NEBRASKA DEPARTMENT OF EDUCATION

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Gary M. Sherman, Beth Wierda - Office of Special Education

SUBJECT: New Rule 52 (92 NAC 52), "Regulations and Standards for Early Intervention Programs"

Proposed Board Action:

It is recommended that the State Board approve Rule 52 (92 NAC 52) "Regulations and Standards for Early Intervention Programs" with the attached list of non-substantive changes.

Background Information:

Previously, the regulations and standards for Early Intervention Programs were contained in Rule 51. With the release of the final IDEA Part C federal regulations, it was determined that it was necessary to move the requirements for services to infants and toddlers with disabilities to a separate rule (Rule 52). The majority of Rule 52 is comprised of the requirements which were moved from Rule 51. In addition, Rule 52 includes the federal requirements which were issued as a result of the most recent reauthorization of Part C of IDEA.

Estimated Cost:

Printing of final rule estimated at $600.00.

Supporting Documentation Included:

Hearing Summary
Hearing Draft of 92 NAC 52 (Rule 52)

For Additional Information on this item:

Jeanne Heaston, 402-595-1155 or jeanne.heaston@nebraska.gov
Gary Sherman 402-471-2471 or gary.sherman @nebraska.gov

Non Substantive Changes to
92 NAC 52 Hearing Draft

Page 9	Correct typo by changing 013.15C to 003.15C
Page 9	Correct typo by changing 013.15D to 003.15D
Page 9	Correct typo by changing 003.16A (qualififed to qualified)
Page 14	Correct typo in section 006.01B (infants to Infants)
Page 14	Correct typo in section 006.01C (infants to Infants)
Page 18	Correct typo in section 006.09A1d (92 NAC 52-003.20A to 92 NAC 52-003.20 and 92 NAC 52-007.16B to 92 NAC 52-003.16B)
Page 40	Remove section 011.04B and 011.04C

003.15A Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

003.15A1 Cognitive development,

003.15A2 Physical development, including vision and hearing,

003.15A3 Communication development,

003.15A4 Social or emotional development,

003.15A5 Adaptive development; or

003.15B Has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay; and includes conditions such as chromosomal abnormalities, genetic or congenital disorders, sensory impairments, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, congenital infections, severe attachment orders, and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; or

~~013.15C~~
003.15C Is experiencing any of the other disabilities described in 92 NAC 51-006.04.

~~013.15D~~
003.15D Toddlers with disabilities who reach age three during the school year shall remain eligible throughout that school year.

003.16 ***Multidisciplinary*** means the involvement of two or more separate disciplines or professions and with respect to:

003.16A The evaluation of the child and assessments of the child and family, may include one individual who is ~~qualifiifed~~ qualified in more than one discipline or profession; and

003.16B Pursuant to 480 NAC 3, the IFSP team must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the services coordinator.

003.17 ***Native language***:

003.17A When used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the IDEA) native language means the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child except for evaluations and assessments conducted pursuant to 92 NAC 52-006.05D, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

003.17B When used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, includes the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

003.18 ***Natural environments*** means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of 92 NAC 52-007.06.

006 Identification, Referral and Eligibility Determination of Infants and Toddlers with Disabilities

006.01 School districts and approved cooperatives, as part of the child find system, must ensure that all infants and toddlers with disabilities within the district or approved cooperative who are eligible for early intervention services are identified, located and evaluated, including:

006.01A Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organization, and consortia);

006.01B ~~infants~~ Infants and toddlers with disabilities who are homeless, in foster care and wards of the State; and

006.01C ~~infants~~ Infants and toddlers with disabilities who are the subjects of substantiated cases of child abuse or neglect, or are identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

006.01D Referral Procedures

006.01D1 School districts and approved cooperatives shall refer a child under the age of three to the agency responsible for providing services coordination in the Planning Region as soon as possible but in no case later than seven (7) days after becoming aware that the child may be eligible for early intervention services.

006.01D2 A child under the age of three who is the subject of a substantiated case of child abuse or neglect; or is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure must be referred to the Early Intervention Program (the agency responsible for providing services coordination in the Planning Region).

006.02 Post-Referral (45 Days) Timeline

006.02A Except as provided in 92 NAC 52-006.02B, school districts and approved cooperatives shall complete any screening under 92 NAC 52-006.03 (if the parent consents); the initial evaluation and the initial assessments of the child and the family under 92 NAC 52-006.05; and shall participate in the initial Individualized Family Service Plan (IFSP) meeting under 92 NAC 52-007.03 within 45 calendar days from the date of referral.

006.02B Subject to 92 NAC 52-006.02C, the 45 calendar day timeline described in 92 NAC 52-006.02A does not apply for any period when:

006.02B1 The child or parent is unavailable to participate in the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or

006.02B2 The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the services coordinator to obtain parental consent.

006.02C In the event the circumstances described in 92 NAC 52-006.02B1 or 006.02B2 exist:

006.07 Procedures for Assessment of the Child

006.07A An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:

006.07A1 A review of the results of the evaluation conducted under 92 NAC 51-006.06;

006.07A2 Personal observations of the child; and

006.07A3 The identification of the child's needs in each of the developmental areas in 92 NAC 52-003.15 and 92 NAC 52-006.04.

006.08 If, based on the evaluation conducted under 92 NAC 52-006, the school district or approved cooperative determines that a child is not eligible, the school district or approved cooperative must provide the parent with prior written notice required in 92 NAC 52-009.03B and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under 92 NAC 52-009.05 through 009.08, such as requesting a due process hearing or mediation or filing a State complaint.

006.09 Multidisciplinary Team Written Report

006.09A The team shall prepare a written report of the results of the child's evaluation and assessment.

