anticipated needs</li> <li>5) Other matters</li> </ol>

# Present Levels of Academic Achievement and Functional Performance (PLAAFP/PLEP) Development

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The Purpose of the PLAAFP/PLEP is to identify and prioritize the specific needs of a child and establish baseline performance in the general education curriculum so that an individualized and meaningful plan can be developed. Statements of PLAAFP/PLEP include current information about the student's academic achievement and functional performance. The PLAAFP/PLEPs provide a description of the degree of match between the student's current skill levels and the expectations of the student's learning environment.

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<u>Component</u>	<u>Characteristics</u>
Describe Current Performance: The description of current performance should be in relationship to where the student currently is and where the student is headed (next setting, next transition, post-school outcomes, etc.).	<p>This describes the unique needs of the child, relevant performance and other non-curricular issues that help clarify student needs.</p> <p>Includes information such as learning strengths, absenteeism, standardized assessments, etc.</p> <p>Includes information from a variety of sources such as parent(s), general and special education teachers of the child.</p>
Describe Performance in General Education Curriculum: This includes an explanation of how the disability or giftedness affects the child's participation and progress in the general curriculum.	<p>Statement of how the exceptionality affects involvement and progress in the general education curriculum.</p> <p>Includes information from a variety of sources such as classroom quizzes, tests, state and district assessments, the most recent evaluation of the child and other assessments that are linked directly to the curriculum.</p> <p>Describes the degree of match between the student's performance and the expectations of the general curriculum standards.</p>
Provide Baseline Data: The PLEP needs to contain baseline data that is in specific, measurable and objective terms for each identified need addressed by a measurable annual goal.	<p>Provides the starting point for each goal written in the IEP &amp; is how progress is shown.</p> <p>Sets the measurement method that will be used in each goal.</p> <p>Specific Objective Measurable</p> <p>Able to be collected frequently — must be able to be collected as frequently as progress reports are sent.</p>

# Measurable Annual Goal Development

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The Purpose of a measurable annual goal is to describe the anticipated progress that will result from specially designed instruction the student will receive.

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Component	Characteristics
Based on the PLAAFP/PLEP: The PLAAFP/PLEP should contain information that justifies why a goal is being written.	Data in PLAAFP/PLEP provides basis for each identified need addressed by a goal. The PLAAFP/PLEP contains baseline data using the same measurement method as used in the measurable annual goal.
Behavior: The goal needs to contain information that identifies the performance (behavior) that will be monitored.	Identified how the skills will be exhibited. The behavior should be related to appropriate general education curriculum, standards or functional performance. The same behavior measured when baseline data was collected in the PLAAFP/PLEP.
Condition: The goal needs to contain information that specifies how progress toward the goal will be measured.	Includes information about what materials will be used, in what setting and with how much support or assistance will occur.
Criteria: The criteria defines the level (e.g. how much, how often, to what standard) to which the behavior must occur.	Indicates the anticipated growth to occur within one year (or less if goal is written for less than 1 year). The measurement method must be identical to the method used for baseline in the PLEP. Identifies how much, how often, or to what standards the behavior must occur in order to demonstrate that the goal has been achieved. The criteria need to be challenging but realistic.
Timeframe: The timeframe indicates how much time is necessary for the criteria to be met.	The maximum length of a goal is one year. There is no minimum length for a goal.
Stranger Test: The goal should be written in such a manner that it is understandable to a stranger.	The stranger should be able to understand: <ul style="list-style-type: none"><li>○ The desired behavior</li><li>○ Under what conditions the behavior is to be exhibited</li><li>○ To what level the behavior needs to be exhibited for success</li><li>○ How long until the anticipated progress will be reached.</li></ul>

# Short-Term Objective and Benchmark Development

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**The Purpose** of short-term objectives and benchmarks is to gauge at intermediate times throughout the year progress toward the measurable annual goal.

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Component	Characteristics
<b>Not always Required:</b> Not all students must have short-term objectives or benchmarks included in their IEP. They must be written for students taking alternate assessments aligned to alternate achievement standards.	Short-term objectives or benchmarks must be written for students participating in: <ol style="list-style-type: none"><li>1) Alternate Assessment or</li><li>2) Kansas Assessment with Multiple Measures</li></ol>
<b>Short-Term Objectives:</b> Short-Term Objectives are based on a logical breakdown of the major components of the goal and measure the progress toward meeting the goal.	<ol style="list-style-type: none"><li>1) Is a sequential, progressive, intermediate measure of progress toward the annual goal.</li><li>2) Is a restatement of the goal with a different criterion or condition.</li><li>3) Like a goal, it must contain:<ul style="list-style-type: none"><li>o Behavior</li><li>o Condition</li><li>o Criteria</li><li>o Timeframe</li></ul></li></ol>
<b>Benchmarks:</b> Benchmarks are major milestones that describe content to be learned or skills to be performed in sequential order. These are commonly used when working with process type skills, a complex task made up of other smaller tasks or skills and often have an emphasis on acquiring new skills not exhibiting or improving skills already known.	<p>Are milestones that describe skills to be learned.</p> <p>Are used when progress is not easily quantified and is based on task analysis.</p> <p>Are distinct skills that are often independent of each other but must be combined to meet the measurable annual goal.</p> <p>Like a goal, it contains:</p> <ul style="list-style-type: none"><li>o Behavior</li><li>o Condition</li><li>o Timeframe</li></ul> <p>but does not contain criteria. The criteria for benchmarks is inherently "can the student perform the skill or not." Since one skill must be learned before the next and so on until all skills needed to perform the goal are acquired.</p>

# DCEC #616

# Mini-Handbook

(Revised August 2017)

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All Forms can be found on Webkidss or the DCEC website – [www.ksdcec.org](http://www.ksdcec.org)

Teacher and Para handbooks can be found on the DCEC website



# Meeting Agenda – Initial IEP

1. 101 Notice of Meeting
  - parent signature 10 days prior to meeting
2. Introductions
3. Evaluations
  - present results of testing (all testing data: district, woodcock, AIMS Web, MAP, etc.)
4. 102 Initial Evaluation and Re-Evaluation Team Report (GRIOT)
  - Speech, OT, and/or PT reports must be included with this form if the student receives services
5. LD Report if applicable
  - form found on DCEC website
6. Present Proposed IEP – summarized plan
7. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
8. 301 Physician Authorization and 302 Medicaid Parent Consent form
  - prints off with IEP
  - Make sure to have parents sign and write in Physician's Name
9. Summary of Meeting (staffing notes)

**IEP must be completed in 45 school days from when the consent to evaluate was signed by the parent**

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

# Meeting Agenda – Annual IEP

1. 101 Notice of Meeting
  - parent signature 10 days prior to meeting
2. Introductions
3. Review Current IEP – Goals
4. Present Proposed IEP-summarized plan
5. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
6. 301 Physician Authorization and 302 Medicaid Parent Consent form
  - prints off with IEP
  - Make sure to have parents sign and write in Physician's Name
7. Summary of Meeting (staffing notes)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

# Meeting Agenda – 3 Year Re-Evaluation

1. 101 Notice of Meeting
  - parent signature 10 days prior to meeting
2. Introductions
3. Evaluations
  - present results of testing
4. 102 Initial Evaluation and Re-Evaluation Team Report (GRIOT)
  - Speech, OT, and/or PT reports must be included with this form if the student receives services
5. LD Report if applicable
  - form found on DCEC website
6. Review current IEP – Goals
7. Present proposed IEP-summarized plan
8. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
9. 301 Physician Authorization and 302 Medicaid Parent Consent form
  - prints off with IEP
  - Make sure to have parents sign and write in Physician's Name
10. Summary of meeting (staffing notes)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to "Enter IEP Forms Data" drop down box on IEP

## Transfer Within State – Adopt IEP

1. Provide comparable services to transferring IEP
2. Notify the DCEC office the same day the student arrives with an IEP
  - begin services
  - if student arrives without paperwork, begin services and notify the DCEC office that we are missing the IEP
3. Enter IEP into WebKIDSS
4. Set up meeting and provide form 102 Notice of Meeting to parents
  - have meeting set within **two weeks** of arrival
5. Conduct meeting
  - introductions
  - present proposed IEP
  - 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
  - 301 Physician Authorization and 302 Medicaid Parent Consent form (prints off with IEP)
  - Summary of meeting (staffing notes)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

# Transfer Within State – Reject IEP

1. Provide comparable services to transferring IEP
2. Notify the DCEC office the same day the student arrives with an IEP
  - begin services
  - if student arrives without paperwork, begin services and notify the DCEC office that we are missing the IEP
3. Create IEP in WebKIDSS
4. Set up meeting and provide 102 Notice of Meeting to parents
  - have meeting set within **three weeks** of arrival
5. Conduct meeting
  - introductions
  - present proposed IEP
  - 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
  - 301 Physician Authorization and 302 Medicaid Parent Consent form (prints off with IEP)
  - Summary of meeting (staffing notes, prints off with IEP or on DCEC website)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

# Transfer Out of State – Adopt IEP

1. Provide comparable services to transferring IEP
2. Notify the DCEC office the same day the student arrives with an IEP
  - begin services
  - if student arrives without paperwork, begin services and notify the DCEC office that we are missing the IEP
3. Enter IEP in WebKIDSS
4. Set up meeting and provide 102 Notice of Meeting to parents
  - have meeting set within **two weeks** of arrival
5. Conduct meeting
  - introductions
  - present proposed IEP
  - 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
  - 301 Physician Authorization and 302 Medicaid Parent Consent form (prints off with IEP)
  - Summary of meeting (staffing notes, prints off with IEP or on DCEC website)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

## Transfer Out of State – Reject IEP

1. Provide comparable services to transferring IEP
2. Notify the DCEC office the same day the student arrives with an IEP
  - begin services
  - if student arrives without paperwork, begin services and notify the DCEC office that we are missing the IEP
3. Create and implement an ***Interim*** IEP
4. Set up meeting and provide 102 Notice of Meeting to parents
  - have meeting set within **three weeks** of arrival
5. Conduct meeting
  - follow Annual IEP agenda located on page 2
  - get form 001 Notice of Evaluation and Request for Consent signed by parent or guardian
  - set Initial Evaluation/IEP meeting date with IEP team within 30 school days from Interim IEP meeting date
  - 301 Physician Authorization and 302 Medicaid Parent Consent form (prints off with IEP)
6. Conduct an ***Initial*** IEP meeting
  - follow the Initial IEP meeting agenda on page 1

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

## IEP Amendment – No Meeting

1. Contact DCEC administration with proposed changes
2. Notify and get verbal consent from parent and school representative of proposed IEP changes. Fill out amendment document and get it signed by parent and school representative
3. Amend the current IEP
  - Create a new amendment IEP in Webkidss
  - provide a copy of the amended IEP to parent
4. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)

**IEP needs to be completed and turned into office in 10 days after Amendment**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP



## IEP Amendment – W/ Meeting

1. Contact DCEC administration with proposed changes
2. 101 Notice of Meeting
  - parent signature 10 days prior to meeting
3. Introductions
4. Review Current IEP
5. Present Proposed changes to IEP
6. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
7. Summary of meeting (staffing notes) Printed w/ IEP or from DCEC website

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

# Student Not Eligible

1. 101 Notice of Meeting

- parent signature 10 days prior to meeting

2. Present data at IEP meeting

- grades evaluation results, local and state assessments, teacher input

3. 102 Initial Evaluation and Re-Evaluation Team Report (GRIOT)

- Speech, OT, and/or PT reports must be included with this form if the student receives services

8. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)

3. Complete the Start-up page IEP in Webkidss

- turn in the demographics page Start-up page to the DCEC office

4. Summary of meeting (staffing notes)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

## Exiting a Student

1. Notify the DCEC office with an exiting proposal and have form 002 Notice of Re-evaluation and Request for Consent signed by parent
2. Conduct a Re-Evaluation
3. 102 Notice of meeting
  - Parent signature 10 days before the meeting
4. Present data at the IEP meeting
  - grades, evaluation results, local and state assessments, teacher input
5. 102 Initial Evaluation and Re-Evaluation Team Report (GRIOT)
  - Speech, OT, and/or PT reports must be included with this form if the student receives services
9. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
7. Summary of meeting (staffing notes, prints with IEP or on DCEC website)

**IEP needs to be completed and turned into office in 10 days after meeting**

\*To print these forms, go to “Enter IEP Forms Data” drop down box on IEP

# Senior/Final Year of School

1. 102 Notice of meeting
  - parent signature 10 days before the meeting
2. IEP
3. Parent Release of Information
4. 103 Prior Written Notice for ID, Change & Request for Consent (offer parental rights)
5. Prior Written Notice for Graduation
6. Summary of meeting
7. Teacher Information Page
  - prints with IEP

# Exiting a Senior

1. Give Prior Written Notice for Graduation form at IEP meeting for students Senior year IEP
2. Summary of Performance (SOP)
  - review SOP
  - conduct Senior Exit Survey
  - turn copy into DCEC office
  - place student's copy in 3-ring binder
3. Complete exit form and turn into the DCEC office
4. At check-out, turn in a copy of Senior Exit Survey, SOP, Exit Form, and work file

# Transition from Part C to Part B

1. Tiny K (birth to age 3 program) makes referral to DCEC
2. Attend Transition Meeting
  - provide information on eligibility and available special education and related services
  - review data
  - determine need for evaluation
3. Follow Initial Evaluation Procedures
  - gain parent/guardian consent to conduct an initial evaluation
  - complete Initial Evaluation within 60 days
  - 60 day timeline doesn't apply if student turns 3 in the summer
  - child has to be evaluated, identified and placed prior to 3<sup>rd</sup> birthday
4. If eligible, follow Initial IEP procedures
5. If child turns 3 during the summer, write IEP before school is out and set to begin on the first day of school the next calendar year
6. Transition meeting
  - information regarding available special education and related services
  - information regarding eligibility and process for initial evaluation
  - get parent/guardian consent to conduct an initial evaluation
  - Parent Rights
7. Initial Evaluation Determination/Initial IEP Meeting
  - Notice of Meeting (offer parental rights)
  - Initial Evaluation and Re-Evaluation Team Report (GRIOT)
  - IEP
  - Parent Release of Information
  - Notice of ID Change and Request for Consent
  - Summary of meeting
  - Teacher Information Page (TIP)

