

Marshall Nemaha County Educational Services Cooperative

Local Procedures and Policies Handbook

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MAR-NEM COOP Procedural Manual

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Parent Rights/Procedural Safeguards

In Kansas, “parent” is defined as:

- A natural or biological parent – If parents are divorced, notify both parents unless a court order precludes this from happening. Consent from one parent is sufficient even if the other parent refuses to consent.
- An adoptive parent – If adoption is not final, an education advocate is needed; documentation is the ‘Decree of Adoption’.
- A person acting as a parent – In some cases a parent is unknown or unavailable and another person may act as a parent. This could be a grandparent, stepparent or other relative with whom a child lives, or a person other than a parent who is legally responsible of the welfare of the child.
- A legal guardian – Guardianship has been completed and is documented with “Letters of Guardianship” issued by a court.
- An education advocate - Appointment as an education advocate has been completed and is documented with a Letter of Appointment form Families Together. Contact the appropriate MAR-NEM COOP administrator if a student is in need of an advocate.
- A foster parent – Only if appointment as an education advocate has been completed and is documented with a Letter of Appointment.
- The student is 18 – At age 18 the student becomes his/her own educational decision-maker unless determined by a court to be incompetent.

and may give consent for educational decisions.

A copy of the Parent Rights in Special Education Notice must be provided to the parents:

- At least one time in a school year; and
 - Upon a referral or parent request for initial evaluation;
 - First formal complaint or due process complaint filed in a school year;
 - Upon a disciplinary removal from school that constitutes a change in placement;
- and
- Upon parent request.

The Parent Rights Notice must include a full explanation of all of the procedural safeguards available. These forms are available at the MAR-NEM COOP office.

Procedural Safeguards include:

- Independent educational evaluations;
- Prior written notice;
- Parental consent;
- Access to education records;
- Opportunity to present and resolve complaints through the due process complaint and State complaint procedures;
- The availability of mediation;
- The child's placement during the pendency of any due process complaint;
- Procedures for students who are subject to placement in an interim alternative educational setting;
- Requirements for unilateral placement by parents of children in private schools at public expense;
- Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- State-level appeals
- Civil actions including the time period in which to file those actions; and
- Attorney's fees if awarded by the court system.

Prior Written Notice

- Prior written notice
 - Must be provided when the school proposes to initiate or change the
 - § Identification,
 - § Evaluation
 - § Educational placement of their child,
 - § Or the provision of special education and related services to their child, whether or not the change is substantial or material.
 - § Also must be provided when the school refuses a parent's request to initiate or change the identification, evaluation or educational placement of the child, or to make a change to the provision of special education and related services to the child.

Parent Consent

Parent consent is required for the following actions:

- Conduct an initial evaluation
- Conduct a reevaluation
- Initial provision of services on the IEP – the school cannot use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child. Under these circumstances, the school does not violate its obligation for the provision of FAPE to the child for failure to provide the child with the special education and related services for which the public agency requested consent.
- Make substantial change in placement (more than 25% of the child's school day)
- Make material change in services (25% or more of any one service)
- Add a new service or delete a service completely
- Evaluation or services in private school
- Excuse an IEP team member from IEP team meeting (does not require prior written notice)
- Invite outside agency (does not require prior written notice)
- Use of private insurance and Medicaid (does not require prior written notice)

Parental consent is not required for:

- Review of existing data as part of an initial evaluation or reevaluation
- Administer test or other evaluation that is administered to all children unless is required of parents of all children
- Any other proposed special education action where parental consent is not specifically required by special education statutes and regulations. In these situations, only Prior Written Notice to the parent of the action proposed or refused and the parent's acknowledgement of the notice is required (e.g., less than a material or substantial change in placement, or the school refuses to conduct an initial evaluation or reevaluation).

Parental consent requested but not provided:

- Parents do not respond – The school must make and document reasonable attempts to obtain consent for each special education action as required. Reasonable attempts are defined as at least 2 contacts by 2 different methods and detailed documentation should be kept of telephone calls made and the results, copies of written correspondence sent to the parents and their response, if any, and visits made to the parents home or place of employment and the response, if any, from the parents. Parental consent is required to conduct a reevaluation, or to make a material change in services or a substantial change in placement, however, parent consent is not required for these actions if the parent does not respond to the schools requests for consent and the school can document its attempts to obtain parental consent as outlined above. It is recommended that a copy of the completed IEP be mailed to the student's home with a request for a parent's signature.

- Parents revoke consent – Parent consent is voluntary, and may be revoked by the parents at any time. The revocation is not retroactive but becomes effective on the date that it was revoked. The revoking of consent does not negate any action occurred after previous consent was given and before the consent was revoked. The school should meet with the parent to attempt to resolve the difficulty. If the parent cannot be convinced to continue the services, the LEA must honor the parent's objection and cease provision of the services any may not attempt to override the parent's revocation through mediation of due process. The LEA will notify the parents that if they subsequently request special education reenrollment for their child, the agency is required to conduct an initial evaluation to determine eligibility for services prior to reenrollment.

(Adapted from KSDE Process Handbook)

Confidentiality

Confidentiality of educational records is a basic right of all students and their parents in public schools. These rights are described in the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended (2009). Educational records may include, but are not limited to:

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

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

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

Federal and State Requirements:

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

- Inspect and review the student's education records;
- Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- Consent (*or refuse to consent*) to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA and Sec. 99.31 authorize disclosure without consent; and
- File a complaint under Sec.99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of FERPA.

The notice must also include all of the following:

- The procedure for exercising the right to inspect and review education records.
- The procedure for requesting amendment of records.

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

- Obtain written consent before disclosing personally identifiable information to unauthorized individuals. A parent must provide consent if the child is under 18 years of age.
- Designate and train a records manager to assure security of confidential records for students with exceptionalities.
- Each file of student records will have a list of persons who may access a student's file without signing a log sheet. Any person not on the list must submit a dated request of permission in writing stating the purpose for viewing records of a specific child. The Director will determine if a parent release of information is needed. Request will be filed in student's record.
- Maintain for public inspection a current listing of names and position of employees who may have access to personally identifiable information.
- Ensure that, if any record includes information on more than one student, a parent of a child must have the right to inspect and review only the information relating to his or her child, or to be informed of that specific information.
- Ensure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality of personally identifiable information. The district must maintain a record of the training provided, the person or persons providing the training, dates of the training, those attending, and subjects covered.
- Provide a parent, upon request, a list of the types and locations of records collected, maintained, or used by the district.
- Respond to any reasonable request made by the parent for an explanation and interpretation of a record.
- Provide a parent, upon request, access to the child's records, and under certain circumstances, a copy of the records. Most districts copy records for parents without charge. However, the law does allow for fees for copies of records made for a parent if the fee does not prevent a parent from exercising the right to inspect and review those records. A fee may not be charged to search for or retrieve information.

(Adapted from KSDE Process Handbook)

Each district within the MAR-NEM COOP should have a FERPA notice available to provide to parents on an annual basis.

Teachers may provide an additional copy of the IEP to parents at their request. Parents are provided one copy after each IEP meeting.

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

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

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

MAR-NEM COOP will destroy student records after seven years of student's graduation date or seven years from dismissal of all special education services.