006.09A1 The report shall include a statement of:

006.09A1a Whether the child qualifies as an infant or toddler with a disability based on the criteria and definitions contained in 92 NAC 52-006 or 92 NAC 51-006.04;

006.09A1b The basis for making the determination including the results of the evaluation; and

006.09A1c The child's unique strengths and needs in each of the developmental areas: cognitive development; physical development; communication development; social and emotional development and adaptive development;

006.09A1d A listing of the team members that must include the parent and individuals representing two or more separate disciplines pursuant to ~~92 NAC 52-003.20A~~ 92 NAC 52-003.20 and ~~92 NAC 52-007.16B~~ 92 NAC 52-003.16B.

006.09A2 Each team member shall certify in writing whether the report reflects his or her conclusion. If the report does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusion.

006.10 A copy of the multidisciplinary team report shall be given to the parent and services coordinator at no cost consistent with 92 NAC 52-009.02F3.

011.04A1b Each time consent for services is required under 92 NAC 52-009.03A1c due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

~~011.04B~~ ~~If a school district or approved cooperative requires a parent to pay any costs that the parent would incur as a result of the school district's or approved cooperative's use of private insurance to pay for FAPE early intervention services (such as co-payments, premiums, or deductibles), those costs must be identified in the school district's or approved cooperative's system of payments policies under §303.521; otherwise, the school district or approved cooperative may not charge those costs to the parent.~~

~~011.04C~~ ~~When obtaining parental consent required under 92 NAC 52-011.04A or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service under 92 NAC 52, the school district or approved cooperative must provide to the parent a copy of the school district's or approved cooperative's system of payments policies that identifies the potential costs that the parent may incur when their private insurance is used to pay for FAPE early intervention services under 92 NAC 52 (such as co-payments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).~~

Roger D. Breed, Ed.D., Commissioner
Scott Swisher, Ed.D., Deputy Commissioner

NEBRASKA DEPARTMENT OF EDUCATION

301 Centennial Mall South
PO Box 94987
Lincoln, NE 68509-4987

Tel: (402) 471-2295
Fax: (402) 471-0117
Web: www.education.ne.gov

TO: State Board of Education

FROM: Scott Summers, Legal Counsel III
Commissioner's Appointed Staff Person to Conduct Rule Hearing on revisions to Title 92, Nebraska Administrative Code, Chapter 52, *Regulations and Standards for Early Intervention Programs*

DATE: December 9, 2013

RE: Summary of Hearing on Proposed Revisions to 92 NAC 52

On October 29, 2013, the Deputy Commissioner approved a hearing draft and set a hearing date and location as well as designated a staff person to conduct a hearing on the adoption of proposed Title 92, Nebraska Administrative Code, Chapter 52. By a memorandum dated November 6, 2013, the Deputy Commissioner appointed me to conduct the hearing on this Rule on December 9, 2013, commencing at 10:00 a.m. (CT). After the proper legal notice was published, this hearing was at the Nebraska State Office Building, Nebraska Department of Education, State Board Meeting Room, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska 68509. Pursuant to State Board of Education Policy B9, what follows is a written summary of the hearing testimony.

An audio recording of the hearing is available if any members of the Board wish to hear the tape.

SUMMARY OF TESTIMONY ON THE PROPOSED REVISIONS TO 92 NAC 52

Scott Summers, Legal Counsel III and the hearing official, called the hearing to order, read into the record the name of the newspaper in which legal notice of the hearing was published and the date the notice appeared, and outlined the procedures for the hearing.

Mr. Summers then introduced NDE staff member, **Jeanne Heaston, Education Specialist III, Diverse Populations - Special Education, Nebraska Department of Education . Ms. Heaston** testified that the newly drafted Rule 52 implements IDEA Part C Regulations. Previously, the regulations and standards for Early Intervention Programs (Part C Infants and Toddlers with Disabilities) were incorporated into Rule 51. With the release of the final Part C federal regulations, the definitions, procedures, and requirements were significantly different than those outlined in the Part B federal regulations. This necessitated the development of a new rule comprised of some portions being transferred from Rule 51 and additional sections that are unique to Part C. Specifically, Definition of Terms (Section 003); Early Childhood Interagency Planning Region Teams (Section 005); Screening (Section 006); Individualized Family Service Plan (Section 007); and Transition to Preschool and Other Programs (Section 008).

Cindy Ellis, M.D., Member, Executive Committee of the Special Education Advisory Council (SEAC). Dr. Ellis testified on behalf of Special Education Advisory Council (SEAC). SEAC is an advisory panel established for the purpose of providing policy guidance to NDE and the State Board of Education regarding special education and related services for children with disabilities. Membership is broad-based, including representation of teachers, school administrators, parents, higher education, private schools and other state agencies. The proposed rule has been developed with the guidance and input from SEAC throughout the rule adoption process. SEAC is endorsing approval of the hearing draft of Rule 52 as presented to the State Board of Education. Dr Ellis' written testimony is attached.

Jason Harris, Student Services, Columbus Senior High School, testified that he would like to see more discussion of the proposed Rule 52 before adoption. Mr. Harris indicated that he has submitted written questions and concerns to NDE and HHS. These specifically pertain to service coordination, monitoring services and language about drug and/or alcohol issues mentioned in Rule 52 but not in Rule 51.

Donna Moss, Student Services, Hastings Public School, echoed Mr. Harris' testimony and hopes that dialogue will continue with the school districts, HHS, principals and SPED directors before moving forward with the adoption of Rule 52. Ms. Moss feels that with the continued dialogue this new rule would be the best it can be for stakeholders, HHS, NDE and school districts.

One piece of written testimony was received from **Pam Dabrovolny, Chairperson, Early Childhood Interagency Coordinating Council**, in support of the proposed Rule 52. See attached written testimony.

No other oral or written testimony was received.

NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

An advisory panel providing policy guidance to the Nebraska Department of Education with respect to special Education and related services for children with disabilities

December 9, 2013

My name is Dr. Cindy Ellis and I am a member of the Executive Committee of the Nebraska Special Education Advisory Council (SEAC). I am representing the membership of SEAC in supporting the current revision of 92 NAC 51 and the development of 92 NAC 52. SEAC represents parents of children with disabilities and professionals from a wide array of disciplines involved with the education of children with disabilities. SEAC represents all State Board of Education districts throughout Nebraska.