## Transition – Age 14

1. Notify Vocation Coordinator of IEP when it's scheduled
2. Notify Parents/Guardian that transition will occur if student is 13 at time of IEP – New transition only
3. Answer Vocational Rehabilitation Question page of IEP
  - check No – in the text box indicate that the IEP team addressed vocational rehabilitation but rejected notification until student is in final year of school
4. Complete Graduation page of IEP
  - indicate credits needed to graduate, graduation year and type of curriculum
5. Complete Course of Study section of IEP
  - complete according to pathway for your particular high school
  - complete all the way through student's final year in school

## Transition – High School

1. Notify Vocational Coordinator when IEP is scheduled
2. Complete Transition Interview form
3. Complete Transition on IEP
  - Measurable post-secondary goals
  - Long range planning and review
  - Vocational rehabilitation questions
  - Graduation
  - Course of study
  - Age appropriate transition (this section will be completed in collaboration with vocational coordinator)



# Extended School Year

1. Address Anticipated Extended School Year at annual IEP meeting by checking Eligible, Not Eligible, or Not Enough Information
  - A. If you check “Eligible” or “Not Enough Information”
    - collect data through course of the school year regarding regression in skill, time required to recover regressed skills, and the interruption in student’s ongoing ability to benefit from special education
    - by May 1<sup>st</sup> of the calendar year, turn in the completed Extended School Year Documentation of Need form signed by parent
  - B. If you check “Not Eligible”
    - no data collection is required

# Attendance at an IEP Meeting

## Parents

1. If at least 2 attempts, in two different way to invite parent/guardian to an IEP with no response from parent/guardian (also you've contacted DCEC office to help contact parents), you may hold the meeting without them (make sure you document the attempts)
  - send copies of all paperwork home with an offer to meet with parent to explain IEP paperwork
2. If parents have agreed to a meeting date and do not show
  - attempt a conference over phone
  - if unable to reach parent, then you must reschedule
  - document that all members were present except parents
  - when the IEP is rescheduled, it is permissible to go past the IEP due date with documentation of the above three steps

## Initial Evaluation

1. There are no exceptions for initial IEP meeting to go past the 60 day time frame, except to get a timeline extension. These need to be approved through the DCEC office.

# Recessing an IEP Meeting

1. Annual IEP and 3-year Re-Evaluation only
  - A. If an IEP team cannot come to a consensus due to the lack of information or disagreement in services and/or placement, the meeting can be recessed assuming the following provisions have been met:
    - all team members are present
    - review of the IEP/Re-Evaluation has been started
    - IEP team agrees that there is a need to recess the meeting
  - B. An IEP cannot be recessed because a parent of other IEP team member was not in attendance

If a consensus can't be reached contact, DCEC administration, DCEC administration will meet with the Superintendent to make a final decision.

# ESI – Emergency Safety Interventions

1. Please follow your districts policy on ESI
2. Contact your districts Crisis Intervention Team
3. If an ESI occurred in your building – notify the building administration ASAP
4. For more information on ESI and to locate the ESI documentation form, please visit the DCEC website
  - [www.ksdcec.org](http://www.ksdcec.org)
  - click on the ESI link
  - additional ESI training can also be found on the Infinitec website, [www.myinfinitec.org](http://www.myinfinitec.org)
5. All employees must attend an annual ESI training

## 9. Gifted IEP

## Gifted IEPs

The following pages are intended to provide guidance for assessing and meeting the needs of high ability students and in writing IEPs for students who meet the eligibility requirements for gifted services.

Gifted services should not replace instruction in the general education curriculum for core classes (e.g., English courses with the gifted facilitator as the sole instructor) but should serve to meet the needs of gifted students in addition to the general curriculum, unless there is an educational need for a core course not provided by the school district (e.g., Latin, advanced calculus) and the gifted facilitator is highly qualified in that specific core area.

## **Doniphan County Special Education Cooperative**

### **Gifted Guidelines**

**Definition of Gifted:** "Gifted" means performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience and environment. (KAR 91-40-1)

**Purpose of the evaluation:** Answer two questions --

Does the child exhibit an exceptionality?

Does the child need special education?

#### **Indicator Guidelines:**

A composite rank of not less than the 97th percentile on an individually administered, standardized, norm-referenced test of intellectual ability, or evidence that the child's standardized, intelligence test score does not adequately reflect the child's high intellectual potential

**significant scores at the .05 level or the appropriate level for the given test (WISC-IV, Stanford-Binet, etc.)**

A rank of not less than the 95th percentile on national norms on a standardized, norm-referenced achievement test in one or more of the academic fields (mathematics, language arts [including reading], science, and social science), or evidence that such test scores do not adequately reflect the child's excellence in academics

**K - 5: composite score**

**6 - 12: at least two separate domains**

#### **Needs to consider:**

enrichment

mentor

accelerated curriculum

compacted curriculum

online classes

independent study

short-term inclusion for special seminars

units

AP

Full inclusion gifted

Consulting

Social-emotional skills

**Behaviors to consider:**

Leadership

Motivation

Task commitment

Creativity

Passionate interests

You will also need to consider parent documentation, teacher documentation, and student documentation when making eligibility and need decisions.

Scores from MAP Testing and state assessments are to be used for **screening** purposes only. You **may** have to consider information from other sources (minority/cultural testing, informal assessments, building screenings, a variety of gifted assessments, etc.) in order to demonstrate a convergence of data.

**When answering the question of need for special education services, you must ask and answer:** What specialized instruction is needed to meet the child's need? What is it that the general education curriculum cannot provide to meet the child's needs?





# ***GIFTED CHECKLIST***



## **MINIMAL REQUIREMENTS FOR COMPLIANCE AND CONSIDERATION**

*The following items are statutorily required to be included in the format design for an Individualized Education Plan (IEP) for an eligible student identified as gifted with no disabilities. Other elements within the overall IEP process will still require documentation, the format to be locally determined.*

**K.S.A. 72-987(c).** Nothing in this section shall be construed to require: (1) That additional information be included in a child's IEP beyond that which is specifically required by this section; and (2) that an IEP team include information under one component of a child's IEP that is already contained under another component of the IEP.

**Item #1 Statement of Present Levels of Academic Achievement and Functional Performance**

**K . S . A . 7 2 - 9 8 7 ( c ) ( 1 ) ( A )**

How the child's giftedness affects the child's involvement & progress in the general education curriculum

**Item #2 Statement of Measurable Annual Goals, Including Academic and Functional Goals**

**K.S.A. 72-987(0)(2)**

Designed to meet the child's needs that result from the child's giftedness, to enable the child to be involved in and make progress in the general education or advanced curriculum

Designed to meet each of the child's other educational needs that result from the child's giftedness

**Item #3 Description of the Measurement and Periodic Reporting of Progress Towards Annual Goals**

**K.S.A. 72-987(c)(3)**

Description of how the child's progress toward meeting the annual goals will be measured

When periodic reports on progress the child is making toward meeting the annual goals will be provided

**Item #4 A. Statement of special education and related services — Frequency, location, duration K.S.A. 72-987(c)(4)(A)(B) and(7)**

Statement of the special education and related services, based on peer-reviewed research to the extent practicable, that will be provided to the child to advance appropriately toward attaining the annual goals to be involved in and make progress in the general education curriculum; to participate in extracurricular and other nonacademic activities.

Projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications

**Item #4 B. Statement of program modifications or personnel supports — Frequency, location, duration K.S.A. 72-987(c)(4)(A)(B) and(7)**

Statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining the annual goals to be involved in and make progress in the general education curriculum; to participate in extracurricular and other nonacademic activities.

Projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications

**Other IEP Team Considerations that will require documentation K.S.A. 72-987(d)(1)(2)(3)(4)(5)(7)**

The strengths of the child and the concerns of the parents for enhancing the education of their child;

The results of the initial evaluation or most recent evaluation of the child;

The academic, developmental and functional needs of the child;

In the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior;

In the case of a child with limited English proficiency, the language needs of the child as such needs relate to the child's IEP; and

The communication needs of the child

# ASSESSING & MEETING THE NEEDS OF HIGH ABILITY STUDENTS

*A concern/awareness of Gifted characteristics may initiate a problem-solving process using general education interventions to determine educational, social and/or emotional needs of students.*

## REFERRAL FOR AN EVALUATION

K.A.R. 91-40-7(c)(1)(2)

*Any board may refer a child who is enrolled in public school for an evaluation if school personnel have data-based documentation indicating general education interventions and strategies would be inadequate to address the areas of concern for the child*

### GENERAL EDUCATION INTERVENTIONS

*Differentiation of Instruction, Curriculum,  
Environment, Records, Interviews,  
Observations and Assessment Data (GRIOT)*

#### Input for Interventions determined by

- T
- Student and/or  
SIT Team

#### Data Collection

- Documentation of interventions and results are required.

Documentation of interventions and results are included as part of an initial evaluation request

#### Subject Based

Compacting curriculum  
Single-subject acceleration

- Concurrent enrollment
- Independent study
  - Distance
- Advanced placement courses

#### Grade Based

- Grade
- Multi-grade
- Grade
- Testing out and receiving credit

#### Learning Environment

- Whole class strategies
- Small group strategies
- Instructional delivery
- Content, process and product

### REQUEST FOR INITIAL EVALUATION

*Multi-sourced and Multidisciplinary Examination  
K.S.A. 72-962(v)*

#### Purpose of Evaluation

K.A.R. 91-40-1(bb), K.S.A. 72-986(a) (3)

- Determine if the child meets the definition of gifted.
- Determine eligibility for special education services based on the present levels of academic and related needs of the child.

#### \*Evaluation Requirements

K.S.A. 72-986(b)(1-3), K.S.A. 72-986(f), K.A.R. 91-40-8(d)  
K.A.R. 91-40-9(a)(f)(g)(h)

- Use assessment and evaluation materials tailored to assess specific areas of educational need — not merely those designed to provide a single, general intelligence quotient (IQ) score.  
Use assessment tools/strategies that provide relevant information that directly assists in determining the educational needs of the child.  
Review, document and consider existing evaluation data on the child, including evaluations and information provided by parents.
- Review, document and consider current classroom-assessments and observations.
- Review, document and consider teacher and related services providers' observations.

#### Evaluation Materials/Sources for Eligibility Determination

K.A.R. 91-40-10(d)(1)(2)

Aptitude and achievement tests  
Parent input  
Teacher recommendations  
Physical condition
 

- Social or cultural background

3E

### RESULTS OF GENERAL ED INTERVENTIONS

*There are two possible results:*

#### General Ed Interventions are Sufficient

- Interventions may be continued as necessary.
- May individualized plan of study within general education curriculum.

#### General Ed Interventions are not Sufficient

- Further evaluation is required to determine eligibility for special education services.
- Initial evaluation process is initiated with parental

### RESULTS OF INITIAL EVALUATION

*There are two possible results:*

#### Not Eligible for Special Education Services

- Interventions continued as necessary.
- May develop an individualized plan of study within the general education curriculum.

#### Eligible for Special Education Services

- Team designs and develops an Individualized Educational Plan (IEP) with parental consent.

**GIFTED GENERAL EDUCATION INTERVENTION REFERRAL****Form 1A****Student Data**

Attach student profile sheet or complete fully.

Referral Status  
Circle one

Legal Name: _____				Student No.: _____	
Sex: M / F	Last DOB: _____	First	MI Age: _____	SS# _____	
Ethnic Group: _____			Home Language: _____		
Birth Place: _____			Birth Order: (only if multiple birth) _____		
School: _____			Grade: _____		
Teacher: _____			School Psychologist: _____		
Student lives with: _____					
Check if custody _____					
Mother: _____			Father: _____		
Street: _____			o Street: _____		
City, State: _____		ZIP: _____		City, State _____ Zip: _____	
Home#: _____		Work#: _____		Home#: _____ Work#: _____	

1. New Referral
2. Prior Excep.  
(including Speech  
only)
3. Prior Eval. Yet non-  
exceptional
4. Other: \_\_\_\_\_

Other Significant Persons: \_\_\_\_\_  
 Relationship to Student \_\_\_\_\_ Home#: \_\_\_\_\_ Work#: \_\_\_\_\_  
 Street: \_\_\_\_\_ City, State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Referral Information**

Vision Screening Date: ____/____/____		Results: Adequate/Inadequate	
o Hearing Screening Date: ____/____/____			
V=		Group Test CAT (date— )	
NV=			
Scores: ITBS (date— )	Q=	R=	Ltot=
Other Test Scores: _____	V=	Wtot=	Mtot=
		Composite=	
o Other special service (in and out of district): Yes No			
Specify: _____			

Additional Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Team Meetings**

Initial Meeting Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Team Members/Titles: \_\_\_\_\_

Follow-Up Meeting Date(s): \_\_\_\_/\_\_\_\_/\_\_\_\_ / \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Team Members: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

General Education Intervention Completed as spelled out by Kansas statutes \_\_\_\_\_  
 Principal Signature

\*Complete this booklet to record modifications to student programming. Record information generated at the initial building screening and update as needed to record on-going student progress.

## GIFTED GENERAL EDUCATION INTERVENTION STRATEGIES

What strategies have you used to differentiate curriculum for this student? A minimum of five interventions needs to be implemented for general education intervention purposes. The effectiveness of the strategies used with individual students will be discussed by the general education intervention team.