Child Find

Public Notice for Child Find

Information is provided to the public concerning the availability of special education services for exceptional children, including procedures for accessing these services. This notice is provided on a regular basis throughout the year through a variety of methods. An “Availability of Services” document is provided yearly to each district to be published in their district newsletter. MAR-NEM COOP also distributes brochures about available services to community agencies, as well as publishes notices on the district website.

The special education administrator meets with the building/program administrator at private and parochial schools within the cooperative district boundaries. At this meeting, we ask the administrator to sign a letter indicating their awareness of our available services. MAR-NEM COOP also has a specific special education administrator assigned to cover the private and parochial schools within the county.

Screening for Children From Birth to Age 5

Kansas’ regulations require each school district to implement screening procedures that meet the following requirements:

- For children younger than five years of age, observations, instruments, measures, and techniques that disclose any potential disabilities or developmental delays that indicate a need for evaluation, including hearing and vision screening.
- Implement procedures ensuring the early identification and assessment of disabilities in children.

Areas screened include:

- Communication
- Cognitive development
- Social-emotional development
- Self-help/adaptive behavior
- Physical development

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

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

(Adapted from the KSDE Process Handbook)

The Tiny K Agency provides screening and evaluation for children from birth through age 3. Screening is conducted once per month or by individual appointments with families.

MAR-NEM COOP has designated one early childhood special education teacher as the liaison working with The Tiny K Agency. This will allow for a more efficient and effective method to ensure children's services do not lapse, and needs are being met in the most appropriate setting.

The MAR-NEM COOP has identified an area team that include the following personnel for the purpose of screening and initial evaluations for children age 3 to school age.

- ECSE teacher
- Occupational therapist
- Speech/language therapist
- Physical therapist (when needed)
- School nurse
- School psychologist (when needed)

Screening for School-aged Children

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

Child find, screenings, and evaluation services are conducted in Spanish for Spanish-speaking children. If the child speaks English fluently, the staff member conducts the services, allowing results to be discussed with the family in the native Spanish-speaking tongue. An interpreter shall be called into allow for accurate information to be obtained from the family, and to ensure the parental concerns have been completely understood.

If other languages are needed or translation of forms is needed, we contact surrounding districts and/or private agencies to contract their services for the purpose of the screening/evaluation procedures.

Availability of Services for Students With Special Needs

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

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

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

Your school district is a member of the Marshall-Nemaha County Educational Services Cooperative (MAR-NEM COOP), an organization that enables two school districts in Marshall and Nemaha Counties to collaborate in the provision of special education services. Participating districts include: Nemaha Central USD 115 and Vermillion USD #380. All private and parochial schools in these districts are provided these same services. In addition, early intervention services for eligible children age birth to three in these districts are available through Tiny K or Infant Toddler Agencies. MAR-NEM COOP will assist in helping parent make appropriate agency connection.

Official records for all students receiving special education services in the above school districts are maintained at the MAR-NEM COOP administrative office at 316 Main in Seneca, KS 66538. Special education teachers maintain files in their classroom on students with whom they are working. In addition, school psychologists keep files in their offices on students who have been referred for evaluation. Any parent of a student or a student who has reached age 18 has the right to review these records without unnecessary delay. This right includes having someone explain documents in the records, obtaining copies of the records at a reasonable or no cost, and allowing a representative of the parent (with signed permission) to examine records. In cases where records might contain information on more than one student, the parts pertaining to other students will be deleted. Upon request, the MAR-NEM COOP discloses educational records without parent consent to officials of another school district in which a student seeks or intends to enroll, as allowed by federal law.

Anyone who wishes further information concerning services for exceptional students may contact the Marshall-Nemaha County Educational Services Cooperative office in Seneca at (785)336-2181. Information is available also through the Kansas State Department of Education at (785)296-3869, or the “Make A Difference” Hot Line at 1-800-332-6262.

Early Childhood Transition

(Birth to 3)

Part C

SCREENING FOR CHILDREN FROM BIRTH TO AGE 5

Kansas regulations (K.A.R. 91-40-7(b)) require each school district to implement screening procedures that meet the following requirements:

- For children younger than five years of age, observations, instruments, measures, and techniques that disclose any potential disabilities or developmental delays that indicate a need for evaluation, including hearing and vision screening
- Implement procedures ensuring the early identification and assessment of disabilities in children.

Screening must include observations, instruments, measures, and techniques that address potential developmental delays or disabilities in the areas of communication, cognitive development, social-emotional development, self-help/adaptive behavior, and/or physical development. This requirement also extends to hearing and vision screenings, which must be available on an equal basis to all children in public and all private schools within the district's boundaries. If the results of the screening indicate a potential developmental delay or disability, the screening team makes the referral for initial evaluation.

Mass screening of all children is not required, but screening is to be available for any child for whom there is a concern about an area of development including communication, cognitive development, social-emotional development, self-help/adaptive behavior, and/or physical development; and hearing and vision. It is recommended that a child should not have to wait more than 30 calendar days for a screening. Young children's needs must be identified as soon as possible, so that early intervention may be provided. Screening is considered to be a quick look at the developmental areas to assist in determining whether a child should be referred for an initial evaluation. There are screening procedures that require minimal staff and time to complete. Screening should be equally available to all children in public and private schools within the school district's boundaries. For preschool age children, the district of residence of each preschool child is responsible for child find even though the child may be attending a preschool or other childcare program outside the district of residence.

Early Childhood Special Education

(ages 3-6)

Services for children age 3 to the start of kindergarten are provided throughout the MAR-NEM COOP. Services may be itinerant, taking place in a student's home or childcare provider's place of business. Classroom services are also provided. The determination of where services are to occur is an IEP team decision based upon the principle of Least Restrictive Environment and should be based on the individual student's needs.

**General Education Interventions/Response to Intervention/
Multi Tiered System of Support**

(Child Find for kindergarten through age 21)

For children in kindergarten through age 21, Kansas screening laws require that schools utilize observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening, and age-appropriate assessments for school aged children designed to identify possible physical, intellectual, social or emotional, language, or perceptual differences. Screening must be available for students attending both public schools and private schools.

In Kansas, this screening is conducted, in part, through the required implementation of general education intervention (GEI).

The purpose of GEI is to intervene early for any child who is presenting academic or behavioral concerns. This intervention leads to a better understanding of the supports children need in order to be successful in the general education curriculum and school setting. The data collected during GEI assists in determining which children may be children with potential exceptionalities who need to move to initial evaluation for special education. Collaboration between special and general education staff is an important part of the GEI process.

The GEI process should continue until a successful intervention is determined, when it is evident that the successful intervention requires resources beyond those available in general education, and/or when the team suspects the child is a child with an exceptionality (disability or giftedness). The GEI team is responsible for planning and implementing the interventions. They are responsible for making one of the following determinations when doing so:

- Continue the intervention and monitor child progress
- Change or modify the intervention and monitor child progress
- Change or modify the intervention, monitor child progress, and carry the child into initial evaluation.

This process does not end until the child is successful! Even when the decision has been made to move from GEI into an initial evaluation, the intervention process should not stop. It becomes part of the evaluation process.

