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# *Procedural Handbook for Administrators*

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*Special Education*

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Haysville USD 261

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***District Inclusion Mission Statement***

*To advance learning for all, the Haysville School District is committed to the integration of students with disabilities into the regular education setting to the maximum extent appropriate to meet their needs.*

## **Procedural Handbook for Administrators**

Special Education

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### Introduction

This Handbook has been created for Site Administrators, the Management Staff and the Special Education Staff in an attempt to answer questions regarding the Special Education policies, procedures and mandates within the state, the federal government and district. The information provided is only a brief reference. In-depth information will be provided to you upon request. (Just as a side note, there are 854 special education laws that we must adhere to.)

The first section is the Special Education Department Process and Procedures; the second section is for memos from both departments that will be sent out throughout the year. This Handbook is in alphabetical order with a Table of Contents that will direct you to the area(s) that you may need some explanation and/or clarification. Since the laws are always being updated, the Handbook should be considered a “masterpiece” in progress. This Handbook also has a space for your personal notations.

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**Special Education Staff Contact:**

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**Notes:**

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### **Special Education Acronyms:**

*FAPE – Free Appropriate Public Education*

*LRE – Least Restrictive Environment*

*IDEA – Individuals with Disabilities Education Act*

*IEP – Individual Education Plan*

*ADD – Attention Deficit Disorder*

*ADHD – Attention Deficit Hyperactivity Disorder*

*APE – Adapted Physical Education*

*DD – Developmentally Delayed*

*DHH – Deaf and Hard of Hearing*

*ECC – Early Childhood*

*HI – Hearing Impaired*

*ID—Intellectual Disability*

*LD – Learning Disability*

*OI – Orthopedically Impaired*

*O&M – Orientation and Mobility*

*ED – Emotionally Disturbed*

*SL – Speech and Language*

*SMH – Severely Handicapped*

*VI – Visually Impaired*

*MM – Mild to Moderate*

*TBI – Traumatic Brain Injury*

*OHI – Other Health Impaired*

### **Notes:**

**Accommodations/Modifications:**

An accommodation/modification can be used only if:

- The student is currently using this accommodation/modification in every aspect of the educational program.
- The student needs this to survive and be successful, in class, at home, 24-7.
- It is appropriate AND necessary.

It is NOT appropriate to give a student an accommodation/modification on the day of the test if you have not utilized it within other situations.

**State Testing Definitions:**

Category 1: Testing condition is available to students who regularly use it in the classroom. All students can have Category 1 accommodations.

Category 2: Accommodation is available only to students with documentation in IEP or 504 plan.

Category 3: Modifications (fundamentally alters what the test measures) is available only to students with documentation in IEP or 504 plan. This is written into the student's IEP or 504.

**Notes:**





**Administrators at IEP meetings:**

- According to the federal and state law, an administrator or administrator designee must be in attendance at every IEP meeting.
- A parent has the right to stop the meeting if the administrator or administrator designee fails to attend the meeting.

What to look for before signing the IEP.

1. Accuracy of dates
2. Appropriate Supports and Services
3. Appropriate Instructional Setting and Placement
4. Comments and Summary is complete
5. All staff in attendance at the IEP, sign the IEP

If you have questions regarding the commitment of special education funds, indicate to the team that a phone call will be made to the Director of Special Education or the Assistant Director of Special Education and that the Special Education Office will contact the IEP team and parent.

**Notes:**

**Administrative Designee:**

- This is a group of highly qualified; certified personnel who are interested in mentoring or administration.
- Responsibilities include Administrator Designees for IEP meetings, teacher support, one to one training, etc. This must be done after their workday or on non-work time if they agree to it.
- A list of names and phone numbers should be appointed each year by the building principal and submitted to the Special Education Administrative Office.

- **Notes:**

## **Behavior Support Plan (BIP):**

### **What is a Behavior Support Plan (BIP)?**

- A Behavior Intervention Support Plan includes “proactive action planning to address behavior(s) that are impeding learning.” It includes “positive behavioral interventions, strategies and supports.” “Behavior Intervention Support Plans should focus on understanding ‘why’ the behavior occurred (i.e. ‘the function’ or ‘communicative intent’) then focus on teaching an alternative behavior that meets the student’s need in a more acceptable way. This includes making instructional and environmental changes, providing reinforcement, reactive strategies and effective communication.” (Diana Browning Wright, 2003)

### **Why Do I Have to Write One?**

- Every student is entitled to a Free Appropriate Public Education (FAPE). This implies that the educational experience is enriching and growth oriented. Consequently, any behaviors that interfere with the learning process need to be addressed for the benefit of the student, his or her peers and the general learning environment.
- For special education students, the Individuals with Disabilities Education Act (IDEA) – a Federal mandate – requires the IEP team to address ‘behavior that impedes his or her learning or that of others’. (IDEA Section 614(d)(2)(B)...the Federal Regulations further point out that ‘positive behavior interventions, strategies and supports’ are to be considered supplementary aids and supports...Whenever a student receiving special education services exhibits difficult behaviors, whether early or late in an escalating behavior pattern, the IEP must address the situation in a behavior plan.”

### **Who Makes Up the Behavior Support Team?**

The member of the Behavior Support Team will depend upon the specific needs of the student in question. In some cases, the team may consist of regular education teachers, an administrator and a counselor. In other cases the Student Study Team, 504 team or IEP team may form the Behavior Support Team.

### **Notes:**

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### **Budget:**

- All Special Education expenditures are processed through the Special Education Department via your school site. Individual teacher's accounts are to be utilized for instructional supplies. Special Education funds are to be used to supplement NOT to supplant.
- Site budget support may vary and is determined by the site administrators. The budget provided to you by the Special Education Department is to supplement your program not to supplant.

Items purchased must have a curricular justification which is aligned to the Kansas State Standard and a District or IEP Goal written on the purchase requisition. Any purchase requisition without the curricular justification will be sent back to the teacher.

Open Purchase Requisitions are not permitted.

### **Notes:**

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**Calendars:**

- The school psychologist, occupational therapist, physical therapist, hearing impaired teacher and speech pathologist maintain a calendar at the District office.
- If you would like a copy of their calendars, please contact Gina Latta at 554-2222

**Notes:**

**Change of Placement:**

- When the IEP team is considering a Change of Placement for a student, (Mild to Moderate to Moderate to Severe and visa versa or any program to any program) you **MUST** complete the Change of Placement document entitled “Considerations When Contemplating a Change of Placement.”
- This document will give you valuable information prior to making a decision. This also gives good information to staff who are receiving the student. This form is used in conjunction with reviewing assessments, IEP information and classroom documentation/interventions.
- If you are contemplating a Change of Placement for behavioral issues, then you **MUST** have a Behavior Support Plan with goals and benchmarks in place and all of the above information completed as part of your analysis/documentation/interventions regarding your request to make a change.

**Notes:**

**Child Find - Haysville:**

- Haysville Unified School District recognizes its responsibility to conduct a continuous child find. Parents have the right to make a written referral requesting assessment to determine possible eligibility for special education services for their child.
- In addition, each school has a MTSS Team, a body of general education teachers, that ensures a systematic process for addressing concerns of teachers, parents, other appropriate professionals and agencies regarding individual students.
- The MTSS Team’s role is to address the concerns about the individual student to support the classroom teacher through practical suggestions, and, to modify the general education program and to direct them to appropriate general education support services. After the resources of the general education program have been considered and, when appropriate, utilized the student is referred for assessment for possible eligibility for special education services.
- The SIT Team consists of all the school site special education staff that review the referral on the student, determine the assessment procedures and assign staff to complete the assessments. Itinerant staff or district level staff should be brought into the assessment process as needed. Upon the completion of the assessment, SIT meets as an IEP team, reviews the assessment results, determines eligibility for special education and related services as well as placement. In addition, SIT plays an ongoing role in overseeing triennial reevaluations, change of placement and/or change of eligibility and concerns relating to special education students.

**Notes:**

### **Continuum of Program Options:**

Each building must ensure that a full continuum of placement options is available to meet the needs of individuals with exceptional needs for special education and related services”. These options are listed as follows:

1. General education (without support)
2. General education (with support)
3. General education (with resource support)
4. Self contained (in building)
5. Day School Setting
  
6. Special schools and residential centers

Students eligible for special education services may receive service through any one or a combination of these options that are the most appropriate for meeting their educational goals and objectives.

### **General Education Programs:**

General education programs are offered to all students at the school without regard to any eligibility criteria. Students who are in general education programs may also be eligible for categorical programs, such as special education, bilingual education, migrant education and other programs designed to support students in achieving an education. The current trend is toward providing special services to support the general education program and reduce the amount of time a student is removed from the general education classroom. All students should have access to the core curriculum, with assistance as needed, to maintain a satisfactory level of achievement. Only a few students will have conditions requiring that they be educated away from general education programs.

### **General Education Programs with Supports:**

Same as above but an additional adult is present in the classroom to support identified students needing added support the general education classroom to be successful. Adding this support is an IEP team decision and must be included in a student’s IEP.

### **Resource Programs**

Resource Specialist programs are under the direction of a resource specialist who can provide instruction aligned with the core curriculum, information, assistance, consultation, resource information and material, and coordination of special education services for individuals with exceptional needs. Students who receive services from this program must be simultaneously enrolled in general education classes for the majority of the school day.



### **Special Classes/Self-Contained Classrooms**

Special classes provide instructional settings for students when the nature or severity of the disability prevents their participation in the regular school program for the majority of the school day. Students placed in these settings have the right to participate in activities with non-disabled peers, as appropriate, including meals and recess periods. The classes generally are set up to approximate a general education classroom, with small class sizes and specialized instruction available to each of the students. The IEP team must document its rationale for placing a pupil in a program in other than the school and classroom that the pupil would otherwise attend if he or she did not have a disability. The documentation must indicate why the pupil's disability prevents the pupil's needs from being met in a less restrictive environment, even with the use of supplementary aides and.

### **Day Schools Settings**

Day school settings are the most restrictive setting within our district to serve students. Students placed in the day school setting must have permission from the Day School Administrator and the Director of Special Education before placement may occur.

### **Special Out of District Placements and Residential Placements**

These settings require a written contract approved by the Board of Education and the Director of Special Education. Examples of such placements include Levy and Heartsprings.

### **Notes:**

**Due Process:**

The due process hearing procedures prescribed by federal regulations are extended to the pupil, the parent and the public education agency involved in any decisions regarding a child under any of the following circumstances:

1. There is a proposal to initiate or change the identification, assessment or educational placement of the child or the provision of a free, appropriate public education to the child.
2. There is a refusal to initiate or change the identification, assessment, or educational placement or the provision of a free, appropriate public education to the child.
3. The parent refused to consent to an assessment of the child for the Individualized Education Program for the Child.

Due process hearing procedures include the right to a mediation conference, the right to examine pupil records, and the right to a fair and impartial administrative hearing at the state level. Timeline procedures are identified within the “Parents’ Rights and Appeal Procedures” form.

**Uniform Complaint Procedures:**

A complaint must be a written and signed statement alleging a violation of a federal or state law or regulation, which may include an allegation of unlawful discrimination. The local Special Education policy ensures that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate.

The complainant’s procedures must include:

1. Filing a formal, written complaint not later than six months from the date the alleged matter occurred or
2. Obtaining a written extension to file, not to exceed 90 days, from the Superintendent

State complaint procedures can be initiated only after an attempt to settle the matter has been conducted district level. If a state complaint is first sent to the Superintendent, it will be immediately forwarded to the Director of Special Education for processing and resolution. When direct State intervention is warranted and deemed necessary the following procedures shall be used to resolve the issues of complaint:

1. The Department shall offer to mediate the dispute, which may lead to a state mediation agreement.
2. The Department shall conduct an on-site investigation if either the district or complainant waives the mediation process or the mediation fails to resolve the issues, staying within a 60-day time line.
3. Mediation shall not exceed 30 days unless the district and the complainant agree to an extension.

**Parent’s Rights:**

A copy of parent’s rights is sent to the parent with the conference notice, presented to the parent when an assessment is offered and presented to the parent at IEP meetings. Additional copies of the parents’ rights are available for distribution, in both English and Spanish, through the Special Education Office at 554-2222. Also see Appendix 4 for flow charts and forms.

**Notes:**

## **Evaluation Referrals:**

This is a vital part of the SIT process and starts the timelines.

The school psychologist and/or speech pathologist is responsible for completing and sharing the information on the evaluation with the parent.

Evaluation plans should not be given to parents without prior authorization and knowledge of the school psychologist and/or speech pathologist.

If this is a speech only referral, the speech pathologist is responsible for the evaluation plan.

Procedural safeguards (parent’s rights) must be provided to the parent at the time the Consent to Evaluate is signed.

The 60-day timeline starts once the school psychologist and/or speech pathologist receive the signed Consent to Evaluate.

60-day timeline does not include off track time or winter break.

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The purpose of the full and individual initial evaluation is two-fold:

- a) to determine the educational interventions required to resolve the presenting problem, behavior of concern, or suspected disability, including whether the educational interventions are special education (exceeds capacity of general education resources alone); and
- b) to determine if the individual is eligible for special education. In Kansas, an individual is eligible for special education when there is a need in both areas listed below:
  1. a disability (determined by assessing rate of educational progress and discrepancy from expectations); and
  2. an instructional need that can only be met through the use of special education resources.

The evaluation consists of procedures by which the team gathers sufficient data to identify the instructional needs of an individual and determine the presence of a disability. Specifically, the Full and Individual Initial Evaluation gathers and summarizes information around four key concepts: the exclusionary factors, progress, discrepancy, and need. The *steps* in conducting the Full and Individual Initial Evaluation are:

1. Collect any information not already available to rule out the impact of exclusionary factors (e.g., lack of appropriate instruction, Limited English Proficiency, socio-economic or cultural circumstances, attendance) on student performance.
2. Collect any information not already available about discrepancy, progress (rate of growth) and need.
3. Summarize all of the information to be used for eligibility determination in the Educational Evaluation Report.
4. Set up the Eligibility Determination Meeting where team members will review that data collected during the Full and Individual Initial Evaluation.

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**60 Calendar** Once informed parental consent is obtained, the team must complete the evaluation and hold the meeting to determine eligibility on or before the 60<sup>th</sup> calendar day following receipt of the signed *Consent for/Notice of Full and*

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*Individual Initial Evaluation* by the public agency. The date the consent is received by the public agency should be noted on the form and submitted for data entry into IMS.

Note: For children transitioning from a birth to 3-year program the team must complete the evaluation and hold the meeting to determine eligibility within 60 days and prior to the child's third birthday.

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**Assessment  
Tools and  
Strategies**

In conducting the full and individual initial evaluation, the evaluation team must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information including information provided by the parent to make decisions. The team may not use any single measure or assessment as the sole criterion for, determining whether a child is a child with a disability.

Assessment should be functional in nature so that the resulting data can be linked to designing and evaluating interventions that address the individual's area(s) of concern. Information from the functional assessment will inform the *Individualized Educational Program (IEP)* for, the child if found eligible for special education.

Functional assessment is multi-dimensional and utilizes measures that are specific and direct and have a clear connection between the questions being answered and the data being gathered.

When a test is used in decision making, the test must be technically sound, selected and administered so as not to be discriminately on a racial or cultural basis. It must be administered in the child's native language or other mode of communication, in a form most likely to yield accurate information on what the child knows and can do, and be a valid and reliable measure for, the stated purpose. Each test should be administered by trained and knowledgeable personnel and administered in accordance with instructions.

An approved list of test can be provided to you by the Director of Special Education upon request.

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**Evaluation  
Team  
Membership**

Members of this team include: parents of the individual being evaluated; the general education teacher(s); a special education department representative who is qualified to supervise the provision of specially designed instruction and who is knowledgeable about general education curriculum and the availability in the district, general education staff that works with the student, any individual completing various components of the evaluation as well as interpret the instructional implications of the evaluation results; other individuals with knowledge or special expertise regarding the eligible individual, as appropriate; and the individual being considered for eligibility as appropriate.

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**Medical or Mental Health Diagnoses and Special Education Eligibility  
Technical Support Paper**

Educational teams may encounter parents and/or health providers who believe a medical diagnosis automatically entitles their child to special education services and specific accommodations. While medical diagnoses are important pieces of information in the process whereby teams determine if a child is suspected of having a disability, they do not answer all the questions necessary to determine special education eligibility. Special education multidisciplinary teams must determine if the student's rate of progress, discrepancy from peers and instructional needs are substantial enough to warrant special education and related services.

The law provides that a team, not an individual, must make a determination of whether a child is eligible to receive special education; furthermore, the law specifies what factors the team must consider, 34 C.F.R. 5 300.304-305. Medical diagnoses do not meet these standards for team participation. Also, the law specifically states that "evaluations and information provided by the parents of the child" are one source of the team's data. 34 C.F.R. 5 300.305(a)(1)(i). The team must consider a medical diagnosis, but it is not bound by any conclusions contained in the diagnosis. Additionally, the law specifies that an eligibility determination may not be made on a single piece of information, 34 C.F.R. 5 300.304(b)(2), such as a medical diagnosis. While a diagnosis from a private provider may be enough to create a *suspicion* that a child is a child with a disability, the diagnosis itself is never enough to determine *eligibility*.

Commentators have provided analysis that supports the requirements in the law. Mark Ward, KSDE Special Education attorney, indicates there is confusion regarding special education eligibility in the medical community. For example, "Physicians tell parents of students with ADHD to inform the school district that their child is OHI and parents think the school has to comply [in terms of eligibility]. Some schools make the mistake of caving in to that demand -- we make sure to follow our own eligibility criteria " (Caruso, 2006).

Attorney Jim Walsh, a noted special education attorney and speaker at several state, national and international special education conferences suggests a three step response when parents request an evaluation based on a medical or mental health referral. (Walsh, 2006).

First, the parents should be thanked for their interest and concern regarding their child's education, as well as for sharing any information that they have which might assist the team in educating the child.

Second, the parents should be asked to sign an exchange of information form, explaining to parents that school staff will want to share information with the doctor regarding progress and may want to ask specific questions about how the health or mental health diagnosis might impact the child's educational progress.

The third step is to follow up with the doctor. Ask the doctor to describe how the decision to refer was made. Did the physician visit with anyone from the school or review school records? What information was the parent able to share with the physician? What is the history of the physician with the child and has the issue been present over time? In turn, the school visiting with the doctor should share how special education eligibility is determined in the state of Iowa, most specifically the three components of discrepancy, rate of progress and instructional need

Given the medical referral, school based teams might best be served by completing the Disability

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Suspected Form to determine if an evaluation for special education is warranted. All information available in each of the performance domains is reviewed to determine if an educational disability (discrepancy from peers, rate of progress different than peers) is suspected.

District evaluation teams should consider a range of data when determining IDEA eligibility, not just medical diagnoses in order to make informed eligibility decisions based on information from a variety of sources. While school teams may certainly grant weight to the recommendation of physicians, doctors do not determine eligibility. As explained above, special education eligibility is determined based on the child's educational performance and by "a team of qualified professionals and the parent of the child"

### **Written Parental Consent for Evaluation**

<b>Citation</b>	34 C.F.R. 5 300.9 (defining consent), 300.300 Kansas Rules of Special Education 41.9,41.300
<b>Informed Parental Consent Required</b>	<p>Prior Written Notice for a full and individual initial evaluation informed parental consent must be obtained. This occurs when district suspects that the child may have a disability and need for special education and related services.</p> <p>Parental consent is documented with a signature on the <i>Consent for/Notice of Full and Individual Initial Evaluation</i> form.</p> <p>As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making authority, etc.), the school <i>must accept <u>either</u> parent's</i> consent or revocation of consent.</p>
<b>Definition of Informed Consent</b>	<p>Informed Consent means:</p> <ol style="list-style-type: none"><li>1. The parent has been fully informed of all information relevant to the activity (evaluation) for which consent is sought, in his or her native language, or other mode of communication</li><li>2. The parent understands and agrees in writing to the carrying out of the activity (evaluation) for which his or her consent is sought, and the consent describes that activity (evaluation).</li><li>3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.</li><li>4. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).</li></ol> <p>Note: Prior to obtaining consent, the evaluation team, including the parents, must determine if any additional assessments are needed and procedural safeguards must be reviewed with the parent.</p>
<b>Special Circumstances Regarding Parental Consent</b>	<p>Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; or administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. Before conducting a Full and Individual Initial Evaluation, however, reasonable attempts must be made to obtain written parental consent.</p> <ol style="list-style-type: none"><li>1. If the parent of a child does not provide consent for initial evaluation or if the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the</li></ol>

child by utilizing procedural safeguards. The public agency does not violate its obligations to find and evaluate children suspected of having disabilities if it declines to pursue the evaluation. Prior Written Notice must be provided to the parents indicating the decision to NOT pursue the evaluation.

2. If a parent of a child who is receiving competent private instruction or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the parent fails to respond to a request to provide consent, the public agency may NOT use the consent override provisions of the due process procedures, and the public agency is not required to consider the child as eligible for services.
3. If the parent consents and then revokes consent once the evaluation has begun, the revocation is not retroactive. Prior Written Notice documents the team's decision to honor the parent request to end the evaluation. The eligibility determination worksheet must be completed and paperwork must be submitted to the special education district office. Any data gathered to the point of consent revocation may be summarized and placed in the student's educational record.
4. For initial evaluation only, if the child is a ward of the State (e.g., in foster care or in the custody of SRS) and is not residing with his or her parent, the public agency is not required to obtain informed consent from the parent if:
  - despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child; the rights of the parents have been terminated in accordance with State law; or
  - the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child
  - In situations described in the first or second bullets, KSDE must appoint a surrogate parent, who will decide whether or not to give consent. Only a person meeting the definition of parent may consent to beginning services.
5. If a child who has reached the age of majority requests an evaluation, the public agency must consider this request the same as if a parent requests the evaluation. A full and individual initial evaluation is required only if the child is suspected of having a disability. The evaluation team should complete the *Disability Suspected Form* to guide their decision making. If the team concludes that a disability is not suspected and that an initial evaluation is not warranted, *Prior Written Notice* must be provided to the individual, since he or she has reached the age of majority, including an explanation of why the public agency refuses to conduct the evaluation and the information upon which this decision is based. If the team concludes that an evaluation is warranted because a disability is suspected, the individual may sign the *Consent for/Notice of Full and Individual Initial Evaluation*

**Evaluation must be comprehensive**

The evaluation team must ensure that the child is assessed in all areas related to the suspected disability, and that the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to a particular disability or performance domain. For preschool

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children the evaluation must include information addressing the early childhood outcome areas.

Kansas Rules state that evaluations must be comprehensive including, if applicable, the collection of additional information needed to design interventions intended to resolve the presenting problem, behaviors of concern, or suspected disability. This includes, if appropriate, assessment or evaluation of health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, adaptive behavior and motor abilities. This is not an exhaustive list of areas that may be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child.

### **Kansas Performance Domains**

The assessment areas for the comprehensive evaluation can be summarized within seven performance domains: academic, behavior, health, physical, hearing/vision, adaptive and communication. Evaluation in these performance domains addresses the federal disability categories (refer to Eligible Individual section). Evaluation teams review available and current information in each of the performance domains to determine whether the area warrants further evaluation or can be ruled out as a relevant contributing factor to the presenting problem or behavior of concern. These performance domains serve three purposes.