Staff from the Nebraska Department of Education, Special Education Office have worked with SEAC over the past two years to inform the Council of the anticipated changes to Rule 51 and the emergence of Rule 52. Staff representing IDEA – Part B and IDEA – Part C have met with SEAC at regularly scheduled meetings to inform the Council of the changes anticipated for Rule 51, and the need to move language regarding children age birth to three years to a separate rule that could more clearly describe the responsibilities of schools and their partners.

At the November 21, 2013 SEAC meeting, the Council reviewed all of the changes to Rule 51 and discussed the content of Rule 52. After considerable discussion and opportunity for questions, the Council voted to approve the hearing drafts of 92 NAC 51 and 92 NAC 52. SEAC strongly encourages the approval and advancement of both hearing drafts.

Respectfully submitted and presented by:

Cindy Ellis, M.D.
Executive Committee
Nebraska Special Education Advisory Council

Cindy Ellis, MD

NEBRASKA EARLY CHILDHOOD INTERAGENCY COORDINATING COUNCIL (ECICC)

A collaborative effort to advise state government on the improvement of services affecting young children and their families

MEMBERS APPOINTED BY THE GOVERNOR REPRESENT:

Parents
Family Child Care
Center-based Child Care
Early Intervention Providers
Primary Education
School-based Programs
School-age Care
Parenting Education
Pediatric Health
Mental Health
Head Start
Higher Education
Extension Educators
Child Care Food Programs
State Agencies

Pam Dobrovolny
ECICC Chairperson
Phone: (402) 296-5250
E-mail: pdobrovolny@pcsd.org

Terry Rohren
ECICC Facilitator
Phone: (402) 557-6894
Fax: (402) 557-6890
E-mail: terry.rohren@nebraska.gov

Please direct written correspondence to:
Attn: Holly Johnson
ECICC Secretary
P.O. Box 94987
Lincoln, NE 68509-4987
Phone: (402) 471-8204
Fax: (402) 471-0117
E-mail: holly.erickson@nebraska.gov

ECICC Website:
www.education.ne.gov/ecicc/

December 4, 2013

To the Nebraska Department of Education

Early Childhood Interagency Coordinating Council Testimony Regarding Rule 52 Draft

My name is Pam Dobrovolny and I am the chairperson of the Early Childhood Interagency Coordinating Council (ECCIC) and I am testifying on behalf of that group. ECICC is mandated by federal law, IDEA, Part C and the membership must be composed of at least 20% parents of children with disabilities aged 12 years or younger, at least 20% of the members must be public or private providers of early intervention services, a State legislative member, and State agency representatives from the following: Special Education Preschool Program, Medicaid and CHIP program, Head Start or Early Head Start, Child Care, Regulation of Private Health Insurance, Office of the Education of Homeless Children and Youth, Child Welfare and Foster Care, Children's Mental Health.

As the result of action taken at the ECICC meeting on November 15, 2013, the ECICC is endorsing approval of the hearing draft of Rule 52 as presented to the State Board of Education. ECICC appreciates the process used by NDE for involving many stakeholders in drafting the Rule revision.

Thank you for this opportunity to testify in support of the proposed Rule 52 on behalf of the Early Childhood Interagency Coordinating Council.

Pam Dobrovolny

Pam Dobrovolny
Chairperson
Early Childhood Interagency Coordinating Council

Roger D. Breed, Ed.D., Commissioner
Scott Swisher, Ed.D., Deputy Commissioner

NEBRASKA DEPARTMENT OF EDUCATION

301 Centennial Mall South
PO Box 94987
Lincoln, NE 68509-4987

Tel: (402) 471-2295
Fax: (402) 471-0117
Web: www.education.ne.gov

TO: State Board of Education

FROM: Scott Summers, Legal Counsel III
Commissioner's Appointed Staff Person to Conduct Rule Hearing on proposed Title 92, Nebraska Administrative Code, Chapter 52, *Regulations and Standards for Early Intervention Programs*

DATE: December 10, 2013

RE: Summary of Hearing on Proposed 92 NAC 52

On October 29, 2013, the Deputy Commissioner approved a hearing draft and set a hearing date and location as well as designated a staff person to conduct a hearing on the adoption of proposed Title 92, Nebraska Administrative Code, Chapter 52. By a memorandum dated November 6, 2013, the Deputy Commissioner appointed me to conduct the hearing on this Rule on December 10, 2013, commencing at 10:00 a.m. (CT), 9:00 a.m. (MT). After the proper legal notice was published, the hearing was held at two separate videoconference sites: **Lincoln** – Nebraska State Office Building, Nebraska Department of Education, 301 Centennial Mall South, 6th floor, State Board Meeting Room, Lincoln, NE and **Scottsbluff** – Scottsbluff Vocational Rehabilitation Office, 505A Broadway, Suite 500, Scottsbluff, NE. Pursuant to State Board of Education Policy B9, what follows is a written summary of the hearing testimony.

A recording of the hearing is available if any members of the Board wish to hear/view it.

SUMMARY OF TESTIMONY ON PROPOSED 92 NAC 52

Scott Summers, Legal Counsel III and the hearing official, called the hearing to order, read into the record the name of the newspaper in which legal notice of the hearing was published and the date the notice appeared, and outlined the procedures for the hearing.

Mr. Summers then introduced NDE staff member, **Jeanne Heaston, Education Specialist III, Diverse Populations - Special Education, Nebraska Department of Education . Ms. Heaston** testified that the newly drafted Rule 52 implements IDEA Part C Regulations. Previously, the regulations and standards for Early Intervention Programs (Part C Infants and Toddlers with Disabilities) were incorporated into Rule 51. With the release of the final Part C federal regulations, the definitions, procedures, and requirements were significantly different than those outlined in the Part B federal regulations. This necessitated the development of a new rule comprised of some portions being transferred from Rule 51 and additional sections that are unique to Part C. Specifically, Definition of Terms (Section 003); Early Childhood Interagency Planning Region Teams (Section 005); Screening (Section 006); Individualized Family Service Plan (Section 007); and Transition to Preschool and Other Programs (Section 008).