Kansas regulations state that a school may refer a child for an initial evaluation when:

- School personnel have **data-based documentation** which indicates that GEI and strategies would be inadequate to address the areas of concern for the child.
- School personnel have **data-based documentation** that indicates that prior to, or as a part of the referral, the following were met:
 - The child was provided appropriate instruction in regular education settings that was delivered by qualified personnel;
 - The child's academic achievement was repeatedly assessed at reasonable intervals which reflected formal assessment of the child's progress during instruction;
 - The assessment results were provided to the child's parents; and
 - The assessment results indicate an evaluation is appropriate.

GEI may be carried out through a school-wide approach of providing a multi-tiered system of scientifically research-based interventions for all children (MTSS) &/or through an individual child problem-solving approach.

Kansas encourages schools to use a school-wide, multi-tiered system of supports for all children to address both academic and behavioral concerns. In Kansas, this is supported through the Multi-tiered System of Supports (MTSS) which includes both school-wide academic supports and school-wide positive behavior supports. The three-tiered model is described below.

1. All children receive a core instructional program that uses a scientifically validated curriculum that is provided for all students. Schools choose curricula that have evidence of producing adequate levels of achievement and instruction is differentiated within the core to meet a broad range of student needs. Interventions are provided via the general curriculum. Universal screening of all children to monitor progress and to identify children who may need additional support is conducted. Approximately 80% of children in the school will be successful in the general curriculum.
2. Those children who do not respond to the core instructional procedures will receive targeted group interventions in addition to core instruction. More frequent measures of progress monitoring are used to collect child progress data. Approximately 15% of students will need targeted supplemental support.
3. A few children receive intensive, individualized interventions. These may be in addition to, or instead of the supports provided in Tier 1 & 2, depending upon the needs of the child. Interventions will be more intensive and delivered in more substantial blocks of time. Approximately 5% of students will need this intensive support.

Data collected at each tier should guide school personnel as to the next steps to take based on the child's response to interventions tried. At least by the time a child is ready to access the intensive supports of Tier 3, the school should employ the use of individualized problem solving to design the intensive individualized support the child will receive as well as to plan to monitor the child's progress and document the child's response to the scientifically research-based interventions. The approach of individual child problem-solving is therefore a component of the larger school-wide system, or it may stand alone as a method to conduct GEI as outlined below.

Individual Problem-solving Approach: This process is typically carried out through a building level problem-solving team or SIT (student intervention team). The intent of the team is to provide support to any child who may be experiencing difficulty (behaviorally or academically) and to work to improve the overall achievement of all children in the school.

The following outlines the four basic steps of problem solving and indicates briefly what happens at each step.

1. Problem Identification
 1. Define the problem.
 2. Measure the skill or behavior in the natural setting to establish baseline performance.
 3. Estimate the severity of the problem using age norms or comparing to peers.
 4. Establish expectations for the child.
2. Problem Analysis
 1. Analyze antecedent, situational, and consequent conditions.
 2. Use ICEL (instruction, curriculum, environment, learner) to analyze the problem.
 3. Collect additional data as needed to understand the cause of the problem.
3. Develop and Implement an Intervention Plan
 1. Formulate a plan that uses scientific research based interventions designed to target the cause of the presenting problem.
 2. Establish intervention goals.
 3. Develop a plan for monitoring progress which specifies the child data to be collected and the schedule for collecting it. Decide how the data will be displayed (chart or graph) to facilitate evaluation.
 4. Implement the plan with treatment integrity and frequent monitoring of progress.
4. Evaluate and Revise Plan
 1. Review progress monitoring data to determine if enough progress has been made by repeating Step 1.
 2. If expectations have not been met, repeat Step 2 to further analyze the problem.
 3. Revise current intervention or select a new intervention including components of Step 3.

Data Collection & Documentation for GEI

IDEA 2004 requires that before a child may be referred for a special education evaluation, data-based documentation must be collected that provides support that:

1. GEI interventions and strategies would be inadequate to address the areas of concern for the child, **OR**
2. The child was provided appropriate instruction in regular education settings that was delivered by qualified personnel; **AND**
3. The child's academic achievement was repeatedly assessed at reasonable intervals which reflected formal assessment of the child's progress during instruction.

Additional documentation is required for schools that use MTSS. In addition to the data described above, the school must document that the child's parents were notified about:

- The State's policies regarding the amount and nature of child 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 parents' right to request an evaluation.

(Adapted from KSDE Process Handbook)

It is an expectation of the MAR-NEM COOP administration that every school in the cooperative at every grade level have a team in place to conduct GEI. These teams should include the participation and collaboration of both general and special education personnel. Individual problem solving or MTSS may be utilized, depending on the individual district's policies.

A typical team would include an administrator, a counselor, a special education teacher &/or school psychologist, grade level teachers (or a variety of subject area teachers for secondary level), and a school social worker (if the district employs one).

Data-based documentation is required and each individual building team should develop a system for monitoring progress and collecting/displaying data. When a student is referred for an initial comprehensive evaluation, this documentation **MUST** be forwarded to the MAR-NEM COOP office along with the referral for assessment form.

Sample forms from a variety of sources are included in this section.

Research –based interventions should be utilized.

The Marshall Nemaha County Educational Services Cooperative Director of Special Education will meet with building principals throughout the year to share information about special education policies/procedures, changes in the law/regulations, general education interventions, and local information concerning requirements of special education staff in their buildings. Other information and resources are provided to the principals to assist them in providing special education services within their buildings. Examples of resources provided: information on RTI, strategies and interventions for general education interventions, flyers on upcoming conferences of interest and Kansas Infinitec Coalition information.

Evaluation/Eligibility

A referral for an initial evaluation is made whenever it is suspected that a child may be a child with an exceptionality. For preschool children, the referral may be a result of screening. For school age children, GEI would have been conducted prior to the referral. As a result of the GEI process, the school would have obtained data-based documentation that would indicate that interventions and strategies implemented during this period were not adequate and an evaluation for special education is appropriate.

A referral for initial evaluation may come from a variety of sources:

- Early childhood screening
- Part C infant-toddler program
- General education intervention team
- Parents
- Self-referral by adult student

Steps to follow for an INITIAL EVALUATION

- 1. REFERRAL - received from screening, GEI process or parent request**
- 2. PARENT RIGHTS - provided at time of referral**
- 3. PRIOR WRITTEN NOTICE - provided and CONSENT obtained**
- 4. EVALUATION / REEVALUATION CONDUCTED**
- 5. ELIGIBILITY - determined by team**
- 6. ELIGIBILITY REPORT - provided to parents**
- 7. IEP DEVELOPED AND IMPLEMENTED - if the child is found eligible**
- 8. CHILD NOT ELIGIBLE - other intervention plan developed**

Kansas has established a 60 school-day timeline for conducting the initial evaluation upon receipt of written parental consent to conduct the evaluation. This 60 school-day timeline ends with the implementation of the IEP if the child is found eligible for special education services or completion of the evaluation report if the child is not found eligible for special education services.

Pre-school attending students count school district calendar school days toward 60 school days. If a preschooler attends three days a week, five days are counted in that week toward the 60 day deadline as long as all five days are district school calendar days.