Date Initiated	Degree of Effectiveness Indicate 1-3	These Add'l Opportunities Need To Be Continued
----------------	--------------------------------------	--

3 = Highly Effective  
2 = Moderately Effective  
1 = Ineffective  
' = Preferred Strategies for Gifted

## ORGANIZATIONAL STRATEGIES


- Set time expectations for assignments, short term and long term
- Organize a notebook or folder to help organize work
- Develop a contract for student responsibilities'

## BEHAVIORAL STRATEGIES

--	--	--

Share talents with peers and younger students  
Provide opportunities to develop leadership skills<sup>1</sup>

## PRESENTATION STRATEGIES


Give both oral and visual instructions for assignments  
Vary the method of lesson presentation: **a)** lecture, **b)** small group, **c)** use audio-visual materials, **d)** demonstrations, **e)** experiments, and/or **f)** games  
Arrange for a mentor to work with the student in his/her own interest area or area of greatest strength\*  
Utilize additional library and multimedia resources for independent research\*

## CURRICULUM STRATEGIES

[illegible]

- Determine whether materials are appropriate to the student's current interest and functioning levels.
- Reassign student to appropriate academic group
- Expand vocabulary skills
- Provide fewer drill and practice activities when the material is learned\*
- Use alternative activities/materials to enrich district curriculum (**Ex:** Extension activities from teacher's editions)\*
- Provide appropriate instruction/materials related to student's preferred learning style
- Provide opportunities for development of creativity
- Give a pre-test and, if the student knows the material, proceed to the next level"
- Provide independent learning activities
- Assign higher level questions: Minimize recall questions and emphasize application, analysis, synthesis, and evaluation questions\*
- Provide instruction in research skills needed to conduct an independent study in students interest area
- Provide text written at a higher level\*
- Provide problem-solving along with computation in math class
- Advanced Studies (Math, Math Counts, Pre-Algebra, Science Olympiad, Honors, AP, 18)\* Enrich the curriculum "horizontally" with materials and activities which extend a topic\* Alternate assignments in place of what rest of class is doing\*
- Plan with student alternate activities\*
- Other

## Acceleration Checklist

There are a number of factors, which need to be taken into account when a student is being considered for acceleration in math. If these factors are not present, the possibility of the student not being successful is increased. Also, when making the decision for acceleration, the long-term view must be considered. You are not only making a decision about the current or next school year, but up through high school. Therefore, the complete student and the long-range effects on that student must be taken into account. Listed below are factors, which should be considered in addition to the district criteria.

Student Name: \_\_\_\_\_ School: \_\_\_\_\_ Grade: \_\_\_\_\_

1. **\_\_\_ Computation Skills:** Math computation should come naturally and quickly to the student. This should be apparent in daily work, and will be reflected on standardized, state, and district test scores.
2. **\_\_\_ Mathematical Thinking:** The student should think mathematically naturally. S/he should be able to think through complex math problems easily and able to grasp the essence of the problem through all the distracters.
3. **\_\_\_ Quick Grasp of New Concepts:** The student grasps new ideas quickly and connects them with previously learned concepts. These students will often be the first to pick up a new concept, often before the teacher has completed instructions. S/he will often take the concept one step beyond what has been presented.
4. **Above Grade Level Abilities:** The student is at least a year ahead of his/her peers in math. There may be some holes in their concepts but these are easily filled with a minimum of instruction.
5. **\_\_\_ Love of Math:** The student must have a real desire to learn and use math. Math must be a special part of their life. This is seen in students, who enjoy working math problems, seek math challenges, and/or enjoy math games.
6. **Strong Work Habits:** If accelerated and/or in preparation for acceleration the student may have to complete more work promptly. There is also a larger amount of work required in Transition Math. S/he will need to have the skills necessary to handle this workload.
7. **Emotional Maturity:** The student will eventually be placed in a math class above his/her grade level. S/he will need the emotional maturity to feel comfortable in a setting with older peers.
8. **\_\_\_ Ability to Handle Change:** Acceleration may mean changing school buildings, sometimes in the middle of the day. The student will need to be able to make this change smoothly, and be able to change mental gears quickly. His/her class may not always be working on math when s/he leaves or returns.
9. **\_\_\_ Responsible:** The student will need to be able to transition to and from the bus without supervision and be ready to make up work missed while s/he is gone. S/he will not be expected to make up grade level math, but will be expected to keep up with other subjects missed while gone. This may mean additional homework.
10. **\_\_\_ Willingness to Sacrifice:** On occasion acceleration in math has meant having to give up specials at his/her grade level. This does not happen every year but must be considered as a possibility.

## GENERAL EDUCATION INTERVENTION INFORMATION

Student:		Please return this form to:	
School:	Classroom teacher(s):	Grade:	Date:

1. Test information: Please attach a copy of any and all test results from the student's records that may be available. (i.e., SRA, ITBS, CTBS, Kansas Math Assessment, CBM, etc.)
2. Please refer to the items below and check those that apply to this student. In addition, on a separate piece of paper, please provide brief, specific written examples for each behavior you feel applies to this child, including any products you feel illustrate comments you have made (photos, completed assignments, drawing, oral responses you have recorded, etc).

This student, when compared to others of the same age ...

1. Becomes impatient and overly critical if work is not perfect.
- ? 2. Prefers to work on projects that provide a challenge.
- ? 3. Exhibits concern about social or political problems: is concerned about right and wrong.
- ? 4. Exhibits a zany sense of humor, enjoys word plays and the use of puns.
- ☐ 5. Is resistant to the routine drill or repetitive tasks covering information already known (such as math facts, spelling or handwriting).
- ? 6. Can produce "reasons" which may be elaborate and/or highly creative and are not offered in
  - ☐ ways originally presented.
- ? 7. Likes to organize or bring structure to things and/or people.
- ? 8. Has an unusually good memory.
- ? 9. Exhibits a variety of learning strategies and is able to adapt the learning approach appropriately.
- ☐ 10. Is unusually adept at connecting new learning to previously learned material to make it meaningful.
- ☐ 11. Is able to pick up new information quickly.
- ☐ 12. Demonstrates a wide range of vocabulary; is more precise in the use of words and uses complex sentence structure.
- ☐ 13. Asks questions which are unusual, insightful, and/or shows relationships to other experiences. ☐ 14. Uses appropriate and original examples and/or is able to produce unusual analogies to illustrate points.
- ☐ 15. Demonstrates a high level of understanding through concise or elaborate words or products; is able to translate verbal information into visual representations (charts, graphs, illustrations)
- ☐ 16. Exhibits special skills unusual for age.
- ☐ 17. Exhibits innovative use of common materials by adapting or combining them in a new or unusual way.
- ☐ 18. Seems to know when, where, and how to seek help and/or information.
- a 19. Has the ability to devise or adopt a systematic strategy for solving problems.
- ☐ 20. Is able to change or adapt the problem solving strategy in some way if the original approach is not working.
- ☐ 21. Exhibits a wide range of knowledge; exhibits a depth of information in one or more specific areas.
- ☐ 22. Exhibits persistence on topics of interest, often finding it difficult to leave until more closure is reached.
- ☐ 23. Completes only part of an assignment or project and then takes off in a new direction.
- ☐ 24. Shows sensitivity to situations or to people and their feelings.
- ☐ 25. Exhibits the ability to evaluate his/her own performance realistically.

## Classroom Teacher's Screening Observation Inventory Gifted Program

STUDENT \_\_\_\_\_ DATE \_\_\_\_\_

COMPLETED BY \_\_\_\_\_

Research indicates that gifted students will exhibit some of these characteristics, but not necessarily all of them.  
Assign a rank for each of the five main categories.

	LOW				High
<b>SELF-DIRECTED LEARNER</b>	(1	2	3	4	5)
Thirst for knowledge (not necessarily school-related)					
Curiosity					
Enthusiasm					
Often has one area in which (s)he really shines					
Capable of becoming totally absorbed in a task					
<b>RATE OF LEARNING</b>	(1	2	3	4	5)
Quick to grasp new concepts					
Retains and applies information					
<b>ADVANCED LANGUAGE</b>	(1	2	3	4	5)
Higher level vocabulary and reading level					
Advanced sense of language structures					
Attentive listener when being read to, particularly on challenging material					
Usually learns to read early					
<b>POWERFUL MEMORY</b>	(1	2	3	4	5)
Broad range of general information					
Remembers many details					
<b>OPERATES AT HIGHER THINKING LEVELS</b>	(1	2	3	4	5)
Asks 'how', 'why' questions					
Can "read between the lines"					
Can take an idea as far as it can go; makes inferences easily					
Strong problem-solving abilities					
Divergent thinker; fluent and flexible in generating ideas May be non-conformist					
Powerful imagination					
Recognizes similarities and differences between unrelated objects					
Sees cause-effect relationships					
Strong sense of humor					

## TEACHERS EVALUATION OF HIGH ABILITY PERFORMANCE

<b>1.</b>	<b>Persistence</b> Has the ability and desire to follow through on work; concerned with completion; able to see a problem through.	In own interests EXAMPLE:	1	2	3
		In assigned tasks EXAMPLE:	1	2	3
			1	2	3
<b>2.</b>	<b>Responsiveness</b> Is easily motivated; responsive to adult Suggestions and questions.	EXAMPLE:			
			1	2	3
<b>3.</b>	<b>Intellectual Curiosity</b> Questions the common, ordinary, or The unusual; wants to know how and why. the unusual; wants to know how and why.	MPLE:			
			1	2	3
<b>4.</b>	<b>Verbal Facility</b> Shows marked facility with language; uses many words easily and accurately.	EXAMPLE:			
			1	2	3
<b>5.</b>	<b>Fluency of Ideas</b> Produces a large number of ideas on a topic	EXAMPLE:			
			1	2	3
<b>6.</b>	<b>Flexibility</b> Approaches ideas and problems in a number of ways; is able to find alternate ways of solving problems.	EXAMPLE:			
			1	2	3
<b>7.</b>	<b>Originality</b> Often uses original methods of solving problems; is able to combine ideas and materials in a number of ways; creates products of unusual character of quality.	EXAMPLE:			
			1	2	3
<b>8.</b>	<b>Reasoning</b> Is logical; often generalizes or applies understanding in new situations; expands concepts into broader relationships; sees parts in relation to the whole.	EXAMPLE:			



**FUNCTIONING WITHIN THE CURRICULUM**

Keeping in mind the profile you have just completed on the child, please provide the following information.

Circle **YES** or **NO** to indicate whether you believe the student's intellectual needs are being met in each area.  
For each NO response, describe the specific ways in which you believe this could be accomplished.

**READING: YES NO**

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**EXPRESSIVE**                      **Y e s   N o**  
**LANGUAGE:** (Oral/Written)

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**MATHEMATICAL CONCEPTS & APPLICATIONS:      YES NO**

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**SCIENCE: YES NO**

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**SOCIAL STUDIES: YES NO**

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**COMMENTS:** \_\_\_\_\_

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	Seeks challenging, open-ended and/or creative activities						
	Can work independently and usually is self-directed.						
	Has many skills that exceed grade level outcomes in one or more areas						
	Oral reading and comprehension (i.e. analyze and eval.) approx. 2 or more yrs above grade level.						
	Can write meaningfully about what was read.						
	Writing is creative and has logical beginning, middle and end.						
	Grasps concepts quickly and can apply them consistently.						
	Problem-solving skills and strategies are above grade level.						
	Able to write logical, sequenced work problems using relevant math facts/concepts.						

Student \_\_\_\_\_ Teacher \_\_\_\_\_  
 Date \_\_\_\_\_ Grade \_\_\_\_\_

### Evaluation of Need for Special Education

The following questions are to be addressed after the comprehensive evaluation is completed. Both eligibility and need must be addressed in appropriate placement.

Beyond what is provided by regular education, what can special education provide for student?	If yes ...
A. Grouping with intellectual peers and opportunities for intellectual development. YES _____ N _____ If yes, please elaborate:	
B. Alternative forms of instruction? (curriculum compacting, cross-age grouping, acceleration, individualized content area) YES _____ N _____ If yes, please elaborate:	
C. Extensions of the outcomes for curricular units? (higher level thinking activities, project suggestions) YES _____ N _____ If yes, please elaborate:	
D. Evidence of ability to work and think at a higher level than age mates. YES _____ N _____ If yes, please elaborate:	
E. Opportunities to develop and pursue individual interest. YES _____ N _____ If yes, please elaborate: 4	
F. Opportunities for creative and/or higher level thinking. YES _____ N _____ If yes, please elaborate:	

## 10. Transition / Work Study

## Transition Services/Work Study

**Beginning at age 14** and updated annually, the IEP must contain:

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 appropriate courses of study, needed to assist the child in reaching the stated postsecondary goals; and

**Beginning at age 16**, or, if determined appropriate by the IEP team, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.

### Transition Assessment

Transition assessment must be conducted prior to the student reaching age 14 and prior to the development of the measurable post-secondary goals and transition services in the students' IEP. For each postsecondary goal there must be evidence that at least one age-appropriate transition assessment was used to provide information on the student's needs, strengths, preferences and interests regarding postsecondary goals. These assessments should answer the following questions:

What does the student want to do beyond school?

Where and how does the student want to live?

How does the student want to take part in the community?

### Measurable Postsecondary Goals

Measurable postsecondary goals measure an outcome that occurs after a student leaves high school. For each postsecondary goal, there must be an annual goal included in the IEP that will help the student make progress toward the stated postsecondary goal. Measurable postsecondary goals must be stated in a way that can be measured as a yes or no that it was achieved. The statement needs to indicate what the student "will" do after graduating or completing their secondary program rather than what the student "plans, hopes, wishes or wants" to do.

### Courses of Study

Each IEP for a student with a disability who will be 14 or older during the time period of the IEP must contain a description of the courses of study needed to assist the student in reaching those goals. The courses of study must focus on improving the academic and functional achievement of the student to facilitate movement from school to post-school by describing the courses and/or educational experiences that are related to the student's postsecondary goals.

The following questions should be considered by the IEP team:

Do the transition courses of study focus on improving the academic and functional achievement of the child to facilitate their movement from school to post-school?

- Do the courses of study (and other educational experiences) align with the student's postsecondary goal(s)?

(Adapted from the KSDE Process Handbook, 2011)

The DCEC case manager is assigned to work with students and in transition assessment and the development of the transition portion of the IEP.

Parent consent must be obtained when inviting any outside agency to the IEP.

## 11. Assistive Technology

## Assistive Technology

IDEA states that Assistive Technology is "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 children with disabilities." (Section 300.5)

**Assistive Technology must be considered as part of any IEP.** If any AT services or devices are deemed necessary for the student to actively participate in the school setting, they must be included in the IEP. AT can be low tech (highlighting tape for textbooks) to high tech (augmented communication devices). If the student does not need AT to fully participate in general education, it **must** be stated on the IEP.