- They represent areas of skill and function that are inherent in the thirteen federally designated disability categories.
- By evaluating or ruling out each of the domains Kansas assures that all children who have disabilities and need special education and support and related services are identified.
- The performance domains provide a framework for consideration of the child's instructional needs

### **Performance Domains**

The Kansas Performance Domains are defined as follows:

<b>Academic</b>	Grade level achievement of standards related to listening comprehension oral expression, basic reading skills (reading comprehension & fluency), math calculation, mathematical problem solving, and written expression.
<b>Behavior</b>	Awareness of self, identification and expression of emotions, self-regulation, and interaction with others.
<b>Physical</b>	Gross motor skills, fine motor skills and mobility for learning, living and working.
<b>Health</b>	General condition of the body or mind, especially in terms of the presence or absence of illness, injury or impairments.
<b>Hearing/Vision</b>	The ability to perceive sound and/or the ability to see.
<b>Adaptive Behavior</b>	Everyday living skills (e.g., dressing, eating, toileting), work skills, or school functioning skills (e.g., meeting timelines, organization of material) that a child learns in the process of adapting to his/her surroundings.



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**Communication** Receptive and expressive language (form, content or use). This includes, but is not limited to, language (social communication), vocabulary, speech sound production, voice (nasality), or fluency.

Attention to each of the performance domains assures that the evaluation process is sufficiently comprehensive to identify all of the child's special education and related service needs.

### **Academic Domain**

Academic performance in Kansas's K-12 system is defined as grade level achievement of the general curriculum, including the district's implementation of the Core Curriculum, related to listening comprehension, oral expression, basic reading skills (phonics, phonemic awareness, fluency), reading comprehension (vocabulary and comprehension), math calculation, mathematical problem solving, and written expression for Early Childhood (ages 3-5) academic performance is achievement of Kansas Learning Standards related to skills for mathematics, scientific reasoning, problem solving early literacy, and early writing.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

#### **Guiding Questions:**

- What evidence indicates the child has received appropriate core instruction in listening comprehension, oral expression, basic reading skills (reading comprehension & fluency), math calculation, mathematical problem solving, and written expression?
- For preschool children what evidence indicates the child has received appropriate core instruction and activities in the Kansas Early Learning Standards provided at home or in early childhood settings?
- What evidence indicates the child has received appropriate supplemental instruction including research based intervention?
- What evidence indicates the academic performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?

Behavior as a performance domain means awareness of self, identification and expression of emotions, self regulations, and interaction with others.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitations of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

### **Behavioral Domain**

Guiding Questions:

- What evidence indicates the student has received appropriate instruction in awareness of self, identification and expression of emotions, self-regulation, and interaction with others? (e.g., Love and Logic, Character Counts, Body Basics, and OLWEUS Bullying).
- What evidence indicates the student has received appropriate supplemental instruction (systematic and individualized strategies for achieving social and learning outcomes) and positive behavior supports based on a function of the behavior?
- What evidence indicates the behavior performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?

**Physical Domain**

The physical performance domain includes gross motor skills, fine motor skills and mobility for learning, living and work.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

**Guiding Questions:**

- What evidence indicates the student has received appropriate instruction and supports in the areas of gross motor, fine motor and mobility?
- What evidence indicates the student has received appropriate supplemental instruction and supports to address their physical needs?
- What evidence indicates the student's physical skills are adversely impacting educational performance, or access to and participation in the educational environment or setting?
- 

**Health Domain**

Health is the general condition of the body or mind, especially in terms of the presence or absence of illness, injury or impairments. Further evaluation is warranted in this domain when there is evidence of a health condition that adversely affects a child's educational performance.

**Guiding Questions:**

- What evidence exists that the student has a health condition (illness, injury or impairment)?
- What evidence indicates the student's health condition is adversely impacting educational performance, or access to and participation in the educational environment or setting?

**Hearing/vision Domain**

The ability to perceive sound and/or the ability to see.

Further evaluation is warranted in this domain when there is evidence of a vision or hearing loss that adversely affects a child's educational performance.

**Guiding Questions:**

- What evidence exists that the student has a vision loss?
- What evidence exists that the student has a hearing loss?
- What evidence indicates the student’s vision or hearing loss is adversely impacting educational performance, or access to and participation in the educational environment or setting?

**Communication Domain**

Communication as a performance domain means demonstrating receptive and expressive language (form, content or use). This includes, but is not limited to, language (social communication), vocabulary, speech sound production, voice (nasality), or fluency. This performance domain is aligned with the lows Core Curriculum Essential Components for Literacy, including speaking and listening skills.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress, which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

**Guiding Questions:**

- What evidence indicates the student has received appropriate core and supplemental instruction in speaking and listening skills?
- What evidence indicates the student has received appropriate core and supplemental instruction including research based intervention for language-based activities, comprehending information presented orally or conveying information?
- What evidence indicates the communication performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?
- What evidence indicates the student has received appropriate core and supplemental instruction including research based intervention to use language and vocabulary appropriate to the message and the audience?
- What evidence indicates the student has received appropriate core and supplemental instruction including research based intervention to apply active listening strategies in a variety of settings to focus, think and respond verbally and nonverbally?

**Adaptive Behavior**

Adaptive functioning as a performance domain means demonstrating everyday living skills (e.g. dressing, eating, and toileting), work skills, or school functioning skills (e.g., meeting timeliness organization of materials) that a student learns in the process of adapting to his/her surroundings.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress, which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

**Guiding Questions:**

- What evidence indicates that the student's background of developmental support (parenting childcare, early childhood educational opportunities) is similar to peers?
- What evidence indicates that the cultural and social expectations (e.g., expectations for self-care) of this student related to adaptive behavior skills are similar to peers?
- What evidence indicates the student has received appropriate core and supplemental instruction in adaptive skills Such as, social problem solving and daily living skills as well as organization, time management or other work related skills?
- What evidence indicates the adaptive performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?

**Referral Process for Students Already Receiving Services**

If a student is already receiving special education services and a PT, OT, and/or APE concern arises, the appropriate IEP team member should reference the resources and checklists that have been provided by the above mentioned therapists. These strategies/interventions should be implemented and determined whether or not they have been successful. The appropriate adaptations should be given ample time to determine if they are successful or not.

If adaptations are unsuccessful, and the team determines that PT, OT, and/or APE services may be needed, the psychologist should meet with the IEP team as well as the PT, OT, and/or APE to consider initiating an evaluation to determine if a specific related service should be added.

If an evaluation for the related service is deemed necessary, parent permission must be obtained prior to the evaluation. Once consent is received, the therapist will complete an evaluation.

When the evaluation for the related service is completed the therapist will attend the staffing conference to report results. A written report of any assessments and observations will be provided. Therapy services will be added to the IEP with appropriate goals and benchmarks if services are determined to be necessary.

Although this is an initial evaluation for related services, the school psychologist will complete all the necessary staffing paperwork for a reevaluation. (It is a reevaluation as child is already receiving special education services).

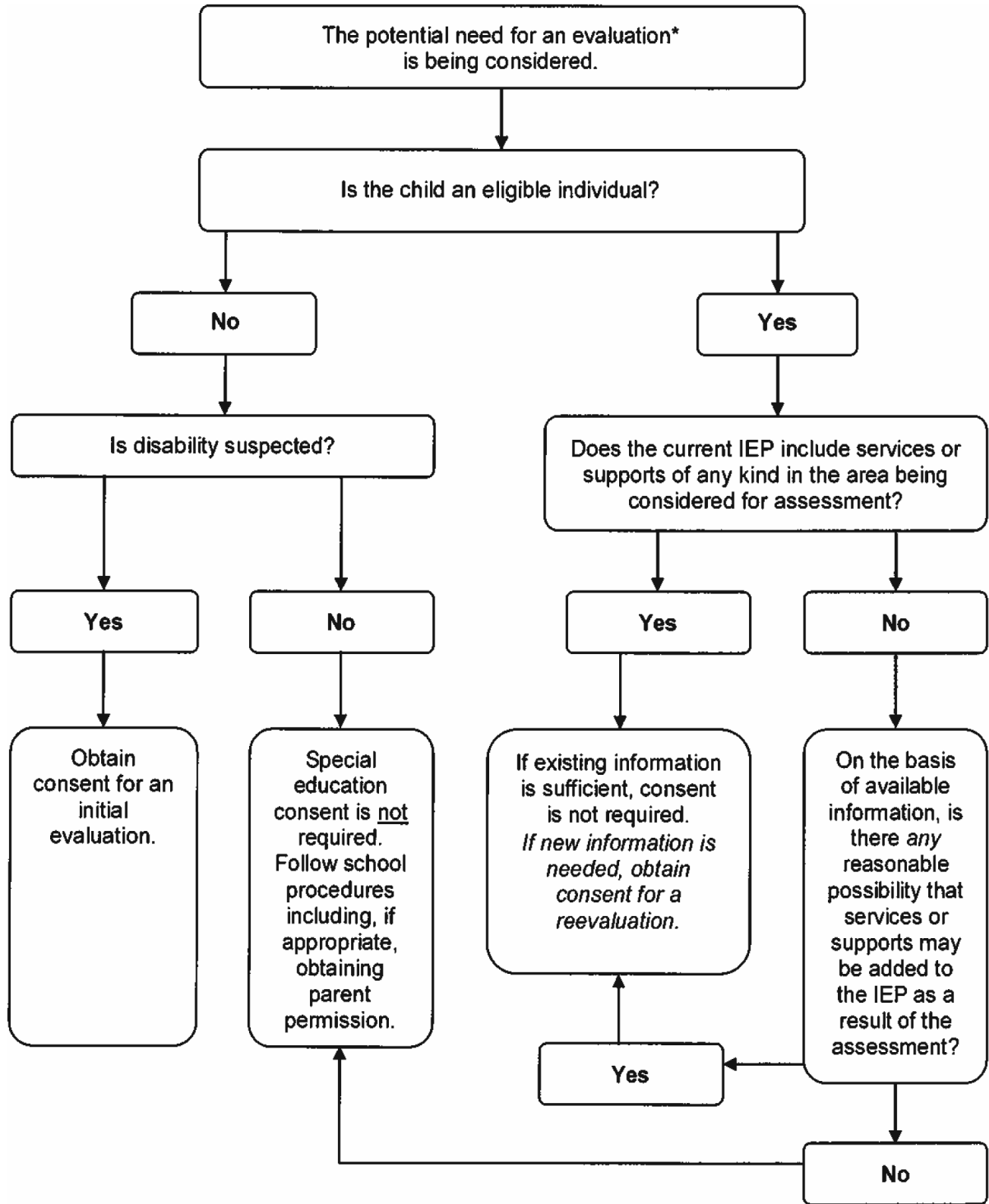
**Role of the Occupational Therapist, Physical Therapist, and Adaptive Physical Education Teacher**

The therapist is considered to be part of the IEP team on students who are currently receiving these related services and should be provided with a timely notification of reevaluations and IEP meetings. Their input must be obtained so that present levels of educational performance, annual goals, benchmarks, and service times may be updated and modified as necessary.

For students currently receiving PT, OT, and/or APE services, the school psychologist is responsible for providing adequate notification to the therapist of any upcoming reevaluations or special education meetings.

The primary service provider is responsible for providing adequate notification to the therapist of all other typical IEP review meetings.

When is Special Education Consent for an Evaluation Needed?



Evaluations do not include screening for instructional purposes i.e., screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation) or group screenings (e.g., hearing, vision). Special education consent is **not** required for these screening purposes.

## Eligibility Determination

**Citation** Rules of Special Education 41.306; 41.322; 41.328; 41.501  
*Special Education Eligibility Standards*, Kansas Department of Education, July 2011

**Eligibility Determination Discussion** Upon completion of the full and individual initial evaluation (e.g., administration of assessments, summarizing existing data) and prior to the 60-day time limit, a group of qualified professionals and the parent of the child determine whether the child is a child with a disability and eligible for special education.

Eligibility is defined as the individual's right to receive special education and/or related services. Eligibility determination relies on the establishment of both the presence of a disability and the need for specially designed special education instructional support and related services supports. The evaluation team will answer two questions:

1. Does the individual have a disability? (A disability is a significant skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects the individual's rate of progress and current level of performance)
2. Are specially designed instruction and related services required to meet the individual's educational needs?

When the answer to both questions is "yes" then the individual is eligible for special education and related services.

**Eligibility Determination Meeting** When the evaluation is complete (or nearing completion), the evaluation team will schedule an Eligibility Determination Meeting for the purpose of addressing the question, "Does the child's performance suggest the presence of a disability and the need for specialized instruction and related services?"

Schedule the eligibility meeting on a date and at a time and location convenient for the parent and for the public agencies. Parents must be provided a completed *Meeting Notice*. Advanced notice of the meeting date, time and location must also be provided to all participants to assure meaningful participation. If interpreter services are required to meet the needs of the parent and/or the student, they must also be provided. **Parents must be provided notice at least 10 days in advance unless they waive their right to the 10 day requirement.**

If the parent(s) is unable to attend the meeting, additional attempts must be made to ensure the parent can be a part of this process.

**Evaluation Timelines for Children Transitioning from Part C** For Part C children being considered for Part B eligibility, the eligibility determination meeting must be completed within the 60-day timeline. In addition, the evaluation and subsequent IEP meeting if the child is eligible for special education must occur before the child turns age 3 to meet state performance indicators.

The *Eligibility Determination Worksheet for a Child Transitioning from a birth to 3-year program* requires that a reason be selected when an eligibility determination meeting is not held prior to the child's third

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birthday and within the 60 day timeframe. No reason is considered acceptable and not holding the meeting within the timeframe will be considered non-compliant for meeting federal data requirements.

### **Eligibility Determination Team Membership**

Eligibility decisions are made by a team of individuals comprised of the individualized education program (IEP) team and other qualified professionals, as appropriate. Required participants must be identified and invited to the eligibility determination meeting. The general requirements for team membership are:

- a) parents of the individual being evaluated;
- b) general education teacher;
- c) at least one special education teacher or, if appropriate, at least one special education provider for the eligible individual;
- d) a representative of the LEA or AEA who is qualified to provide or supervise the provision of specially designed instruction and who is knowledgeable about general education curriculum and the availability of the resources of the LEA;
- e) an individual(s) who can interpret the instructional implications of the evaluation results;
- f) other individuals with knowledge or special expertise regarding the eligible individual, as appropriate; and
- g) the individual being considered for eligibility as appropriate.

Additional participants may be invited. This group of individuals is hereafter referred to as the Individualized Education Program (IEP) team.

Note: An individual, when qualified may hold two or more positions on the evaluation team. A school representative is a required participant with knowledge or expertise to interpret the instructional implications of the evaluation results and intervention outcomes.

### **Exclusionary Factors Considered:**

#### **Citation**

34 C.F.R. § 300.306(b)(1)(i-iii)  
Kansas Rules of Special Education 41.305(2)

#### **Discussion**

Evaluation teams examine relevant information to rule out whether a child's performance difficulties are primarily the result of a lack of appropriate instruction, socio-economic variables, cultural differences or poor attendance.

A child must not be determined to be a child with a disability if the team determines that the educational difficulty is primarily related to:

- Lack of appropriate instruction in reading, including the essential components of reading instruction (Phonological Awareness, Phonics, Fluency, Vocabulary, and Comprehension)
- Lack of appropriate instruction in math
- Limited English proficiency

Evaluation teams should also consider if the determinant factors for the child's educational performance is primarily related to other ecological variables, including

- socio-economic status,

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- cultural or ethnic differences, or
- school attendance or mobility (multiple moves, different districts).

### **Lack of Appropriate Instruction, Attendance and Mobility**

To ensure that underachievement in a child suspected of having a disability is not primarily due to lack of appropriate instruction in reading or math, or due to inconsistent instruction based on attendance and/or mobility the team must consider data that demonstrate:

- that prior to, or as a part of, the evaluation process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel;
- that during the instructional intervention the student was present on a regular basis for instruction; and
- repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during such instruction.

The procedure for determining whether or not lack of instruction is a contributing factor has three components.

1. Gather and review class-wide data on all students, and attendance data of the student being evaluated. If most students in the classroom are achieving or are progressing at rates different from the child being evaluated, and the child being evaluated has been in school within the same school district, lack of instruction is not a likely factor and can be ruled out as a contributing factor.
2. Gather and review progress monitoring data from supplemental instruction on similarly performing students. If many students in the group receiving supplemental instruction are progressing at a faster rate than the child being evaluated, then lack of instruction is not likely a contributing factor.
3. Implement an intervention either prior to or as part of the evaluation. The best "test" of whether or not lack of instruction is a causative factor is to implement instruction systematically and evaluate its effect. If, during supplemental intervention (either prior to or as part of the Full and Individual Initial Evaluation), the child's performance improves to the point that short-term intervention will result in performance consistent with grade level expectations, then instruction is likely a causal factor. The child cannot be determined to be a child with a disability. It is appropriate for supplemental instruction to continue in the general education setting

### **Limited English Proficiency**

The context in which evaluation and eligibility decisions are made includes the consideration of linguistic variables unique to the individual. For example, if an individual's performance does not fall below the expectations of peers with similar linguistic backgrounds, the individual's needs are not likely due to a disability requiring special education.

When the family's primary language is not English, a member of the school team who is proficient in the family's language or a trained interpreter should conduct interviews with the family. For students whose primary language is not English, communication deficits only constitute a disability if the communication problem is present in both English and the individual's primary language. During the eligibility decision-making process, the evaluation team must rule out language and acculturation as the primary reason for performance deficits. An assessment of the individual's English language proficiency may be needed in order to develop appropriate interventions or evaluate the individual's response to interventions and to make eligibility decisions. It is important to have someone on the



team who is knowledgeable about the student's linguistic diversity and who has the skills to help differentiate between language acquisition and disability characteristics. The team may find it helpful to review and discuss the following questions:

- How is the student's performance when compared to others of like linguistic backgrounds?
- Are the materials and methods used in the evaluation to measure progress, discrepancy and need non-discriminatory?
- Have assessments been administered in the language and form most likely to yield accurate information on the student's performance?
- Did the interventions from which progress data is gathered adequately address linguistic variables impeding the student's performance?
- What is the student's performance on measures of linguistic aptitude (e.g. Basic Interpersonal Communication Skills, Cognitive Academic Language Proficiency)? Does the student speak and understand the language of instruction?
- Based on the information gathered and analyzed with respect to this student, does the team feel that the individual's educational performance is primarily the result of linguistic variables?

If it is determined that the child's performance is primarily a function of limited English proficiency, the team will document this conclusion on the *Educational/Evaluation Report*. At the Eligibility Determination meeting the exclusionary factors will be discussed and the student will be determined "not eligible" for special education services. Documentation of the eligibility determination must be provided to parents on the *Prior Written Notice*.

**Ecological  
Variables of  
Socio-  
economic  
Status**

The context in which suspected disability and eligibility decisions are made includes the consideration of the socio-economic factors unique to the individual. To ensure that socio-economic status is not a primary reason for underachievement in a child suspected of having a disability, Haysville staff must be aware of the impact of socio-economic variables on learning and take proactive steps to ensure that students from low SES backgrounds are provided the necessary supports, instruction and enrichment activities to ensure academic success.

During the eligibility decision-making process, the evaluation team must rule out economic factors as the primary reason for performance deficits. It is important to have someone on the team who is knowledgeable about the effects of socio-economic variables on educational performance. The team may find it helpful to review and discuss the following questions:

- Are the child's needs a result of, or in part related to, a lack of having similar opportunities to learn as peers?
- What social contexts (e.g. health, nutrition, safety, and mobility) may be impacting educational performance?
- What strategies have been employed to assist learning (e.g. modeling, scaffolding, strength based instruction, school based opportunities for drill/practice) have been provided? Describe the impact.
- What behavioral strategies have been used to foster resilience, positive responses, motivation and engagement? Describe the impact.
- Is the child's pattern of learning similar to other students with similar socio-economic status?

Teams are encouraged to gather and analyze educational history, ecological,

contextual, instructional and behavioral information during the full and individual initial evaluation to ensure that students from low SES are not over-identified for special education and related services. Considering the elements of lack of appropriate instruction may provide teams with additional guidance.

**Ethnic, Racial, Cultural, and Familial Variables**

The context in which eligibility decisions are made includes the consideration of ethnic, racial, cultural, and/or familial variables unique to the individual. If the team determines that such factors might explain the individual's lack of academic achievement or functional performance, further inquiry needs to occur to determine their impact. It is important to have someone on the evaluation team (or who has consulted with the team) who is knowledgeable about the student's ethnic, racial, cultural or familial diversity and who has the skills to help differentiate between cultural differences and learning problems. To ensure that ethnic, racial, cultural or familial factors are not the primary reason for underachievement in a child suspected of having a disability, the team might find it helpful to review and discuss the following questions:

- How is the individual's performance compared to others of similar backgrounds?
- Are the materials or techniques used to measure the child's performance non-discriminatory?
- Did interventions address cultural, racial, ethnic or familial variables impacting student performance?
- Are the school curriculum, instruction and climate respectful of the values, beliefs, customs and traditions of the child and his/her family?
- Is the child's pattern of learning similar to other students with similar cultural, racial, ethnic or familial ecological variables?

Based on the information gathered, analyzed, and documented, the team must determine if the individual's educational performance is primarily the result of cultural, racial, ethnic, or familial variables or the result of a disability. If it is determined that the educational performance is primarily a result of any of these factors, the team will document this conclusion on the *Educational Evaluation Report*. At the Eligibility Determination meeting the exclusionary factors will be discussed and the student will be determined "not eligible" for special education services. Documentation of the eligibility determination must be provided to parents on the *Prior Written Notice*.

**Factors Not a Primary Reason for Educational Performance**

After reviewing available information and determining that the student's lack of educational performance is not caused by one or more of the exclusionary factors the team documents the information gathered in the *Educational Evaluation Report* and continues with the evaluation to address progress, need and discrepancy.

Disability Suspected Form:



# Disability Suspected Form

**Student:** \_\_\_\_\_ **Birthday:** \_\_\_\_\_  
*Legal Last Name                      Legal First Name (no nicknames)                      MI*

**Gender:**  Male  Female    **Grade:** \_\_\_\_\_ **Teacher/Service Provider:** \_\_\_\_\_

**Resident District:** \_\_\_\_\_ **Building:** \_\_\_\_\_

**Attending District:** \_\_\_\_\_ **Building:** \_\_\_\_\_

**Are there data to suggest:**

*(Check all that apply)*

- the child is affected by a health or physical condition or a functional limitation that adversely affects educational performance (e.g., a progressive condition, a condition strongly associated with adverse effects on developmental progress or educational performance)
- there has been a significant status change due to a health or medical condition, injury, etc. (e.g., traumatic brain injury)
- there is an obvious and immediate need for service that may exceed the capacity of general education to provide (e.g., progressive loss of sight requiring Braille and orientation and mobility instruction)
- the child’s performance is below standards or expectations, is unique compared to others, and not explained by more plausible factors (i.e., attendance or cultural factors)

Summarize: \_\_\_\_\_

• the status of the child’s hearing and vision: \_\_\_\_\_

• the information which suggests the child’s educational performance falls persistently below state approved standards or typical developmental or behavioral expectations for age and grade level: \_\_\_\_\_

• how the child’s performance is unique when compared to others in the same setting: \_\_\_\_\_

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- other plausible explanations that may account for the child’s lack of educational performance, (i.e., lack of appropriate instruction, language other than English, lack of prior knowledge, cultural expectations, attendance or mobility): \_\_\_\_\_

**Documentation of Decision:**

Participants involved in decision:

Name	Position	Name	Position

Is disability suspected?  Yes  No      Date: \_\_\_\_\_

**NOTE:**

- Written parent consent for a full and individual initial evaluation must be sought when disability is suspected.
- *Prior Written Notice* of a refusal to conduct an evaluation must be provided when parents have requested an evaluation and disability is not suspected.
- This form must be retained as a part of the student’s record.