The initial evaluation must include a variety of assessment tools and strategies to gather the following relevant information:

- If the child is a child with an exceptionality;
- Whether the child needs special education and related services;
- The educational needs of the child;
- The present levels of academic achievement and functional performance of the child;
- and
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

GRIOT represents five sources of data that provides a framework in which to organize and structure data collection.

G – General Education Interventions & General Education Curriculum Progress

R – Record Review

I – Interview

O – Observation

T – Test

Regulations stipulate that a child **MUST NOT** be determined to be a child with an exceptionality if:

- The determinant factor is:
 - Lack of appropriate instruction in reading, including the essential components of reading instruction (phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies;
 - Lack of appropriate instruction in math; or
 - Limited English proficiency; and
- The child does not otherwise meet the eligibility criteria as a child with an exceptionality.

Additional conditions apply to determining that a child is a child with a specific learning disability.

A child MUST NOT be determined to be a child with a specific learning disability if the team's findings show that the child's deficits are a result of:

- A visual, hearing, or motor disability;
- Intellectual Disability;
- Emotional disturbance;
- Cultural factors;
- Environmental or economic disadvantage; or
- Limited English proficiency

(Adapted from the KSDE Process Handbook)

MAR-NEM COOP evaluation procedures start with a regular education referral form being completed.

- GEI information is gathered from the school team and the referral form is given to the Director of Special Education or School Psychologist.
- Parental consent for evaluation is obtained.
- School psychologist determines what other types of information needs to be gathered, and by whom (standardized testing, parental information/concerns, CBM info, etc). Other staff members who may be involved include the special education teacher, and any related service personnel (OT, PT, SLP, APE, Behavior consultant, Local Autism Team, etc.)
- School psychologist enters demographic information about the student into the SPEDTRACK system; this will allow other team members to enter information into the evaluation report.
- School psychologist contacts the parent to arrange for a meeting to discuss evaluation results and determine eligibility. The notice of meeting formed is mailed to the parent.
- School psychologist makes sure all team members are notified of the meeting date, time, and location.
- Paperwork is prepared for the meeting by a case manager and each service provider is responsible to enter their information and develop annual goal(s) needed.
- If the team determines at the eval meeting that the child meets eligibility requirements, and demonstrates a need for special education services, an IEP can be written immediately OR a later date, time, and location is set to re-convene for an IEP meeting.
- School psychologist sends the paperwork from the evaluation meeting to the Director of MAR-NEM COOP office. A copy of the evaluation report and all other forms are given to the parent.

Parent Request for Evaluation

On occasion, a parent will request their child be evaluated. This request must be in writing and signed and dated by the parent. The Director should be given this written request. Upon review, the Director passes the referral on to the school psychologist, it will be explained to the parent that the process established by law still needs to be followed. The process requires general education interventions in conjunction with the comprehensive evaluation. During the conversation, the parent may decide to revoke their request for a comprehensive evaluation; this revocation must be in writing with their signature and date. If no revocation is given, the school psychologist should obtain parental consent for the comprehensive evaluation.

Special education staff members are encouraged to explain this process to general education staff and administration. History indicates some general ed staff tell parents to submit their request in writing, thinking this will speed up the process. When this occurs, it puts more pressure on all staff members to follow through with the process of GEI and evaluation.

The IEP

Parents Rights

- Must be provided to parents at least once per year
- Upon initial evaluation
- First request for due process
- When requested by parent
- Documentation is required whenever parent rights are provided

Notice of Meeting

- Parents must be given a 10-day written notice of IEP meetings.
- Parents may waive this right if date agreed upon is within the 10-day window.
- Manifestation determination meetings do not require a 10-day notice.

Assessments

- The IEP must include a statement of any individual appropriate accommodations necessary to measure the academic achievement and functional performance of the child.
- For students participating in the Dynamic Learning Map, the IEP must include:
 - A statement of why the student cannot participate in the regular assessment
 - A statement of why the particular assessment selected is appropriate for the child
 - Goals in content areas assessed (reading and/or math)
 - Short term benchmarks or objectives

IEP Team Membership

- Parent(s)
- Not less than one general education teacher of the child (if the child is or may be participating in regular education environment)
- Not less than one special education teacher or special education provider of the child
- School representative that is qualified to provide or supervise the provision of specially designed instruction, knowledgeable about the general education curriculum, knowledgeable about the availability of resources of the local education agency (usually an administrator)
- An individual who can interpret the instructional implications of evaluation results
- Other individuals who have knowledge or special expertise regarding the child
- Whenever appropriate, the child with an exceptionality (MUST be invited if transition will be considered)
- A representative of a participating agency that is likely to be responsible for providing or paying for transition services must be invited.
- For early childhood transition, the parents may request that an invitation to the initial IEP meeting also include the Part C service coordinator or other representatives of the Part C system.

Considerations

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

- Strengths of the child
- Concerns of the parents
- Results of the most recent evaluation
- Academic, developmental, and functional needs of the child
- Behavior
- Limited English proficiency
- Communication needs
- Assistive technology needs
- Needs related to visual and hearing impairments

Present Levels of Academic Achievement and Functional Performance

The IEP must document:

- How the child's disability affects the child's involvement and progress in the general education curriculum
- For preschool children, how the disability affects the child's participation in appropriate activities
- Baseline data for any identified need that will be addressed through a measurable annual goal

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

Measurable annual goals

Goals (both academic and functional) should:

- Meet needs that result from the disability to enable the child to be involved in and make progress in the general education curriculum
- Meet the child's other educational needs that result from the child's disability
- A measurable annual goal identifies the:
 - Behavior
 - Criteria
 - Condition
 - Time frame

Objectives and Benchmarks

Objectives and benchmarks are only required if the child is participating in the Dynamic Learning Map.

Progress Reports

The IEP must:

- Contain a description of how the child's progress toward meeting the annual goals will be measured. A goal written correctly with the four parts will meet this requirement.
- Indicate when periodic reports on the progress child is making toward meeting the annual goals will be provided.

Statement of Services

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

- Projected date for beginning of all services and modifications
- Frequency, location and duration of all services and modifications
- Explanation of the extent to which the child will not participate with non-disabled children in the regular class

Secondary Transition

Secondary Transition Services must include:

- No later than the first IEP to be in effect when the child is 14,
 - Appropriate measurable postsecondary goals based on age appropriate transition assessments related to training/education, employment and where appropriate, independent living skills; and
 - The transition services including appropriate courses of study needed to assist the child in reaching the postsecondary goals; and
- Beginning at age 16, a statement of transition services including, when appropriate, a statement of the interagency responsibilities or any needed linkages
- Beginning at age 17, the IEP team must inform the student and the parents that at the age of majority under state law (18 in Kansas), the rights under IDEA will transfer to the student.

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

IEP Meeting Expectations

Case manager will:

- schedule the IEP meeting with parents;
- send notice to parents;
- invite all applicable staff (nurse, transition coordinator, teachers, administrator, etc);
- complete informal testing to gather information on current levels of performance;
- complete formal testing, if applicable;
- gather input from the team;
- contact school psychologist if concerns arise during testing or while gathering information from the team;
- develop goals (as well as benchmarks or objectives if student takes the alternate assessment) based on current levels;
- complete all IEP forms on Sped Track;
- share the draft IEP with team members prior to the scheduled meeting;
- make changes as needed in draft during the IEP meeting;
- enter those changes on the IEP in the Sped Track system;
- provide copy of final IEP to parents within one week after staffing and send it to the appropriate MIS clerk within one week;
- offer the parents a copy of their parents rights and make sure that they understand them;
- provide Director within 7 days of IEP Meeting all IEP meeting required paperwork.