AT can be documented in the IEP in AT section of the IEP. The need for AT can also be documented in several other places in the IEP:

- Present Levels

- Modifications

- Special Education and Related Services

- Goals and Benchmarks (as a means to attain the goal)

- Transition Services

- Meeting Summary

The AT section of the IEP should indicate:

- The specific need for AT

- Describes what the device or technique does

The wording in the IEP should avoid brand names (Mini Mo).

Assistive Technology needs should be determined with a team or collaborative approach. Most interventions should be initiated and implemented by the student's IEP team. Any team member who identifies a need can initiate the process.

DCEC Assistive Technology Team serves all three districts in the cooperative with any AT needs. Their purpose is to provide support to the IEP team in the determination, acquisition, and utilization of technology to support the educational needs of students. An Assistive Technology team will be appointed which will include DCEC administration.

For more information and/or to make a referral to the AT team, contact DCEC.



## 12. Progress Reports

# Progress Report Development

The Purpose of the progress report is to allow you to judge whether the progress made by the child is sufficient to achieve their annual goal and to inform parents of their child's progress toward the annual goals.

Component	Characteristics
Measurement: The measurement method is the key to progress reports. From the progress report, you must be able to determine: <ol style="list-style-type: none"><li>1) The amount of progress on the annual goal(s)</li><li>2) When the data were reported</li></ol>	Uses the same measurement method as used in the PLAAFP/PLEP, measurable annual goal and short-term objective/benchmark (when required). If the goal is not terminal for the skill, the final progress report provides the baseline data for the measurable annual goal next year.
Documentation on the IEP: The IEP must contain specific information in relation to the progress report. The IEP documents how progress will be measured and when parents will be informed of their child's progress toward meeting annual goals.	A statement of how the child's progress toward the measurable annual goal will be measured. <ul style="list-style-type: none"><li>o In the IEP it must be clear what method will be used to measure progress.</li></ul> Statement of when the child's parents will be informed of progress. <ul style="list-style-type: none"><li>o Such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards.</li></ul>
Documentation on the Progress Report: The progress report must contain specific information about current performance and amount of progress made.	<ul style="list-style-type: none"><li>• Reporting the "student is doing well" or "is making progress" is not adequate.</li></ul> Must contain the data/score (or whatever baseline measurement was used) to show current performance & to show progress from baseline.
After Reporting: The measurement and reporting also allows you the opportunity to determine if adjustments in the IEP are required.	Services and supports should be reviewed and considered to determine need for adjustments if: <ul style="list-style-type: none"><li>• There is a lack of expected progress toward the measurable annual goals</li></ul> There is a lack of progress in the general education curriculum

## **Measuring and Reporting Progress on Annual Goals:**

Once the IEP team has developed measurable annual goals for a child, the team must include a description of how the child's progress toward meeting the annual goals will be measured. This measure of progress will enable parents, children, and educators to monitor progress during the year, and if appropriate, to revise the IEP to be consistent with the child's instructional needs. The idea is to use progress monitoring information in a formative way, to help with decision –making about instructional changes that may be needed. If a measurable annual goal is written correctly with the 4 components (behavior, criteria, condition, and time frame) the requirement of how progress toward the goal is measured is contained within the goal and no additional information is required.

The IEP must include a description of when parents will be provided periodic reports about their child's progress toward meeting the annual goals. An example might be through the use of quarterly or other periodic reports concurrent with the issuance of district report cards (K.S.A.72-987(c)(3);34 C.F.R.300.320(a)(3)). The reporting maybe carried out in writing or through a meeting with parents (including documentation of information shared at the meeting); whichever would be a more effective means of communication. Whatever the method chosen, child progress toward the goals must be monitored in the method indicated on the IEP and progress reports should include a description of the child's progress toward his/her measurable goals.

## 13. Emergency Safety Interventions

Where can I find out more  
information about  
Emergency Safety Interventions  
(Seclusion and Restraint)?



**Families Together, Inc.**  
[www.familiestogetherinc.org](http://www.familiestogetherinc.org)

Topeka Parent Center  
1-800-264-6343  
[topeka@familiestogetherinc.org](mailto:topeka@familiestogetherinc.org)

Wichita Parent Center  
1-888-815-6364  
[wichita@familiestogetherinc.org](mailto:wichita@familiestogetherinc.org)

Garden City Parent Center  
1-888-820-6364  
[gardencity@familiestogetherinc.org](mailto:gardencity@familiestogetherinc.org)



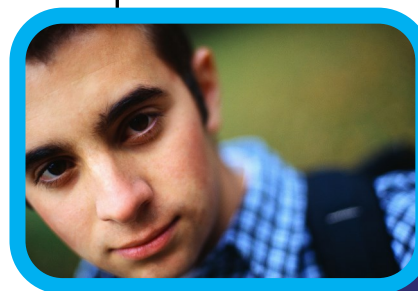
Kansas  
Parent  
Information  
Resource  
Center

**Kansas Parent Information  
Resource Center (KPIRC)**

1-866-711-6711  
[www.kpirc.org](http://www.kpirc.org)

**Kansas State Department  
of Education (KSDE)**

1-800-203-9462  
[www.ksde.org](http://www.ksde.org)  
[www.ksdetasn.org](http://www.ksdetasn.org)



**A Family Guide  
to the Use of  
Emergency Safety  
Interventions and  
Parental Rights:  
Seclusion and  
Restraint in  
Kansas**



## What are Emergency Safety Interventions?

Emergency Safety Interventions (ESI) are seclusion and restraint that are used when the student presents a reasonable and immediate danger of physical harm to self or others.

### What is Seclusion?

Seclusion means placement of a student in a location where all the following conditions are met:

1. the student is **placed** in an enclosed area by school personnel;
2. the student is purposefully **isolated** from other adults and peers; and,
3. the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

Time-out is not the same as seclusion. Time-out is when a student is temporarily removed from the learning activity, but is not confined.

### What is Restraint?

Restraint can take form in different ways. The definition of **physical restraint** is bodily force used to substantially limit a student's movement. The use of prone physical restraint (face-down) and supine physical restraint (face-up) are prohibited. Physical restraint may not obstruct the airway of the student or impact the student's primary mode of communication.

**Mechanical restraint** is defined as any device or object used to limit a person's movement. The use of mechanical restraint is prohibited in Kansas except those protective or stabilizing devices ordered by a person appropriately licensed to issue the order for the device. Mechanical restraint used by a law enforcement officer in carrying out law enforcement duties is allowed. Seatbelts and/or other safety equipment when used to secure students during transportation are also allowed.

**Chemical restraint** is prohibited in Kansas. A student may take prescribed treatments for a medical or psychiatric condition when they are prescribed by a person who is properly licensed to prescribe medication.

Consensual, solicited, or unintentional contact and contact to provide comfort, assistance, or instruction is not physical restraint.

## A Focus on Prevention

### Replacement Behaviors

A replacement behavior is when a student replaces an inappropriate behavior with an appropriate one that continues to serve the same function for the student. When selecting replacement behaviors, the team should address the following questions:

- Does the replacement behavior work as well as the challenging behavior in meeting the student's needs?
- Will it be an acceptable alternative to the challenging behavior?
- Will the replacement behavior be something the student will choose to do and that his or her family and teachers support?
- Will the replacement behavior help build a positive reputation for the student?



Students should be recognized and rewarded for choosing to utilize replacement behaviors to be most effective.

#### The Kansas State Department of Education

- does not promote the use of emergency safety intervention with any student;
- recommends a focus on prevention;
- stresses that emergency safety intervention is not part of a tiered intervention system or student behavior plan – it is only to be used in an emergency and that
- emergency safety interventions are reactive strategies and do not decrease the likelihood of a behavior from occurring.

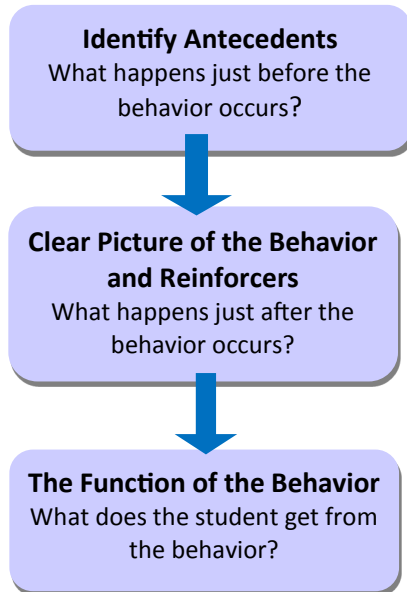
**Tip!**

An FBA can be conducted at any time for a student who does not respond to school-wide behavioral interventions. Following the assessment, a behavior intervention plan may be developed. As a parent, you have the right to request an FBA.

## A Focus on Prevention

### Functional Behavioral Assessments

All behaviors are functional and are maintained in environments that support them. If your child's behavior impedes the learning of self or others, you can request a functional behavioral assessment (FBA). An FBA can help teams determine the when, where, how and why problematic behavior occurs. A comprehensive FBA includes interviews, record reviews, observation and data collection, graphing data collected, testing hypotheses, curriculum analysis, implementation of interventions and evaluation of effectiveness of the plan. FBAs should identify antecedents (what happens just before the behavior occurs), a clearly defined picture of the behavior that is occurring, and the reinforcers (what happens just after the behavior occurs). Teams need to determine what the function of the behavior is so that they may provide successful interventions or teach replacement behaviors that meet the same function for the student.



### Behavior Intervention Plans

Behavior Intervention Plans (BIP) should focus on proactive strategies to support students, including positive behavior interventions and supports. BIPs should be positive and instructive and based upon a functional behavioral assessment. A BIP should address:

- The function of the behavior
- Effective teaching of the expected behavior
- Rewards and consequences that are meaningful to the student
- Opportunities to self-manage behaviors
- Teach appropriate replacement behaviors

## When May Emergency Safety Intervention be Used?

- May only be used when a student presents a reasonable and immediate danger of physical harm to self or others with the present ability to cause physical harm.
- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any ESIs.
- The use of ESI must stop as soon as the immediate danger of physical harm ends.
- ESI cannot be used for purposes of discipline, punishment, or for the convenience of a school employee.



### Students with a known medical condition.

- An emergency safety intervention may not be used with a student if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention.
- The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file.
- The written statement must include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions.
- An emergency safety intervention may still be used if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

Parents should be proactive and provide the district with written documentation from their child's licensed health care provider outlining any medical condition that could put the student in mental or physical danger as a result of the ESI. You may use this form if you wish, <http://ksdetasn.org/resources/843>.

## What are the Requirements for Seclusion?



When a student is placed in seclusion, a school employee must be able to see and hear the student at all times.

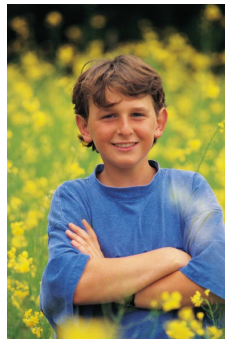
All seclusion rooms that have a locking door must be designed to make sure that the lock automatically disengages when the school employee watching the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

A seclusion room must be a safe place with proportional and similar characteristics as other rooms where students frequent. A seclusion room must be free of anything that could be a danger to the student and must be well-ventilated and sufficiently lighted.

## What Can I Do if I Feel that ESI has been Used Inappropriately with My Child?

If a parent believes that ESIs have been used that violate the ESI statute, ESI regulations, or the district's ESI policy, then the parent may file a complaint through the local dispute resolution process within 30 days of the use of ESI.

A parent may file a complaint through the Kansas State Board of Education's complaint process within 30 days from the date that a parent receives a final decision through the local dispute resolution process or after 30 days have passed since the parent filed a complaint through the local dispute resolution process, if the parent has not received the local board's final decision. The Administrative Review Request Form can be found at [www.ksde.org/Default.aspx?tabid=524](http://www.ksde.org/Default.aspx?tabid=524).



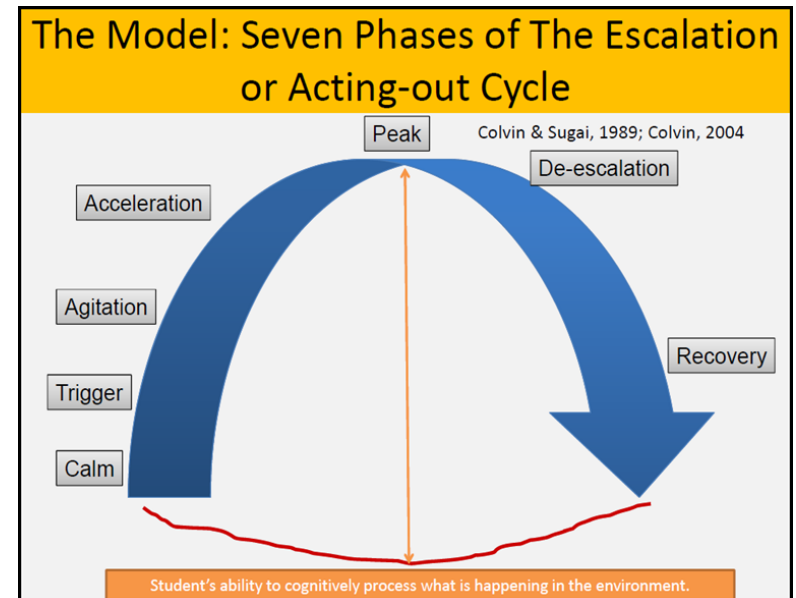
**Tip!**

If your child has a history of seclusion and restraint or challenging behavior, he or she could be eligible for additional supports and interventions. Parents are welcome to contact Families Together, Inc. to discuss possible options.

## A Focus on Prevention

### Why focus on Positive Interventions?

Positive Interventions help build positive relationships and encourage new behaviors. Positive interventions also reinforce new skills and increase self-satisfaction and optimism among students, parents and teachers. All students need to be recognized and rewarded when they are meeting the expectations that have been established. Current research suggests positive recognition (rewards, reinforcements, praise) must occur more frequently than negative recognition. A well-developed behavior intervention plan should include many positive interventions in order to effectively change behavior. The first consideration should be the appropriateness of the interventions. The team should select interventions that are based upon the student's developmental level, motor ability, communication mode and other factors relevant to the student and the disability. Environmental and context related factors should also be considered. These might include things such as classroom seating, noise levels, peer issues, instruction that is too hard or too easy, transitions, and changes in the setting.