**Notes:**

**Field Trips:**

- All field trips funded by the special education budget must have prior authorization through the Special Education Department.
- There must be documentation that the trip is curriculum and/or needs based and part of the student’s IEP.

**Field Trip/Community Outing Procedures**

*ALL FIELD TRIP/COMMUNITY OUTINGS MUST START AT THE SCHOOL SITE WITH PRIOR APPROVAL (SIGNATURE/DATE) FROM THE SITE ADMINISTRATOR*

1. Teacher completes Request for Transportation online (Approval from Site Administrator).
2. The Site Administrator forwards this request to the Director of Special Education.

**Notes:**

## General Education Interventions (GEI)

Component	Characteristics
<p><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.</p>	<ul style="list-style-type: none"> <li>• Intervene early for each student who is presenting academic or behavioral concerns.</li> <li>• Utilizes observations, instruments, measures and techniques that may disclose any potential exceptionality.</li> </ul>
<p><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.</p>	<ul style="list-style-type: none"> <li>• School personnel have data-based documentation which indicate an evaluation is appropriate, or</li> <li>• School personnel have data-based documentation that general education interventions and strategies would be inadequate to address the areas of concern for the child.</li> </ul>
<p><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.</p>	<p>Specific Documentation:</p> <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</li> <li>• the results indicate an evaluation is appropriate</li> </ul>
<p><b>Documentation when using School-Wide (Rtl) 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.</p>	<p>Documents that parents were notified about:</p> <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>



**Kansas Policy Statement on Multi-Tiered System of Supports**

As a district implementing Multi-Tier System of Supports (MTSS), we monitor each student’s response to scientific, research-based instruction and intervention through assessments of academic achievement and behavior, repeated at reasonable intervals to gauge individual student progress. Instruction and interventions provided to students are child-centered, delivered by qualified personnel, and research-based to the extent feasible. At any time, if you believe your child may have an exceptionality you have the right to request an evaluation for special education.

**What is required in regulation?**

CFR 34 § 300.311 (a)

If the child has participated in a process that assesses the child’s response to scientific, research-based intervention—

- (i) The instructional strategies used and the student-centered data collected; and
- (ii) The documentation that the child’s parents were notified about—
  - (A) 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;
  - (B) Strategies for increasing the child’s rate of learning; and
  - (C) The parents’ right to request an evaluation.

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

(c) Any 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 which indicates 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 that indicates that prior to, or as a part of the referral, the following were met;
  - A. The child was provided appropriate instruction in regular education settings that was delivered by qualified personnel;
  - B. The child’s academic achievement was repeatedly assessed at reasonable intervals which reflected formal assessment of the child’s progress during instruction;
  - C. The assessment results were provided to the child’s parents; and
  - D. The assessment results indicate an evaluation is appropriate.

**Notes:**



**General Education Teachers at IEP meetings:**

- According to the federal and state law, general education teachers must be in attendance at every IEP meeting.
- A parent has the right to stop the meeting if the general education teacher fails to attend the meeting.
- If the IEP meeting is part of a pre-expulsion hearing at the District Office, the meeting will be stopped if the general education teacher is absent.
- The general education teacher acts as a representative of all general education teachers when appropriate student placement is being discussed.

Parents may excuse the general education teachers from attending the IEP meeting. An Excusal From IEP Meeting form must be signed by the parent.

**Notes:**

**Grading Policies:**

**Elementary Grading Policy**

Please refer to the Elementary Report Card Grade Policy

**Secondary Grading Policy**

Please refer to the Secondary Grading Policy

**Notes:**

**Health Screening:**

For Triennials, Modified Triennials, Parent Requests for Assessment, Reevaluation of Placements

- School Psychologist received the Consent to Evaluate signed by the parent.
- No psycho-educational assessment should begin until the psychologist received the completed Health Screening from the Nurse.
- The Nurse will complete the Health Screening immediately.

If a student fails either the vision or hearing exam and doesn't have a documented vision or hearing impairment, Parents should be encouraged to take their child to an optometrist, family doctor or audiologist before any evaluation begins.

**Notes:**

## **Home Based Special Education Instruction:**

In order that we stay in compliance with students that have been placed on Home Instruction, below is a process that has been outlined. Please read it carefully. If you have any questions, please contact Becky Cezar.

### **Initial Placements:**

- a) The psychologist must attend the meeting, as it is considered a change of placement. (If a request for Home Instruction is made for medical reasons, follow up with a doctor is required by the nurse prior to the IEP meeting.
- b) The reason/rationale for the change to Home Instruction must be clearly stated in the IEP.
- c) The duration of Home Instruction must be clearly delineated in the IEP, i.e. 9/20/10 – 1/13/11. It may not be vague, i.e. for the duration of the illness.

The goals and objectives must be reviewed and the team must determine they are still appropriate. If no changes need to be made to the IEP, it needs to be documented that they were reviewed and continue to be appropriate.

The goals and objectives from the previous IEP are reviewed and are marked as to whether they are achieved or not. New goals and objectives are developed and agreed to. They must be written for the duration of the placement on Home Instruction or one year.

- d) If the student receives any related services, those providers must be at the IEP meeting to discuss how the goals and objectives can be incorporated into Home Instruction plan. i.e. incorporated into the objectives provided by the home teacher with or without consultations by the related service provider to the home teacher or, in some cases, provided at the home site.
- e) Please indicate the next review date as the annual date.
- f) IEP (including copies of continued goals and objectives, if new ones were not written), are given to the Special Education Coordinator and Special Education Director for signatures. At this time a home teacher will be assigned. Accompanying the IEP and Consent for Placement will be a Staffing Summary indicating which Coordinator the teacher can contact regarding specialized materials or information.
- g) The Special Education Department assigns a home teacher and enrolls the student in the home based instruction as soon as possible. The home teacher is given the IEP as well as the form indicating names of staff from Special Services who can assist them.

### **Reviews/Reinstatements:**

Each case manager will track the data run for reviews.

### **Annual Reviews:**

The case manager will schedule the IEP and notify parent, home teacher, and any related service provider. If it is suspected that the student will be returning to a school site, then special and general education teachers, psychologist and other staff, as appropriate, are included.

If the student continues on Home Instruction, the case manager rewrites the IEP. In addition, s/he sends a copy of the IEP to Special Education Office with a notice indicating that Home Instruction is to continue.

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If the student returns to a school site, the case manager processes the IEP. In addition, s/he notifies the Special Education Department that the student was moved from Home Instruction back to a school site.

**NOTE:** If the home teacher is not a credentialed special education teacher, then the assigned Case manager does an updated assessment/prepares suggested goals and objectives and attends the IEP meeting.

### **Triennial Reviews:**

The case manager notifies the psychologist assigned to the student's home school.

The assigned psychologist prepares the Consent to Evaluate with input from and related service staff, and obtains the signature from the parent. The psychologist notifies staff that the Consent to Evaluate has been received, and conducts the assessment.

**NOTE:** Case managers will do the academic assessment.

The assigned psychologist schedules the IEP meeting and notifies the appropriate staff, including the case manager. See above statements regarding the process after the IEP meeting.

### **Reinstatements Suspensions/Expulsions:**

- a) If the student is eligible for reinstatement and has applied to return to school, the case manager will set up a meeting with the IEP Team and send the parent a 10 Day Notice.

The case manager will then notify the home teacher and related service providers, general education teacher, and psychologist. The IEP meeting will be conducted at the reinstatement meeting. Goals and objectives will be reviewed and/or rewritten per guidelines stated above. The IEP and staffing summary will be sent to the Special Education Department and will be processed by the case manager.

- b) If the student is eligible for reinstatement, but has not applied, the case manager will contact the parent (by phone, registered letter, via home teacher, etc.) regarding no request to discuss any issues. This contact is to be documented in the student's special education file. An IEP is conducted per guidelines, as appropriate.

**NOTE:** ANY TIME A STUDENT IS PLACED ON HOME INSTRUCTION OR GOES FROM HOME INSTRUCTION TO A PROGRAM AT A SCHOOL SITE, AN IEP MUST BE HELD PER DISTRICT REQUIREMENTS AND GUIDELINES. A PARENT MUST BE INVOLVED AND SIGN THE IEP, AS IT IS A CHANGE OF PLACEMENT.

### **Notes:**

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**IEP**

**IEP Meeting Requirements:**

	<b>IEP Meeting for Annual Review</b>	<b>IEP Meeting for any other purpose</b>	<b>Amend an IEP without Meeting</b>
Notice of Meeting (10-Days Prior to Meeting)	Yes	Yes	No
Required Member Attendance	Yes	Yes	No
IEP Team Considerations Must be Addressed	Yes	As Needed	As Needed
Update Present Levels	Yes	As Needed	As Needed
Update/Change Annual Goals	Yes	As Needed	As Needed
Update/Change Assessment Participation	Yes	As Needed	As Needed
Update/Change Postsecondary Goals	As Needed	As Needed	As Needed
Update/Change Statement of Special Education and Related Services including Transition Services*	As Needed	As Needed	As Needed
Educational Placement*	Yes	As Needed	As Needed
Consideration of Least Restrictive Placement	Yes	As Needed	As Needed
IEP Amendment Form	No	No	Yes
Notice of Proposed Action (of any/all changes in IEP)	Yes	Yes	Yes
Resets Annual Review Date of IEP	Yes	No	No
Parent Receive a Copy of the IEP	Yes	Yes	Upon Request
Consent	Only on * items above and meet one of the criteria below.		

\*Consent is required when a change in Special Education and Related Services or Placement meets any of these criteria:

1. Substantial change in placement (more than 25% of the child's school day)
2. Material change in services (25% or more of any one service)
3. Add a new service, or delete a service completely (100%)

**Notes:**

**IEP Team Considerations Form:**

**Student Name:** \_\_\_\_\_ **IEP Meeting Date:** \_\_\_\_\_

**IEP Team Considerations**  
*(The child's IEP must reflect these considerations.)*

What are the strengths of the child?
How have the child's strengths been utilized to address the child's needs on the IEP?
What are the parents' concerns, if any, for enhancing the education of their child?
How are the parents' concerns for the education of their child addressed on the IEP?
Are there any potential harmful effects of the recommended placement on the student and/or the quality of services for the student? (Do the positive effects of the placement outweigh the potential harmful effects?)

Will the child participate in regular physical education or does the child require specially designed adapted physical education? (Children with disabilities only.)
--

<p>Are extended school year services necessary since the benefits accrued to the child during the regular school term will be significantly jeopardized as a result of a break in educational programming? (Children with disabilities only.)</p>

<b>IEP Team Consideration of Evaluation Results and Special Factors</b>		If yes, where is this need addressed in the IEP?
Have the needs of the child which were identified in the most recent evaluation of the child, including observed needs and the child’s performance on general State and district-wide assessments, been considered in the development of the child’s IEP?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the child’s behavior impede his or her learning or that of others?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If the child is blind or visually impaired, does evaluation of the child’s reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child’s future needs for instruction in Braille or the use of Braille), indicate that instruction in Braille or the use of Braille is appropriate for the child? (Children with disabilities only.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the child have limited English proficiency?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the child have any special communication needs?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If the child is deaf or hard of hearing, does the child have any special communication needs relating to opportunities for direct communications with peers and professional personnel in the child’s language and communication mode, academic level, or opportunities for direct instruction in the child’s language and communication mode? (Children with disabilities only.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the child require any assistive technology devices or services in order to be involved, and to progress in the general curriculum or to be educated in a less restrictive environment? (Children with	<input type="checkbox"/> Yes <input type="checkbox"/> No	



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disabilities only.)		
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**IEP Changes Matrix**

	<b>Reevaluation</b>	<b>Review</b>	<b>Amendment</b>
<b>When is it Required?</b>	<ul style="list-style-type: none"> <li>• Every three years</li> <li>• Exit from all special education services (other than graduation)</li> <li>• When requested by parent or teacher</li> <li>• IEP team determines reevaluation is needed</li> </ul>	<ul style="list-style-type: none"> <li>• At least annually</li> <li>• When requested by parent or teacher</li> </ul>	<ul style="list-style-type: none"> <li>• Not required, but can be used to make changes in students’ program</li> </ul>
<b>Type of Changes Permitted</b>	<ul style="list-style-type: none"> <li>• Change of placement</li> <li>• LRE</li> <li>• Goal areas</li> <li>• Services to be provided</li> <li>• Virtually any other change is permitted</li> </ul>	<ul style="list-style-type: none"> <li>• Change of placement (other than exit)</li> <li>• LRE</li> <li>• Goal areas</li> <li>• Services to be provided</li> <li>• Virtually any other change is permitted</li> </ul>	<ul style="list-style-type: none"> <li>• Change of placement (other than exit)</li> <li>• LRE</li> <li>• Goal areas</li> <li>• Services to be provided</li> <li>• Virtually all other change is permitted</li> </ul>
<b>Documentation Requirements</b>	<ul style="list-style-type: none"> <li>• Consent for Notice of Reevaluation. Parent signature is required if additional assessment information is to be collected</li> <li>• Meeting Notice</li> <li>• New IEP (Reevaluation)</li> <li>• Six reevaluation questions in IEP – documentation of data used to make decisions and justify changes</li> <li>• Prior Written Notice of Proposed/Refused action</li> </ul>	<ul style="list-style-type: none"> <li>• Meeting Notice</li> <li>• New IEP (Review)</li> <li>• Prior Written Notice of Proposed/Refused action – documentation of data used to make decisions and justify changes</li> </ul>	<ul style="list-style-type: none"> <li>• Meeting Notice (if meeting is held)</li> <li>• “Amendment” IEP</li> <li>• Prior Written Notice of Proposed/Refused action – documentation of data used to make decisions and justify changes</li> </ul>
<b>Is a meeting required?</b>	<ul style="list-style-type: none"> <li>• YES</li> </ul>	<ul style="list-style-type: none"> <li>• YES</li> </ul>	<ul style="list-style-type: none"> <li>• Not required by a meeting must be held if either parent or agency requests it or if the amendment changes FAPE for the</li> </ul>

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			student
<b>New IEP Written?</b>	<ul style="list-style-type: none"> <li>• YES</li> </ul>	<ul style="list-style-type: none"> <li>• YES</li> </ul>	<ul style="list-style-type: none"> <li>• No (web-IEP “Amendment IEP” is created). Selected portions of existing IEP are unlocked and edited</li> </ul>
<b>Duration of IEP</b>	<ul style="list-style-type: none"> <li>• No more than one year</li> <li>• Reevaluation date (web IEP) “rolls ahead” three years</li> </ul>	<ul style="list-style-type: none"> <li>• No more than one year</li> <li>• Reevaluation date remains three years from last evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• Reevaluation date remains three years from last evaluation</li> <li>• “Duration from” date changes</li> <li>• “Duration to” date remains the same as existing IEP</li> </ul>

**Least Restrictive Environment:**

After a student is determined eligible for special education services, placement in a special education program should be considered only if reasonable modifications/accommodations to the regular education classroom/curriculum cannot meet the needs of the student.

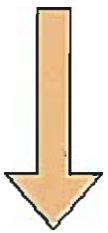
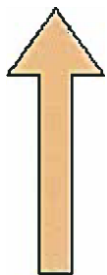
The SIT team has the responsibility of determining placement in the “least restrictive environment” needed to meet the needs of the student. The continuum from least to most restrictive is:

- General Education Classroom with Accommodations
- General Education classroom with Inclusion Supports (Paraprofessionals, Teacher, Related Service Providers: SLP, APE, OT, etc.)
- General Education Classroom with Resource Room  
Self Contained Classroom
  
- Special Day Class (may include Related Services)
- Special Schools and Residential School

**DETERMINING THE LEAST RESTRICTIVE ENVIRONMENT FOR STUDENTS**

The Least Restrictive Environment is defined as “each public agency shall ensure that: to the maximum extent appropriate, a pupil with an educationally disability shall be educated with children who are not educationally disabled; special classes, separate schooling or other removal of a pupil with an educational disability from the pupil's regular class occurs only when the nature or severity of the educational disability is such that education in the pupil's regular class with the use of appropriate supplementary aids and services cannot be achieved satisfactorily.”

**Least Restrictive Placement in the Continuum of Educational Services**

<p>Move this way only as far as necessary</p> 	<b>General Education with Special Education Support Services</b>	 <p>Return this way as rapidly as feasible</p>
	In-Class Resource Center Support and other Related Services	
	Pull-Out Resource Center Support and other Related Services	
	<b>Special Classes with Mainstreaming Opportunities in Academic and Non - Academic Classes as Specified in the IEP</b>	
	The law mandates non-academic mainstreaming (lunch, gym, etc,) for all students unless it is clearly inappropriate for an individual student for specific reasons.	
	Day Schools and Special Class Clusters	
	Residential Programs Hospital Schools Home Instruction	

The following questions will assist you in considering the appropriate environment for your child.

1. Where would your child attend school if he or she were not disabled? (Does neighborhood or family isolation occur because your child does not attend the neighborhood school?)
2. What changes would have to be made at the school for your child to attend? (Physically accessible? Interpreter? Transportation?)
3. What do you want for your child's future? Difficult question but you must have a vision to direct education.

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4. What skills will your child need to have for the future you envision for him or her? (Think in clear and simple terms: not gross motor skills, but ability to walk up stairs.)
5. What school programs and activities might help your child develop these skills? (Example, cafeteria, tolerance of noise while eating.)
6. What supports and services are needed for your child to be involved in these school programs or activities?
7. What additional programs and activities should be developed for your child? (Example, needs for physical therapy, speech therapy, community vocational training.)

### **WHAT IS "SUPPORTED INCLUSIVE EDUCATION"?**

Supported inclusive education refers to the opportunity for all students **regardless of their disability**, to be educated in **age-appropriate** general education classes in their **neighborhood school in natural proportions\***. All necessary **supports** are provided to students and educators to ensure meaningful participation in the total school community.

#### **Definitions of Terms**

**Regardless Of Their Disability:** Inclusion looks different for every student, based upon the individual needs, strategies and resources required, and can accommodate students with the full range of disabilities.

**Age-Appropriate:** Placement should be in a class with students within one to two years of the chronological age of the student being included.

**Neighborhood School:** This refers to the school the child would attend if s/he did not have an educational disability.

**Supports:** Supports can include, but are not limited to:

- curricular or instructional strategies
- peer supports
- team teaching strategies
- assistive technology
- environmental adaptations
- specialized instructional strategies
- integrated and consultative related services

Supports will be different for each student dependent upon the unique needs of each student, class and district. Inclusive education requires creative thinking in providing these supports and a redefinition of roles. Inclusive education also involves supports for teachers:

- planning time
- training and technical assistance
- collaborative teaming
- parental involvement
- administrative support

\* Natural proportions means that children with disabilities aren't lumped together in one general education class but distributed throughout all general education classes.

### **HOW DOES INCLUSION DIFFER FROM MAINSTREAMING?**

#### **Mainstreaming**

The mainstreamed student's primary placement is in a general education classroom and need no inclusion supports to progress academically.

## **Inclusion**

The primary placement is in the general education classroom, although instruction may also be provided in other settings based on the student's needs. Supports and performance expectations vary based upon the student's needs and goals as stated in the Individualized Education Program (IEP). Students may be engaged in the same activity with or without modifications, or may be engaged in parallel activities (i.e., same content area but different activity). Inclusion has come to be preferred primarily because it connotes that students with disabilities are considered part of the general education classroom.

### **WHY IS INCLUSIVE EDUCATION IMPORTANT?**

**Preparation for Adult Living:** The goal of education is to prepare individuals to be contributing members of society. Segregated settings often cannot prepare individuals to function in integrated community and work environments because they do not afford those with or without disabilities opportunities to develop the attitudes, values, and skills required to get along with one another as interdependent members of society. By attending their local schools, students with disabilities can practice skills in the actual community settings where they're needed and they can then develop a sense of belonging.

**Improved Learning Through Peers and Greater Exposure:** Students with disabilities who are placed in general education classes have opportunities to grow socially and academically through peer models and exposure to a greater variety of experiences.

**Growth for Peers:** Through having students with disabilities in their schools and classes peers without disabilities learn to develop skills in dealing with others who are different from them. This experience often leads to growth in their self-esteem and interpersonal behaviors, paving the way for the formation of rewarding adult relationships with a variety of people in community, home, and workplace settings.

**Effective Use of Resources:** When students with disabilities are educated in general education classes, special educators provide support in that setting. This affords students the opportunity to learn from special educators general education classroom teachers and classmates. The entire class benefits from the collaboration of general education and special educators; some general education educators feel they have learned from special educators more effective ways to assist all students in the class.

**Friendship Development:** Inclusion affords students with and without disabilities opportunities to become friends with one another. Some of the friends that students with disabilities make in school today will be their co-workers and fellow community members as they reach adulthood.

**Acceptance of Differences:** As students with and without disabilities interact as classmates and friends, opportunities arise to break down barriers and help people to understand each other better. Inclusion can help us to create a society that accepts and values persons with and without disabilities as contributing members in all aspects of community life.

**Team Building:** Successful inclusion of students with disabilities requires greater collaboration between general education and special education personnel. This teamwork can result in improved instruction for students and improved staff morale. The parents of the students with disabilities also become valued members of this collaborative team, sharing their dreams and aspirations for their children's futures.

**Focus on Strengths:** Inclusive education programs are characterized by a focus on the student's strengths, rather than the student's deficits. This emphasis enables the educators to look closely at areas where the student is functioning most like his typical peers, and these strengths are then used to facilitate positive interactions with classmates.

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**Support of Civil Rights:** The Individuals with Disabilities Education Act (IDEA) entitles all children with disabilities to free appropriate public education in the least restrictive environment. In addition, Section 504 of the Rehabilitation Act of 1973 guarantees that people with disabilities cannot be excluded from any program or activity receiving federal financial assistance.

### **Notes:**

**MANDT Training:**

The Mandt philosophy is that all people should *be seen as people first* and treated with *dignity and respect*. The core of Mandt is building healthy relationships, effective communication, and conflict resolution. By using the strategies and skills acquired through Mandt training, the staff will be able to effectively respond to a variety of student situations in a positive manner. This portion of Mandt can also be incorporated into the working environment to create a safe and healthy working atmosphere among staff.

When interacting with an escalated person, Mandt highly recommends engaging in verbal de-escalation. The staff is trained to use a graded and gradual set of alternatives. Mandt believes in being proactive when dealing with a person who has the potential to become verbally and/or physically aggressive. By building healthy relationships, effectively communicating, and using conflict resolution strategies, most situations can be handled in a way that leaves everyone feeling emotionally, socially, and physically safe in their environment.

While Mandt does teach physical restraint, it is highly emphasized that restraint only be used for the purpose of safety. Mandt believes that it is better to teach the safest possible physical techniques rather than to have staff improvise and engage by reacting and using techniques that may increase the potential for injury to staff or students.