Student Checklist Information

- Any changes in services and/or student personal information must be changed as soon as it is known in the Sped Track system.
- Include ALL required information on the Checklist Screen.
- Make sure that on the the neighborhood building and the responsible building are correct. They will BE THE SAME unless a student is attending a private school.

Tips for the Checklist Screen/Demographics

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

- Student's grade level
- Possibly the responsible and neighborhood building (these should be the same unless the student is attending a private school)
- Student's personal information (address, phone numbers, etc.)

What needs to be reviewed at least annually on the Anticipated Services chart?

- At the annual IEP meeting, any changes in services, service dates & service providers must be made.
- Check that the services and providers match
- Check the attendance building. A student may be attending a different building than their neighborhood building.

Where can I find what codes to use?

- Codes for the IEP services may be found in the drop down setting code list in Sped Track.

Special Education Services

- All services for school-aged students are to be for the duration of the annual IEP.
- Make sure that the IEP states that services are one year or the duration of the annual IEP.
- Goals are to be written for one year or the duration of the annual IEP.
- Most IEPs will have a start date and end date that are different than the beginning and ending of the school year. If services will be different from one year to the next, this MUST be addressed in IEP Dates/Services/Accoms section of the student's IEP.

The IEP is a legal document and therefore staff must be extremely careful to ensure that all information contained in that document is up-to-date and correct. The MAR-NEM COOP director will pull IEPs throughout the school year to check for accuracy. Instances where information contained in the document is outdated or inaccurate must be completed. Spot checks of IEPs will be more frequent in the upcoming school year and any problems will be addressed directly with the personnel responsible for that information. Your resources for assistance with any questions regarding IEP accuracy are:

- The Director of Special Education
- Integration Specialist
- MAR-NEM COOP School Psychologist

What Form Do I Need?

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

IEP Meeting

- Meeting Notification
- Notifications Attempt Page
- Staffing Notes
- IEP Signature Page
- Notice and Consent for change in services/placement –if **any** change in services or placement was made or if **any service** was **added** or **deleted**

Initial Evaluation

- General Education Intervention Documentation
- Consent for Evaluation
- Meeting Notification
- Notifications Attempt Page
- Evaluation Report
- Staffing Notes
- Notice and Consent for Identification, Services, and Placement
- IEP Signature Page--if placed

Reevaluation

- Notice and Consent for Reevaluation
- Meeting Notification
- Notifications Attempt Page
- Staffing Notes
- IEP Signature Page--if placed
- Reevaluation Report
- Notice and Consent for Identification, Services and Placement—if changes were made to the IEP

Dismissal IEP Meeting

- Notice and Consent for Reevaluation
- Meeting Notification
- Notifications Attempt Page
- Staffing Notes
- Reevaluation Report
- Notice and Consent for Identification, Services and Placement

Graduation

- Meeting Notification
- Notifications Attempt Page
- Staffing Notes
- Notice and Consent for Identification, Services and Placement

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

- Meeting Notification
- Notifications Attempt Page
- Staffing Notes
- Notice and Consent for Reevaluation
- Reevaluation Report
- Notice and Consent for Identification, Services and Placement
- IEP

All About Amending IEPs

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

THE PROCESS FOR DOING THIS IS AS FOLLOWS:

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

- Use the IEP Amendment Tab that can be found in SpedTrack under the current annual IEP that is being amended.
 - ü Complete the text box and describe the change and indicate the date the change is to take effect.
 - ü All participants must sign the Amendment form – if parent participates via telephone, the parent does NOT need to sign the form (simply print the parent's name and indicate "via phone conference")
 - ü Provide a copy of the Amendment form to parents.
- Obtain parent consent on a Prior Written Notice form-
- Send the Amendment Form and Prior Written Notice Form (with signatures) to the MIS clerk, keeping a copy for yourself.
- Update the necessary sections of the IEP that were amended and notify the MIS clerk within 2 weeks!
- **Do NOT change the "IEP date"** on Sped Track as you have not changed the annual IEP due date.

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

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

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

Progress Reports

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

What NOT to Send

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

Gifted IEPS

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

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

Gifted Guidelines

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

Purpose of the evaluation: Answer two questions --

- Does the child exhibit an exceptionality?
- Does the child need special education?

Indicator Guidelines:

- A composite rank of not less than the 97th percentile on an individually administered, standardized, norm-referenced test of intellectual ability, or evidence that the child’s standardized, intelligence test score does not adequately reflect the child’s high intellectual potential
 - **significant for the given test (WISC-IV, Stanford-Binet, etc.)**
- A rank of not less than the 95th percentile on national norms on a standardized, norm-referenced achievement test in one or more of the academic fields (mathematics, language arts [including reading], science, and social science), or evidence that such test scores do not adequately reflect the child’s excellence in academics
 - **K - 5: composite score**
 - **6 – 12: at least two separate domains**

Needs to consider: (as evidenced through required GEI - General Education Intervention process)

- enrichment
- mentor
- accelerated curriculum
- compacted curriculum
- online classes
- independent study
- short-term inclusion for special seminars
- units
- AP
- Full inclusion gifted
- Consulting
- Social-emotional skills

Behaviors to consider:

- Leadership
- Motivation
- Task commitment
- Creativity
- Passionate interests

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

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

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

Transition Services/Work Study

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

- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training/education, employment and where appropriate, independent living skills; and
- The transition services, including appropriate courses of study, needed to assist the child in reaching the stated postsecondary goals; and
- **Beginning at age 16**, or, if determined appropriate by the IEP team, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.

Transition Assessment

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

- What does the student want to do beyond school?
- Where and how does the student want to live?
- How does the student want to take part in the community?

Measurable Postsecondary Goals

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

Courses of Study

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

The following questions should be considered by the IEP team:

- Do the transition courses of study focus on improving the academic and functional achievement of the child to facilitate their movement from school to post-school?
- Do the courses of study (and other educational experiences) align with the student's postsecondary goal(s)?

(Adapted from the KSDE Process Handbook)

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

Assistive Technology

IDEA states that Assistive Technology is “any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.” (Section 300.5)

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

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

- Present Levels
- Modifications
- Special Education and Related Services
- Goals and Benchmarks (as a means to attain the goal)
- Transition Services
- Meeting Summary

The AT section of the IEP should indicate:

- The specific need for AT
- Describes what the device or technique does

The wording in the IEP should avoid brand names.

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

For additional information please refer to the MNESC Assistive Technology Handbook.

Progress Reports/Progress Monitoring

The purpose of the progress report is to notify parents of the progress made by the child and to judge whether the progress made by the child is sufficient to achieve the annual goals.