De-escalation is helpful to begin to identify acting out behavior early and use proactive strategies to decrease the use of seclusion and restraint.



## When Must a Parent be Notified an ESI has been Used?

- The school must notify the parent the same day the ESI was used. If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact.
- Written documentation of the ESI used must be completed and provided to the parent the same day the ESI was used. Written documentation must include:
  - The events leading up to the incident;
  - student behaviors necessitating the ESI
  - steps taken to transition the student back into the educational setting
  - the date and time the incident occurred, the type of ESI used, the duration of the ESI and the school personnel who used or supervised the ESI
  - space or an additional form for parents to provide feedback or comments to the school regarding the incident
  - a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of ESIs
  - School email and phone contact for the parent to schedule the ESI meeting.
- The parent must be provided with the following information in writing or, upon the parent's written request, by email, after the first ESI incident in a school year and provided with this information after subsequent ESI incidents through a web address:
  - A copy of the standards of when ESI can be used;
  - A flyer on the parent's rights under ESI law;
  - Information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the Kansas State Board of Education; and
  - Information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas.



## Are There Requirements for Meetings Following an Emergency Safety Intervention?

The written documentation of an emergency safety intervention incident must contain:

- a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and
- email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting.

After an emergency safety intervention incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such meeting verbally, in writing, or by electronic means. The focus of any meeting convened shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

If a parent requests a meeting the meeting must be called within 10 school days. The time for calling this meeting shall be extended beyond the 10 school day limit if the parent is unable to attend within that time period.



## What are the Emergency Safety Intervention Meeting Requirements for Students Parentally Placed in Private Schools?

For students who have an individualized education program (IEP) and are placed in a private school by a parent, a meeting called by the parent must include the parent and the private school, who shall consider whether the parent should request an IEP team meeting. If the parent requests an IEP team meeting, the private school must help facilitate such meeting.

## Are Students Required to Attend the Meeting?

The parent shall determine whether the student shall be invited to any meeting.



# KANSAS STATE DEPARTMENT OF EDUCATION

## Emergency Safety Intervention Administrative Review Request Form

Any parent who filed a written complaint with a local board of education (local board) regarding the use of emergency safety intervention may request administrative review by the Kansas State Board of Education (State Board).

- The written complaint to the local board must have alleged that emergency safety intervention was used in violation of emergency safety intervention law, K.S.A 2016 Supp. 72-89d01 to -09 and K.A.R. 91-42-1 to -7.
- The written complaint to the local board must have been filed within 30 days from the parent being informed of the use of emergency safety intervention.
- The request for administrative review must be legibly written or typed, signed, and sent to the Kansas State Department of Education (KSDE) within 30 days from the date a final decision is issued pursuant to the local dispute resolution process or, if a final decision is not issued, within 60 days from the date a written complaint was filed with the local board.
- The hearing officer will forward a copy of this request for administrative review to the clerk of the local board from whom the administrative review is sought.

Your request for administrative review must include the following information:

**1. The name and relevant contact information of the parent filing the request for administrative review.**

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Email Address \_\_\_\_\_  
(not required)

**2. The name of the school the child is attending. Additional information regarding the USD number, address, and telephone number of the school where the child is attending is optional, but would be helpful in identifying responsible parties.**

Name of School \_\_\_\_\_ USD No. \_\_\_\_\_  
(not required)

School Address \_\_\_\_\_  
(not required)

City/State/Zip \_\_\_\_\_  
(not required)

**3. The name and relevant contact information of the involved child.**

Name of Child \_\_\_\_\_

Contact Information \_\_\_\_\_

4. **The name and contact information, to the extent known, for all involved parties. This should include, if applicable, teachers, aides, administrators, and district staff. (Attach additional pages if needed.)**

Name of Involved Party \_\_\_\_\_ Contact Information \_\_\_\_\_

Name of Involved Party \_\_\_\_\_ Contact Information \_\_\_\_\_

Name of Involved Party \_\_\_\_\_ Contact Information \_\_\_\_\_

Name of Involved Party \_\_\_\_\_ Contact Information \_\_\_\_\_

Name of Involved Party \_\_\_\_\_ Contact Information \_\_\_\_\_

5. **State your basis for seeking administrative review. You must include all supporting facts that provide the basis for seeking administrative review. Such facts must include when emergency safety intervention was used in violation of emergency safety intervention law and who, or what circumstances, were involved in this alleged violation. (Attach additional pages if needed.)**

*What is your basis for seeking administrative review?*

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*What are the supporting facts?*

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6. **Attach all relevant documentation. This must include a copy of the written complaint filed with the local board and must include the local board's final decision, if issued. Relevant written instruments or documents in your possession must be attached as exhibits or, if unavailable, referenced in #5 of this request.**

**By signing this request, I consent to disclose any personally identifiable information from the referenced student's education's records necessary to conduct an investigation pursuant to K.A.R. § 91-42-5.**

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Signature

Date

**NOTE: If the hearing officer receives information that the hearing officer determines was not previously made available to both parties during the local board dispute resolution process, the hearing officer may remand the issue back to the local board. The local board then has 30 days to issue a written amended final decision. Upon remand, the hearing officer's case will be closed. All rights to and responsibilities of an administrative review shall begin again when the local board's amended final decision is issued or upon 30 days from when the hearing officer's remand is issued, whichever occurs first.**

Upon receipt of a legibly written or typed, signed request for administrative review, the hearing officer will consider the local board's final decision, if one was issued, and may initiate its own investigation and provide a written report of findings of fact and conclusions of law to the parent who requested administrative review, the school's head administrator, the district superintendent, the local board clerk, and the State Board. The hearing officer will provide the results of the review within 60 days of the Commissioner of Education's receipt of the request, unless a longer time is approved by the Commissioner for good cause. If a violation is confirmed, the report will contain suggested corrective actions and timelines to be followed by the district. The hearing officer's report is final.

The signed request for administrative review must be signed and mailed or personally delivered to:

**Emergency Safety Intervention Administrative Review Request  
Kansas State Department of Education  
Office of General Counsel  
900 SW Jackson Street, Room 102  
Topeka, Kansas 66612**



## Reporting Guidance: Emergency Safety Intervention (ESI) Data Collection in the Kansas Integrated Accountability (KIAS) Application

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### KSDE's Reporting Expectations

#### **Applicability**

Emergency safety intervention law applies to “any learning environment, including any nonprofit institutional day or residential school and accredited nonpublic school, that receives public funding or which is subject to the regulatory authority of the state board of education.” K.A.R. § 91-42-1(n) (2016). KSDE has interpreted this to mean that emergency safety intervention law applies to any learning environment run by a public school district, cooperative, interlocal, service center, or accredited nonpublic school. This interpretation of the term “learning environment” will likely include early childhood programs or alternative programs that are bound by a public school district’s policies. Although emergency safety intervention law has wide applicability to learning environments, as defined above, the Emergency Safety Intervention Data Collection is only submitted by buildings accredited by the Kansas State Board of Education. All accredited buildings must submit a report regardless of whether they have any incidents to report.

#### **Attendance and Responsible School Buildings**

All reportable emergency safety intervention data must be submitted by a student’s responsible building on the date of the incident. KSDE defines responsible building for a student with a disability and an IEP as the student’s Responsible School Building, as this term is defined in the SPEDPro application. KSDE defines responsible building for a student without a disability and an IEP as the student’s Accountability School Identifier, as this term is defined in the KIDS application. You can find additional information about the applicable SPEDPro definition, <http://www.ksde.org/Portals/0/SES/MIS/MIS-DD.pdf>, and the KIDS definition, <http://kidsweb.ksde.org/Documents>, on the KSDE website. To access the relevant KIDS document, click on the document labeled Collection System File Specifications for the relevant school year. A student may attend school in a building other than their responsible building.

#### **Documentation and Submission of Incidents**

If a student attends school in a learning environment that is different than the student’s responsible building:

- the staff in the learning environment where the student attends must collect all documentation of any emergency safety intervention incidents that occur with that student; and
- submit the documentation to the student’s responsible building (as defined above) in time for that responsible building to submit its Emergency Safety Intervention Report to KSDE.

To be clear, emergency safety intervention incidents for a specific student should not be submitted by a student’s attendance building, unless the student’s attendance building is also the student’s responsible building. KSDE staff will periodically request data on a random basis from certain learning environments, as well as a student’s responsible building to ensure the student’s responsible building is submitting emergency safety interventions incidents to KSDE for all students for which it is responsible.

Following are some clarifying examples:

**Example 1: Placement by a District Outside of the Student's Responsible Building in an Another Learning Environment (e.g., A Learning Environment Operated by a Cooperative, Interlocal, Service Center, Specialty School, or Other Organization)**

If a district places a student in a learning environment that is run by a cooperative, interlocal, service center, specialty school, or other organization, then staff in that learning environment:

1. Must collect all documentation of any emergency safety intervention incidents that occur with that student and
2. Submit that documentation to the student's responsible building (as defined above) in time for that responsible building to submit its Emergency Safety Intervention Data Collection to KSDE.

**Example 2: Early Childhood**

If a student attends an early childhood program that is bound by a public school district's policies, an accredited private school's policies, or the Kansas State Board of Education's regulations, then emergency safety intervention law applies to this learning environment.

If a student attends an early childhood program that is not a student's responsible building, then staff with the early childhood program:

1. Must collect all documentation of any emergency safety intervention incidents that occur with that student and
2. Submit that documentation to the student's responsible building (as defined above) in time for that responsible building to submit its Emergency Safety Intervention Data Collection to KSDE.

If staff with the early childhood program are unsure as to which building is the student's responsible building (as defined above), then they should ask district administration for guidance. The student's responsible building will often be the neighborhood school that the student's parent would enroll them in for kindergarten.

**Example 3: Learning Environments Run in Whole or in Part by a Public School District**

If a student attends a learning environment that is bound by a public school district's policies or the Kansas State Board of Education's regulations, then emergency safety intervention law applies to this learning environment. Staff for this learning environment should submit all emergency safety intervention incidents to KSDE through the Emergency Safety Intervention Data Collection in the KIAS application for any students for which it is responsible.

If a student attends a learning environment run in whole or in part by a public school district that is not a student's Responsible School Building, then staff with the learning environment:

1. Must collect all documentation of any emergency safety intervention incidents that occur with that student and
2. Submit that documentation to the student's responsible building (as defined above) in time for that responsible building to submit its Emergency Safety Intervention Data Collection to KSDE.

If staff with the learning environment are unsure as to which building is the student's responsible building (as defined above), then they should ask district administration for guidance. The student's responsible building may be the student's neighborhood school.

**Example 4: Student's Responsible Building Changes during a Reporting Period**

If a student's Responsible School Building Changes during a reporting period, the student's Responsible Building at the time of the incident must report the incident to KSDE.

## **Important Information**

1. To access the KIAS application, once you have registered, go to KSDE's authenticated applications page at, <https://svapp15586.ksde.org/authentication/login.aspx>.
2. A users' guide is available, with reporting instructions, on the Emergency Safety Interventions page of the KSDE website, [http://www.ksde.org/Portals/0/ECSETS/ESI/ESI\\_User\\_Manual.pdf](http://www.ksde.org/Portals/0/ECSETS/ESI/ESI_User_Manual.pdf).
3. For emergency safety intervention resources, please visit the TASN website at <https://ksdetasn.org/ksde/emergency-safety-interventions-esi-resources>. All resources have been updated to reflect the changes to the emergency safety intervention statutes that took effect on July 1, 2016.
4. For emergency safety intervention data analysis and information on the administrative review process, please visit the Emergency Safety Interventions page of the KSDE website, <http://www.ksde.org/Default.aspx?tabid=524>.

Please feel free to contact Julie Ehler, [jehler@ksde.org](mailto:jehler@ksde.org) or (785) 296-1944 or Laura Jurgensen, [ljurgensen@ksde.org](mailto:ljurgensen@ksde.org) or (785)296-5522, with any additional questions or concerns.

## 14. Student Discipline

## Student Discipline

IDEA encourages school districts to establish preventive measures and approaches in dealing with student behavior, including the use of positive behavioral interventions, supports and strategies. IDEA allows traditional disciplinary methods such as time out and detention. School officials may also use in-school&/or out-of-school suspension so long as it does not constitute a change of placement. The law does not set an absolute limit on the number of cumulative school days needed to constitute a change of placement but requires a case-by-case examination of specific factors and requires that services be provided after the 10th day of suspension in a school year.

School districts are required to document incidences of suspension and expulsion of children with disabilities on the Kansas Discipline Incident System (KAN-DIS) that is submitted to KSDE.

Students identified as gifted are subject to suspension or expulsion from school the same as a child without a disability. The school is not required to provide special education or any other educational services to the child, unless dually identified (e.g., LD/Gifted).

### *Short Term Removals (not a change in placement)*

School officials 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, another setting, or suspension for not more than 10 consecutive school days, 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. The school does not need to provide educational services during the first 10 days of removal in a school year, unless it provides those services to a child without a disability who is similarly removed.

**IMPORTANT NOTE: partial days count as full school days.**

### *Subsequent Short-Term Removals (not a change in placement)*

When a student with a disability has more than a single suspension in a school year, school officials should carefully monitor the cumulative number of school days of suspension and make decisions about the effect of imposing additional short-term suspensions. If school officials order two or more short-term suspensions of a student with a disability during the school year, these suspensions are not a change in placement for disciplinary reasons if the suspensions do not constitute a pattern of removals.

To determine if a change of placement has occurred, school officials must consider whether the series of suspensions constitutes a pattern of removals. When a series of suspensions/removals total more than 10 school days in a school year, school officials should determine whether a pattern of removals has developed by considering:



Whether the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals

Other factors such 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

School officials have the authority to make the determination of whether a series of short-term suspensions of a child with a disability constitute a change in placement for disciplinary reasons. However, **this determination is subject to review through due process proceedings.**

School officials should be addressing the issues regarding the student's suspensions prior to reaching the 11th day.