LINCOLN VIDEOCONFERENCE SITE

No one testified.

One piece of written testimony (via email) was received from **Mr. Jason Harris, Executive Director of Special Education and Student Services, Columbus Public Schools (who testified the previous day).** Please see Mr. Harris' email attached.

SCOTTSBLUFF VIDEOCONFERENCE SITE

No one testified.

No other oral or written testimony was received.

Wierda, Beth

From: Jason Harris <harrisj@discoverers.org>
Sent: Monday, December 09, 2013 12:59 PM
To: Wierda, Beth
Subject: Rule 52 Written Comments for Draft Hearing

I have the following question that should be submitted for record for the Rule 52 Draft Hearing.

1. Why is Rule 52 using standard deviation for verification of DD, but this is not the same in Rule 51?

2. "Service coordinators shall coordinate, facilitate and monitor the delivery of services". Why do service coordinators need to monitor the provisions of early intervention services provided by the school district? Who monitors the service coordinators?

3. What documentation should be kept when monitoring the delivery of services?

4. What does this statement mean, "for children who are at least three years of age, an education component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills". Does this mean a goal should be written? How does this look?

5. Who needs to be on the student's team when the student is eligible for special education when the child has a high probability for delay later on and is not receiving services from the school district currently?

6. What happens if a student qualifies based upon Rule 52 due to high probability, but high probability is not in Rule 51?

Engaging All Learners to Achieve Success!

Mr. Jason Harris, M.S.
Executive Director of Special Education and Student Services
Columbus Public Schools
2508 27th Street
P.O. Box 947
Columbus, NE 68602-0947
Phone: (402) 563-7000 Extension 1400
harrisj@discoverers.org

RULE 52

HEARING DRAFT

Nebraska Department of Education

Office of Special Education

October 23, 2013

ALPHABETICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Declaration of Responsibility	43-2507	001
Statutory Authority	43-2516, 43-2507.02, 79-1160, 79-318, 79-319	002
Definition of Terms	43-2516, 20 USC 1471-1487 43-2507.01, 43-2507.02, 43-2505, 79-1127	003
Identification, Referral, and Eligibility for Determination of Infants and Toddlers with Disabilities	43-2516, 20 USC 1471-1487, 43-2505, 79-1118.01	006
Individualized Family Service Plan (IFSP)	43-2516, 20 USC 1471-1487, 43-2507.02, 43-2507.01	007
Planning Region Teams	43-2516, 79-1135	005
Procedural Safeguards	43-2516, 20 USC 1471-1487	009
Qualifications of Early Intervention Personnel	20 USC 1471-1487	010
Responsibility for Early Intervention Programs	43-2516, 20 USC 1471-1487, 79-1158	004
Transition to Preschool and Other Programs	20 USC 1412	008
Transportation for Infants and Toddlers with Disabilities and their Families	43-2516, 79-318, 79-319, 79-1160, 79-1129	012
Use of Funds for Early Intervention Services	43-2516, 20 USC 1471-1487	011

NUMERICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Declaration of Responsibility	43-2507	001
Statutory Authority	43-2516, 43-2507.02, 79-1160, 79-318, 79-319	002
Definition of Terms	43-2516, 20 USC 1471-1487, 43-2507.01, 43-2507.02, 43-2505, 79-1127	003
Responsibility for Early Intervention Programs	43-2516, 20 USC 1471-1487, 79-1158	004
Planning Region Teams	43-2516, 79-1135	005
Identification, Referral and Eligibility Determination of Infants and Toddlers with Disabilities	43-2516, 20 USC 1471-1487 43-2505, 79-1118.01	006
Individualized Family Service Plan (IFSP)	43-2516, 20 USC 1471-1487 43-2507.02, 43-2507.01	007
Transition to Preschool and Other Programs	20 USC 1412	008
Procedural Safeguards	43-2516, 20 USC 1471-1487	009
Qualifications of Early Intervention Personnel	20 USC 1471-1487	010
Use of Funds for Early Intervention Services	43-2516, 20 USC 1471-1487	011
Transportation for Infants and Toddlers with Disabilities and their Families	43-2516, 79-318, 79-319, 79-1160 79-1129	012

001 Declaration of Responsibility

Neb. Rev. Stat. 43-2507 requires planning for FAPE early intervention services shall be the responsibility of each collaborating agency. The planning shall address a statewide FAPE early intervention services program (EISP) of comprehensive, coordinated, family-centered, community based, and culturally competent FAPE early intervention services to all eligible infants or toddlers with disabilities and their families in Nebraska.

002 Statutory Authority

This Chapter is adopted pursuant to the statutory authority vested in the Nebraska Department of Education in Neb. Rev. Stat. 43-2516, 43-2507.02, 79-1160, 79-318, and 79-319.

003 Definition of Terms

003.01 ***Approved Cooperative*** means two or more school districts or an Educational Service Unit (ESU) approved by the Nebraska Department of Education pursuant to 92 NAC 51-004.07 to jointly perform special education functions, including receipt of special education payments.

003.02 ***Child*** means an individual under the age of six and may include an infant or toddler with a disability as defined in 92 NAC 52-003.15.

003.03 ***Co-Lead Agencies*** means the Department of Health and Human Services and the State Department of Education.

003.04 ***Consent*** means that the parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language as defined in 92 NAC 52-003.17; the parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).

003.05 ***Day*** means calendar day, unless otherwise indicated.