To arrange MANDT Training for your building staff, please contact Karon Waters 554-2324 [kwaters@usd261.com](mailto:kwaters@usd261.com) or Lisa McKeown 554-2350 [lmckeown@usd261.com](mailto:lmckeown@usd261.com) for next class dates.

**Notes:**



**Manifestation Determination:**

- On the 10th day of suspension a student cannot be suspended any further without a Manifestation Determination completed by the school psychologist.
- If the student is inadvertently sent home after the 10th day of suspension without a Manifestation Determination, the student must be allowed to return to school immediately.
- An IEP meeting will need to be held with information regarding Discipline, Suspension/Expulsions, Behavior Support Plans, Interventions, Behavioral Goals, referral to, site counseling.
- All documentation will need to be in place prior to an Expulsion. If the documentation is not evident, the expulsion may be stopped and the student sent back to school.

**Notes:**

**Mediation/Due Process/Formal Complaint:**

- This process was created to mediate IEP disputes at the local level.
- Develop partnerships between the parent and district.
- Is intensive support for the site and district.
- Is a collaborative process to resolve concerns.
- Blends resources and expertise.
- Is district administrator directed
- Is special education facilitated.
- If at the IEP meeting, the parent is not in agreement with the team decision, please contact the Special Education Director. (316) 554-2222
- An administrator trained in mediation, due process, and formal complaints will be contacted.
- The parent will be called to discuss the issues and mediation, due process, or formal complaint may be an option to resolve the dispute.

**Notes:**

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**Paraprofessional Duties:**

If the teacher is...	The para can be...
Lecturing the class	Modeling note taking on the board or overhead Completing a graphic organizer for students to use Completing a study tool to support student learning Identifying and record important vocabulary Keep a notebook of activities, assignments, etc. as a model for students
Taking roll	Collecting homework Introducing the bellwork Assisting students in getting organized
Reviewing & modeling directions, modeling first problem	Passing out papers
Giving instructions orally	Writing instruction on board or on a form so students will have a visual Create a sequential to do list for the students
Checking for understanding with large group	Checking for understanding with a small/table groups
Providing direct instruction to whole class	Circulating, providing one-on-one support as needed
Facilitating a silent activity	Circulating, checking for comprehension and participation
Providing large group instruction	Circulating, using proximity control for behavior management
Reteaching or preteaching with a small group	Monitoring large group as they work on practice materials
Facilitating sustained silent reading	Listening to students read aloud quietly either individual students or small group of students
Facilitating stations or groups	Also facilitating stations or groups
Explaining a new concept	Monitor students' work, organization, understanding

**Types of Assistance Paraprofessionals Should Provide In the Classroom**

**Station Assistance:** Teacher and Paraprofessional plan and organize work center activities tied to state standards with attention given to differentiation of center activities. Teacher and paraprofessional assess student's mastery of center activities.

**Parallel Assistance:** Teacher plans lessons for both groups of students. Para works with one of the groups while teacher works with other group.

**Remediation or Extension:** Paraprofessional works with students that didn't master material in group instruction and re-teaches the concept or paraprofessional works with students that have mastered concept before the rest of the class and offers enrichment activities.

**Roving:** Paraprofessional is moving around the classroom ensuring that students are on task and understanding materials.

**Notes:**

## **Parent Participation**

- According to the federal and state law, each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or afforded the opportunity to participate.
- Notify the parents early enough, at least 10 days, to ensure that they will have an opportunity to attend. If the parent waives their right to advance notice, this must be indicated on the IEP.
- Schedule the meeting at a mutually agreeable time.
- A 10 Day Notice and the Procedural Safeguards (Parent’s rights) must be sent home to the parent.
- Three attempts must be made to insure that the parent will attend. Document this on the contact sheet in the student’s special education file.
- If a parent requests an IEP meeting, the team has 30 days to schedule this meeting.

## **Notes:**

**Parents Refuse Consent to Later Placements:**

1. You can't override the parents' refusal to an initial placement (parents have the final say regarding initial placements) but a recent ruling by the U.S. Department of Education's Office of Special Education Programs (OSEP) suggests otherwise for "subsequent special education and related services." OSEP says that if the parents refuse consent for the initial placement, the district is no longer obligated to give the child special education services.
2. If a special education student's parents refuse consent to further special education and related services and the IEP team continues to recommend special education support, consider using due process procedures to override their refusal.
3. If the parent consents to the initial placement, the district has "an ongoing mandate to provide FAPE [a free appropriate public education] to that child." If the parents refuse consent to further special education and related services, the district may find it appropriate to attempt an override through a due process hearing.

**Notes:**

**Parent Requests for Special Education Testing:**

- According to the federal and state laws, classroom interventions must be documented prior to assessment.
- If a parent is requesting special education testing, the general education teacher must provide documentation of interventions attempted and the outcome of the interventions.

**Notes:**

### **Protocol for IEP meetings:**

At times, some staff members may be involved in an IEP meeting that may become somewhat chaotic. This may occur for a number of reasons. In the end, statements may be misinterpreted, emotions may run hot, and mistrust may fester. These are some guidelines for conducting IEP meetings that would facilitate the discussion and keep the focus on student needs and program. It might be helpful to discuss them at a pre-team meeting.

- All members of the team arrive on time to the meeting. At the beginning of the meeting, the purpose of the meeting and roles of the participants are defined. In meetings where conflict is anticipated, ground rules for interactions are established by the administrator/facilitator. If needed, time limits are established and a timekeeper can keep track.
- It is the expectation that all team members keep calm and speak softly, quietly and respectfully. Should any participant in the meeting make unbecoming or inappropriate statements to another participant, and then it is important that the administrator/facilitator calmly intervene by stating that the remark is inappropriate and refocus the team to the purpose of the meeting.
- If an interpreter is needed for the meeting, s/he should not be a staff member or an administrator who has another role in the meeting. At the beginning of the meeting, the process for using the interpreter should be reviewed. For example, the staff speaking addresses the parent; the presentation is in chunks that can be translated by the interpreter; the interpreter addresses any questions that the parent has to the team.
- The administrator/facilitator moderates the meeting to keep the meeting on focus, and addressed the issues and concerns as defined in the purpose as well as additional questions as they arise. The administrator/facilitator asks questions to clarify information as needed and confirms that there is understanding by all throughout the process of the meeting.
- It is helpful that when staffs present their assessment data, they use a graphic presentation for the team. The visual information will supplement the professional jargon for other professionals and parents who may not be comfortable with only the specialized vocabulary.
- At the time of scheduling an IEP meeting, when any site staff member or administrator feels the tenor or content of the meeting is such that they need additional support, they may feel free to request a coordinator or the director from the Special Education Department to be present.

### **Notes:**



**Psychoeducational Reports:**

- The reports of any and all assessments completed as part of the psychoeducational assessment, must be given to the school psychologist at least 3 days prior to the IEP meeting so that this information can be included as part of the psychoeducational report.
- According to state law, the final report must be ready at the time of the IEP meeting. The parent should receive a copy at the time of the IEP meeting. If the final report does not have the necessary components available, a draft report is acceptable at the time of the IEP meeting. The draft report must have the word “DRAFT” indicated on all pages. If draft copies are distributed at the IEP meeting, they must be collected at the end of the IEP meeting.
- The completed folder will be turned into the Special Education Office within 10 days from the IEP meeting date.
- If the final copy of the psychoeducational report is not ready at the time of the IEP meeting, it is the responsibility of the school psychologist to insure that the parent receive a copy of the report when it is completed.

**Notes:**

## **Reevaluation:**

### **Determining Continued Eligibility**

Upon completion of the reevaluation, the team should compile all data (that which previously existed and/or was collected as part of the reevaluation) into a format that will be useful when the team convenes to make the continued eligibility determination. It is important that all the information be in an understandable format that allows the team, including the parent, to understand the child's strengths and weaknesses and how the child is progressing in the general curriculum in addition to information about the child's exceptionality and needs for special education.

At the time the reevaluation is completed, the team should schedule a time to convene in order to make the determination of continued eligibility. Parents are to be provided an opportunity to participate in the eligibility meeting, which can be conducted at the same time as the IEP team meeting. The school must provide a notice of the meeting at least 10 calendar days prior to the meeting date that includes the requirements in K.A.R. 91-40- 17(b)(1).

When the meeting is convened, the reevaluation team, including the parents, review the results of the reevaluation to determine:

- if the child continues to be a child with an exceptionality;
- the educational needs of the child;
- the present levels of academic achievement and the functional performance (related developmental needs) of the child;
- whether the child continues to need special education and related services; and
- whether any additions of modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate in the general education curriculum.

As is the case in all reevaluations, when making the determination of whether the child continues to be a child with an exceptionality and whether the child continues to need special education and related services, teams must take into account that the child has made progress since the time he/she was initially evaluated and determined to be eligible for services. The fact that the child's performance gap may be less than at the time of the initial evaluation would not necessarily mean that the child is no longer a child with an exceptionality and no longer in need of special education services.

The data collected at the time of the reevaluation should assist the team in decision making. Teams should thoroughly discuss the child's present levels of educational performance and consider the child's rate of progress. Teams should also consider what level of support is needed in order for the child to access and progress in the general curriculum and whether that level of support would continue to require specially designed instruction. If at the time of reevaluation, a student needs only general accommodations, then the student is no longer eligible for special education, but should be referred for consideration of eligibility for a 504 plan. These careful considerations should drive the determination of continued eligibility.

### **Documenting Continued Eligibility**

After completion of appropriate reevaluation procedures, the team of qualified professionals and the parent of the child shall prepare a written reevaluation report. A copy of the reevaluation report and documentation of whether or not the child continues to be a child with an exceptionality must be given to the parents.

## **Notes:**

**School Psychologist Interns:**

- The interns will be overseen by the Special Education Director. Prior to the intern beginning, the intern and supervising school psychologist will meet with the Director. A plan will be developed as to how the interns will meet their fieldwork hours. The director will sign off on the plan.
- Prior to the intern completing their fieldwork hours, the intern and supervising school psychologist will meet with the director to review the experience, review what was accomplished and, if all documentation is in place, the Director of Special Education will sign off that the fieldwork has been completed.
- In association with the surrounding Universities, a program that has been developed to assist graduates complete their fieldwork hours.
- The interns will work alongside the certified school psychologists until the interns are able to work on their own.
- Assessments and scoring are reviewed by the certified school psychologists.
- Psychoeducational Reports are reviewed by the certified school psychologists. Both the intern and certified school psychologist sign the reports.
- The intern and the certified school psychologist attend the IEP meeting.
- Interns are invited to attend school psychologists' staff meetings.

**Notes:**

**Sign Language Interpreter Services:**

- A request for a Sign Language Interpreter must be made 3 days prior to the date of services. District interpreters may provide services after their regular workday for general education purposes if they wish.
- If a district interpreter is used after their normal working hours, your department will be charged for their services. If the district interpreter arrives for a meeting that has been cancelled without notice to the Special Education Department or the parent is a “NO SHOW”, the requesting department will be responsible for 1 hour of the interpreter’s time.
- If a district interpreter is not available, the Special Education Department will schedule this appointment with an outside agency. Charges are \$43.00 per hour (2 hour minimum) for the services. Services for Deaf and Hard of Hearing students with a current IEP will be covered by the Special Education Department.

**Notes:**

## **Special Education Students and Promotion/Retention Standards:**

Districts receiving special education funding are required to comply with both the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act.

It is possible that special education students can be retained, but only under certain circumstances.

It is inappropriate to retain special education students who have failed to meet academic standards in areas in which they qualified as special education students, unless the below standard is met.

It would not be unreasonable, on the other hand, to consider special education students to be at-risk of retention based on the challenges they face while learning in the classroom.

The following information should be used as guidelines when considering the decision about promotion and retention for a student in special education:

### **1. The Individualized Education Plan (IEP) includes:**

- The present levels of the student’s education performance.
  - The measurable annual goals, including benchmarks or short term objectives related to:
    - a) Meeting the student’s needs that result from the student’s disability to enable the student to be involved in and progress in the general curriculum.
    - b) Meeting each of the student’s other educational needs that result from the student’s disability.
  - The specific special education instruction and related services and supplementary aids and services to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student to do the following:
    - a) to advance appropriate toward attaining the annual goals
    - b) to be involved and progress in the general curriculum
2. Also included in the IEP are appropriate objective criteria, evaluation procedures and schedules for determining, on at least an annual basis, whether the annual goals are being achieved.
  3. IEP decision to retain a special education student would be based on lack of meeting or making progress toward student achievement within the appropriate goals and objectives and/or significant absences that caused an impact on meeting and progress toward appropriate goals and objectives.

An IEP meeting must be held if a special education student is going to be retained.

## **Notes:**

## **State Assessments & Testing:**

### State Accommodations, Assessments, and Test Selection

NOTE: IEP teams and Section 504 Plan teams are advised that there may be accommodations required for the teaching and learning for students with disabilities that do not apply to state assessments and are not listed within this document. The use of accommodations for instructional purposes is in no way restricted to only the ones indicated in this document. IEP teams and Section 504 Plan teams are encouraged to provide all accommodations necessary to the individual student for instruction through the IEP meeting and Section 504 Planning processes.

### **Eligibility**

The use of accommodations is for students who have an IEP or Section 504 Plan and for whom the IEP or Sections 504 Plan team has determined that accommodations are needed to provide equal access to the assessments and the opportunity to demonstrate their knowledge of the content.

### **Who is responsible for making decisions regarding accommodations?**

#### **IEP**

The decisions regarding accommodations for instruction and assessment can occur during the IEP meeting at the following times:

**Section 1. Consideration of Special Factors** – Special considerations need to be addressed in developing the IEP. It is during this time that the IEP team discusses the appropriateness of communication and assistive technology supports.

**Section 2. Supplementary Aids, Accommodations, and Modifications** – This is the time when the IEP team discusses the services, activities and supports that will be provided in general education classes and other education-related settings, which allow the student to be educated with non-disabled peers to the maximum extent appropriate.

**Section 3. District-Wide Assessments** – The IEP team documents the participation of the student in district-wide assessments.

**Section 4. State Academic Assessments** – The IEP team documents the participation of the student in state academic assessments. Non-participation is not an option.

**Section 5. Assessment Accommodations** – During this part of the IEP meeting the team will document the accommodations that are needed to facilitate the participation of the student in district-wide and state assessments. As stated in the IPE document “The accommodations should be appropriate for that particular assessment and reflective of those already identified for the student in the Supplementary Aids, Accommodations and Modifications” (i.e., assessment accommodations used in day-to-day classroom instruction and testing).

The process of making decisions about accommodations requires that the teams make good instructional decisions, which align the student's learning to the state's learning standards and to standards-based instruction. This involves reviewing the student's present levels of performance in relation to the district's general education curriculum. The teams must be cognizant that accommodations are to allow the student to access the general education curriculum but do not change what is being measured by the assessment. The accommodations should remove "barriers" irrelevant to the content actually being assessed.

## **Use of Accommodations**

Testing accommodations are intended to minimize, to the extent possible, the unintended impact of a student's disability on the measure of each content area performance on the state assessment. Other additional accommodations are allowed which will minimize stress and increase comfort and confidence.

### ***What is an accommodation?***

Accommodations are practices and procedures that fall into four major areas:

1. Timing/Scheduling
  2. Setting
  3. Presentation
  4. Response
- Accommodations are intended to increase access to grade level content for students who are potentially most impacted by conditions which interfere with them demonstrating their knowledge.
  - Accommodations provided to a student during state assessments should be similar to those provided during classroom instruction and classroom assessments. However, some instructional accommodations are not appropriate for use on state assessments. It's important for educators to become familiar with state recommendations regarding the appropriate use of accommodations during assessments to ensure they are administered appropriately.
  - Accommodations for students with disabilities are intended to help students demonstrate their knowledge of test content without altering the test construct, what the test is truly intended to measure.
  - Accommodations for students with disabilities involve changes to testing materials, testing procedures, and/or the testing situation to allow the student to participate meaningfully in an assessment.
  - Accommodations for students with disabilities provide results that are comparable to standard (i.e., non-accommodated) assessments.

### ***What do good accommodations do?***

#### **Accommodations:**

- Reduce construct-irrelevant variance [e.g., large print (LP) helps the visually impaired student by removing the accessibility obstacle of print which is too small]
- Do not alter the construct measured (e.g., print size does not change the tested material)
- Produce outcomes with differential effects (e.g., large print text helps the visually impaired but is neutral for normally-sighted test-takers)

### ***What should be considered when identifying accommodations?***

- Accommodations should be selected with care on an *individual student basis*, considering student's mode of communication, level of instruction, learning style, etc.
- More accommodations are not necessarily better. Providing students with accommodations that are not truly needed may have a negative impact on performance.
- Some accommodations may be acceptable for one content area, but threaten the validity of one or more other content area assessments, particularly for reading.
- Effective decisions about accommodations begin with making sound instructional decisions. These decisions are facilitated by gathering and reviewing information about the student's specific needs and current levels of performance in relation to state academic standards. It is important to keep in mind that the purpose of accommodations during instruction and assessment is to provide equitable access to the general education curriculum.



## KANSAS ALTERNATE ASSESSMENT (KAA) & KANSAS ASSESSMENT OF MODIFIED MEASURES (KAMM) FACT SHEET 2010-2011



### GENERAL INFORMATION ABOUT THE ALTERNATE ASSESSMENT

Student participation in the Alternate Assessment is determined by the student's IEP team.

The Kansas Alternate Assessment is administered annually.

The Reading and Math Alternate Assessment is administered in grades 3-8, and once in high school.

The Alternate Assessment for Science is administered in grades 4, 7, and once in high school.

**The Alternate Assessment for History-Government will only be assessing Freshman and Juniors in the 2010-2011 school year if the IEP team chooses to assess History-Government**

The results for the Reading and Math Assessments are used to calculate AYP.

All indicators must be picked by December 31, 2010.

Students new to a district after December 31, 2010 will not be assessed

### ALTERNATE ASSESSMENT EXTENDED STANDARDS

Chapter 1 lists the extended indicators aligned with the general indicator being assessed at each grade level in each content area. If a student received a 4 or 5 on an indicator last year they will not be able to use that indicator in 2010-2011 school year

Extended standards are available at <http://www.ksde.org/Default.aspx?tabid=2384>

### ASSESSMENT FORMAT

The assessment includes:

- five extended indicators from Reading at the grade level in which the student is enrolled (one each of 2 standards and three at large);
- five extended indicators from Math at the grade level in which the student is enrolled (one each of 4 standards and one at large);
- five extended indicators from Science at the grade level in which the student is enrolled (one indicator from the first four standards and the last indicator from any standard.
- **New this year** - when picking indicators for science the team must pick at least two indicators at a higher level than knowledge on the Bloom taxonomy, use Science Blooms taxonomy Guide at <http://www.ksde.org/Default.aspx?tabid=420>
- **Five extended indicators from History-Government Extended Standards for freshman and juniors if you choose to assess them, (one indicator from each of the four standards and the last indicator from any standard)**

Data are collected only during the testing window.

The Scoring Rubric is used for scoring the Alternate Assessment.

Local scoring will be conducted by three scorers; one of the scorers must include the special education teacher.

By Dec. 1, 2010, sign off by a special or general education administrator will need to take place to verify the following in order to meet the Dec. 31, 2010 deadline:

- Indicators must be aligned to the activities chosen.
- No functional activities can be used for the KAA.
- Assessable activities need to be used for the KAA; opinions are not appropriate assessable activities.
- *All areas on the evidence label must be filled out completely.*

Scoring.

- Scorers should not enter scores on CETE only Recorders
- Scores are confidential and are sent to the recorder individually
- Scores are only given to evidence provided, if no evidence in the portfolio then the piece of evidence receives a "0"

### REQUIRED FORMS

Required forms can be found at <http://www.cete.us>

The CETE evidence label must be used this year.

### IEP CONTENTS

Students who take the Alternate Assessment in any content area must have IEP benchmarks or short-term objectives.

The indicators chosen for the Alternate Assessment may be listed on the student's IEP.

### SCORES REPORTED

Student performance levels are reported to schools and parents.

Only 1% of KAA scores are counted as "Meets Standard" or above for district and state AYP reports.

All scores must be entered by April 29, 2011

### PERFORMANCE LEVELS

There are five levels: Exemplary, Exceeds Standard, Meets Standard, Approaches Standard, and Academic Warning. Cut scores are available at <http://www.ksde.org/Default.aspx?tabid=420>

### TESTING WINDOW

The proposed testing window dates are at <http://www.ksde.org/Default.aspx?tabid=420>

### RECENTLY ARRIVED STUDENTS

Students taking the Alternate Assessment who enroll in a different school after December 31, 2010 are exempt.

*Indicators cannot be registered after December 31, 2010.*

### GENERAL INFORMATION ABOUT KANSAS ASSESSMENT OF MODIFIED MEASURES (KAMM)

*For any content area assessed using the KAMM, the student's IEP goals MUST be based on grade level content standards.*

The KAMM testing window is the same as the general education testing window.

Only 2% of KAMM scores are counted as "Meets Standard" or above for district and state AYP reports.

KAMM is based on grade level indicators.

KCA is required for the KAMM. A paper and pencil version is available **ONLY** as an accommodation.

### ACCOMMODATIONS

The accommodations are used for classroom instruction and classroom testing.

*The Accommodations Manual is available at <http://www.ksde.org/Default.aspx?tabid=420>*

### CONTACTS

Debbie Matthews, Special Education Assessment Consultant, KSDE  
[dmatthews@ksde.org](mailto:dmatthews@ksde.org) 785.296.0916



**KAMM Eligibility Criteria**

**Required components:**

1. The student has a current IEP.
2. Student is not eligible for the alternate assessment in the content area being considered. (Eligibility must be determined for each content area separately.)
3. The decision to determine a student’s eligibility to participate in the KAMM may NOT RESULT PRIMARILY from: excessive or extended absence, any specific categorical label nor social, cultural, or economic differences.

<b>Criteria</b>	<b>Examples</b>
All criteria must be met to identify a student as eligible for participation in the KAMM.	<i>Supporting evidence for meeting these criteria (Data)</i>
<b>Intensive Individualized Instruction</b>	
Does the student need <b>significant</b> changes in the complexity and scope of the general standards to show progress in the curriculum?	
Requires intensive specially designed instruction AND	<i>Planning/implementing of differentiated instruction to meet the individual needs of the student. For example: modifications, materials used, visual supports</i>
Requires intensive individualized supports AND	<i>Learning supported by adult assistance, providing frequent and structured prompting and cueing, or may use assistive technology</i>
Requires extensive instruction AND	<i>Extended learning time including increased frequency and duration of instruction and practice</i>
<b>Classroom Assessment</b>	
Does the student need supports to significantly reduce the complexity or breadth of assessment items?	
Requires differentiated content for classroom assessment AND	<i>Student receives modified classroom assessments on a routine basis</i>
Needs to show what they know differently AND	<i>Assistive technology, oral presentation instead of a written response, performance assessment</i>
Accommodations alone do not allow the student to fully demonstrate knowledge AND	<i>Documented accommodations have been insufficient</i>
<b>Student Performance</b>	
Is the student <b>multiple</b> years behind grade level expectations?	
Consistently requires instruction in pre-requisite skills to the grade level indicators being assessed AND	<i>Evidence shows the student’s instructional level in the scope and sequence of the content standards is at a pre-requisite level</i>
Despite the provision of research based interventions, the student is not progressing at the rate expected for grade level AND	<i>Evidence shows the use of research based interventions and data for monitoring progress</i>
Student classroom achievement and performance is significantly below grade level peers	<i>The preponderance of the above evidence and data indicates that the student is performing significantly below their peer group. (It was discussed that this could be approx. 2 standards deviations below the mean).</i>

**Eligibility Criteria for  
Students with Significant Cognitive Disabilities  
To participate in the  
Kansas Alternate Assessment**

- The student has an active Individual Education Plan and the present levels of educational performance data indicates that with regard to progress in the general curriculum area under consideration, the student is significantly delayed.