When the total number of school days of suspension in a school year reaches 11, and the current removal is for not more than 10 consecutive school days and is not a change of placement, the school must begin providing educational services beginning on the 11th day of suspension. The student must be provided special education and related services that allow the child to:

Participate in the general education curriculum

To progress toward meeting the goals set out in the child's IEP

Building administration shall contact the appropriate DCEC administrator and/or school psychologist to set up a meeting prior to reaching the 7th school day of suspension. The meeting's purpose is to review the current IEP, any existing behavior intervention plan already in place, and problem-solve as a team. Considerations should include:

Adding additional supports &/or services

Conducting a functional behavioral assessment

Developing or revising a behavior intervention plan

A meeting notice is required and documentation of this meeting should be on the "staffing summary" form.

### *Long -Term Removals (A change of placement)*

There are specific steps that school officials must follow when considering either a long-term suspension for more than 10 consecutive school days, an expulsion, or another short-term suspension that cumulates to more than 10 school days and shows a pattern constituting a change of placement:

On the date the decision is made to make a removal that constitutes a change of placement of a child with a disability the school must notify the parents of that decision, and provide the parents with a copy of the Parent Rights notice.

On the 11th school day of removal, the school must begin providing appropriate special education and related services. The IEP team decides on these services and where they will be provided.

The school, the parent and relevant members of the child's IEP team (as determined by the parents and the school) must determine if the child's violation of the school's code of student conduct was a manifestation of his or her disability.

The school must convene meeting regarding the manifestation determination and services as expeditiously as possible and is required to give only 24 hours prior notice of a meeting to the parents.

When a disciplinary change of placement occurs, the IEP team, including the parent, determines the special education and related services to be provided during the removal. However, parental consent for the disciplinary change in placement is not required.

### *Manifestation Review*

As soon as practical, but not later than 10 school days after the date on which the decision is made to change the placement of a child with a disability because of a violation of student code of conduct, the administrator, parent, and other members of the child's IEP team must meet to review:

All of the relevant information in the child's file,

The child's IEP,

Any teacher observations, and

Any relevant information provided by the parent.

Based on its review of the information, the group must determine if the conduct in question was:

1. Caused by, or had a direct and substantial relationship to the child's disability; or

2. The direct result of the school's failure to implement the child's IEP (as written)

If it is determined by the group that the conduct of a child was a result of either of the above, then the conduct must be determined to be a manifestation of the child's disability.

Behavior **WAS** a manifestation of the disability:

- The IEP team **MUST**:

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; and

Either:

Conduct a functional behavioral assessment, unless already conducted prior to the behavior resulting in a change of placement, and implement a behavioral intervention plan for the child; or

If a BIP already has been developed, review the plan and modify it, as necessary, to address the behavior.

If the behavior was a manifestation of the disability and was the direct result of the school's failure to implement the IEP, the school must take immediate action to remedy those deficiencies.

**IMPORTANT NOTE:** If it is determined that the child's behavior is a manifestation of the child's disability the child **CANNOT** be subject to a long-term removal for the behavior. However, the school and the parents could **agree to another setting**. Also, even when the behavior is a manifestation of the child's disability **the school could request a due process hearing officer to order a 45 school-day interim alternative educational setting** if the school district can show that maintaining the current placement is substantially likely to result in injury to the child or others.

Behavior **WAS NOT** a manifestation of the disability:

- The district may proceed with suspension and expulsion proceedings.
- Using these proceedings, school officials may order a change in placement of a child with a disability to an appropriate interim alternative educational placement for not more than 186 school days if it is determined that:

The conduct of the child violated the code of student conduct;

The behavior was not a manifestation of the child's disability;  
and

If the relevant disciplinary procedures applicable to children without disabilities are applied in the same manner and the discipline is for the same duration as would be applied to a child without disabilities.

*Behavior Related to Weapons, Drugs, Serious Bodily Injury*

School officials may remove a child with a disability to an interim alternative educational setting for up to 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 to or at a school function under the jurisdiction of the school district or the State Board of Education;

Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the school district or the State Board of Education; 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 school district or the State Board of Education.

When a child has been removed to an interim alternative educational setting, the IEP team must determine what special education and related services are needed and where the services will be provided to enable the child to:

Participate in the general education curriculum, although in another setting;  
and

To progress toward meeting their goals set out in the child's IEP.

The team should also determine if a functional behavioral assessment would be appropriate. The IEP team will also review and revise any existing BIP or develop one with services and modifications that are designed to address the behavior violation so that it does not recur.

When a child commits a violation related to weapons, drugs or serious bodily injury, school officials may initially suspend the child for up to 10 school days without educational services.

On the date in 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 related to weapons, drugs, or serious bodily injury, the school must notify the parents of that decision, and provide the parents the Parent Rights Notice.

Once the child has been placed in the interim alternative educational setting, if the school believes that returning the child to the setting specified in the child's IEP would be substantially likely to result in injury to the child or others, the school may request an expedited due process hearing to request the hearing officer to order another 45 school day interim alternative educational setting. The burden of proof is on the school to justify an additional removal be ordered by the hearing officer.(Adapted from KSDE Process Handbook, 2011)

## 15. Kansas Assessments

# **District and Building Test Coordinator Responsibilities**

## **Communication**

- Communicate information regarding assessments throughout the year to all personnel involved with assessments.
- Advise teachers and administrators to sign up for Test Coordinator listserv.
- Share assessment resources with personnel that will be involved with assessments.
- Establish and describe the system used for sharing Daily Access Codes with staff.
- Establish a good working relationship with personnel who enter KIDS data and with your technology staff and inform them of dates for data submissions.

## **Test Security**

- Complete Test Security and Ethics training provided by KSDE and KAP.
- Provide Test Security and Ethics training for all personnel that will be involved with assessments.
- Document which individuals have received training, when the training was provided, and the way in which the training was provided; documentation must be kept at the district and the building level.
- Report any Test Security and Ethics violations or concerns to Lee Jones, [ljones@ksde.org](mailto:ljones@ksde.org).

## **Kite Educator Portal**

- Inactivate users in Educator Portal for staff who have left the district and/or changed roles with the district; this task should be completed by the end of September.
- Ensure that all personnel who need Educator Portal accounts have them and the proper roles are assigned.
- Learn the features of Educator Portal and share/discuss with staff.
- Review and save student reports at the end of the school year as needed.

## **Dynamic Learning Maps**

- Ensure that enrollment and roster uploads are submitted for DLM.
- Ensure that teachers administering the DLM assessment are completing the required Test Administration training by early September.
- Monitor participation and completion of assessments for DLM embedded assessments and the year-end assessments.
- Ensure that teachers complete First Contact Surveys and enter PNPs for students prior to September 20.
- Be sure teachers understand DLM ELA, mathematics, and science assessments are instructionally embedded September through February and also have a summative assessment in the spring,
- SC codes must be entered in Educator Portal by April 19.

## **KELPA2**

- TEST records must be submitted to KIDS by mid-January with the teacher ID and name in the proctor fields. PNPs need to be entered in Educator Portal by January 18.
- Scoring for KELPA2 speaking and writing **must** be completed by March 29 @ 5:00 P.M.
- Any SC-codes must be entered in Educator Portal by March 22.

### **Kansas Assessment Program**

- TASC records must be submitted to KIDS with teacher ID and name in the proctor field for the Predictive Interim Assessments and the Interim Mini-Tests to be accessed by students and for reports to be available to staff. The mini-tests will be available for use September 17. The interim assessments are available for ELA and mathematics.
- Requests for Braille assessment materials must be submitted no later than November 9. TEST records must be submitted to KIDS for those students so Braille can be entered in their PNP.
- TEST records must be submitted to KIDS for the spring assessments and PNPs entered in Educator Portal by February 25.
- SC codes must be entered in Educator Portal by April 19.
- Results will be available in Educator Portal the week of May 5. DLM assessment results will be available in June.
- Develop a plan to distribute individual student score reports and parent letters for KAP assessments and DLM assessments

### **ACT and ACT WorkKeys (DTCs and High School BTCs)**

- Receive implementation training for ACT and ACT WorkKeys
- Manage local administration of ACT and ACT WorkKeys



# Fact Sheet



## 2018-2019 Kansas Assessment Fact Sheet: Appropriate Testing Practices

### Test Security Purpose

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Test security is essential for obtaining reliable and valid scores for accountability purposes. Accordingly, the Kansas Department of Education (KSDE) must take every step to ensure the security and confidentiality of the state testing materials. It is the responsibility of individuals who develop the tests, who administer the tests, and those who use the results of the tests to follow test security laws, regulations, and procedures.

### Acceptable Practices

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- Provide students with the opportunity to learn the content and vocabulary prior to testing by basing instruction on state standards and an aligned local curriculum.
- Integrate teaching of test-taking skills with regular classroom instruction and assessment.
- Ensure that students have had prior experience with the testing format. Use Kite Technology Practice tests. These are for the intended purpose of practicing technology and not content.
- Use formative assessments to inform instruction prior to testing. Formative tools are available in the Kite Interim system.
- Ensure that accommodations made on the state assessment are completed on all instructional assignments, as well as classroom, district, and standardized assessments.
- Attend training and sign an agreement to abide by KSDE Test Security, Ethics of Testing, and regulations before local testing begins.
- Follow test procedures outlined in the Examiner's Manual and in the training received regarding security and ethical practices for testing.
- Follow established district/building procedures for collecting and destroying testing materials, student notes, scratch paper, and drawings, etc., upon completion of each test session and the entire test.
- Remove or cover (with opaque material) bulletin board displays, charts and diagrams, and other instructional material that could give assistance or advantage during testing.
- Monitor the testing environment actively by moving around the room; moving around the room encourages students to focus on their own work.
- Verify the End Review Screen upon completion of the test to ensure that all test items have been answered before a student exits the test.

### Unacceptable Practices

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- Do not store or save on computers or personal storage devices any test items; test items may not be shared via email or other file sharing systems; or reproduced by any means.
- Do not review tests or analyze test items before, during, or after the assessment has been administered.
- Do not discuss any specific test items on the test with students or colleagues before, during, or after the administration of the assessment.
- Do not construct answer keys so that an assessment could be scored locally.
- Do not use actual or altered test items (clone, parallel) for practice or instruction.
- Do not conduct comprehensive reviews or drills the day of the test or between testing sessions. Once testing has begun, all reviewing should cease. Curriculum may be taught but not for review for the specific purposes of the test.
- Do not **require** students to show work or use scratch paper; scratch paper may not be graded and must be destroyed at the end of the test session.

- Do not respond to questions during testing that would help the students understand the item, aid them in responding to an item, or advise/encourage them to edit or change a response.
- Do not say or do anything that would let a student know whether an answer is correct or incorrect.
- Do not coach or cue students in any way during test administration, including using gestures or facial expressions for guidance.
- Do not ask students the way in which they arrived at an answer.
- Do not tell students to redo a specific item or to review any specific part of the test once testing has begun.
- Do not go back and review each item individually with the student, simply direct students to answer items that did not have a check mark to indicate that the item was answered.

**Report any breach of test security, loss of materials, or any other deviation to Lee Jones, Assessment Coordinator, Kansas State Department of Education, 785.296.4349.**

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# 2018-2019 Kansas Assessment Program Overview

All tests are delivered in KITE and include multiple-choice and technology-enhanced items. General summative assessments for science also include simulations. KELPA2 speaking and writing assessments are human scored.

All other assessments are machine-scored. Interim assessments are optional. General summative, KELPA2, and DLM assessments are mandatory. cPass assessments are administered to students who choose to pursue them.

Assessment Type	Subject	Grades	Estimated Time to Complete <sup>1</sup>	Testing Window	Need Not Test Date <sup>2</sup>	Recently Arrived in U.S. Exemption Date <sup>3</sup>
<b>General Summative Assessments</b>	Mathematics	3–8, 10	Two sessions, 45–60 mins each	03/11/19 to 4/26/19 <sup>7</sup>	03/11/19	No exemption in math. Arrived after 03/11/18 counts for participation only.
	English Language Arts	3–8, 10	Two sessions, 45–60 mins each			Arrived after 03/11/18 exempted. Must take KELPA2.
	Science	5, 8, 11	Two sessions, 45 mins each			No exemption in science. Arrived after 03/11/18 counts for participation only.
<b>Interim Predictive Assessments<sup>4</sup></b>	Mathematics and English Language Arts	3–8, 10	One session, 60 mins	10/08–10/19 12/03–12/14 02/04–02/15	N/A	N/A
<b>Dynamic Learning Maps Alternate Assessments<sup>5</sup></b>	Mathematics, English Language Arts, Science	Refer to grades for general summative assessments.	Varies	Instructionally-embedded assessments 09/20–12/19 01/03–02/27  Year-end tests: 03/11–04/26	01/31/19	Follow exemption rules and dates from general summative assessments. KELPA2 participation not applicable to DLM students.
<b>KELPA2 Assessments<sup>6</sup></b>	Four domains: reading, speaking, listening, writing	K–12	Varies. Refer to Kansas Assessment Examiner's Manual.	02/04–03/08  Human scoring completed by 03/29 <sup>7</sup>	N/A	No exemption. Required for all identified ELL students.
<b>cPass Assessments</b>	General Agriculture	9–12	Varies	11/01–12/14 03/11–04/26	N/A	N/A
<b>AMOSS Data Check</b>	All assessment data	K–12	N/A	07/08/19–07/26/19 <sup>8</sup>	N/A	N/A

## Notes

<sup>1</sup> Time estimates are for scheduling purposes only. Kansas Assessments are *untimed*. Please provide adequate time for students to finish.

<sup>2</sup> Date on or after which student entered the district.

<sup>3</sup> First entry by the student in a U.S. school.

<sup>4</sup> Teacher-assembled interim mini tests, which may be tailored to specific curriculum as needed, are available

09/17/18 and vary in length. For more info, see [ksassessments.org](http://ksassessments.org).

<sup>5</sup> Headphones required.

<sup>6</sup> Headphones with microphone required.

<sup>7</sup> Testing and/or Scoring completed by 5 p.m.

<sup>8</sup> AMOSS data check - tentative

# 2018-2019 Kansas Assessment Program Overview

## KAEM and KELPA2 Manuals

- Released to the field: January 4, 2019

## Personal Needs Profile Update/Entry

- KELPA2: at least two weeks prior to the start of the window (Jan. 18, 2019)
- Summative assessments in ELA, math and science: at least two weeks prior to the start of the window (February 30, 2019)
- Note: PNPs can be updated at any time but it is best to have this done prior to testing.