Measurement

The progress report should show:

- The amount of progress on the annual goal(s)
- When the data were reported

The progress report should:

- Use the same measurement method as used in the PLAAFP, measurable annual goal and objectives/benchmarks (when required)
- The final progress report provides the baseline data for the measurable annual goal on the next IEP (unless the goal is terminal for the skill – e.g. counting change to \$1)

Documentation

The progress report **must contain specific information** about current performance and amount of progress made:

- “student is doing well” or “is making progress” is NOT adequate
- the data/score (or whatever baseline measurement was used) to show current performance and progress from baseline.

Important Note: student grades are not considered an appropriate measurement towards a goal!

After reporting, services and supports should be reviewed and considered to determine the need for any adjustments if:

- there is lack of expected progress toward the measurable annual goals
- there is lack of progress in the general education curriculum

(Adapted from KSDE IEP training materials, 2005)

THE IEP TEAM MAY NEED TO RECONVENE AND GOALS MAY NEED TO BE REWRITTEN OR ADDITIONAL SUPPORTS PUT INTO PLACE IF PROGRESS TOWARDS THE GOALS AND THE GENERAL EDUCATION CURRICULUM IS NOT SATISFACTORY!

Progress reports must be provided at least as often as they are given to parents of students without exceptionalities.

Progress reports are REQUIRED to be completed in SpedTrack. Additional charts/graphs may be generated but are not required.

Progress report completion for your caseload is to be reported to MIS Data Clerk as indicated by yearly progress report schedule.

Helpful websites for progress monitoring/curriculum based assessment for establishing baseline and monitoring progress toward goals:

<http://www.studentprogress.org/progresmon.asp#2>

<http://www.interventioncentral.org/htmldocs/interventions/cbmwarehouse.php>

Positive Behavior Supports/Behavior Intervention Plans

Positive Behavior Support (PBS) refers to a set of research-based strategies that are intended to decrease problem behaviors by designing effective environments and teaching individuals appropriate social and communication skills. PBS is defined as an integration of:

- Valued Outcomes;
- Behavioral and biomedical science;
- Validated procedures; and
- Systems change to enhance an individual's quality of life.

The goal of PBS is to improve quality of life, not only for a child or adult with a disability, but for all of the individuals within a social network. PBS is now used in many different situations and contexts and with different types of problem behavior such as aggression, property destruction, and self injury. Children with and without disabilities can benefit from the PBS process across home, school, and community settings.

MAR-NEM COOP's policy is to reconvene a team meeting and identify behaviors of children that interfere with their ability to participate and progress in the educational setting.

Emergency Safety Interventions

The Marshall Nemaha County Educational Services Cooperative will ensure that each cooperative staff will be trained in Emergency Safety Interventions at a level necessary to provide a free, appropriate, public education to each child that receives special education services within the cooperative member districts. The director will determine the appropriate level of training through collaboration with building level staff.

Marshall Nemaha County Educational Services Cooperative will follow the adopted district policies for Emergency Safety Interventions as they comply with the following Kansas State Regulations KAR 91-42-1 and KAR 91-42-2:

Article 42. - Emergency Safety Interventions

91-42-1. Definitions. As used in this regulation and in K.A.R. 91-42-2, each of the following terms shall have the meaning specified in this regulation: (a) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

(b) "District" means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. 72-1106, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.

(c) "Emergency safety intervention" means the use of seclusion or physical restraint when a student presents an immediate danger to self or others. Violent action that is destructive of property may necessitate the use of an emergency safety intervention.

(d) "Mechanical restraint" means any device or object used to limit a student's movement.

(e) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out for the purpose of inducing the student to walk to a safe location.

(f) "Physical restraint" means bodily force used to substantially limit a student's movement.

(g) "School" means any learning environment, including any nonprofit institutional day or residential school and any accredited nonpublic school, that receives public funding or over which the Kansas state department of education has regulatory authority.

(h) "Seclusion", when used with a student, means that all the following conditions are met:

- (1) The student is placed in an enclosed area by school personnel.
- (2) The student is purposefully isolated from adults and peers.
- (3) The student is prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

(i) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.

(Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective P-.)

91--42-2. Policy, documentation, and reporting requirements. (a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(1) Policies and procedures for the use of emergency safety interventions:

(A) Policies and procedures shall prohibit the following:

(i) The use of prone, or face-down, physical restraint; supine, or face-up, physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;

(ii) the use of chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(iii) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation; and

(B) written policies developed pursuant to this regulation shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook, or any combination of these;

(2) school personnel training consistent with nationally recognized training programs on the use of emergency safety interventions:

(A) Training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies;

(B) training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for emergency safety interventions; and

(C) schools and programs shall maintain written or electronic documentation on training provided and lists of participants in each training;

(3) written parental notification whenever an emergency safety intervention is used. This *written* notification shall be provided no later than the school day following the day on which the Emergency Safety Intervention was used.

(4) documentation of any incident of emergency safety intervention, which shall include the date and time of the intervention, the type of intervention, the length of time the intervention was used, and the school personnel who participated in or supervised the intervention;

(5) procedures for the collection, maintenance, and periodic review of the use of emergency safety intervention at each school, which shall include the documentation described in paragraph(a)(4);

(6) local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include the following:

(A) A complaint investigation procedure;

(B) a procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and

(C) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of filing of a complaint by a parent.

(b) Each district shall develop a system to collect and maintain documentation for each use of an emergency safety intervention, which shall include the information described in paragraph (a)(4).

(1) Information maintained by the school shall be compiled and submitted, at least biannually, to the district superintendent or district designee.

(2) Documentation of any school's or district's use of emergency safety intervention shall be provided to the Kansas state department of education upon written request of the Kansas state department of education.

(3) Each district shall report all incidents of emergency safety intervention to the Kansas state department of education by the date and in the form specified by the Kansas state department of education. An annual report shall be provided by the Kansas state department of education to the Kansas state board of education.

(Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective P- .)

Student Discipline

IDEA encourages school districts to establish preventive measures and approaches in dealing with student behavior, including the use of positive behavioral interventions, supports and strategies. IDEA allows traditional disciplinary methods such as time out and detention. School officials may also use in-school&/or out-of-school suspension so long as it does not constitute a change of placement. The law does not set an absolute limit on the number of cumulative school days needed to constitute a change of placement but requires a case-by-case examination of specific factors and requires that services be provided after the 10th day of suspension in a school year.

School districts are required to document incidences of suspension and expulsion of children with disabilities on the Kansas Discipline Incident System (KAN-DIS) that is submitted to KSDE.

Students identified as gifted are subject to suspension or expulsion from school the same as a child without a disability. The school is not required to provide special education or any other educational services to the child, unless dually identified (e.g., LD/Gifted).

Short Term Removals (not a change in placement)

School officials may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than 10 consecutive school days, and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement. The school does not need to provide educational services during the first 10 days of removal in a school year, unless it provides those services to a child without a disability who is similarly removed. **IMPORTANT NOTE: partial days count as full school days.**

Subsequent Short-Term Removals (not a change in placement)

When a student with a disability has more than a single suspension in a school year, school officials should carefully monitor the cumulative number of school days of suspension and make decisions about the effect of imposing additional short-term suspensions. If school officials order two or more short-term suspensions of a student with a disability during the school year, these suspensions are not a change in placement for disciplinary reasons if the suspensions do not constitute a pattern of removals.