**AND**

- The student’s learning objectives and expected outcomes in the academic area under consideration requires substantial adjustment to the general curriculum of that area. The student’s learning objectives and expected outcomes in the area focus on application, as illustrated in the benchmarks, indicators, and clarifying examples within the Extended Standards.

**AND**

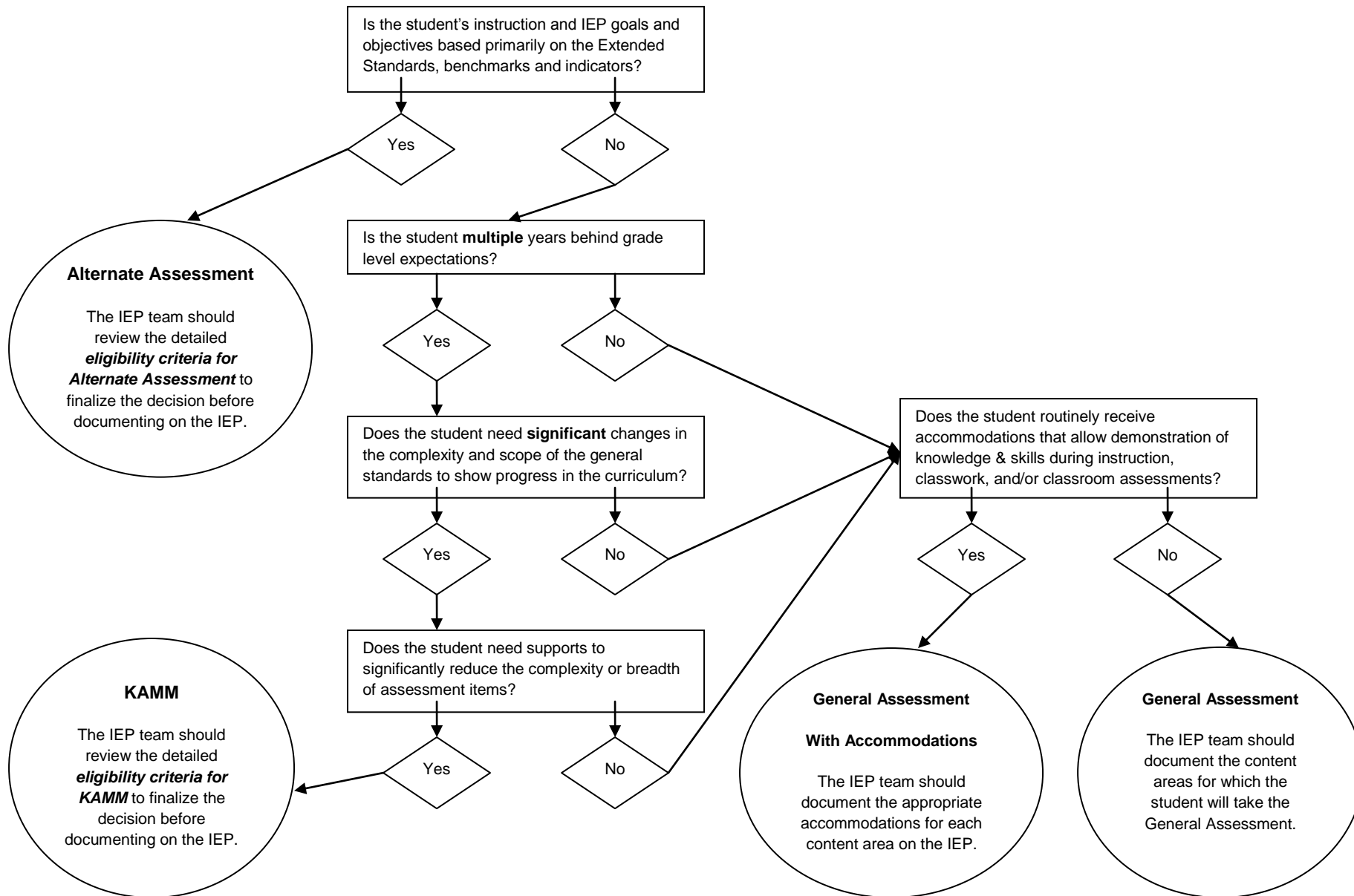
- The student primarily requires direct and extensive instruction in the academic area under consideration to acquire, maintain, generalize, and transfer the skills done in the naturally occurring settings of the student’s life (such as school, vocational/career, community, recreation/leisure and home).

**AND**

- The student is presented with unique and significant challenges in demonstrating his or her knowledge and skills on any assessment available in the academic area under consideration.

The decision to determine a student’s eligibility to participate in the alternate assessment may NOT RESULT PRIMARILY from:

- Excessive or extended absence
- Any specific categorical label
- Social, cultural, or economic difference
- Amount of time he/she receives special education services
- Achievement significantly lower than his or her same age peers



## **Student Improvement Teams (SIT):**

The SIT team is made up of all special education staff. This meeting provides a time when teachers are able to discuss student needs, collaborate on assessments and calendar monthly IEP meetings.

### **SIT Notebook**

- Have sections for agendas, minutes, log, calendar
- May have sections for accommodations, teacher/specialist schedules
- Keep in a central, accessible location

### **Agenda**

- Choose an “agenda maker” (can rotate responsibility)
- May choose from a variety of formats
- Have sections for attendance, initial referrals (parent and SIT), upcoming IEP’s (30-days), reevaluations, teacher/parent concerns, behavior concerns (suspensions, behavior interventions, and manifestation determinations)

### **Minutes**

- Choose “keeper of the minutes” (can rotate responsibilities)
- Can be handwritten or computerized
- Are information for, continuity (tracking cases), record keeping, compliance, and communication.

### **SIT Log**

- Choose “keeper of the log”
- Update at meeting (may use hard copy and computerize later)

### **SIT Calendar**

- Begin at start of school year (check out the district internet calendar!)
- List all IEP meetings (student, case carrier, place, type of meeting)
- List SIT and staff meetings
- Include psych/specialists’ scheduled days
- Update regularly (at SIT meetings, when meetings are scheduled by case manager)

### **Referrals**

- Student Intervention Team (SIT) Referrals
- Parent Referrals

### **Multidisciplinary Assessment**

- Assessment of initial referrals
- Assessment for reevaluations of placement
- Assessment for manifestation determinations
- Team may include psychologist, administrator, general education teacher, nurse, adapted PE teacher, speech therapist, resource specialist, special day class teacher, counselor, parent, student other support staff.
- Student Observation

### **Discussion of Current Special Education Students**

- Plan for triennial assessments (modified v. full assessment)
- Discuss and problem-solve-teacher/administrator/parent concerns
- Discuss possible changes of placement
- Discuss and problem-solve behavior issues (including tracking suspensions, planning behavior interventions)
- Communication between service providers
- Compliance

### **The Roles of SIT:**

The SIT has several roles at a school site. One role is that of reviewing records from the Student Intervention Team. The second role is that of the Multidisciplinary Assessment Team. The third role is to review the progress of currently placed students.

### **Reviewing Records from the Student Intervention Team**

The SIT chairperson reviews the files and/or records of children referred for testing by the Student Intervention Team. The SIT may determine that more or different interventions need to be tried before testing. The case would then be sent back to the Student Intervention Team.

### **Forming a Multidisciplinary Assessment Team**

The SIT becomes a Multidisciplinary Assessment Team when it determines that assessment is needed. This team determines types of assessments, formal and informal, to be given to that student. A “case manager/career/tracking teacher” is assigned to handle meetings, paperwork, etc. The SIT (now the Multidisciplinary Assessment Team) decides who will give assessments, and who will manage the case.

The Multidisciplinary Assessment Team may include (but is not limited to) the following individuals:

- Psychologist
- Administrator
- Adapted PE Teacher
- Speech Pathologist
- Special Education Teachers
- Related Service Providers
- General Education Teacher

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- Counselor
- Parent
- Student

### Role – Review Progress of Currently Placed Students

In addition, the SIT addresses triennial assessments, change of handicapping conditions, and change of placement, behavior issues and a review of progress for students already in special education programs.

### Documenting Progress, Discrepancy & Need

<b>Citation</b>	Kansas Rules of Special Education 41.306(3); <i>Special Education Eligibility Standards</i> , Kansas Department of Education, July 2011
<b>Progress, Discrepancy and Need Evaluation</b>	The full and individual initial evaluation documents the examination of an individual's performance over time (progress), performance as compared to grade level expectations or developmental norms (discrepancy) at the point in time the evaluation is conducted, and needs in the context of the individual's unique circumstances. The evaluation also attempts to identify those circumstances under which the individual experiences the most growth or success.
<b>Progress Discussion</b>	<p>The full and individual initial evaluation uses a child's response-to-intervention or instruction data to support the conclusion that a disability is present. Specifically, the individual's rate of progress is compared to the expected rate of progress for typically developing peers. Progress data provides objective evidence that an individual's performance over time and during targeted instruction/intervention is substantially different than the rate of progress for typical peers.</p> <p>Analysis of the rate of progress data includes a comparison of the:</p> <ul style="list-style-type: none"><li>• individual's rate or slope of improvement during intervention;</li><li>• amount of resources necessary to ensure a positive slope (growth, progress) that differ from those provided within the general education context; and</li><li>• targeted intervention rate of progress data, along with other convergent data regarding the individual's rate of progress.</li></ul> <p>There may be times when targeted interventions conducted prior to consent, have generated sufficient data to answer the progress questions. If so, further documentation of the progress components may not be necessary. For purposes of the initial evaluation, the team may simply be documenting progress monitoring data which answers the progress components and summarizes the analysis of progress data for decision making.</p>
<b>Progress Determination for Health, Sensory and/or Physical Impairments</b>	<p>In rare and unusual cases, educational teams may not have intervention data and it may not be needed in order for the team to determine that the child has a disability. These include, and are not limited to:</p> <ul style="list-style-type: none"><li>• a significant status change due to a health or medical condition, injury, etc.</li><li>• an obvious and immediate need for service that is only available through special education; or</li><li>• the child is affected by a health or physical condition or a functional limitation that has a high probability of adversely affecting educational performance (e.g., a progressive condition, a condition strongly associated with adverse effects on developmental progress or educational performance).</li></ul> <p>In such cases the evaluation team should document by progress monitoring the reasons it believes the health, sensory or physical limitation will have an impact on the progress of the student's educational progress.</p>

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- Components of Progress**      Components of progress which must be provided as evidence for this indicator include:
- a clearly defined area of concern which includes a measure or performance indicator, baseline data and frequent and repeated data collection over time
  - a clearly articulated and targeted intervention which meets scientifically research or evidence based practices and ensures that the individual's rate of progress is not directly related to a lack of appropriate instruction, absenteeism or mobility issues
  - a description of the data collected and the decisions made based on that data (conclusions). This description must include a summary of the individual's rate of progress when compared with expected performance. It must also include a convergence of data that substantiates defensible conclusions about progress and response to instruction/intervention.

Additionally, whenever intervention results are used in eligibility determinations, the intervention must meet the requirements of systematic problem solving [41.3131] See Systematic Problem Solving, above.

If the components of progress are available at the time of the consent for evaluation, then no additional progress data is required. If the components of progress are not available at the time of consent, then a targeted intervention will need to be developed and implemented concurrently with the evaluation and which meets all of the above data requirements.

If sufficient data are not available for the team to conclude that the individual's rate of progress is substantially different than the rate of progress of typical peers, then the team must determine the child to be "not eligible" for special education and related services.

- Progress Decision Making**      In addressing progress for the full and individual initial evaluation, teams consider and document objective evidence to answer the following questions.

- What is the child's rate of skill acquisition?
- What is the expected rate of skill acquisition (standard and/or peers)?
- Based on the previous two questions what can the team predict about the amount of time it will take for the child to reach the standards and "catch up" with his/her peers?
- Under what conditions did the child experience the most growth? For example:
  - What curriculum level was used to ensure a positive acquisition rate?
  - What frequency or immediacy of reinforcement was needed to provide for a positive acquisition rate?
  - What group size? Time? Frequency? Intensity of instruction was needed to ensure progress?
  - What does the sustained progress data gathered over 6 to 9 weeks suggest about the student's rate of acquisition?

- Progress Documentation**      The information gathered to document the intervention and progress components and the team's decision-making documentation in the SIT Form.

- Discrepancy Discussion**      In addition to evaluating progress, the disability determination focuses on the magnitude of discrepancy. The discrepancy decision is based on the selection of appropriate standards of comparison and the individual's performance compared to that standard.

Once a standard of comparison is selected and the individual's performance is measured and compared to this standard, a decision must be made as to the magnitude of the discrepancy and if the discrepancy is large enough to warrant special education and related services. The discrepancy needs to be made on reliable, valid, current and relevant measures.

Discrepancy data provides objective evidence that an individual's performance is

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significantly different than the majority of children or youth of similar age or grade and discrepant from standards or the essential skills and concepts of Core Curriculum.

There may be times when sufficient existing data are available to respond to the discrepancy components. For purposes of this initial evaluation, the team may simply be documenting in the *SIT Request Form*, that data which answers the discrepancy components and questions. If the components of discrepancy are not available at the time of consent, then the team will need to assess the student's present levels of performance on standards for comparison. Data gathered from these assessments will be described in the *SIT Request Form*.

### Components of Discrepancy

Components of discrepancy which must be provided as evidence for this indicator include:

- a clearly articulated standard of comparison,
- a description of the child's current level of performance, and
- a description of the discrepancy and the significance of this discrepancy

An appropriate expectation would likely be based on a minimal level of student performance relative to the comparison group. A standard of comparison is selected and used to evaluate the individual's performance. The standard chosen must be relevant to the targeted area of concern. Teams are encouraged to consider first, if the individual is discrepant from:

- Kansas Curriculum Standards
- Kansas Early Learning Standards

### Discrepancy in Decision Making

In addressing discrepancy for the full and individual initial evaluation, teams consider and document objective evidence to answer the following questions.

1. What are the multiple sources of data that demonstrate the individual's performance is significantly discrepant from that of peers expected standards?
2. How does the individual's current level of performance compare to that of typical peers or expected standards?
3. What is the magnitude of the discrepancy?
4. What are the functional implications of the discrepancy? (Meaningful in a practical sense and reliable in a statistical sense.)

### Magnitude of Discrepancy

Note: Eligibility determination is made using the convergence of data from multiple sources. Although there are no specific "cutoff" scores that eligibility determination teams must utilize for decision making, there are guidelines based on data that teams need to follow when determining magnitude of discrepancy.

- When considering benchmarks and standards (Core Content, Early Learning, Core Curriculum's essential skills and concepts) as the standard of comparison, the student's performance should be below grade level.
- In some cases, discrepancy can be measured in terms of years behind in the curriculum. This needs to be a decision that is made relevant to the targeted area of concern. For example, one would not want to wait until an individual was two years behind before providing instruction in specific reading skills.
- When a measure is utilized that provides the opportunity to identify a percentile rank, a score near or below the 12th percentile may be considered.
- For specific areas such as speech/language therapy, occupational therapy, physical therapy, vision and hearing, the teams will need to refer to discrepancy guidelines set for those disciplines/domains.

Teams should note that discrepancy decision making occurs following targeted intervention to remediate the area of concern, not the point at which the area of concern is first noted.

### Discrepancy

The information gathered to document the discrepancy component must include answers



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**Documentation** regarding the following questions.

- What is the student's current level of performance?
- What is the expectation in this area (standard and/or peers)?
- What is the magnitude of discrepancy?
- Does a significant discrepancy exist?

Answers to these questions should be summarized under “educational discrepancy” in the *SIT Referral Form* for each area of concern and all performance domains listed on the *Consent for Notice of Full and Individual Initial Evaluation*. Although the discrepancy decision is based on a child's performance at a given time, teams are encouraged to look at multiple sources of data such as the child's performance on the less preferred standards or additional assessments (e.g., interviews with teachers, classroom products, district wide assessments) which provides convergent data for the discrepancy decision making.

**Need Discussion** Instructional need is the third required component of eligibility determination, and is reflected in the team's judgment that an individual requires special education and related services in order to receive a free and appropriate education. Specifically, teams assess through multiple methods (review, interview, observe, test), the needs of the individual in each of four areas:

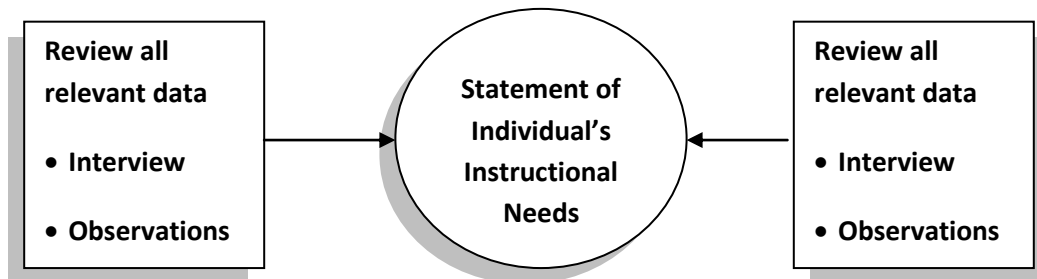
- Instruction
- Curriculum
- Environment
- Learning Supports

Teams must consider the individual's learning characteristics, ecological variables, and any other relevant information collected as part of the evaluation to determine what accommodations, modifications, services and supports the individual needs in each of the above areas. To meet the need component of eligibility, however, identification of only one area is required.

### **Need Components**

Based on the convergence of all data collected as part of the evaluation process, instructional need is a data-based description of the resources necessary to improve and maintain the student's rate of learning at an acceptable level and requires teams to operationally define the conditions under which learning is enabled or enhanced. The discussion of need summarize the unique constellation of services and supports that an individual requires that go beyond the capability of general education to provide without special education resources.

The educational services, activities, supports, accommodations and modifications required by the individual to be successful and which cannot be sustained without special education services must be determined through careful analysis of all evaluation data - represented in the following graphic:



The team's conclusion regarding the individual's needs for specialized services or resources should be described in a special education report and if the student is determined

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eligible for special education should guide the Individualized Education Program.

### Need Decision Making

Need is the IEP team's judgment that an individual requires special education and related services in order to receive a free and appropriate education. In addressing need, teams consider the following questions:

1. What are the individual's needs in the areas of instruction, curriculum, and environment? For example:  
In instruction, does the individual require instruction from someone with specialized preparation or training? Does the individual require instruction that includes frequent repetitions of key concepts?  
In curriculum, does the individual require alternative textbooks (digital media, alternative accessible media) or instructional materials? Does the individual require curriculum at a different or extended grade level?  
With respect to the environment, does the individual need a distraction free environment or a ratio with fewer students to teacher? Does the child need visual supports?  
In the area of learning supports does the child need an individualized reinforcement system, assistive technology, additional passing time, etc?
2. What are the instructional strategies, accommodations, and modifications that will enable the individual's learning performance to improve?
3. What accommodations and modifications were provided which enhanced the individual's performance and allowed opportunity to acquire educationally relevant skills?
4. What, if any, ecological variables are related to the individual's needs and potentially contribute to the interventions, accommodations or modifications not enhancing the individual's performance?
5. What is the pervasiveness of the area of concern across settings and time?
6. What ongoing, substantial, additional services are needed that exceed the capacity of general education resources alone?

### Need Documentation

The information gathered to document the need areas and to determine the answers to need decision is summarized in the special education evaluation report. If the individual's instructional needs require services and supports that extend beyond what typical general education resources alone can provide then the individual has met the criteria for instructional need, which is indicated on the form.

### Summarizing the Evaluation Information in the Education Evaluation Report

The *Special Education Evaluation Report* is where teams summarize the information gathered through the full and individual initial evaluation. It provides the evidence (objective data and supportive information) that the individual is eligible and in need of special education and related services or is not eligible. The report's information will address the following questions:

1. Does the individual have a disability? (A disability is a significant skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects the individual's rate of progress and current level of performance.)
2. Are special education resources required to meet the individual's educational needs?

Note: When the answer to both 1 and 2 is "yes" then the individual is eligible for special education and related services.

### Notes:



**Student Intervention Team Referrals:**

- According to NCLB and IDEA Reauthorization, there must be documented “scientifically based” interventions provided to the student prior to moving forward with special education assessment. “A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized.
- Please be sure that the intervention documentation is part of the SIT packet.
- If the interventions are incomplete, the SIT packet will be returned to the SIT team.
- There is not a predetermined number of students who can be taken through the SIT process.
- There is not a “cut off” date for the SIT referrals which are academic and require SIT monitoring.
- Students will be calendared in as usual throughout the year. This calendar needs to be monitored carefully.

**Notes:**

## **Students Not Eligible for Special Education Programs**

### **Transition to Least Restrictive Environment:**

- If, at the three year review, the student does not qualify for special education under the state guidelines, the team may write a transition IEP.
- The school psychologist must be part of the IEP meeting.
- While the student is transitioning, the school psychologist will indicate the Primary Disability as though the student continues to qualify for special education.
- In the comments and summary, a statement must be made that “The student does not qualify, under state guidelines, for special education services but the IEP team has decided to transition the student for the next 6 months. At that time, another IEP meeting will be held to discuss the progress.
- An exit IEP must be held at the time of the exit. The IEP team cannot project an exit date on the IEP.

### **Notes:**

## **Suspension/Expulsion:**

An identified procedure must be followed when addressing the issue of suspension as it relates to a special education student.

Specific methods must be employed when implementing discipline procedures for special education students. The intent of these procedures is to ensure that individuals with exceptional needs and their parents have access to required procedural safeguards.

### **Suspension Limited for Five Days**

Discipline, which is not intended to change the placement or substantially interfere with the implementation of a pupil's IEP, is permissible for special education students.

Permissible forms of discipline include detention, teacher suspension and principal suspension up to five consecutive school days.

### **Suspension Limited to Ten Days**

A special education pupil's suspension may be extended for up to ten consecutive school days in situations where a pupil poses an immediate threat to the safety to self and others.

### **Exclusion by Injunctive Relief**

A special education pupil may be excluded beyond ten days only when a pupil poses an immediate threat to the safety of self or others and;

1. Parent(s) agree to a change of placement, or
2. The District seeks injunctive relief by court order.

In the event injunctive relief is granted, it is the court which decides the length and other terms of the exclusion, which could include an interim placement.

### **Expulsion**

Expulsion remains an option for a special education pupil when an IEP team has determined that:

1. The misconduct was not caused by or a direct manifestation of the identified handicap
2. The misconduct was not the result of an inappropriate program;
3. The misconduct warrants expulsion.