## Special Circumstances (SC) Codes

- KELPA2 coding completed by the field: March 22, 2019
- KELPA2 Special Circumstances (SC) Codes approved by KSDE: March 29, 2019
- KAP ELA, math and science completed by the field: April 19, 2019 (Hard date/No exceptions)
- KAP Special Circumstances (SC) Codes approved by KSDE: April 26, 2019

## 2018 - 2019 District and Building Test Coordinator Training Sessions

**Regional Training Sessions – Details will be provided through the ListServ and posted on the KAP website in August!**

<b>DTC/BTC Onsite Training</b>	<b>Training Location 9:00 – 2:00</b>
September 18 (Tuesday)	Sublette
September 19 (Wednesday)	Oakley
September 24 (Monday)	Greenbush - Girard
September 26 (Wednesday)	Greenbush - Lawrence
October 1 (Monday)	Salina
October 2 (Tuesday)	Hutchinson
October 23 (Tuesday)	Clearwater

**Virtual Training Sessions - Training topics and how to access the sessions will be posted on the KAP website in August.**

<b>DTC and BTC <u>Virtual</u> Training Offered online through Zoom and Skype (Wednesday) @1:30</b>
September 5
October 3
November 7
December 5
January 9
January 23
February 6
February 20
March 6
April 3
April 17
May 1

## Assessment Resources and Contacts

In addition to information sent out periodically on listservs, listed below are resources and contacts that are available regarding state assessments.

- KSDE: <http://www.ksde.org/> , Search alphabetically for assessments or individual content areas.
- KSDE authenticated applications <https://apps.ksde.org/authentication/login.aspx> AMOSS and KIDS.
- Kansas Assessment Program: <http://ksassessments.org/>. Contains news, updates, KITE, and documentation.
- Dynamic Learning Map: <http://dynamiclearningmaps.org/kansas>
- cPass: <https://careerpathways.us/>
- KIDS helpdesk: [KIDS@ksde.org](mailto:KIDS@ksde.org), 785-296-7935
- KITE Service Desk: [kap\\_support@ku.edu](mailto:kap_support@ku.edu), 855-277-9752
- DLM Service Desk: [DLM-support@ku.edu](mailto:DLM-support@ku.edu), 855-277-9751
- DLM: Cary Rogers: [crogers@ksde.org](mailto:crogers@ksde.org), 785-296-0916
- KELPA2: Julie Ewing, [jewing@ksde.org](mailto:jewing@ksde.org), 785-296-4906
- ELA: Sarah Perryman, [sperryman@ksde.org](mailto:sperryman@ksde.org), 785-296-8107
- Mathematics: Melissa Fast, [mfast@ksde.org](mailto:mfast@ksde.org) 785-296-3486
- History/government: Don Gifford, [dgifford@ksde.org](mailto:dgifford@ksde.org), 785-296-3892
- Science: Lizette Burks, [lburks@ksde.org](mailto:lburks@ksde.org), 785-296-8108
- Elementary: Cynthia Hadicke, [chadicke@ksde.org](mailto:chadicke@ksde.org), 785-296-2749

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- Assessments: Lee Jones, [ljones@ksde.org](mailto:ljones@ksde.org), 785-296-4349
- Assessments: Juanita Anderson, [janderson@ksde.org](mailto:janderson@ksde.org), 785-296-1978
- Assessments: Beth Fultz, [bfultz@ksde.org](mailto:bfultz@ksde.org), 785-296-2325
- KAP: Mary Matthew, [mmatthew@ku.edu](mailto:mmatthew@ku.edu)

# Scribing

Scribes are individuals who record student responses during classroom assignments and on tests or on state tests when information is communicated by the student through speech, sign language, pointing, gesturing, eye-gazing, or using an assistive communication device. Scribing accommodations are intended for a student with a physical disability that severely limits or prevents the student's motor process of writing or recording their response during testing, e.g., students who have a reduced ability to write due to pain, paralysis, loss of function, or a loss of endurance and students whose handwriting is indecipherable resulting in illegible written products. Scribes are also an appropriate accommodation for students who can write but have a documented disability in the area of written expression that results in a significant interference with their ability to express their knowledge in writing.

The use of a scribe for each test administration subject (e.g., English Language Arts and mathematics) is considered an allowable accommodation, as long as **all four** of the following criteria are met:

1. The accommodation **must be provided to the student in the classroom for classroom and district-wide tests**, and the accommodation must be documented in writing in the IEP or 504 Plan.
2. The accommodation **cannot** change the content or structure of the test.
3. The accommodation **cannot** change what the test is intended to measure.
4. The accommodation **cannot change or enhance** the student's response.

Before listing the accommodation in the student's IEP/504 Plan, a team should confirm that the student's disability is documented through a comprehensive evaluation which establishes that the child's written expression skills are significantly below age and state-approved grade level standards even when the child is provided with appropriate instruction and learning experiences. (Note: Scribes are not an allowable accommodation for children who have difficulty focusing, sitting still, or staying on task. The children may receive the accommodations of frequent breaks, snack, and extra time to complete the tests.) The scribe accommodation for testing purposes should be considered an all or none approach. Either the student needs a scribe for the entire subject test or they do not. The scribe accommodation should not be documented on an IEP as an "as needed" accommodation. If a student is not able to complete all of a subject area test without scribe assistance, then all of the test should be scribed for the student.

If an IEP or 504 Plan team determines that a student will have the scribing accommodation, the team should consider whether the student will also need extra time. Typically, scribing is a longer process than testing without the use of the scribe. Providing additional time is appropriate to accompany the scribe accommodation. It is also appropriate during scribing for some students to take more breaks than typically awarded students who do not have accommodations. Planning for extra breaks also may be needed.

If the scribe is also the test administrator for a student, the scribe must be an employee of the district. Any person serving as a scribe must be an **adult and a non-relative** of the student. Students **may not** serve as scribes for another student, even if they are older students.

When working as a scribe with students, the following guidelines should be followed:

- Do not coach or cue students in any way during test administration. This includes gestures and facial expressions. For example, prompts, "Let's list reasons to support your position" or "Do you want to give more examples" give the test taker an unfair advantage and are inappropriate.
- Do not respond to questions during testing that would help the student to understand the item, and aid in responding to an item, or advise/encourage the student to edit or change a response.
- Do not tell students to use certain strategies or clues prior to or during the tests.
- Do not say or do anything that would let a student know whether an answer is correct or not correct.
- Do not ask the student how they got an answer.
- Do not tell the student to redo or review any part of the test.

There are two exceptions to the criteria for the use of a scribing accommodation.

**The “Broken Arm” Exception:** If a student suffers an injury that prevents the student from physically writing the responses, a scribing accommodation may be provided to that student without an IEP/504 plan in place. This is a **temporary** exception. Districts should note the injury and keep a written record of any doctor’s notes on file if such a special case accommodation is provided. Districts **do not need** to call the Kansas State Department of Education to receive permission to provide this accommodation in this circumstance.

**The “Temporary Visual Impairment” Exception:** If a student suffers an injury to the eyes which temporarily severely limits or prevents the student from writing or recording their responses during testing or if the student normally uses corrective lenses but they have been lost or damaged beyond use and they will not be replaced prior to the end of the testing window and consequently the student is temporarily severely limited or prevented from writing or recording their response during testing. This scribing accommodation may then be provided to that student without an IEP/504 Plan in place. This is a temporary exception. Districts should note the need for exception and keep a written record of any doctor’s notes on file if they have a doctor’s note; such a special case accommodation is provided. **Districts do not need** to call the Kansas State Department of Education to receive permission to provide this accommodation in this circumstance.

## **Scribe Accommodation**

### **Method for Scribing**

- The scribe writes exactly what the student dictates. No additions, deletions, or changes may be made that are not initiated by the student.
- The student may review and edit their response after dictating it to the scribe. If the student wants to change anything the scribe has written, the student must direct the scribe to make specific changes to the response.

### **Writing Test Restriction:**

The student is **required** to indicate the beginning of sentences (use of capitals) and the end of sentences (punctuation) on **all** writing tests. This can be accomplished by either of the following methods: a
















- The student can indicate where sentences begin and end while the student is dictating the response. **OR**
- The student can edit what the scribe has written when the test is completed.

Additional writing test restrictions:













- Capital letters and punctuation cannot be added by the scribe without student direction.
- The student must ask the scribe to make specific changes to the response.

## TOOLS AND ACCOMMODATIONS FOR THE KANSAS ASSESSMENT PROGRAM (KAP)

The Kansas Assessment Program (KAP) Summative Assessment will have many tools available to help students navigate the online system. Some of the tools will be available to all students, while others will only be available to students who have the need identified in their Individual Education Plans, Section 504 Plans, ELL Plan or statement of student needs. Many of these tools are available currently in the interactive demos and interim assessment, but all will be available for the summative assessments. All tools and accommodations work on laptops and desktops (Windows or Mac), tablets (Chromebooks or iPads).

Tools available to ALL students as needed by subject		
Icon	Tool	Description
	Calculator – Basic or TI-108**	Depending on test settings, the basic calculator icon will display either the basic calculator or the TI-108 Emulator. (Grades 6-8, 10)
	Calculator - TI Graphing**	Allows students to plot graphs, solve equations, and display several lines of calculations on the screen. (Grade 10)
	Calculator - TI Scientific**	Allows students to perform calculations in science, engineering, and mathematics. (Grades 6-8)
	Eraser	Removes highlighting and striker marks from the screen.
	Guide Line	When selected, follows the student's pointer and lightly highlights the text of a reading passage line by line. This tool differs for iPads, where the line remains stationary as the student scrolls through the passages.
	Highlighter	Allows students to select text on the screen and highlight the selected text with a pink background.
	Mark for Review	When selected by test takers, changes the item number indicator at the top of the screen to blue with an accompanying flag graphic.
	Notes	Presents a yellow rectangle on the screen where students can type notes about the test content.
	Periodic Table	Presents a standard periodic table. Students can select on an individual element to view atomic number, atomic mass, and full element name. (default view is abbreviations).
	Pointer	Allows students to select items in the test.
	Search	Allows student to enter search terms. Matching words are then highlighted in orange.
	Striker	Allows students to place a line through an answer choice that is not desired.
	Tags	Allows students to use various tags within a reading passage. Tags remain in the passage until the student selects clear all. The tags available are: Main idea, Supporting Details, Key Word, Evidence, Reread This, and Help
	Text to speech audio (TTS)* – directions	Students can choose to have a synthetic voice read directions aloud on all assessments.
	Whole Screen Magnification	Allows students to magnify the screen up to four levels.
<p>*Requires speakers or headsets.</p> <p>**May not be available in mathematics sections measuring numbers and operations.</p>		



Accommodations (available only when selected in the PNP) for students who have an IEP, 504, ELL plan or statement of student need		
Icon/display	Tool	Description
	American Sign Language (ASL)	Allows students to view ASL videos of assessment content.
	Auditory calming*	Provides relaxing, peaceful music that can play while the student takes the test.
	Color Contrast	Sets a text color and a background color. Options are grey text on black background, yellow text on black background, green text on white background, and red text on white background.
	Color Overlay	Provides a color background behind the content on the screen. Color options are light blue, light yellow, light grey, light red, and light green.
	Key word translation - Spanish	Allows students to view Spanish translations of certain words. Feature available in mathematics and science.
	Masking: student – controlled or presented by default	Allows a student to mask, or cover, parts of the test. After a student selects the masking button, a black box appears. The student can move the masking box by dragging it to different areas of the screen.
	Reverse Contrast	Sets the text color to white and the background color to black.
	Special form (braille)	Selected test forms are available in Unified English braille (UEB).
	Switches	Allows students to interact with the assessments through the use of a single switch/key instead of a mouse.
	Text to speech audio (TTS)* – directions, text, and test items	A synthetic voice will read <b>directions, text, and test items</b> .
	Text to speech audio (TTS)* – passages and test items	A synthetic voice will read ELA <b>passages and test items</b> . In ELA only very few students with IEP will receive this accommodation. Please contact Deb Matthews for this accommodation.***
	Whole Screen Magnification	Allows students to magnify screen according to what has been set up in the PNP.
*Requires speakers or headsets.		

### Personal Needs Profile (PNP)

The PNP is intended to meet the needs of all learners, including those with disabilities. It defines a learner's needs and preferences for digitally-delivered resources or services. The PNP can be accessed in the Student Record in Educator Portal. The PNP includes three categories:

- “Display Enhancements”: how resources are to be presented and structured;
- “Language & Braille”: how content is communicated to the learner; and,
- “Audio & Environment Support”: how content is audibly delivered and the testing environment is adapted to fit a learner's needs.

### \*\*\*Text to Speech (TTS) of reading items and passages.

Please contact Deb Matthews at KSDE, 785-296-0916 FOR APPROVAL; *this accommodation is intended for a very limited number of students.*

- This accommodation is ONLY for students with an IEP.**
- This accommodation is for non-readers who need passages read aloud.
- This accommodation is appropriate for students who receive daily instruction orally and through computerized text to speech. Students who do not normally have this accommodation for instruction will likely be confused and may impede the performance of the student.
- This accommodation should only be used by students who:
  - have severe reading disabilities and receive auditory instruction and use recorded books and recorded text books;
  - cannot access printed text due to blindness or low vision and do not have adequate braille skills; and/or
  - have a motor disability that prevents them from accessing braille.

## 16. Extended School Year

## Extended School Year

The need for ESY is to be determined individually by the IEP team when developing the initial IEP or when the IEP is reviewed annually. Students identified as gifted are not eligible for ESY services. Some students may attend their home school general education summer school (if provided) with reasonable accommodations and modification necessary for the child to have an equal opportunity to participate in the general education environment and curriculum. To determine if a student with a disability needs ESY, the following should be considered:

### **Determining Need for ESY:**

**1. Is a significant regression anticipated if ESY services are not provided?**

The LEA is not required to provide ESY services only because the student will benefit from such a program. Instead, the IEP team will determine for each individual child if the regression experienced by the student will significantly affect her/ his maintenance of skills/behaviors. This decision is **data-based**. Before the LEA is required to provide ESY services, the IEP team shall determine that more than 45 school days will be required to return the student to the former level of achievement because summer instruction was not provided. The IEP team shall make this determination by a review of pre and post data, as well as data collected 45 school days into the school year.