003.06 ***Early Intervention Services***

003.06A Early intervention services means developmental services that --

003.06A1 Are provided under public supervision;

003.06A2 Are selected in collaboration with parents;

003.06A3 Are provided at no cost, except subject to 34 CFR 303.520 and 303.521, where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

003.06A4 Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP Team, in any one or more of the following areas, including --

003.06A4a Physical development;

003.06A4b Cognitive development;

003.06A4c Communication development;

003.06A4d Social or emotional development; or

003.06A4e Adaptive development;

003.06A5 Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the IDEA;

003.06A6 Include services identified under 003.06B;

003.06A7 Are provided by qualified personnel as that term is defined in 92 NAC 52-003.22, including the types of personnel listed in 003.06B;

003.06A8 To the maximum extent appropriate, are provided in natural environments as defined in 92 NAC 52-003.18 and consistent with 92 NAC 52-007.06; and

003.06A9 Are provided in conformity with an IFSP adopted in accordance with 92 NAC 52-007.

003.06B Subject to 92 NAC 52-003.06D, early intervention services include the following services defined in this paragraph:

003.06B1 ***Assistive Technology device*** means 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 an infant or toddler with a disability. The term does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g. mapping), maintenance, or replacement of that device.

003.06B2 ***Assistive technology service*** means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. The term includes;

003.06B2a The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;

003.06B2b Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;

003.06B3c Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

003.06Bd Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

003.06Be Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child's family; and

003.06Bf Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.

003.06B3 ***Audiology services*** include:

003.06B3a Identification of children with auditory impairments, using at-risk criteria and appropriate audiological screening techniques;

003.06B3b Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

003.06B3c Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;

003.06B3d Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;

003.06B3e Provision of services for prevention of hearing loss; and

003.06B3f Determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listing and vibrotactile devices, and evaluating the effectiveness of those devices.

003.06B4 ***Family training; counseling; and home visits*** means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the special needs of the child and enhancing the child's development.

003.06B5 ***Health services*** means services necessary to enable an otherwise eligible child to benefit from the other early intervention services during the time that the child is eligible to receive early intervention services.

003.06B5a The term includes such services as clean intermittent catherization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

003.06B5b The term does not include:

003.06B5bi Services that are surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.

003.06B5bi(a) Nothing in this Chapter limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.

003.06B5bi(b) Nothing in this Chapter prevents the early intervention service provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;

003.06B5bii Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and

003.06B5biii Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

003.06B6 ***Medical services*** means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.

003.06B7 ***Nursing services*** include the assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems; the provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and the administration of medications, treatments, and regimens prescribed by a licensed physician.

003.06B8 ***Nutrition services*** include:

003.06B8a Conducting individual assessments in nutritional history and dietary intake; in anthropometric, biochemical and clinical variables; in feeding skills and feeding problems; and in food habits and food preferences;

003.06B8b Developing and monitoring appropriate plans to address the nutritional needs of children eligible under 92 NAC 52, based on the findings of the individual assessments in 92 NAC 52-003.06B8a; and

003.06B8bi Making referrals to appropriate community resources to carry out nutrition goals.

003.06B9 ***Occupational therapy*** includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include: identification, assessment, and intervention; adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability

003.06B10 ***Physical Therapy*** includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

003.06B10a Screening, evaluation, and assessment of children to identify movement dysfunction;

003.06B10b Obtaining, interpreting and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

003.06B10c Providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.

003.06B11 ***Psychological services*** includes:

003.06B11a Administering psychological and developmental tests and other assessment procedures;

003.06B11b Interpreting assessment results;

003.06B11c Obtaining, integrating and interpreting information about child behavior and child and child family conditions related to learning, mental health, and development; and

003.06B11d Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

003.06B12 ***Services coordination services*** means services provided by a services coordinator to assist and enable an infant or toddler with a disability and the child's family to receive the services and rights, including procedural safeguards.

003.06B13 ***Sign language and cued language services*** include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.

003.06B14 ***Social work services*** includes:

003.06B14a Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

003.06B14b Preparing a social or emotional developmental assessment of the infant or toddler within the family context;

003.06B14c Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler with a disability and parents;

003.06B14d Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and

003.06B14e Identifying, mobilizing and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

003.06B15 ***Special Instruction*** includes:

003. 06B15a The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

003. 06B15b Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;

003. 06B15c Providing families with information, skills, and support related to enhancing the skill development of the child; and

003. 06B15d Working with the infant or toddler with a disability to enhance the child's development.

003.06B16 ***Speech-language pathology services*** includes:

003.06B16a Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

003.06B16b Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and

003.06B16c Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

003.06B17 ***Transportation and related costs*** include the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services.

003.06B18 ***Vision Services*** mean:

003.06B18a Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays and abilities that affect early childhood development;

003.06B18b Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders or both; and

003.06B18c Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

003.06C The following are types of qualified personnel who provide early intervention services under Part C of the IDEA:

003.06C1 Audiologists;

003.06C2 Family therapists;

003.06C3 Nurses;

003.06C4 Occupational therapists;

003.06C5 Orientation and mobility therapists;

003.06C6 Pediatricians and other physicians for diagnostic and evaluation purposes;

003.06C7 Physical therapists;

003.06C8 Psychologists;

003.06C9 Registered dieticians;

003.06C10 Social Workers;

003.06C11 Special educators, including teachers of children with hearing impairments (including deafness) and teachers of children with visual impairments (including blindness);

003.06C12 Speech and language pathologists; and

003.06C13 Vision specialists, including ophthalmologists and optometrists.

003.06D The services and personnel identified in 003.06B and 003.06C do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services. Nothing in this section prohibits the identification in the IFSP of another type of services as an early intervention service provided that the service meets the criteria identified in 003.06A or of another type of personnel that may provide early intervention services in accordance with this chapter, provided such personnel meet the requirements of 92 NAC 52-003.22.

003.07 ***Evaluation*** means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this Chapter consistent with the definition of infant or toddler with a disability in 92 NAC 52-003.15.

003.08 ***FAPE early intervention services*** means those early intervention services that are part of a free appropriate public education for a child under 92 NAC 51. Such services must meet the requirements of both 92 NAC 51 and 92 NAC 52.