However, pending expulsion and placement, IEP team must meet and determine the provision of service.

### **Manifestation Determination**

When a student is suspended for up to 10 days, by the 10th day a manifestation determination must be completed.

The team answers the following questions:

1. Did the student's disability impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action?
2. Did the student's disability impair the ability of the student to control the behavior subject to disciplinary action?
3. Was this student's IEP/placement appropriate at the time of the alleged misconduct?
4. Were supplementary aids and services in the student's IEP provided at the time of his/her misconduct?

*Haysville USD 261 – Procedural Handbook for Administrators*

5. Were behavioral interventions provided to the student consistent with his/her IEP and placement?

**Notes:**

**Notes:**



**Transportation:**

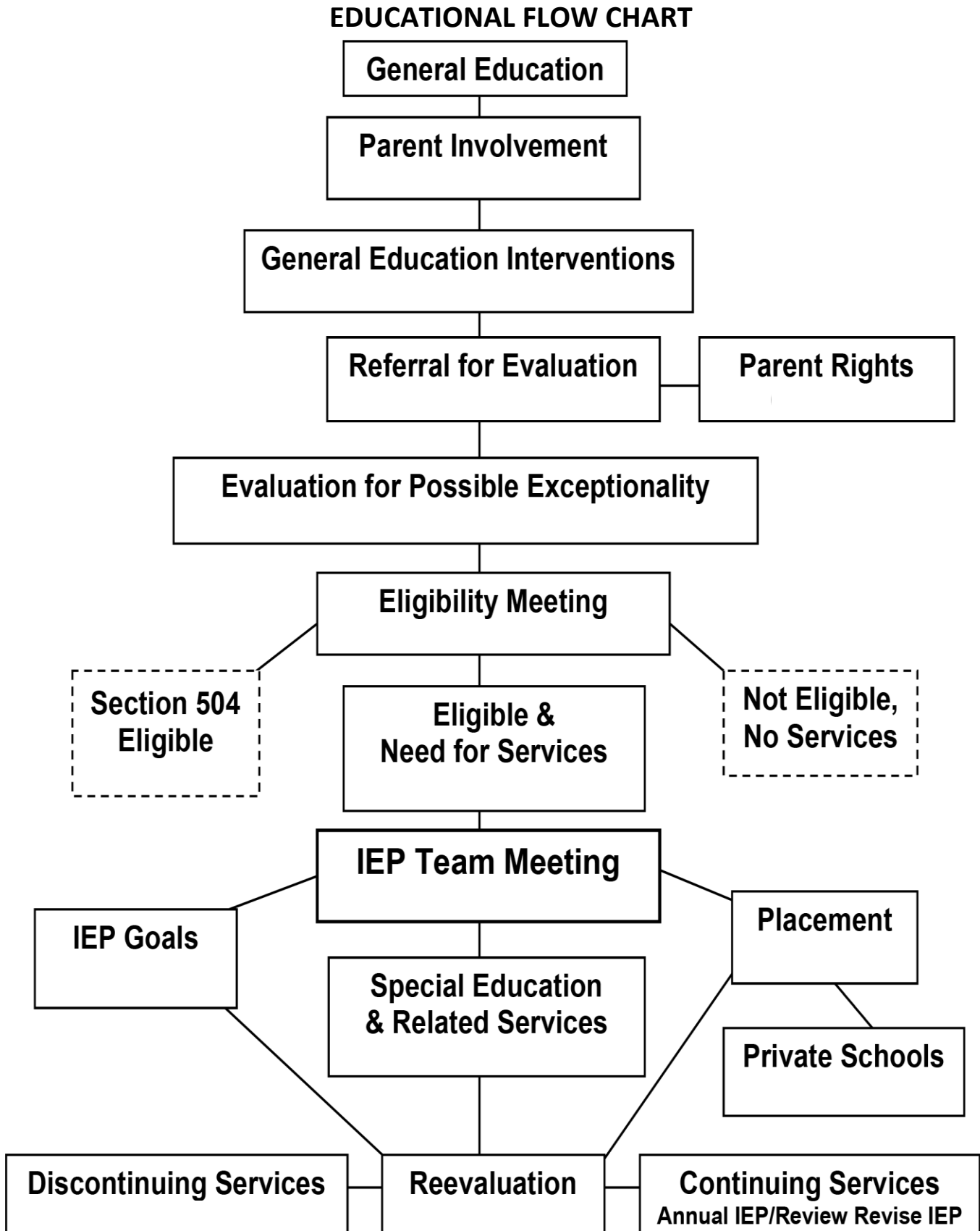
**Concerns:**

In order to facilitate needed change for specific transportation issues, all concerned special education teachers should maintain a daily log of delivery and pick-up times for a minimum of two weeks. Your tallies need to be sent to Angie Estell, Assistant Director of Special Education in Special Services.

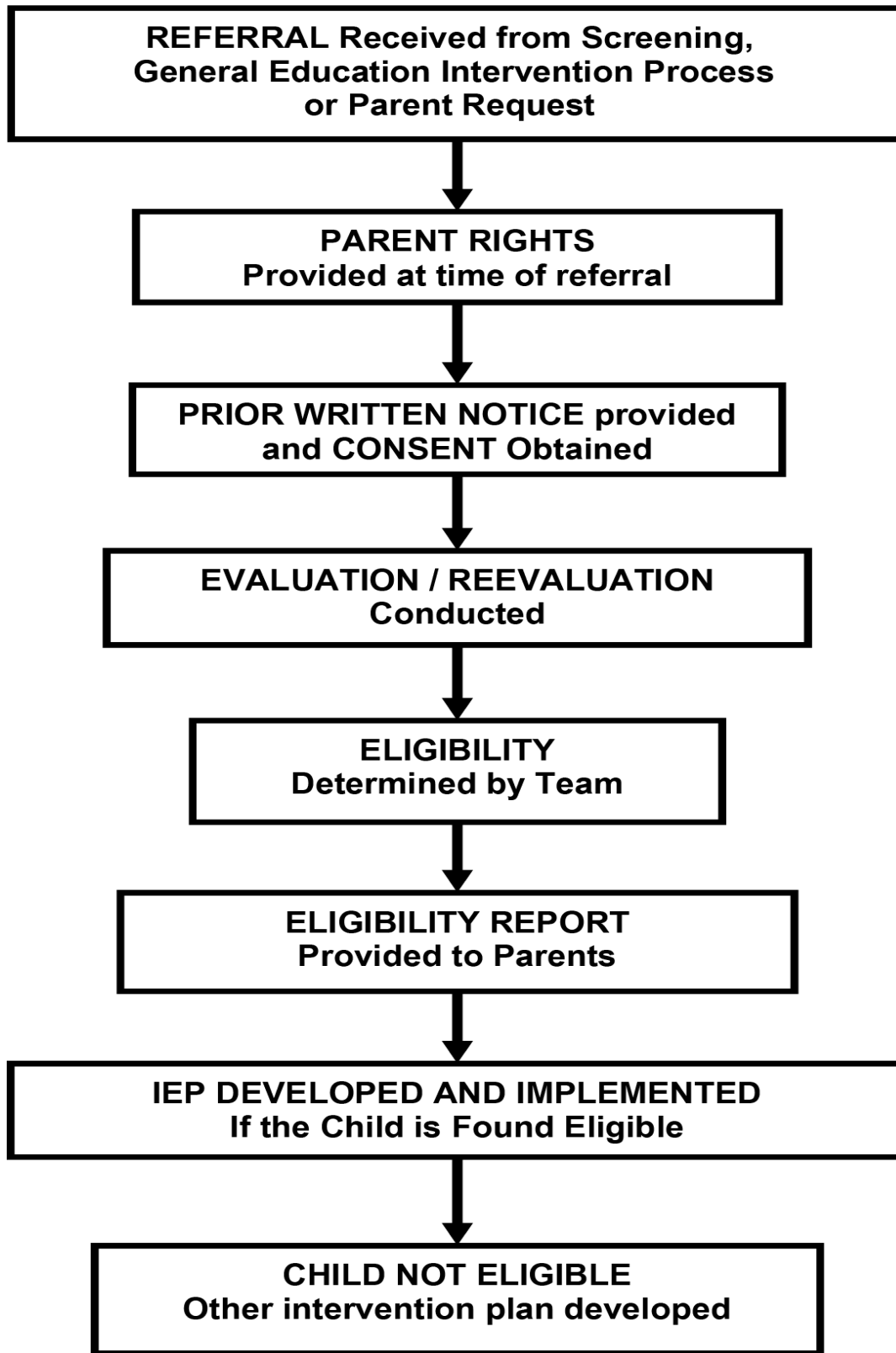
Special Transportation is a special education service and an IEP team needs to meet, add this service to a student's IEP and obtain parental consent.

**Notes:**

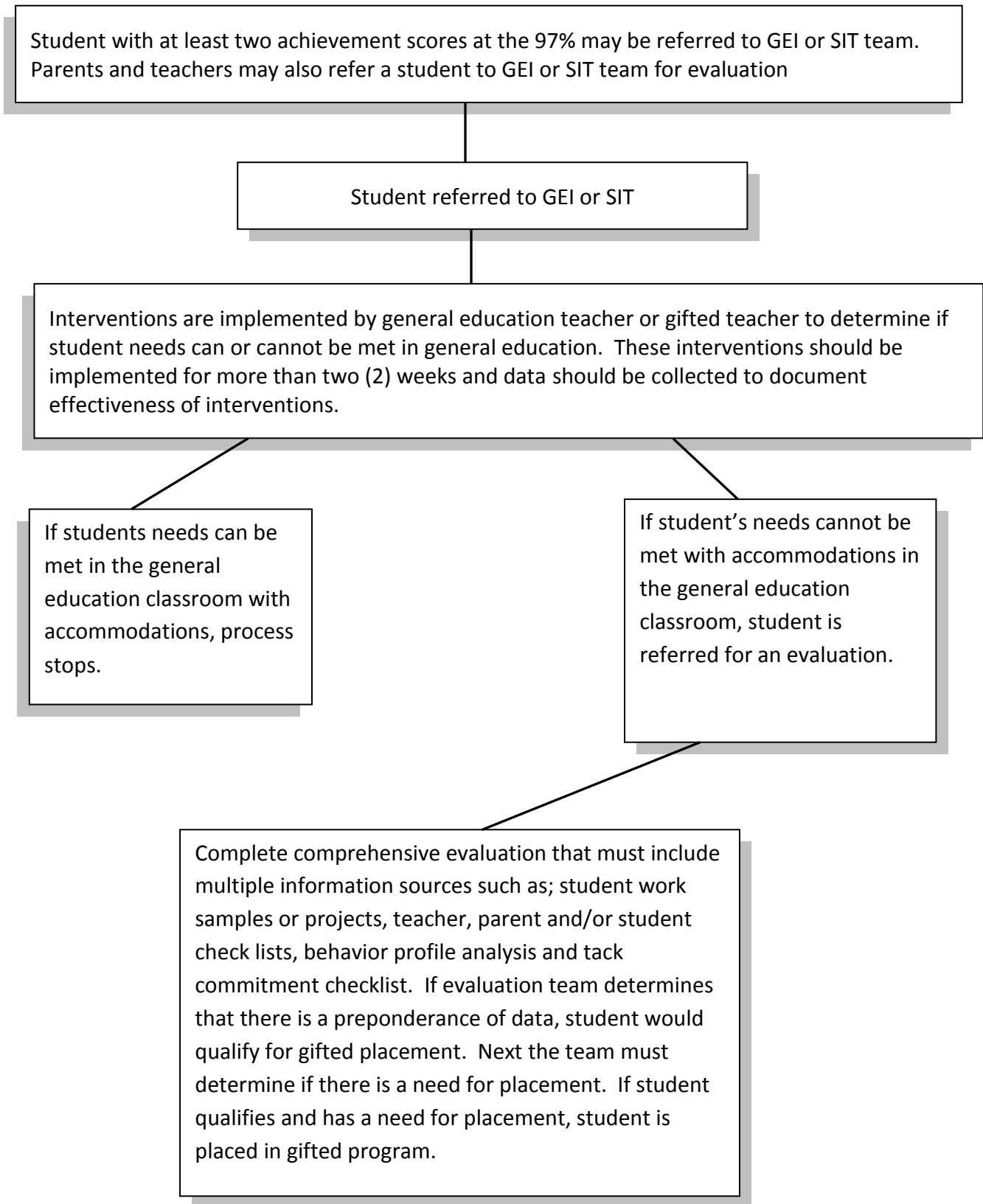
Appendix 1 – Educational Flow Charts



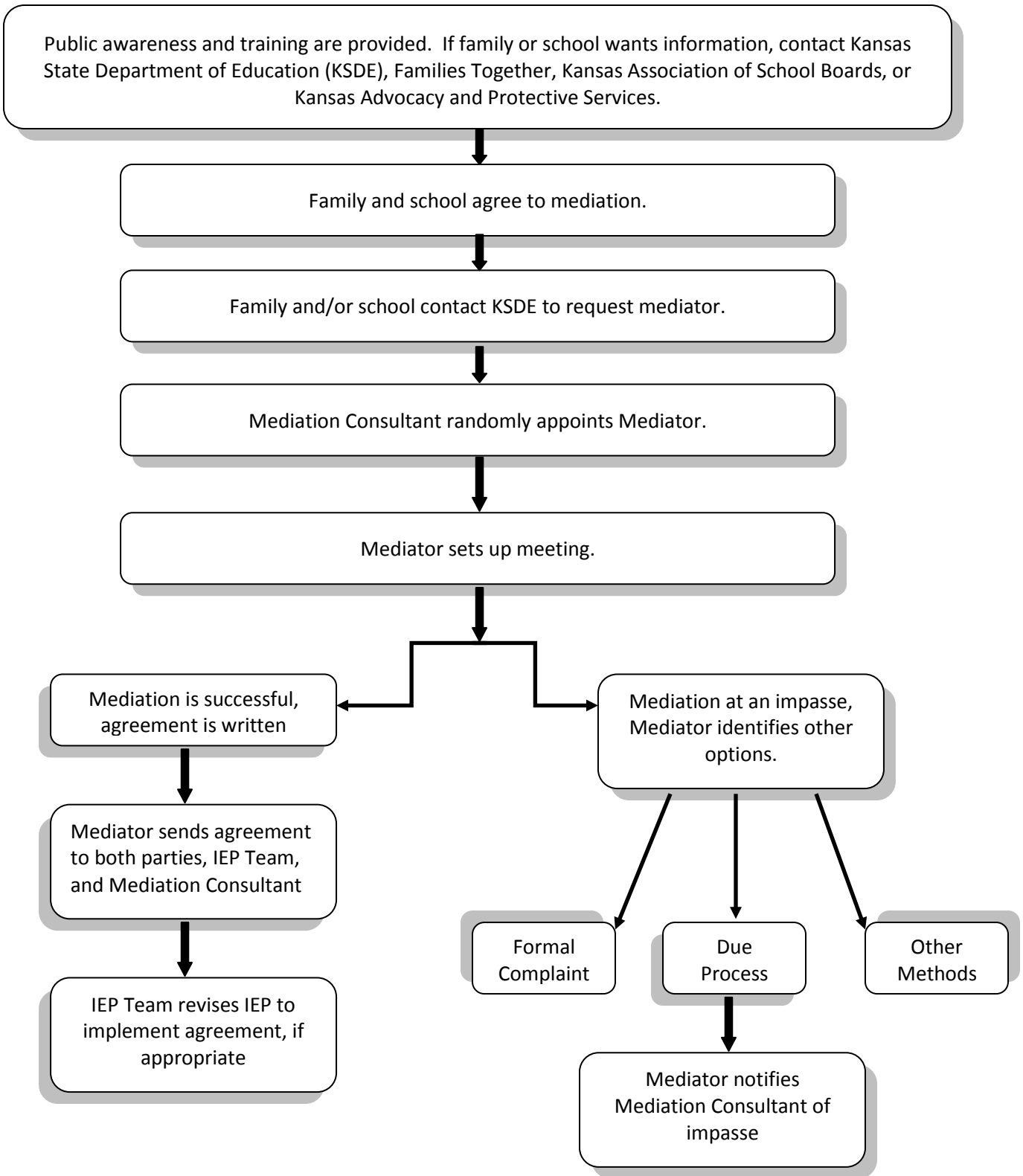
**INITIAL EVALUATION PROCESS**



### GIFTED IDENTIFICATION FLOW CHART



Appendix 2 – Special Education Mediation Process



Reference Number \_\_\_\_\_

Date of Request \_\_\_\_\_

**REQUEST FOR MEDIATION**

Parent(s) Name: \_\_\_\_\_

Address City/State/Zip: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number(s): \_\_\_\_\_

USD/Coop/Interlocal  
No. & Name: \_\_\_\_\_

Address/City/State/Zip: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

Student for whom mediation is requested:

Name: \_\_\_\_\_ Disability \_\_\_\_\_

Birthdate: \_\_\_\_\_

Has a due process hearing been requested?  yes  no

Has a hearing been scheduled?  yes  no If yes, please state the date: \_\_\_\_\_

Please indicate preferred dates and times you are available for a mediation session. Unless there is an emergency situation requiring immediate resolution, please allow approximately two weeks time for the selection of a mediator and for the mediator to setup a mediation session.

Preferred Dates: \_\_\_\_\_

Please FAX & mail to: Mediation Consultant  
Special Education Services  
KS State Dept. of Education  
120 SE Tenth Avenue  
Topeka, KS 66612-1182  
Phone: (800) 203-9462 or (785) 296-5478  
FAX: (785) 296-6715

Reference Number \_\_\_\_\_

**AGREEMENT TO MEDIATE**

We, the undersigned, have been fully informed of the mediation process and agree to abide by the procedures and guidelines governing the process, and that:

- 1. The mediator is a specially trained impartial third party whose role is to assist us in making mutually determined decisions regarding the appropriate special education services or placement for:

\_\_\_\_\_

(Name of Student)

- 2. The mediator is not serving as a legal representative, counselor, or advocate and will not make decisions regarding the special education services or placement to be provided to the student.
- 3. The mediator cannot be called upon as a witness or consultant in any other administrative, judicial, or educational process. Mediation discussions are confidential. Any recording (electronic or otherwise) of a mediation session is not permitted. The only written record will be the agreement that we jointly develop and agree upon in the mediation process; and
- 4. Participation in a mediation session is voluntary, and mediation may not be used to delay or waive the parties' right to proceed with a due process hearing.
- 5. Kansas Law, at K.S.A. 72-996, requires that any agreement reached by the parties to this mediation must be in writing and signed by the parent and an authorized representative of the school district. The law also requires that, at a minimum, every mediation agreement must include the following statements:
  - 1) the resolution of each issue presented in the complaint;
  - 2) all discussions that occurred during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
  - 3) each party understands that the agreement is legally binding upon them; and
  - 4) the agreement may be enforced in state or federal court.
- 6. If this mediation includes complaint issues currently under investigation by the Kansas State Department of Education, we agree that the timelines for completion of that investigation shall be extended to provide us with an opportunity to complete the mediation process.

Parent: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_  
Type or Print Name

**Education Agency**

Representative: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_  
Type or Print Name

Please FAX and mail to: Mediation Consultant, Special Education Services  
KS State Dept. of Education  
120 SE Tenth Avenue; Topeka, KS 66612-1182  
Phone: (800) 203-9462 or (785) 296-5478  
FAX: (785) 296-6715

Reference Number \_\_\_\_\_

### CONFIDENTIALITY PLEDGE

We understand that discussions held in mediation are to be kept confidential. Nothing that is said may be used as evidence in any later due process hearing or other legal action. Specifically, we agree to the following:

- We are not allowed to tell anyone about discussions during the mediation process. This includes statements made, settlement proposals made or rejected, and the reasons an agreement was not reached, if that happens. We may not discuss information regarding mediation discussions with a judge, administrative hearing officer, complaint investigator or arbitrator. However, the parties may discuss information, on a need to know basis, with appropriate staff and professional advisors. Also, a parent may disclose mediation discussions to his/her spouse.
- We agree that we will not at any time, before, during, or after mediation, call the mediator or anyone associated with the mediator as a witness. This includes any judicial, administrative, or arbitration proceeding concerning this dispute.
- We agree not to subpoena or demand the production of any recordings, records, notes, work product, or other written information of the mediator in any judicial, administrative, or arbitration proceeding concerning this dispute.
- If at a later date, either party decides to subpoena the mediator, or the mediator's records, the mediator will contest the subpoena. The party making the demand agrees to reimburse the mediator for all expenses related to contesting the subpoena. This includes attorney fees, plus the mediator's hourly rate during the mediation process.
- The exception to the above is that this agreement to mediate and any written agreement made and signed by the parties as a result of mediation may be used in any relevant proceeding, unless the parties agree in writing not to do so.

Adapted from: Senate Report 105-17, Committee on Labor and Human Resources, S.717, Individuals with Disabilities Education Act Amendment of 1997.