**2. What is the nature and severity of the disability(ies)?** When a student's disability(ies) requires a highly structured program, cessation of services may result in regression. Particular consideration for ESY services will be given to students who need instruction in self-help skills such as dressing, eating or toileting, or who need continued structure to develop behavior control. Preschool students with moderate to severe disabilities may miss a window of developmental opportunity if critical skills such as talking or walking are beginning to emerge.

**3. Has there been an interruption in services included in the IEP?** For example, the school may have been unable to find a physical therapist until November.

### **Important Points to consider:**

Provision of ESY services is an IEP team decision. One person should not be deciding if a child needs services. Access to ESY services in previous years is not a reason to continue ESY services the next.

The purpose of ESY is to provide services to provide FAPE to the child so that the child can maintain progress made toward the goals specified on the child's IEP and to prevent regression. Regression is the number one factor to consider when determining the need for ESY services. If the team feels the child will regress to the point of taking 45 or more school days to return to

the levels the child exhibited in May, then "significant regression" is possible and ESY services are warranted.

The IEP team should only use Reason #2 above if there is data that supports that regression MAY occur without services.

When deciding the length of services a child needs, please keep in mind the child and the staff need a break. It is recommended that services be no more than 6 weeks. This is a guideline and all decisions should be individually made.

If the IEP team feels that there will be significant concerns or differences of opinions when making this decision regarding the student, it is recommended that the team contact the appropriate special education administrator prior to the meeting and/or invite them to the meeting.

All decisions regarding ESY must be made by **April 1st** to allow administrative staff to formulate a budget, contact staff interested in working during the summer, make transportation & location arrangements, and contact parents. Please do not do a disservice to your student by not adhering to this deadline.

**Please include the following in staffing notes:**

An explanation as to how the student qualifies or does not qualify for ESY. Data may be attached if it is too extensive to summarize.

IEP goals and objectives to be addressed in ESY.

Amount of time needed for services (including length of ESY) and type of service provider needed.

Location of services. Keep in mind that the services should be the same or similar to those provided during the regular school year. If the school is having a summer program, try to provide services at the school during that time frame.

**Upon checking out through the DCEC at the end of the school year, the service provider must do the following if the student will be receiving ESY services:**

Provide a list of names and contact information for students receiving ESY services.

Provide a copy of the staffing notes where ESY information was documented.

Provide a copy of the last progress report.

Provide any materials necessary to work on the ESY goals that may not be available to the summer provider.

## 17. Discontinuing Services

## Discontinuing Services

There are times when a child's eligibility for special education and related services ends or when the parent or adult student chooses to end the provision of special education services. These situations include the following:

The student is no longer eligible for services.

The student graduates.

The school year ends and the student is age 21.

The parent or adult student revokes consent for services.

The student drops out of school.

The following chart outlines what is needed when discontinuing services.

Reason for discontinuing services	Reevaluation required	Prior written notice required	Parent or adult student consent required	Summary of performance required
No longer eligible for special education and related services	Yes	Yes	Ⓨ	Ⓝ
Graduation	No	Yes	No	Yes
Services at age 21	No	Yes	No	Yes
Revokes consent for special education services	No	Yes	No	No
Drops out of school	No	No	No	No

### *Summary of Performance*

The purpose of the SOP is to transfer critical information that leads to the student's successful participation in postsecondary settings. It must address the following:

Academic achievement: information on reading, math, and language

Functional performance: information on learning styles, social skills, independent living skills, self-determination, and career/vocational skills  
Recommendations: suggestions for accommodations, assistive services, compensatory strategies for post-secondary education, employment, independent living, and community participation

(Adapted from KSDE Process Handbook, 2011)

**The teacher is responsible for completing the SOP.**

**PRIOR WRITTEN NOTICE**  
**for**  
**TERMINATION OF ALL SPECIAL EDUCATION SERVICES,**  
**RELATED SERVICES, AND SUPPLEMENTARY AIDS AND SERVICES**  
**DUE TO PARENT'S REVOCATION OF CONSENT**

To \_\_\_\_\_ Date \_\_\_\_\_  
(Parent/Legal Educational Decision Maker)

On behalf of \_\_\_\_\_ Address \_\_\_\_\_  
(Student's Name)

On \_\_\_\_\_, you revoked consent, in writing, for all special education services, related services and supplementary aids and services for the student named above.

Under this circumstance, special education regulations require the school district to terminate all special education services, related services and supplementary aids and services, and to give the parent (or legal educational decision maker) written notice of the termination of services before the services are terminated. This document is the written notice required by these regulations.

**1) A DESCRIPTION OF THE ACTION PROPOSED:**

On \_\_\_\_\_, all special education services, related services and supplementary aids and services specified in the IEP of the student named above will cease.

**2) EXPLANATION OF WHY THE ACTION IS PROPOSED:**

Consent for all special education services, related services and supplementary aids and services has been revoked.

**3) OPTIONS CONSIDERED AND WHY THE OPTIONS WERE REJECTED:**

No options were considered. This is not a decision of the student's IEP team. This is a unilateral action of the education decision maker for this student, as authorized by special education regulations.

**4) DESCRIPTION OF THE DATA USED AS BASIS FOR THE PROPOSED ACTION**

(including each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action):

No data was used as the basis for the proposed action. This is not a decision of the student's IEP team. This is a unilateral action of the education decision maker for this student, as authorized by special education regulations.

**5) OTHER FACTORS RELEVANT TO THE PROPOSAL (e.g. LRE, harmful effects):**

There are no other factors relevant to the proposed action. This is not a decision of the student's IEP team. This is a unilateral action of the education decision maker for this student, as authorized by special education regulations.



### ADDITIONAL INFORMATION

You may contact any of the following resources to help you understand the federal and state laws for educating children with exceptionalities and parental rights (procedural safeguards) granted by those laws: Kansas State Dept. of Education 800-203-9462; Disability Rights Center of Kansas (DRC) (877) 776-1541; Families Together, Inc. 800-264-6343; and Keys for Networking 785-233-8732.

### PROCEDURAL SAFEGUARDS TO PROTECT PARENT'S RIGHTS

Both state and federal laws concerning the education of children with exceptionalities include many parental rights. Receiving notices of action the school wants to take in regard to your child and being a part of your child's educational planning team are examples of the rights these laws give you. These laws also require that the school follow certain procedures to make sure you know your rights and have an opportunity to exercise those rights. If you have any questions regarding your rights or would like to receive an additional copy of your rights, you may contact the special education director for your school or special education cooperative.

### DELIVERY

I, \_\_\_\_\_,

☐ hand delivered,

☐ mailed,

☐ other \_\_\_\_\_  
(specify)

this notice to \_\_\_\_\_ on \_\_\_\_\_.  
(Name) (Date)

**REVOCATION OF CONSENT**  
**FOR ALL SPECIAL EDUCATION AND RELATED SERVICES**

DATE: \_\_\_\_\_

NAME OF STUDENT: \_\_\_\_\_

SCHOOL DISTRICT: \_\_\_\_\_

I, \_\_\_\_\_, having authority under the laws of the state of Kansas to  
(Name)  
make educational decisions:

- ☐ on behalf of the above named student
- ☐ on my own behalf (adult student)

hereby revoke consent for **all special education and related services** for the above named student.

This revocation of consent is effective: \_\_\_\_\_  
(Date)

I understand that by revoking consent for all special education and related services, the school district, **after providing me with prior written notice of the termination of services**, must discontinue all special education and related services to the student named above. I also understand that revocation is not retroactive and does not negate an action that occurs after consent is given and before consent is revoked.

I understand that the school district may not use mediation or a due process hearing to challenge my revocation of consent.

I also understand that I have the right to revoke consent and by revoking consent for all special education and related services the school district will no longer be legally required to convene an IEP meeting, to develop an IEP or to provide the above named student with special education and related services.

I further understand that by revoking consent for all special education and related services, I will no longer have the procedural safeguards available to parents, and the student named above will no longer have the procedural protections (including protections regarding disciplinary actions) specified in federal and state special education laws and regulations.

I understand that the school district is not required to amend the educational records of the above named student to remove any references to the student's receipt of special education and related services because of the revocation of consent.

I understand that for the above named student to be reenrolled in special education, an initial evaluation for special education and related services must be conducted to determine if the student qualifies for special education and related services.

\_\_\_\_\_  
(Signature)

**REVOCATION OF CONSENT**  
**FOR PARTICULAR SPECIAL EDUCATION AND RELATED SERVICE(S) AND/OR PLACEMENT(S)**

STUDENT NAME: \_\_\_\_\_

SCHOOL DISTRICT: \_\_\_\_\_

Effective \_\_\_\_\_, I, \_\_\_\_\_, having authority under  
(Date) (Name)  
the laws of the state of Kansas to make educational decisions:

- ☐ on behalf of the above named student  
☐ on my own behalf (adult student),

hereby revoke consent for the following special education and related service(s) and or placement(s) for the above named student:

\_\_\_\_\_  
\_\_\_\_\_

If the IEP team certifies in writing that the above named student does not need the special education and related service(s) and/or placement(s) specified above in order to receive a free appropriate public education (FAPE), I understand that, **after providing me with prior written notice of the termination of services:**

- (a) this revocation of consent will result in the school district discontinuing only the above specified service(s) and/or placement(s) and that all other provisions in the IEP will be continued;
- (b) this revocation of consent does not negate an action that occurs after consent is given and before consent is revoked; and
- (c) the school district will not be considered to be in violation of the requirement to make a FAPE in the least restrictive environment available to the student because of the discontinuation of the service(s) and/or placement(s) specified above.

If the IEP team determines that the student needs the special education and related service(s) and/or placement(s) specified above to receive a FAPE, I understand that:

- (a) the service(s) and/or placement(s) specified above will continue;
- (b) I retain all of the procedural safeguards specified in federal and state special education laws and regulations; and
- (c) I may request mediation or initiate a due process hearing to challenge the IEP team's decision that the special education service(s) and/or placement(s) specified above are needed in order for the student to receive a FAPE.

\_\_\_\_\_  
(Signature) (Date)

As the school representative on this student's IEP team, I, \_\_\_\_\_,  
(Name)

certify, on behalf of the IEP team, that this student's IEP team considered the revocation of consent described above and that the team determined that the student ☐ *does* ☐ *does not* need the special education and related service(s) and/or placement(s) specified above in order to receive a free appropriate public education (FAPE).

\_\_\_\_\_  
(Signature) (Date)

**PRIOR WRITTEN NOTICE  
for  
TERMINATION OF PARTICULAR SPECIAL EDUCATION SERVICES, RELATED SERVICES  
SUPPLEMENTARY AIDS AND SERVICES AND/OR PLACEMENTS  
DUE TO PARENT'S REVOCATION OF CONSENT**

To \_\_\_\_\_  
(Parent/Legal Educational Decision Maker)

Date \_\_\_\_\_

On behalf of \_\_\_\_\_  
(Student's Name)

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

On \_\_\_\_\_, you submitted a revocation of consent, in writing, for the following special education services, related services, supplementary aids and services and placements for the student named above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1) ACTION TAKEN OR REFUSED**

☐ **DESCRIPTION AND EXPLANATION OF THE ACTION TAKEN:**

On \_\_\_\_\_, the following special education services, related services, supplementary aids and services and/or placements will cease: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**All other services and placements will continue as specified in the student's IEP.**

This action will be taken because the education decision maker for this student has revoked consent for: (a) a particular service or services: and/or (b) a particular placement or placements, and the student's IEP team has certified in writing that the student will continue to receive a free appropriate public education without the services or placements specifically stated in paragraph 1.A, above.

☐ **DESCRIPTION AND EXPLANATION OF THE ACTION REFUSED:**

**The proposal to terminate particular special education services, related services, supplementary service and/or placements is refused. The following services or placements will not be terminated.** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

This action is being refused because the education decision maker for this student has revoked consent for: (a) a particular service or services: and/or (b) a particular placement or placements, but the student's IEP team has not certified in writing that the student will continue to receive a free appropriate public education without the services or placements specified paragraph 1.B, above.

**2) OPTIONS CONSIDERED AND WHY THE OPTIONS WERE REJECTED:**

**3) DESCRIPTION OF THE DATA USED AS BASIS FOR THE PROPOSED ACTION**

***(including each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action):***

**4) OTHER FACTORS RELEVANT TO THE PROPOSAL (e.g. LRE, harmful effects):**

**ADDITIONAL INFORMATION**

You may contact any of the following resources to help you understand the federal and state laws for educating children with exceptionalities and parental rights (procedural safeguards) granted by those laws: Kansas State Dept. of Education 800-203-9462; Disability Rights Center of Kansas (DRC) (877) 776-1541; Families Together, Inc. 800-264-6343; and Keys for Networking 785-233-8732.

**PROCEDURAL SAFEGUARDS TO PROTECT PARENT'S RIGHTS**

Both state and federal laws concerning the education of children with exceptionalities include many parental rights. Receiving notices of action the school wants to take in regard to your child and being a part of your child's educational planning team are examples of the rights these laws give you. These laws also require that the school follow certain procedures to make sure you know your rights and have an opportunity to exercise those rights. The school is required to give you a copy of the rights of a parent at least one time each school year. If you have any questions regarding your rights or if you wish to receive an additional copy of your rights, you may contact the special education director of the school or special education cooperative.

**DELIVERY**

I, \_\_\_\_\_,

☐ hand delivered,

☐ mailed,

☐ other \_\_\_\_\_  
(specify)

this notice to \_\_\_\_\_ on \_\_\_\_\_.  
(Name) (Date)

## 18. Para Educators

## Para Educators

1. All para Educators must read the para educator handbook located on the website. [www.ksdcec.org](http://www.ksdcec.org)
2. Para educators shall follow all applicable policies, rules, and regulations established by the Doniphan County Education Cooperative #616.
3. It is the policy of the DCEC board and administration to not have a single para educator work exclusively with a single student.
4. It is the policy of the DCEC board and administration that para educators not attend IEP meeting.