To determine if a change of placement has occurred, school officials must consider whether the series of suspensions constitutes a pattern of removals. When a series of suspensions/removals total more than 10 school days in a school year, school officials should determine whether a pattern of removals has developed by considering:

- Whether the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals
- Other factors such as:
 - The length of each removal;
 - The total amount of time the child has been removed; and
 - The proximity of the removals to one another

School officials have the authority to make the determination of whether a series of short-term suspensions of a child with a disability constitute a change in placement for disciplinary reasons. **However, this determination is subject to review through due process proceedings.**

School officials should be addressing the issues regarding the student's suspensions prior to reaching the 11th day.

When the total number of school days of suspension in a school year reaches 11, and the current removal is for not more than 10 consecutive school days and is not a change of placement, the school must begin providing educational services beginning on the 11th day of suspension. The student must be provided special education and related services that allow the child to:

- Participate in the general education curriculum
- To progress toward meeting the goals set out in the child's IEP

Building administration shall contact the Director of Special Education to set up a meeting prior to reaching the 11th school day of suspension. The meeting's purpose is to review the current IEP, any existing behavior intervention plan already in place, and problem-solve as a team. Considerations should include:

- Adding additional supports &/or services
- Conducting a functional behavioral assessment
- Developing or revising a behavior intervention plan

A meeting notice is required and documentation of this meeting should be on the "staffing summary" form. A placement form is also necessary indicating beginning on the eleventh day, when special service arrangements are needed.

Long -Term Removals (A change of placement)

There are specific steps that school officials must follow when considering either a long-term suspension for more than 10 consecutive school days, an expulsion, or another short-term suspension that cumulates to more than 10 school days and shows a pattern constituting a change of placement:

- On the date the decision is made to make a removal that constitutes a change of placement of a child with a disability the school must notify the parents of that decision, and provide the parents with a copy of the Parent Rights notice.
- On the 11th school day of removal, the school must begin providing appropriate special education and related services. The IEP team decides on these services and where they will be provided.
- The school, the parent and relevant members of the child's IEP team (as determined by the parents and the school) must determine if the child's violation of the school's code of student conduct was a manifestation of his or her disability.
- The school must convene meeting regarding the manifestation determination and services as expeditiously as possible and is required to give only 24 hours prior notice of a meeting to the parents.

When a disciplinary change of placement occurs, the IEP team, including the parent, determines the special education and related services to be provided during the removal. However, parental consent for the disciplinary change in placement is not required.

Manifestation Review

As soon as practical, but not later than 10 school days after the date on which the decision is made to change the placement of a child with a disability because of a violation of student code of conduct, the administrator, parent, and other members of the child's IEP team must meet to review:

- All of the relevant information in the child's file,
- The child's IEP,
- Any teacher observations, and
- Any relevant information provided by the parent.

Based on its review of the information, the group must determine if the conduct in question was:

1. Caused by, or had a direct and substantial relationship to the child's disability; or
2. The direct result of the school's failure to implement the child's IEP (as written)

If it is determined by the group that the conduct of a child was a result of either of the above, then the conduct must be determined to be a manifestation of the child's disability.

- Behavior **WAS** a manifestation of the disability:
 - The IEP team **MUST**:
 - Return the child to the placement from which the child was removed, unless the parent and the school agree to a change of placement as part of the modification of the behavioral intervention plan; and
 - Either:
 - Conduct a functional behavioral assessment, unless already conducted prior to the behavior resulting in a change of placement, and implement a behavioral intervention plan for the child; or
 - If a BIP already has been developed, review the plan and modify it, as necessary, to address the behavior.
- If the behavior was a manifestation of the disability and was the direct result of the school's failure to implement the IEP, the school must take immediate action to remedy those deficiencies.

IMPORTANT NOTE: If it is determined that the child's behavior is a manifestation of the child's disability the child **CANNOT** be subject to a long-term removal for the behavior. However, the school and the parents could **agree to another setting**. Also, even when the behavior is a manifestation of the child's disability **the school could request a due process hearing officer to order a 45 school-day interim alternative educational setting** if the school district can show that maintaining the current placement is substantially likely to result in injury to the child or others.

- Behavior **WAS NOT** a manifestation of the disability:
 - The district may proceed with suspension and expulsion proceedings.
 - Using these proceedings, school officials may order a change in placement of a child with a disability to an appropriate interim alternative educational placement for not more than 186 school days if it is determined that:
 - The conduct of the child violated the code of student conduct;
 - The behavior was not a manifestation of the child's disability; and
 - If the relevant disciplinary procedures applicable to children without disabilities are applied in the same manner and the discipline is for the same duration as would be applied to a child without disabilities.

Behavior Related to Weapons, Drugs, Serious Bodily Injury

School officials may remove a child with a disability to an interim alternative educational setting for up to 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

- Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the school district or the State Board of Education;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the school district or the State Board of Education; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school district or the State Board of Education.

When a child has been removed to an interim alternative educational setting, the IEP team must determine what special education and related services are needed and where the services will be provided to enable the child to:

- Participate in the general education curriculum, although in another setting; and
- To progress toward meeting their goals set out in the child's IEP.

The team should also determine if a functional behavioral assessment would be appropriate. The IEP team will also review and revise any existing BIP or develop one with services and modifications that are designed to address the behavior violation so that it does not recur.

When a child commits a violation related to weapons, drugs or serious bodily injury, school officials may initially suspend the child for up to 10 school days without educational services.

On the date in which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation related to weapons, drugs, or serious bodily injury, the school must notify the parents of that decision, and provide the parents the Parent Rights Notice.

Once the child has been placed in the interim alternative educational setting, if the school believes that returning the child to the setting specified in the child's IEP would be substantially likely to result in injury to the child or others, the school may request an expedited due process hearing to request the hearing officer to order another 45 school day interim alternative educational setting. The burden of proof is on the school to justify an additional removal be ordered by the hearing officer.

(Adapted from KSDE Process Handbook,)

Kansas Assessments

Included in this section is information from KSDE regarding criteria for Dynamic Learning Map eligibility. Determination of eligibility for the DLM **must** be determined using the following criteria.

Dynamic Learning Maps™ Participation Guidelines For Kansas

Participation in the Dynamic Learning Maps Alternate Assessment requires the completion of the DLM rubric. (See Alternate Assessment Resources) Participating in Dynamic Learning Maps is determined by the IEP team and if the student qualifies the student will take an alternate in all content areas.

The following are not allowable (or acceptable) considerations for determining participation in the Dynamic Learning Maps Alternate Assessment.