003.09 ***Free appropriate public education or FAPE***, means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the requirements of 92 NAC 51 and the requirements of Part B of IDEA; include an appropriate preschool, elementary school or secondary school education in the state; and are provided in conformity with an individualized education program that meets the requirements of 92 NAC 51-007.

003.10 ***Homeless children*** means children who meet the definition given to homeless children and youth in Section 725 (42 U.S.C. 11434a) of the McKinney-Vento Assistance Act as amended in 42 USC 11431 *et. seq*.

003.11 ***Include or Including*** means that the items are not all of the possible items that are covered, whether like or unlike the ones named.

003.12 ***Indian*** includes an individual who is a member of an Indian tribe.

003.13 ***Indian tribe*** means any Federal or State Indian tribe, band, Rancheria, pueblo, colony, or community including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et. seq*.).

003.14 ***Individualized Family Service Plan or IFSP*** means a written plan for providing early intervention services to an infant or toddler with a disability under this Chapter and the infant's or toddler's family that is based on the evaluation and assessment described in 92 NAC 52-006.05 through 006.07; that includes the content specified in 92 NAC 52-007; that is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained and that is developed in accordance with the IFSP procedures in 92 NAC 52-007.

003.15 ***Infant or toddler with a disability*** means an individual under three years of age who needs early intervention services because the individual --

003.15A Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

003.15A1 Cognitive development,

003.15A2 Physical development, including vision and hearing,

003.15A3 Communication development,

003.15A4 Social or emotional development,

003.15A5 Adaptive development; or

003.15B Has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay; and includes conditions such as chromosomal abnormalities, genetic or congenital disorders, sensory impairments, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, congenital infections, severe attachment orders, and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; or

013.15C Is experiencing any of the other disabilities described in 92 NAC 51-006.04.

013.15D Toddlers with disabilities who reach age three during the school year shall remain eligible throughout that school year.

003.16 ***Multidisciplinary*** means the involvement of two or more separate disciplines or professions and with respect to:

003.16A The evaluation of the child and assessments of the child and family, may include one individual who is qualififed in more than one discipline or profession; and

003.16B Pursuant to 480 NAC 3, the IFSP team must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the services coordinator.

003.17 ***Native language***:

003.17A When used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the IDEA) native language means the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child except for evaluations and assessments conducted pursuant to 92 NAC 52-006.05D, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

003.17B When used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, includes the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

003.18 ***Natural environments*** means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of 92 NAC 52-007.06.

003.19 ***Notice*** means prior written notice that must be provided to parents a reasonable time before the school district or approved cooperative proposes or refuses to initiate or change the identification, evaluation, or placement of the infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and their family.

003.20 ***Parent*** means:

003.20A A biological or adoptive parent of a child;

003.20B A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State);

003.20C An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

003.20D A surrogate parent who has been appointed in accordance with 92 NAC 52-009.04.

003.20E Except as provided in 92 NAC 52-003.20E1 the biological or adoptive parent, when attempting to act as the parent under 92 NAC 52 and when more than one party is qualified under 92 NAC 52-003.20 to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational or early intervention service decisions for the child.

003.20E1 If a judicial decree or order identifies a specific person or persons under 92 NAC 52-003.20A through 003.20D to act as the "parent" of a child to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the "parent" for purposes of this Chapter, except that if an early intervention service provider or a public agency provides any services to a child or any family member of that child, that early intervention service provider or public agency may not act as the parent for that child.

003.21 ***Public agency*** as used in this Chapter includes the Nebraska Department of Education and any other agency or political subdivision of the State.

003.22 ***Qualified personnel*** means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

003.23 ***Screening Procedures*** means activities that are carried out under 92 NAC 52-006.03 by the school district or approved cooperative to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention services; and includes the administration of appropriate instruments by personnel trained to administer those instruments. Screening is an optional procedure.

003.24 ***School year*** for an infant or toddler with a disability shall be September 1 through August 31.

003.25 ***Scientifically based research*** has the meaning given the term in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In applying the ESEA to the regulations in this Chapter any reference to "education activities and programs" refers to "early intervention services".

004 Responsibility for Early Intervention

004.01 General Responsibility

004.01A Early identification of infants and toddlers with disabilities is provided by the Co-Lead Agencies through a public awareness campaign and a central directory.

004.01B School districts and approved cooperatives shall provide early identification of infants and toddlers with disabilities through the child find activities described in section 006.01 through 006.01C of this Chapter.

004.01C School districts and approved cooperatives shall provide, at no cost to families, evaluations and assessments of infants and toddlers who are referred because of possible disabilities in order to determine eligibility for early intervention services.

004.01D Services coordination services and the development of the IFSPs are provided to infants and toddlers with disabilities at no cost to families by the Department of Health and Human Services pursuant to 480 NAC 3.

004.01E School districts and approved cooperatives shall provide FAPE early intervention services (those early intervention services that are part of FAPE under 92 NAC 51) to eligible infants and toddlers with disabilities at no cost to families.

004.01F For other early intervention services not mandated by the Special Education Act (early intervention services that are not part of FAPE under 92 NAC 51) and not paid for through any other source, including, but not limited to, insurance, Medicaid, or third-party payor, payment for such services shall be the responsibility of the parent, guardian, or other person responsible for the eligible infant or toddler.

004.01G Each school district or approved cooperative that has a direct role in the provision of FAPE early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, 92 NAC 52 does not require that any school district or approved cooperative be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

004.02 Monitoring and Enforcement

004.02A All school districts and approved cooperatives must comply with the requirements of this Chapter concerning the provision of FAPE early intervention services to infants and toddlers with disabilities and will be monitored for compliance with such regulations at least once every three years.

004.02B Failure to comply with the provisions of state and federal statute and administrative rules concerning FAPE early intervention services for infants and toddlers with disabilities shall result in notification to the school district or approved cooperative of specific program deficiencies by the NDE Office of Special Education.