Family member:	_____	Signature
Date:	_____	Type or Print Name
Family member:	_____	Signature
Date:	_____	Type or Print Name
Education Agency Representative:	_____	Signature
Date:	_____	Type or Print Name

**NOTE: Mediation cannot and will not begin until the Mediation Consultant or mediator has received the signed Confidentiality Pledge.**

Please FAX & mail to: Mediation Consultant  
Special Education Services  
KS State Dept. of Education  
120 SE Tenth Avenue  
Topeka, KS 66612-1182  
Phone: (800) 203-9462 or (785) 296-5478  
FAX: (785) 296-6715



## SUGGESTED MEDIATION PROCESS TIMELINE

(Calendar Days)

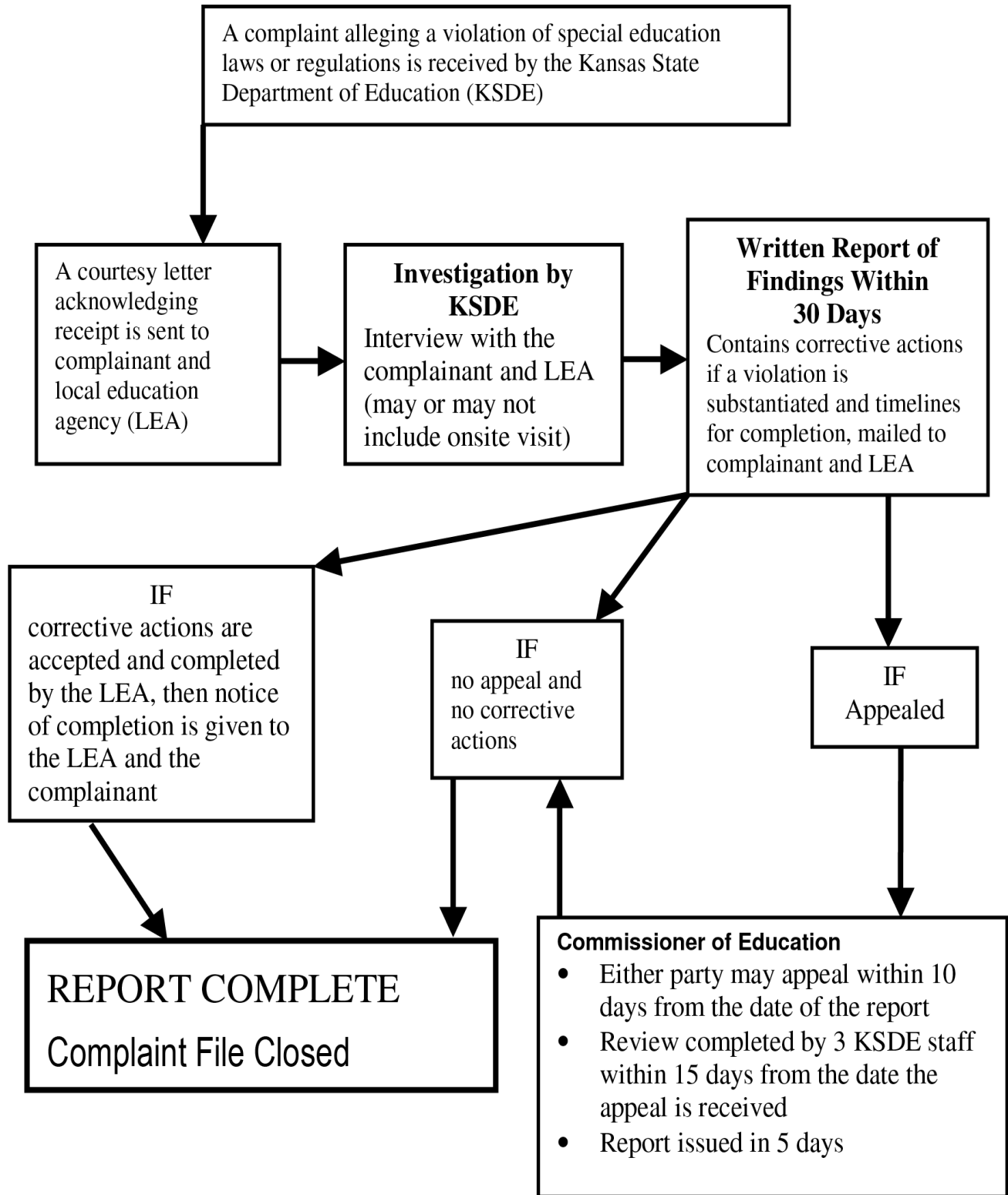
Timeline	Responsible Party	Action
Day 1	Family and School  Mediation Consultant	Agree they want mediation, sign and forward required forms: Agreement to Mediate, Confidentiality Pledge and Request for Mediation. (Be sure to include the preferred dates available for both parties.) Send forms to KSDE Mediation Consultant  KSDE Mediation Consultant receives forms.
By day 4 (within 3 business days of request)	Mediation Consultant	Randomly appoints a mediator and informs both parties of the appointment
By 7 <sup>th</sup> business day (within 3 business days of appointment)	Mediator	Arrange mediation at a place and time acceptable to both parties
By day 17 (within 10 days of setting mediation meeting)  This is suggested timeline. However, mediation should occur on one of the preferred dates of the parties.	Family, School, Mediator	Participate in and complete mediation process  If successful, write agreement and FAX or send to Mediation Consultant and IEP team  NOTE: Timeline may be extended, if needed.
By day 19 (within 2 days of mediation conclusion)	Mediator	Send Mediation Status to Mediation Consultant

## Rules of Mediation

The following is a summary of pertinent rules of mediation.

1. The mediator is an impartial third party.
2. The mediator has no authority to compel any action by either party.
3. Mediation participants for both parties must include persons who have the authority to act on behalf of the student and local district or agency.
4. Mediation requires the full participation and commitment of both parties and can only begin or continue when parties agree.
5. The mediation conference is not recorded by any means. The only record that is kept of the mediation conference is the mediation agreement (either hand written or generated by a laptop computer) which includes a listing of participants and the date(s) and location(s) of the mediation session(s) and a summary of the outcome. A record of the mediation discussions will not be maintained, **and no recording (electronic or otherwise) is permitted.**
6. Efforts to mediate will not be admissible as evidence at a due process hearing except for the purpose of noting that the mediation occurred and the terms of any agreement(s) that were reached as a result of the mediation.
7. The mediator shall terminate the mediation at any point that, in the opinion of the mediator or either party to the mediation, no resolution of the disagreement(s) is forthcoming.
8. The number of participants for each party shall generally be limited to two or three persons.
9. A reasonable time should be set from the time of initiation to completion of mediation (generally within ten calendar days). If needed, the timeline could be extended by mutual agreement of all parties.
10. The mediator will chair all mediation conferences and assure that they are convened in a timely fashion, according to an orderly process, and with due regard to the rights and responsibilities of all parties to the mediation.
11. The content of the mediation conference is confidential and shall not be shared with outside parties.
12. The mediation will be present and future oriented; past problems will not be the focus of the mediation conference.
13. The mediation will be conducted with respect (e.g., name calling or interrupting will not occur).
14. A copy of the final agreement will become a part of the student's school records.
15. Both parties will show good faith and commitment to implementing the final agreement.

Appendix 3 – Formal Complaint Procedure



**Formal Complaint Timeline:**

<b>Timeline</b>	<b>Responsible Party</b>	<b>Action</b>
1 <sup>st</sup> Day	Complainant	Mail or deliver a written, signed complaint form requesting a formal complaint investigation to the Formal Complaint Investigator for the Student Support Services Team of the Kansas State Department of Education.
10 <sup>th</sup> Day	KSDE	Mail letters to the complainant and special education administrator acknowledging receipt of the complaint. Mail copies of the letters to complainant, special education administrator, and school district superintendent.
15 <sup>th</sup> Day	KSDE	Contact complainant and special education administrator to clarify issues in complaint letter, to solicit relevant information and documents, and to schedule a date and time for the on-site investigation, if necessary.
20 <sup>th</sup> Day	KSDE	Conduct investigation. Review and request copies of student records and IEPs. Interview complainant. Interview special education administrator and other school personnel.
25 <sup>th</sup> Day	KSDE	Prepare written report of findings and corrective actions(s) which may be required and the time period within which each corrective action is to be taken.
30 <sup>th</sup> Day	KSDE	Mail written report of findings and corrective action(s) to complainant and special education administrator. Mail copy of report to school district superintendent.
40 <sup>th</sup> Day (unless Extension Granted)	KSDE	<div style="border: 1px solid black; padding: 2px;">                     Review LEA documentation of implementation of corrective action(s) contained in written report; or                      Review LEA request for an extension of time within which to complete corrective action(s); or                 </div> Review LEA written notice of appeal of written report.
40 <sup>th</sup> Day	Complainant or LEA	Within 10 calendar days from the date the written report was sent – Send a notice of appeal to the State Commissioner of Education.
41 <sup>st</sup> Day (unless Extension Granted)	KSDE	Pursue sanctions if LEA fails to respond to a written report within the time allowed

**KANSAS STATE DEPARTMENT OF EDUCATION**

**Special Education Services**

**Formal Complaint Request Form**

Any parent of a child with an exceptionality, another individual, or agency or organization that believes a school district is not following state or federal laws or regulations related to the Individuals with Disabilities Education Act may file a formal complaint with the state department of education. A copy of the complaint must also be sent to the school district. The complaint must allege a violation of special education laws and regulations that occurred not more than one year before the date the complaint is filed. The complaint must be in writing, signed, and sent to Special Education Services. Any document submitted by either the school district or parents will be available to the other party, upon request. Your request for a formal complaint investigation must include the following information:

1. The name, address, and telephone number of the person filing the formal complaint.

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_

2. The name, address, and telephone number of the educational agency against whom the formal complaint is made.

Name of School \_\_\_\_\_ USD No. \_\_\_\_\_

School Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_

3. The name, category of disability and home address of the child involved.

Name of Child \_\_\_\_\_ Disability \_\_\_\_\_

Home Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

4. State each of your concerns. You must include the facts that provide the basis of each concern. Such facts must include when the concern arose and who, or what circumstances, caused the concern. Also state what you believe the school district should do to resolve each of your concerns. (Attach additional pages if needed.)

What is Concern #1?: \_\_\_\_\_

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What are the facts?:

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What do you believe should be done to resolve this concern?

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If you have additional concerns, please state: (a) each concern; (b) the facts that support each concern and (c) what you believe should be done to resolve the concern.

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Signature

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Date

NOTE: Federal regulations provide that the school district has the discretion of offering a proposal to resolve the concerns presented in a complaint or offering to participate in voluntary mediation with the complainant. If the parties agree to (a) mediate any of the concerns presented and (b) to extend the 60 day time line for completion of a complaint investigation, a mediator will be provided by the Kansas State Department of Education, at no expense to the parties.

Upon receipt of a written, signed complaint, the Formal Complaint Investigator will conduct an investigation and provide a written report of findings to the person or agency making the complaint and to the school district. If a violation is confirmed, the report will contain corrective actions and timelines to be followed by the school. The formal complaint report is final, unless one of the parties appeals the report. Either party may appeal the report by filing a written notice of appeal with the Kansas Commissioner of Education.

The formal complaint must be signed and mailed or personally delivered to:

Formal Complaint Investigator  
Special Education Services  
Kansas State Department of Education  
120 SE Tenth Avenue  
Topeka, KS 66612-1182

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**Appendix 4 – Due Process:**

**Due Process Time-Line SEC. 615**

*(Pre-hearing procedures)*

<b>LEA</b>	<b>Parent</b>	<b>Hearing Officer</b>
Due process <b>complaint notice</b> delivered to the other party and to the SEA which includes <b>sufficient</b> information (b)(7)(A)		
10 days response and notice, unless prior written notice regarding the issues has already been given to parents (c)(2)(B)	10 days to <b>respond</b> and specifically address the issues (c)(2)(B)(ii)	
15 days to convene a <b>resolution session</b> unless waived by both parties (f)(1)(B)(i)(1)		
15 days to send <b>Notice of Insufficiency</b> of notice of complaint (c)(2)(C)		
		5 days from receipt of Notice of Insufficiency <b>determine sufficiency</b> of complaint notice and notify parties in writing (c)(2)(D)
5 business days prior to hearing (not less than), each party must disclose to the other party all <b>evaluations and recommendations</b> based on the evaluations that they intend to use at the hearing (f)(2)		
<b>Amendment</b> of complaint notice may be made any time prior to hearing if the other party consents in writing and has an opportunity for a resolution session or if the hearing officer grants permission for the amendment – if complaint notice is amended, all timelines recommence (C)(2)(E)		May grant request for <b>amendment</b> not later than 5 days prior to hearing (c)(2)(E)(i)(9)(11)
Two year limit exceptions		30 days from receipt of Notice of Complaint, if LEA has not resolved issues, the <b>hearing may begin</b> and applicable timelines for hearing shall commence (f)(1)(B)(ii)

**USD # 261 NOTICE TO PARENTS OF  
SPECIAL EDUCATION DUE PROCESS HEARING**

***(Send a signed copy of this due process hearing notice to the student’s parents and to the  
Kansas State Department of Education, Special Education Services Team,  
120 S.E. 10<sup>th</sup> Ave. Topeka, Kansas 66612)***

This notice is to inform you that USD 261 is initiating a special education due process hearing relating to the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education to your child. Therefore, you are being provided with the following required information (which will also be provided to the hearing officer):

1. Name, address, and telephone number of USD 261 contact person.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

2. The name of the student. \_\_\_\_\_ Disability \_\_\_\_\_

3. The name, address, and telephone number of the student’s parents.

Name of father: \_\_\_\_\_

Address: \_\_\_\_\_

(or contact information if the child is homeless)

Telephone Number: \_\_\_\_\_

Name of mother: \_\_\_\_\_

Address (if different): \_\_\_\_\_

Telephone Number (if different): \_\_\_\_\_

4. A description of each problem, including the facts related to each problem, and a proposed resolution for correcting each problem.
5. Please note that you are required by law to send, within 10 days of receiving this notice, a response to the school district that specifically addresses the issues raised in this complaint. Please refer to the notice of parent rights for a full description of your due process rights. If this is the first time a due process hearing has been requested regarding your child, a copy of the parent rights document is enclosed with this notice. If a copy of the parent rights document is not enclosed with this notice, please be advised that it is always available from the school district upon request or from the Kansas State Department of Education, Special Education Services web site at, [www.kansped.org](http://www.kansped.org).
6. Attached to this notice is a list of qualified special education due process hearing officers, along with a statement of the qualifications of each. We have already contacted each of the hearing officers on the list to verify that they are currently available to serve as the hearing officer for this hearing. You have the right to disqualify any or all of the hearing officers on the list. You have five days from the date you receive this



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notice to advise us of any hearing officers on the list that you wish to disqualify. The school may appoint from this list any hearing officer who has not been disqualified by you. If you disqualify all of the hearing officers on the list, the school will, within 3 business days after receiving your notice of disqualification of all of the hearing officers on the list, notify the Kansas State Department of Education of the following: (a) your name and address; (b) the name and address of your attorney, if known; and (c) the names of the hearing officers who were disqualified by you. At that time, the school will request that the Kansas State Department of Education appoint a hearing officer for this case.

- 7. We are also required to inform you of free or low-cost legal and other relevant services. To fulfill this requirement, we refer you to Kansas Legal Services 1-800-723-6953 and to the Disability Rights Center of Kansas 1-877-776-1541. Families Together (1-800-264-6343) is the Parent Information Center and can help parents understand their rights and due process procedures.
  
- 8. Please be advised that a mediation process is also available to help resolve special education disputes. The costs of mediation are borne by the state. Thus, there are no costs for mediation to either the parents or the local school district. The mediator is an impartial professional who is: (a) knowledgeable in special education law; (b) not connected with the school district; and (c) selected for the mediation by the state department of education.

(Please add additional pages, if necessary)

**PROBLEM 1:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FACTS RELATED TO PROBLEM 1:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROPOSED RESOLUTION OF PROBLEM 1:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of authorized school representative

**NOTICE OF PARENT’S REQUEST FOR DUE PROCESS HEARING**

*(Send a signed copy of this due process hearing notice to the School Superintendent or Special Education Director at the business office of the school and a copy to the Kansas State Department of Education, Special Education Services Team, 120 S.E. 10<sup>th</sup> Ave. Topeka, Kansas 66612. If you have questions regarding special education or due process hearing rights or requirements, you may contact the Kansas State Department of Education at 1-800-203-9462)*

I have a complaint about the identification, evaluation, or educational placement of my child or the provision of a free appropriate public education to my child. Therefore, I submit this request for an impartial special education due process hearing and include the following required information.

1. My name, address, and telephone number.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

2. The name, category of disability and address of my child.

Name: \_\_\_\_\_ Disability \_\_\_\_\_

Address: \_\_\_\_\_

(or contact information if the child is homeless)

3. The name, address, and telephone number of my child’s school.

Name of School: \_\_\_\_\_ USD # \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

4. A description of each problem, including the facts related to each problem, and a description of what I think needs to be done to correct each problem.

5. I have been informed that (a) I have a right to initiate a due process hearing relating to concerns I have about the identification, evaluation, or placement of my child or the provision of a free appropriate public education to my child; (b) I must make my request for a due process hearing within 2 years of the date I knew or should have known of the action that forms the basis of this complaint; and (c) the 2 year time limit may be extended if the school district prevented me from requesting the hearing through specific misrepresentations that it had resolved the problem or if the school district withheld information that it was required by law to give me. I also understand that a mediation process is available, at no cost, to help resolve disputes, and that organizations providing low cost legal and other relevant services are listed in the school’s notice of parent rights. In addition, I understand that the school must meet with me prior to a due process hearing to attempt to resolve the problems stated in this due process notice. However, a meeting is not required if the school and I agree, in writing, to waive such meeting or agree to use the mediation process. I also understand that I may obtain a copy of the notice of parent rights explaining my due process rights from the school upon request.

(Please add additional pages, if necessary)

**PROBLEM 1:** \_\_\_\_\_

*Haysville USD 261 – Procedural Handbook for Administrators*

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**FACTS RELATED TO PROBLEM 1:** \_\_\_\_\_

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**PROPOSED RESOLUTION OF PROBLEM 1:** \_\_\_\_\_

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**PROBLEM 2:** \_\_\_\_\_

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**FACTS RELATED TO PROBLEM 2:** \_\_\_\_\_

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**PROPOSED RESOLUTION OF PROBLEM 2:** \_\_\_\_\_

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent or Attorney

**Due Process Time-Lines:**

**K.A.R. 91-40-28 (d) & (e)**

<i>LEA</i>	<i>Parent</i>	<i>Hearing Officer</i>
Due process complaint notice delivered to the other party AND to the SEA which includes sufficient information		
<p><u>Five business days</u> to furnish parents with the following:</p> <ul style="list-style-type: none"> <li>(a) list of qualified due process hearing officers;</li> <li>(b) written notice of                             <ul style="list-style-type: none"> <li>(1) parent’s right (within five days) to disqualify any or all of the hearing officers on the list;</li> <li>(2) school may select any hearing officers left on the list;</li> <li>(3) if no hearing officers are left on the list, the school will request that the KSDE select a hearing officer;</li> <li>(4) availability of mediation.</li> </ul> </li> </ul> <p>Also give written notice of the filing of a due process hearing to the KSDE.</p>	Five days to respond with notice of disqualification of hearing officer(s).	
Three business days after a parent gives notice that all hearing officers have been disqualified, contact KSDE and request appointment of hearing officer. (KSDE has three business days to appoint a hearing officer.)		
		<p>Hearing must be held within 35 days of date of request. KSA 72-973(c)</p> <p>At request of either party, the hearing officer may grant specific extensions of time. KSA 72-975(c)</p>

**USD # 261 NOTICE TO PARENTS OF EXPEDITED  
SPECIAL EDUCATION DUE PROCESS HEARING**

*(Send a signed copy of this due process hearing notice to the student’s parents and to the Kansas State Department of Education, Special Education Services Team, 120 S.E. 10<sup>th</sup> Ave. Topeka, Kansas 66612)*

This notice is to inform you that USD 261 is initiating an expedited special education due process hearing relating to behavior of your child that we believe is substantially likely to result in injury to your child or to other persons, and that we will be requesting an order approving an interim alternative educational setting for up to 45 school days. Therefore, you are being provided with the following required information:

1. Name, address, and telephone number of USD 261 contact person.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

2. Student name: \_\_\_\_\_ Disability \_\_\_\_\_

3. The name, address, and telephone number of the student’s parents.

Name of father: \_\_\_\_\_

Address: \_\_\_\_\_  
(or contact information if the child is homeless)

Telephone Number: \_\_\_\_\_

Name of mother: \_\_\_\_\_

Address (if different): \_\_\_\_\_

Telephone Number (if different): \_\_\_\_\_

4. A description of each problem, including the facts related to each problem, and a proposed resolution for correcting each problem.
5. Please note that you are required by law to send, within 10 days of receiving this notice, a response to the school district that specifically addresses the issues raised in this complaint. Please refer to the notice of parent rights for a full description of your due process rights. If this is the first time a due process hearing has been requested regarding your child, a copy of the parent rights document is enclosed with this notice. If this is not the first due process request, a copy of the parent rights document is always available from the director of special education for the school district or educational cooperative, upon request. The notice of parent rights is also available on the Kansas State Department of Education, Special Education Services web site at [www.kansped.org](http://www.kansped.org).
6. The school is sending a copy of this notice to the Kansas State Department of Education, and we are requesting that it appoint a hearing officer for this case.

7. We are also required to inform you of free or low-cost legal and other relevant services. To fulfill this requirement, we refer you to Kansas Legal Services 1-800-723-6953 and to the Disability Rights Center of Kansas 1-877-776-1541. Families Together (1-800-264-6343) is the Parent Information Center and can help parents understand their rights and due process procedures.

(Please add additional pages, if necessary)

**PROBLEM 1** \_\_\_\_\_

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**FACTS RELATED TO PROBLEM 1** \_\_\_\_\_

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**PROPOSED RESOLUTION OF PROBLEM 1:** \_\_\_\_\_

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized School Representative

**NOTICE OF PARENT’S REQUEST FOR EXPEDITED DUE PROCESS HEARING**

*(Send a signed copy of this due process hearing notice to the School Superintendent or Special Education Director at the business office of the school and a copy to the Kansas State Department of Education, Special Education Services Team, 120 S.E. 10<sup>th</sup> Ave. Topeka, Kansas 66612. If you have questions regarding special education or due process hearing rights or requirements, you may contact the Kansas State Department of Education at 1-800-203-9462)*

I have a complaint about the manifestation determination regarding my child and/or the disciplinary placement of my child. Therefore, I submit this request for an expedited special education due process hearing, and include the following required information.

- 1. My name, address, and telephone number.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

- 2. The name, category of disability, and address of my child.

Name: \_\_\_\_\_ Disability \_\_\_\_\_

Address: \_\_\_\_\_

(or contact information if the child is homeless)

- 3. The name, address, and telephone number of my child’s school.

Name of School: \_\_\_\_\_ USD # 261

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

- 4. A description of each problem, including the facts related to each problem, and a description of what I think needs to be done to correct each problem.

- 5. I have been informed that I have a right to initiate an expedited due process hearing relating to a manifestation determination and/or a disciplinary change of placement regarding my child. I also understand that organizations providing low cost legal and other relevant services are listed in the school’s notice of parent rights. In addition, I understand that the school must meet with me prior to a due process hearing to attempt to resolve the problems stated in this due process notice unless the school and I agree, in writing, to waive such meeting or agree to use the mediation process. I also understand that I may obtain a copy of the notice of parent rights explaining my due process rights from the school upon request.

(Please add additional pages, if necessary)

**PROBLEM 1:** \_\_\_\_\_  
\_\_\_\_\_  
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*Haysville USD 261 – Procedural Handbook for Administrators*

**FACTS RELATED TO PROBLEM 1:**

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**PROPOSED RESOLUTION OF PROBLEM 2**

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Date

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Signature of Parent or Attorney



**Appendix 5 – Eligibility Indicators:**

# Eligibility Indicators

for

# Haysville USD 261

## Spring, 2011

Version 5.0 (a revision to the Fall, 2007 version)

A copy of this document may be downloaded by accessing the KSDE Special Education Services web page: [www.ksde.org](http://www.ksde.org)

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

Special Education Services  
Kansas State Department of Education

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An Equal Employment/Educational Opportunity Agency

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies: KSDE General Counsel, 120 SE 10th Ave., Topeka, KS 66612; 785-296-3201

## ***Haysville USD 261 – Procedural Handbook for Administrators***

This document contains information about initial evaluation, including appropriate sources of data, eligibility determination, and includes Federal and State definitions of each exceptionality area. 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 student is eligible for special education. For further guidance and a more complete discussion of the initial evaluation process, see Chapter 3 in the Special Education Process Handbook. This important resource may be viewed and downloaded by accessing the following web page: [www.ksde.org](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 an exceptional child, the educational needs of the child, and the content of the child's 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 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 students 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 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 that the child meets the definition of one of the categories of exceptionality and, 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.

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

"Exceptional children" means children with disabilities and gifted children (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).

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:

## *Haysville USD 261 – Procedural Handbook for Administrators*

- Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA (NCLB) as 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 exceptionality, 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 indicates 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.”

### **2. Determining Whether the Child Needs Special Education 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) that the assessment results indicate an evaluation is appropriate. Gone are the days where school teams can simply indicate the interventions tried with anecdotal remarks to indicate the need for evaluation. The data collected prior to referral must now 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 school-wide multi-tiered model of intervention (MTSS) or uses an individual problem solving approach (SIT, SAT, 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

## ***Haysville USD 261 – Procedural Handbook for Administrators***

determine that the child needs special education and related services (Prong 2 of the eligibility test). If the data suggests 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.