- 1. A disability category or label***
- 2. Poor attendance or extended absences***
- 3. Native language/social/cultural or economic difference***
- 4. Expected poor performance on the general education assessment***
- 5. Academic and other services student receives***
- 6. Educational environment or instructional setting***
- 7. Percent of time receiving special education***
- 8. English Language Learner (ELL) status***
- 9. Low reading level/achievement level***
- 10. Anticipated student's disruptive behavior***
- 11. Impact of student scores on accountability system***
- 12. Administrator decision***
- 13. Anticipated emotional duress***
- 14. Need for accommodations (e.g., assistive technology/AAC) to participate in assessment process***

Extended School Year

The need for ESY is to be determined individually by the IEP team when developing the initial IEP or when the IEP is reviewed annually. Students identified as gifted are not eligible for ESY services. Some students may attend their home school general education summer school (if provided) with reasonable accommodations and modification necessary for the child to have an equal opportunity to participate in the general education environment and curriculum. To determine if a student with a disability needs ESY, the following should be considered:

Determining Need for ESY:

1. **Is a significant regression anticipated if ESY services are not provided?** The LEA is not required to provide ESY services only because the student will benefit from such a program. Instead, the IEP team will determine for each individual child if the regression experienced by the student will significantly affect her/ his maintenance of skills/behaviors. This decision is **data-based**. Before the LEA is required to provide ESY services, the IEP team shall determine that more than 45 school days will be required to return the student to the former level of achievement because summer instruction was not provided. The IEP team shall make this determination by a review of pre and post data, as well as data collected 45 school days into the school year.
2. **What is the nature and severity of the disability(ies)?** When a student's disability(ies) requires a highly structured program, cessation of services may result in regression. Particular consideration for ESY services will be given to students who need instruction in self-help skills such as dressing, eating or toileting, or who need continued structure to develop behavior control. Preschool students with moderate to severe disabilities may miss a window of developmental opportunity if critical skills such as talking or walking are beginning to emerge.
3. **Has there been an interruption in services included in the IEP?** For example, the school may have been unable to find a physical therapist until November.

Important Points to consider:

- Provision of ESY services is an IEP team decision. One person should not be deciding if a child needs services. Access to ESY services in previous years is not a reason to continue ESY services the next.

- The purpose of ESY is to provide services to provide FAPE to the child so that the child can maintain progress made toward the goals specified on the child's IEP and to prevent regression. Regression is the number one factor to consider when determining the need for ESY services. If the team feels the child will regress to the point of taking 45 or more school days to return to the levels the child exhibited in May, then "significant regression" is possible and ESY services are warranted.
- The IEP team should only use Reason #2 above if there is data that supports that regression MAY occur without services.
- When deciding the length of services a child needs, please keep in mind the child and the staff need a break. It is recommended that services be no more than 6 weeks. This is a guideline and all decisions should be individually made.
- If the IEP team feels that there will be significant concerns or differences of opinions when making this decision regarding the student, it is required that the team contact the appropriate special education administrator prior to the meeting and/or invite them to the meeting.
- All decisions regarding ESY must be made by **April 1st** to allow administrative staff to formulate a budget, contact staff interested in working during the summer, make transportation & location arrangements, and contact parents.

Please include the following in staffing notes:

- An explanation as to how the student qualifies or does not qualify for ESY. Data may be attached if it is too extensive to summarize.
- IEP goals and objectives to be addressed in ESY.
- Amount of time needed for services (including length of ESY) and type of service provider needed. Time would not exceed what is presently on IEP.
- Location of services. Keep in mind that the services should be the same or similar to those provided during the regular school year. If the school is having a summer program, try to provide services at the school during that time frame.

Upon checking out through the MAR-NEM COOP at the end of the school year, the service provider must do the following if the student will be receiving ESY services:

- Provide a list of names and contact information for students receiving ESY services.
- Provide a copy of the staffing notes where ESY information was documented.
- Provide a copy of the last progress report.
- Provide any materials necessary to work on the ESY goals that may not be available to the summer provider.

Discontinuing Services

There are times when a child's eligibility for special education and related services ends or when the parent or adult student chooses to end the provision of special education services. These situations include the following:

- The student is no longer eligible for services.
- The student graduates.
- The school year ends and the student is age 21.
- The parent or adult student revokes consent for services.
- The student drops out of school.

The following chart outlines what is needed when discontinuing services.

Reason for discontinuing services	Reevaluation required	Prior written notice required	Parent or adult student consent required	Summary of performance required
No longer eligible for special education and related services	Yes	Yes	Yes	No
Graduation	No	Yes	No	Yes
Services at age 21	No	Yes	No	Yes
Revokes consent for special education services	No	Yes	No	No
Drops out of school	No	No	No	No

Summary of Performance

The purpose of the Summary of Performance is to transfer critical information that leads to the student's successful participation in postsecondary settings. It must address the following:

- Academic achievement: information on reading, math, and language
- Functional performance: information on learning styles, social skills, independent living skills, self-determination, and career/vocational skills
- Recommendations: suggestions for accommodations, assistive services, compensatory strategies for post-secondary education, employment, independent living, and community participation

(Adapted from KSDE Process Handbook)

The case manager is responsible for completing the Summary of Performance.

Medicaid

As of December 2006, Medicaid amended the provider manual to require a health care provider signature prior to billing for approved services. This requirement is to be annually renewed. For the MAR-NEM COOP to be reimbursed as an LEA and Kansas Medicaid Provider of approved services (physical therapy, occupational therapy, speech/language therapy, nursing services, and attendant care services) as part of a student's IEP, the necessary paperwork must be completed and submitted each year. MAR-NEM COOP submits this paperwork for billing each month. The revenue generated through Medicaid billing is a necessary financial component that is used to fund appropriate services for Medicaid eligible students.

Please contact MAR-NEM COOP with any questions or concerns. You may call the MAR-NEM COOP office at 785/336-2181.

Due Dates

Caseload

- All service providers must update a list of their caseload to the Special Education Director no later than **Sept. 1**. This information is necessary to complete the September 20 report to the State.
- **Within 1 week** of having knowledge of any changes in services or personal information, the students demographics should be corrected. If services are discontinued by a service provider, **DO NOT** remove that service provider's name. Instead, indicate the appropriate end date for that service provider.

IEPs

- An updated copy of all IEP paperwork should be sent to the parents within **one week** of the meeting.
 -
- All necessary IEP paperwork needs to be submitted to the Director no later than **7 days** after the meeting.
 -
- All IEPs due prior to the end of the December Winter Break must be completed and all necessary paperwork turned into the COOP Director **by Dec. 1st**.
 -
- All IEPs due prior to the end of the school year must be completed and all necessary paperwork turned into the Coop Director **by May 3rd**.
 -
- All IEP's due from the start of the next school year to **September 13th** will be due by **May 3rd**.

Outcomes Data

All outcome exits for EC data reporting are due to Dyan Cornelison by **May 3rd**.

Progress Reports

- **Progress reports are due by 3:30p.m. on the specified dates provided at the beginning of the year.** If an IEP meeting is completed 2 weeks or less prior to the IEP update due date, a progress report is to be filled out on the former IEP that had seven weeks of instruction. Notification must be reported to MIS clerk so the right update will be sent to the parent.

ESY

- ESY determinations must be discussed with the Director, prior to team decision. Additional required information is due upon summer checkout. See the ESY section for specific information on required information. A written statement of documented recession is required. Evidence of regression must be a part of IEP meeting discussion to be reviewed by the team. If the school is making the ESY recommendation, you must discuss prior to meeting with the Director.

Resolving Differences

If a parent has concerns on services or other issues, please notify the Director of Special Education as soon as you become aware of it. MAR-NEM COOP desires to be pro-active to resolve concerns.