004.02C School districts or approved cooperatives providing FAPE early intervention services shall be afforded 45 calendar days to respond to the initial notification with a report of the resolution of deficiencies or a plan for resolution.

004.02D School districts or approved cooperatives failing to respond as set forth in 92 NAC 52-004.02C shall be afforded an additional 30 calendar days following contact from the Administrator of the NDE Office of Special Education or the designee of the Administrator to submit a plan for resolution of deficiencies.

004.02E Deficiencies must be corrected as soon as possible, and in no case later than one year after the school district or approved cooperative has been notified of the non-compliance. Deficiencies not corrected according to the timelines set forth in 92 NAC 52-004.02 shall be subject to the procedures outlined in 92 NAC 51-004.09.

004.02F School districts or approved cooperatives not meeting the requirements of this Chapter concerning the provision of FAPE early intervention services to infants and toddlers shall be in violation of the law. No state or federal funds shall be paid as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of the State of Nebraska to be paid to such program.

004.03 Reporting of Information Regarding Infants and Toddlers with Disabilities

004.03A Individual child information shall be reported electronically via the NDE Portal. Each school district or approved cooperative shall maintain and report the following information for infants and toddlers with disabilities receiving services according to an Individual Family Service Plan (IFSP).

004.03A1 Name (or identifier approved by the Nebraska Department of Education) and birthdate;

004.03A2 County and district of legal residence;

004.03A3 Program setting;

004.03A4 Type of disability;

004.03A5 Race/ethnicity and gender;

004.03A6 Type(s) of service received;

004.03A7 Date and reason for exiting FAPE early intervention services;

004.03A8 State Ward Status and indication of appointment of surrogate, if required; and

004.03A9 Initial verification date and disability pursuant to 92 NAC 52-006.

004.03B This data shall be updated at least annually to reflect change(s) in the information in 92 NAC 52-004.03C and 004.03D.

004.03C School districts, approved cooperatives and state operated schools shall prepare an accurate and unduplicated child count as of October 1 of each year. The October 1 child count must be approved and submitted by the district administrator or designee via the portal on or before October 31 of each year.

004.03D School districts, approved cooperatives and state operated schools shall prepare an accurate and unduplicated year-end child count as of June 30 of each year. The June 30 year-end child count must be approved and submitted by the district administrator or designee via the portal on or before June 30 of each year.

005 Early Childhood Interagency Planning Region Teams

005.01 Each school district shall demonstrate participation in a plan of services for children with disabilities who are less than five years of age. Such plans shall be prepared by each planning region established pursuant to Neb. Rev. Stat. 79-1135 and be updated annually and shall address:

005.01A Gaps and barriers in service delivery;

005.01B Child Find;

005.01C Training and technical assistance;

005.01D Parent involvement; and

005.01E Resources.

005.02 Annual Meetings

005.04A The annual meeting must be conducted prior to July 1 of each year.

005.04B The date and place of the annual meeting shall be disseminated within the region so that all school districts, approved cooperatives, service providers, parents, and non-public agencies serving children below age five have access to the information.

005.04C A written report of the annual meeting shall be prepared, which includes a list of participants and identified gaps and barriers. The written report shall be submitted to the Nebraska Department of Education.

006 Identification, Referral and Eligibility Determination of Infants and Toddlers with Disabilities

006.01 School districts and approved cooperatives, as part of the child find system, must ensure that all infants and toddlers with disabilities within the district or approved cooperative who are eligible for early intervention services are identified, located and evaluated, including:

006.01A Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organization, and consortia);

006.01B infants and toddlers with disabilities who are homeless, in foster care and wards of the State; and

006.01C infants and toddlers with disabilities who are the subjects of substantiated cases of child abuse or neglect, or are identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

006.01D Referral Procedures

006.01D1 School districts and approved cooperatives shall refer a child under the age of three to the agency responsible for providing services coordination in the Planning Region as soon as possible but in no case later than seven (7) days after becoming aware that the child may be eligible for early intervention services.

006.01D2 A child under the age of three who is the subject of a substantiated case of child abuse or neglect; or is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure must be referred to the Early Intervention Program (the agency responsible for providing services coordination in the Planning Region).

006.02 Post-Referral (45 Days) Timeline

006.02A Except as provided in 92 NAC 52-006.02B, school districts and approved cooperatives shall complete any screening under 92 NAC 52-006.03 (if the parent consents); the initial evaluation and the initial assessments of the child and the family under 92 NAC 52-006.05; and shall participate in the initial Individualized Family Service Plan (IFSP) meeting under 92 NAC 52-007.03 within 45 calendar days from the date of referral.

006.02B Subject to 92 NAC 52-006.02C, the 45 calendar day timeline described in 92 NAC 52-006.02A does not apply for any period when:

006.02B1 The child or parent is unavailable to participate in the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or

006.02B2 The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the services coordinator to obtain parental consent.

006.02C In the event the circumstances described in 92 NAC 52-006.02B1 or 006.02B2 exist:

006.02C1 The Services Coordinator will document in the child's early intervention records the exceptional family circumstances or repeated attempts by the early intervention service provider to obtain parental consent pursuant to 480 NAC 3.

006.02C2 The school district or approved cooperative must complete the screening (if applicable), the initial evaluation, the initial assessments (of the child), and participate in the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in 92 NAC 52-006.02B no longer exist or parental consent is obtained for the screening (if applicable), the initial evaluation, and the initial assessment of the child; and

006.02C3 The services coordinator will develop and implement an interim IFSP, to the extent appropriate pursuant to 480 NAC 3.

006.03 Screening

006.03A The school district or approved cooperative may adopt procedures consistent with requirements of 92 NAC 52-006.03, to screen children under the age of three who have been referred to the agency responsible for services coordination in the Planning Region to determine whether they are suspected of having a disability. If the school district or approved cooperative proposes to screen a child it must notify the services coordinator who will:

006.03A1 Provide the parent notice pursuant to 480 NAC 3 of the school district's or approved cooperative's intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an evaluation under 92 NAC 52-006 at any time during the screening process; and

006.03A2 Obtain parental consent pursuant to 480 NAC 3 before the school district or approved cooperative conducts the screening procedures.