## **Examples of Sources of Data**

### **1. General Education Interventions or Results of Screening/General Education Curriculum Progress**

Data that the child was provided appropriate instruction in general education settings, including repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction. This includes records of interventions attempted, data collected during monitoring, evaluation of interventions, and data collected through screening measures.

### **2. Record Review**

Information provided by the parents, current classroom-based assessments, information from previous services providers, prior screenings, previous evaluations, reports from other agencies, portfolios, discipline records, cumulative file, health records, performance in relationship to curricular standards, and other records.

### **3. Interview (Parent and other caregivers, Student, Teacher)**

Parents, teachers, and the child can all typically provide insight into areas of strengths and needs. Interviews can also provide information about significant historical events in the child's life as well as about his performance in the classroom and other settings. This may include instructional history, social history, medical information, and/or developmental history.

### **4. Observation**

Structured observations, rating scales, ecological instruments, behavioral observations, functional analysis of behavior and instruction, anecdotal notes, and other observations (conducted by parents, teachers, related services personnel, and others). The purpose of the observation is to help the evaluation team understand the extent to which the child's skills are impacting his/her ability to participate and progress in a variety of settings.

### **5. Tests**

Standardized norm-referenced tests are helpful if the information being sought is to determine how a child compares to a national group of children of the same age or grade. Criterion-reference tests are helpful in determining if the child has mastered skills expected of a certain age or grade level. Tests may include individual measures of ability or aptitude, curriculum-based assessments (e.g., CBA, CBM, or CBE), performance-based assessments (i.e., rubric scoring), or other skill measures such as individual reading inventories. Diagnostic testing which might include measures of reading, math, written language, other academic skills, tests of motor functioning, speech/language skills, adaptive behavior, self-concept, or appropriate tests of any domain of concern.

## 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 <i>must NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA (NCLB));</li> </ul>	Evidence shows that the student's previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student'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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. Also consider whether the student's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student'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 student'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, 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 student 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 categories:

1. Evidence

- Records contain medical information which provides evidence of autism
- Record review, interview, and/or observations indicate student’s skills in verbal and nonverbal communication and social interaction are significantly different from peers
- Record review, interview, and/or observations provide information which substantiates student 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.
- Measures of the student’s communication and social skills indicate skill level is markedly below that of peers
- Record review, interview and/or observations indicate concerns regarding the student’s communication and social interaction skills were evident before age 3

2. Adverse effect

- Record review, interview and/or observation indicate that the student’s condition adversely impacts his/her educational performance
- Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
- Student progress monitoring data shows student’s educational performance is markedly below that of peers

**Prong 2: Does the child need special education?**

Indicators

- Student progress monitoring data indicate intense or sustained resources needed in order for student to demonstrate adequate progress
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas
- Student progress monitoring data show that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions to address communication, social interaction, and/or academic skills.
- Student Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.



**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.

<b>Exclusionary Criteria:</b>	
A child must <i>NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA(NCLB);</li> </ul>	Evidence shows that the student’s previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>• Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student’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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>• Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student’s native language, amount of time in the country, level of education in the student’s native country, etc. Also consider whether the student’s rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student’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 student’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, etc.

## *Haysville USD 261 – Procedural Handbook for Administrators*

### **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 three following categories:

1. Records indicate student is age 9 or under
2. Rate of skill acquisition as measured by progress monitoring is markedly different from peers
  - Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
  - Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions
3. Performance is significantly below developmental expectations in one or more developmental areas as measured by appropriate diagnostic instruments and procedures.
  - Performance is significantly below developmental expectations on a criterion referenced instrument in one or more developmental areas
  - Performance is significantly below normative sample on a standardized assessment in one or more developmental areas
  - Record review, interview, and/or observations demonstrate significant deviation from average development in one or more developmental areas
  - Student performance is significantly lower than peers on one or more benchmark assessments, curricular objectives, or state assessments.

### **Prong 2: Does the child need special education?**

#### Indicators

- Student progress monitoring data indicates intense or sustained resources needed in order for student to 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more developmental areas.
- Student progress monitoring data show that the student's behavior of concern is resistant to targeted supplemental and intensive interventions to address communication, social interaction, and/or academic skills.
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

## 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.

<b>Exclusionary Criteria:</b>	
A child <i>must NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA(NCLB));</li> </ul>	Evidence shows that the student’s previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>• Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student’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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>• Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student’s native language, amount of time in the country, level of education in the student’s native country, etc. Also consider whether the student’s rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student’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 student’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, etc.
<ul style="list-style-type: none"> <li>• The student may not be socially maladjusted, unless it is determined that they also have an emotional disturbance</li> </ul>	Courts have interpreted social maladjustment to mean a conduct disorder. Teams should review records to rule out that the student has been identified as a student having a conduct disorder, unless other evidence that the student also has an emotional disturbance exists.

**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 four following categories:

1. Characteristics of Emotional Disturbance

- Record reviews, interviews, and/or observations indicate levels of physical symptoms or fears which are different from peers and are correlated with school problems
- Record reviews, interviews, and/or observations indicate student exhibits inappropriate behaviors or feelings under normal circumstances
- Record reviews, interviews, and/or observations indicate an inability to build or maintain satisfactory interpersonal relationships with peers and teachers
- 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

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

Assessments indicate behavioral and emotional characteristics are exhibited to a marked degree when compared to peers

4. Evidence that behavior adversely affects educational performance

- Record reviews, interviews, and/or observations indicate that emotional characteristics are adversely affecting the student's educational performance
- 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 shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
- Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions

**Other Supporting Information**

Records document a DSM-IV diagnosis that substantiates one or more of the following: an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems and includes schizophrenia

**Prong 2: Does the child need special education?**

Indicators

- Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate adequate progress
- Despite modifications of instruction, curriculum, and environment, the student 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 student's educational performance
- Student progress monitoring data show that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum

## **Gifted**

KAR 91-40-1

(cc) "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 three following categories:

1. Evidence of performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields
  - Record reviews, interviews, and/or observations indicate student demonstrates superior reasoning and problem solving ability
  - Student progress monitoring indicates student's skill level in one or more academic areas is much above that of peers
  - GPA, classroom, portfolio, or rubrics indicate a significantly high level of intellectual ability and excellence in academics
  - District, state, and national assessments indicate a significantly high level of intellectual ability and excellence in academics
  - 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
  - College entrance exams indicate a significantly high level of intellectual ability and excellence in academics
  - Pre-tests consistently indicate student has already mastered end of unit/curricular objectives prior to instruction
2. Evidence of being due to intellectual ability
  - Record reviews, interviews, and/or observations indicate student shows persistent intellectual curiosity and asks searching questions
  - Record reviews, interviews, and/or observations indicate student shows initiative and originality in intellectual work
  - Ease of task completion indicates a significantly high level of intellectual ability and excellence in academics
  - Rate of acquisition and retention indicate a significantly high level of intellectual ability and excellence in academics
  - Products from home or school indicate a significantly high level of intellectual ability and excellence in academics
  - 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
3. Evidenced that when compared to others of similar age, experience and environment
  - Multiple characteristics of giftedness exhibited when interventions provide adaptations, enrichment, or acceleration
  - Persistence to task and generalization of knowledge gained indicate a remarkably high level of accomplishment
  - Coursework analysis indicates a significantly high level of intellectual ability and excellence in academics when provided with interventions
  - Performance significantly higher than peers on one or more areas on benchmark assessments, curricular objectives, or state assessments

**Prong 2: Does the child need special education?**

Indicators

- Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate appropriate progress:
- Evidence of student's mastery of successive levels of instructional objectives or course requirements indicates the need for intensive adaptations or acceleration
- Student progress monitoring data show that targeted supplemental interventions are insufficient for student to demonstrate appropriate progress
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student to demonstrate appropriate progress
- Evidence of student'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 student progress

## Intellectual Disability

KAR 91-40-1

"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 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 1208(3) of the ESEA(NCLB));</li> </ul>	Evidence shows that the student's previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student'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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency; and</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. Also consider whether the student's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.
<ul style="list-style-type: none"> <li>the child does not otherwise meet the eligibility criteria as a child with an exceptionality</li> </ul>	Evidence shows that the student'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, etc.

**Prong 1: Does the student 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 four following categories:

1. Information relating to sub-average general intellectual functioning
  - Student’s rate of learning, as measured by progress monitoring, is markedly different from peers
  - Student’s score is two or more standard deviations below the mean on an individually administered, standardized, norm-referenced test of intellectual ability
2. Information related to deficits in adaptive behavior
  - Records, interviews, and/or observations indicate student exhibits deficits in adaptive skill areas
  - Measures of adaptive behavior skills indicate significant deficits in two or more areas
3. Information related to initial occurrence during the developmental period
  - Records and/or interviews indicate deficits in adaptive behavior and low intellectual functioning were manifested during the developmental period
  - 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
  - Records, interviews, and/or observations indicate child’s level of educational performance has been significantly below age or state-approved grade level standards.
  - Student’s 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

***Other Supporting Information***

Records indicate a medical diagnosis of mental retardation

**Prong 2: Does the child need special education?**

Indicators

- Despite modifications in instruction, curriculum and environment, student’s rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum and environment, student’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, student’s adaptive behavior skills in various age appropriate environments is significantly delayed from peers
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.



## 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 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 1208(3) of the ESEA(NCLB);</li> </ul>	Evidence shows that the student’s previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student’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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student’s native language, amount of time in the country, level of education in the student’s native country, etc. Also consider whether the student’s rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student’s learning difficulties persist, this factor is ruled out.

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<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 student’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, etc.
<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>	Evidence shows that student 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). If any other factors (cultural, environmental or economic disadvantage, or limited English proficiency) are an issue for the student being evaluated, provide evidence that the student was provided with appropriate accommodations and interventions to address them. If, in spite of appropriate accommodations and interventions, the student’s learning difficulties persist, these factors are ruled out as the primary cause.

**Prong 1: Does the student 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 three following categories:

**1. Observational Data**

Observation in the student’s learning environment (which must include the general education classroom) provides evidence of the student’s performance and behavior in the area of difficulty. [Note: This is required for all evaluations of students 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.**

- 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 student performance is significantly below age or state-approved grade level standards
- Interviews indicate student demonstrates a high level of understanding during oral discussions but lacks mastery of basic skills
- Student 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 student data
- Progress monitoring data displayed on charts or graphs show slow rate of growth in at least one achievement domain despite provision of intense, explicit instructional interventions
- Progress monitoring data displayed on charts or graphs show student is a non-responder to increasingly intense instructional interventions.

**Other Supporting Data**

Record reviews shows DSM-IV diagnosis ( by clinical psychologist or other 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, or developmental aphasia.

**Prong 2: Does the child need special education?**

Indicators

- Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate adequate progress
- Despite modifications of instruction, curriculum, and environment, the student 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, the student progress monitoring data shows variability across academic performance areas
- Student progress monitoring data shows that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Student Progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

## 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.

<b>Exclusionary Criteria:</b>	
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 1208(3) of the ESEA(NCLB);</li> </ul>	Evidence shows that the student's previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student'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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. Also consider whether the student's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student'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 student'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, etc.
The term shall not apply if a child's educational performance is adversely affected primarily because the child is a child with deaf-blindness	The team should rule out the presence of deaf-blindness. If the data the team collects matches the indicators for deaf-blindness, the student should be identified as a child with deaf-blindness rather than a child with multiple disabilities.

**Prong 1: Does the student exhibit an exceptionality?**

Indicators

- Record review and/or Interviews indicate the presence of co-existing impairments
- Measures of educational performance indicate the following:
  - the coexisting impairments are such that the student cannot be provided services appropriately in classrooms solely for students with one of the impairments; or
  - the coexisting impairments are such that the student cannot be provided services appropriately in general education classrooms without specific assistance, modifications, adaptations, or supports necessary to accommodate the multiple impairments

**Other supporting information:**

Records contain medical information which provides evidence of multiple disabilities

**Prong 2: Does the child need special education?**

Indicators

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

1. Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
  - Despite modifications in instruction, curriculum, and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
  - Despite modifications in instruction, curriculum, and environment, student's adaptive behavior skills in various age appropriate environments is significantly delayed from peers
  - Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
  - Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.
2. Student 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 student needs resulting from coexisting impairments
  - 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
  - Information from multiple sources of data indicate that the student 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

## 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.

<b>Exclusionary Criteria:</b> 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 1208(3) of the ESEA(NCLB));</li> </ul>	Evidence shows that the student’s previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student’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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student’s native language, amount of time in the country, level of education in the student’s native country, etc. Also consider whether the student’s rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student’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 student’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, etc.

**Prong 1: Does the student 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 student’s educational performance is much below that of peers
  - Records, interviews, observations, and/or tests show that the student’s orthopedic condition adversely impacts his/her educational performance
  - Measures of motor skills indicate the student’s skills are much below that of peers
  - Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
  - ☐ Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.

**Prong 2: Does the child need special education?**

Indicators

- Despite modifications in instruction, curriculum, and environment, student’s rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum, and environment, student’s educational performance in various age appropriate environments is significantly delayed from peers
- Despite modifications in instruction, curriculum, and environment, student’s adaptive behavior skills in various age appropriate environments is significantly delayed from peers
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

## 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.

<b>Exclusionary Criteria:</b>	
A child <i>must NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA(NCLB));</li> </ul>	Evidence shows that the student's previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student'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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. Also consider whether the student's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student'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 student'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, etc.



**Prong 1: Does the student 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 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.
  - Record review, interviews, observations, and/or tests show the student’s strength, vitality, or alertness is/are significantly different from peers
  - Record review, interviews, observations, and/or tests show the student demonstrates limited alertness with respect to the educational environment
2. Record review, interviews, observations, and/or tests show that the student’s condition adversely impacts his/her educational performance
  - Record review, interviews, observations, and/or tests show that the student’s educational performance is much below that of peers
  - Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
  - ☐ Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.

**Prong 2: Does the child need special education?**

Indicators

- Despite modifications in instruction, curriculum, and environment, student’s rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum, and environment, student’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 student’s educational performance due to differences in strength, vitality, or alertness
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

## 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.

## Hearing impairment, Deafness, Visual Impairment, Blindness

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

Exclusionary Criteria:	
A child <i>must NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA(NCLB));</li> </ul>	Evidence shows that the student's previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student'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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. Also consider whether the student's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student'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 <i>exceptionality</i></li> </ul>	Evidence shows that the student'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, etc.

**THE FOLLOWING INDICATORS APPLY TO HEARING IMPAIRMENT, DEAFNESS, VISUAL IMPAIRMENT, AND BLINDNESS**

**Prong 1: Does the student 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 information which provides evidence of hearing impairment, deafness, or visual impairment
  - Measures of hearing indicate the following:
    - a 30dB (or greater) sensorineural or mixed hearing loss across speech frequencies in the better ear with amplification
    - a 30dB (or greater) conductive hearing loss across speech frequencies in the better ear with amplification (will require annual audiological evaluations to maintain deaf-blind certification)
    - a previous chronic condition exists which interferes with the auditory learning mode
    - congenital malformations of the auricle (e.g., absence of a pina or ear canal opening)
  - Measures of vision indicate the following:
    - Measured or estimated corrected visual acuity of 20/20 or less in the better eye
    - A previous chronic condition exists which interferes with the visual learning mode
    - Ocular motor (e.g., Muscle imbalance)
    - Anophthalmus (absence of actual eyeball)
    - Visual field of 40 degrees or less in the better eye
  - Hearing or vision losses are such that the student cannot be provided services appropriately in the general education classroom without specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss
  - Testing indicates student is “functionally deaf”, “cortically deaf”, or has “central processing loss” - the hearing structures are present and working; however, the student does not attend, respond, localize, or process hearing to receive information from the environment or accurately interpret information about the environment
  - Testing indicates student is “functionally blind” or “cortically visually impaired” - the visual structures are present and working; however, the student does not track, localize, or process vision to receive information from the environment or accurately interpret information about the environment
2. Record review, interviews, observations, and/or tests show that the student’s impairment adversely impact his/her educational performance
  - Information from multiple sources of data indicates that the student exhibits a hearing impairment, whether permanent or fluctuating, that adversely affects a child’s educational performance
  - Information from multiple sources of data indicates that the student exhibits 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
  - Information from multiple sources of data indicates that the student exhibits a visual impairment that, even with correction, adversely affects a child’s educational performance
  - Record review, interviews, observations, and/or tests show that the student’s educational performance is much below that of peers
  - Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
  - Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.

**Other supporting information:**

Records contain medical information which provides evidence of hearing impairment, deafness, or visual impairment

**Prong 2: Does the child need special education?**

Indicators

- Despite modifications in instruction, curriculum and environment, student’s rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum and environment, student’s educational performance in various age appropriate environments is significantly delayed from peers
- Student progress monitoring data indicates intense or sustained resources (e.g. specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss) are needed in order for student to demonstrate adequate progress
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data shows that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

## **Deaf-Blindness**

### **THE FOLLOWING INDICATORS APPLY TO DEAF-BLINDNESS**

#### **Prong 1: Does the student 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 3 categories:

1. Measures of hearing indicate the following:

- a 30db (or greater) sensorineural or mixed hearing loss across speech frequencies in the better ear with amplification
- a 30db (or greater) conductive hearing loss across speech frequencies in the better ear with amplification (will require annual audiological evaluations to maintain deaf-blind certification)
- a previous chronic condition exists which interferes with the auditory learning mode
- Congenital malformations of the auricle (e.g., Absence of a pina or ear canal opening)
- “Functionally deaf”, “cortically deaf”, or “central processing loss”- the hearing structures are present and working; however, the student does not attend, respond, localize, or process hearing to receive information from the environment or accurately interpret information about the environment

2. Measures of vision indicate the following:

- Measured or estimated corrected visual acuity of 20/20 or less in the better eye
- A previous chronic condition exists which interferes with the visual learning mode
- Ocular motor (e.g., Muscle imbalance)
- Anophthalmus (absence of actual eyeball)
- Visual field of 40 degrees or less in the better eye
- “Functionally blind” or “cortically visually impaired”- the visual structures are present and working; however, the student does not track, localize, or process vision to receive information from the environment or accurately interpret information about the environment

3. Measures of educational performance indicate the following:

- The combined vision and hearing losses are such that the student cannot be provided services appropriately in classrooms solely for students with visual or hearing impairments; or
- The combined vision and hearing losses are such that the student cannot be provided services appropriately in general education classrooms without specific assistance, modifications, adaptations, or supports necessary to accommodate both sensory losses

#### **Other Supporting Information:**

Records contain medication information which provides evidence of deaf-blindness

#### **Prong 2: Does the child need special education?**

##### 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. Despite modifications in instruction, curriculum, and environment, student’s educational performance in various age appropriate environments is significantly delayed from peers

- Student progress monitoring data indicates intense or sustained resources (e.g., specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss) are needed in order for student to demonstrate adequate progress
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that the student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.
- Student 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 student to demonstrate adequate progress

2. Information from multiple sources of data indicate that the student exhibits a combination of hearing and visual

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impairments which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for the hearing or visually impaired

## 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.

<b>Exclusionary Criteria:</b>	
A child <i>must NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA(NCLB));</li> </ul>	Evidence shows that the student's previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student'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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. Also consider whether the student's rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student'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 student'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, etc.

**Prong 1: Does the student 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. Record review, interview, observations, and/or assessments indicate student's voice, fluency, speech sounds, or language skills are not commensurate with age appropriate expectations
  - Record review, interview, observations, and/or assessments indicate student's communication skill level is much below that of peers
  - Record review, interview, observations, and/or assessments indicate student's communication skills have impacted development in other areas, e.g., social-emotional, cognitive
  - Student 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 student exhibits stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects educational performance
  - Record review, interview, observations, and/or assessments indicate student's voice, fluency, speech sounds, or language skills have an adverse effect on the student's educational performance
  - Records and interviews indicate a history of academic difficulty relative to communication skills
  - Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
  - Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.

**Prong 2: Does the child need special education?**

Indicators

- Despite modifications in instruction, curriculum, and environment, student's rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum, and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
- Student progress monitoring data of increasingly customized and individually tailored instruction and intervention indicate that the student 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 student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.



## 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.

<b>Exclusionary Criteria:</b>	
A child <i>must NOT</i> be determined to be a child with an <i>exceptionality</i> 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 1208(3) of the ESEA(NCLB);</li> </ul>	Evidence shows that the student’s previous reading instruction and curriculum addressed 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, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Lack of appropriate instruction in math; or</li> </ul>	Evidence shows that the student’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 student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.
<ul style="list-style-type: none"> <li>Limited English proficiency;</li> </ul>	If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student’s native language, amount of time in the country, level of education in the student’s native country, etc. Also consider whether the student’s rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student’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 student’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, etc.
The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.	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.
The term shall not include brain injuries that are the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.	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: Students with these conditions may meet eligibility requirements under the category of “Other Health Impaired”.)

**Prong 1: Does the student 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. Record review, interview, observation, and/or tests indicates that the student 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 student’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 student’s educational performance
  - Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
  - Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.

**Other Supporting Information:**

Records contain medical information which provides evidence of traumatic brain injury

**Prong 2: Does the child need special education?**

Indicators

- Despite modifications in instruction, curriculum, and environment, student’s rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum, and environment, student’s educational performance in various age appropriate environments is significantly delayed from peers
- Student progress monitoring data indicates 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 student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that student’s behavior of concern is resistant to targeted supplemental and intensive interventions
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

## **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)).

## **Evaluation/Eligibility Report Checklist**

### **The written evaluation report must contain:**

- The determination of whether the child has an exceptionality (KAR 91-40-10(a)(1)(A))
- The basis for making the determination (KAR 91-40-10(a)(1)(B))
- Relevant behavior noted during the observation of the child (KAR 91-40-10(a)(1)(C))
- The Relationship of that behavior to the child’s academic functioning (KAR 91-40-10(a)(1)(D))
- Educationally relevant medical findings, if any (KAR 91-40-10(a)(1)(E))
- Signatures of each team member indicating whether the report reflects their conclusion (KAR 91-40-10(a)(2))
- If not, the team member(s) must submit a separate statement presenting their conclusion (KAR 91-40-10(a)(2))

### **If the child was identified with a specific learning disability (SLD) in addition to the above it must also contain:**

- An assurance that the determination was made in accordance with applicable laws and regulations (KAR 91-40-10(e)(2))

Documentation of whether the child:

- does not achieve adequately for the child’s age or to meet state-approved grade-level standards (KAR 91-40-10(e)(5)(A))
- does not make sufficient progress to meet age or state-approved standards or exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development (KAR 91-40-10(e)(5)(B))
- Determination of the team concerning the effect of the following factors on the child’s achievement: visual, hearing, or motor skills disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantaged; or limited English proficiency (KAR 91-40-10(e)(6))

### **If the child participated in a response to intervention (RtI) process the following items must be included in addition to those listed above:**

- The instructional strategies used (KAR 91-40-10(f)(1))
- The student-centered data collected (KAR 91-40-10(f)(1))

Documentation that parents were notified about:

- 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 (KAR 91-40-10(f)(2)(A))
- Strategies for increasing the child’s rate of learning (KAR 91-40-10(f)(2)(B))
- The parents’ right to request an evaluation (KAR 91-40-10(f)(2)(C))