006.03B If the parent consents to the screening and the screening or other available information indicates that the child is:

006.03B1 Suspected of having a disability, the services coordinator pursuant to 480 NAC 3 will provide notice and obtain parental consent at which time an evaluation and assessment of the child shall be conducted by the school district or approved cooperative.

006.03B2 Not suspected of having a disability, the school district or approved cooperative shall ensure that notice of that determination is provided to the parent under 92 NAC 52-009.03B, and that the notice describes the parent's right to request an evaluation.

006.03C If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child shall be conducted under 92 NAC 52-006, even if the school district or approved cooperative has determined under 92 NAC 52-006.03B2 that the child is not suspected of having a disability.

006.03D For every child under the age of three who is referred for early intervention services or screened in accordance with 92 NAC 52-006.03A, the school district or approved cooperative is not required to:

006.03D1 Provide an evaluation of the child under 92 NAC 52-006 unless the child is suspected of having a disability or the parent requests an evaluation under 92 NAC 52-006.03C; or

006.03D2 Make FAPE early intervention services available under 92 NAC 52 to the child unless a determination is made that the child meets the definition of infant or toddler with a disability under 92 NAC 52-003.15.

006.03E The screening must be conducted utilizing appropriate instruments by individuals with training to administer those instruments.

006.04 Eligibility for FAPE early intervention services is established when the school district or approved cooperative determines that the infant or toddler is experiencing a developmental delay as described in 92 NAC 52-006.04A or any of the other disabilities described in 92 NAC 51-006.04.

006.04A To qualify for early intervention services in the category of developmental delay, the child shall have either:

006.04A1 A diagnosed physical or mental condition that has a high probability of resulting in a substantial developmental delay in the areas described in 92 NAC 52-006.04A2; and includes conditions such as chromosomal abnormalities; genetic or congenital disorders, sensory impairments; inborn errors of metabolism; disorders reflecting disturbances of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; or

006.04A2 A significant developmental delay as defined in 92 NAC 52-006.04B and as measured by appropriate diagnostic instruments and procedures, in function in one or more of the following areas and by reason thereof, needs early intervention services:

006.04A2a Cognitive development;

006.04A2b Physical development, including vision and hearing;

006.04A2c Communication development;

006.04A2d Social or emotional development; or

006.04A2e Adaptive development.

006.04B Significant delay is defined as:

006.04B1 At least 2.0 standard deviations below the mean in one area of development contained in 92 NAC 52-006.04A2a through 006.04A2e; or

006.04B2 At least 1.3 standard deviations below the mean in two areas of development contained in 92 NAC 52-006.04A2a through 006.04A2e.

006.05 Evaluation of the Child and Assessment of the Child

006.05A The school district or approved cooperative must ensure that, subject to obtaining parental consent, each child under the age of three who is referred for evaluation or early intervention services and suspected of having a disability, receives:

006.05A1 A timely, comprehensive, multidisciplinary evaluation of the child in accordance with 92 NAC 52-006.06 unless eligibility is established under 92 NAC 52-006.05B; and

006.05A2 If the child is determined eligible as an infant or toddler with a disability as defined in 92 NAC 52-003.15, a multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs.

006.05B A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under 92 NAC 52 if those records indicate that the child's level of functioning in one or more of the developmental areas identified in 92 NAC 52-003.15 constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under 92 NAC 52-003.15 and 92 NAC 52-006.04.

006.05B1 If the child's eligibility is established under 92 NAC 52-006.05B, the school district or approved cooperative must conduct an assessment of the child in accordance with 92 NAC 52-006.07.

006.05B2 Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the school district or approved cooperative shall ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under 92 NAC 52-006.06.

006.05C All evaluations and assessments of the child shall be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

006.05D Unless clearly not feasible to do so, school districts or approved cooperatives must conduct all evaluations and assessments of the child in the native language of the child, in accordance with the definition of native language in 92 NAC 52-003.17.

006.06 Procedures for Evaluation of the Child to Determine Eligibility

006.06A In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility. Procedures must include:

006.06A1 Administering an evaluation instrument;

006.06A2 Taking the child's history (including interviewing the parent);

006.06A3 Identifying the child's level of functioning in each of the developmental areas in 92 NAC 52-003.15 and 92 NAC 52-006.04.

006.06A4 Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and

006.06A5 Reviewing medical, educational, or other records.

006.07 Procedures for Assessment of the Child

006.07A An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:

006.07A1 A review of the results of the evaluation conducted under 92 NAC 51-006.06;

006.07A2 Personal observations of the child; and

006.07A3 The identification of the child's needs in each of the developmental areas in 92 NAC 52-003.15 and 92 NAC 52-006.04.

006.08 If, based on the evaluation conducted under 92 NAC 52-006, the school district or approved cooperative determines that a child is not eligible, the school district or approved cooperative must provide the parent with prior written notice required in 92 NAC 52-009.03B and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under 92 NAC 52-009.05 through 009.08, such as requesting a due process hearing or mediation or filing a State complaint.

006.09 Multidisciplinary Team Written Report

006.09A The team shall prepare a written report of the results of the child's evaluation and assessment.

006.09A1 The report shall include a statement of:

006.09A1a Whether the child qualifies as an infant or toddler with a disability based on the criteria and definitions contained in 92 NAC 52-006 or 92 NAC 51-006.04;

006.09A1b The basis for making the determination including the results of the evaluation; and

006.09A1c The child's unique strengths and needs in each of the developmental areas: cognitive development; physical development; communication development; social and emotional development and adaptive development;

006.09A1d A listing of the team members that must include the parent and individuals representing two or more separate disciplines pursuant to 92 NAC 52-003.20A and 92 NAC 52-007.16B.

006.09A2 Each team member shall certify in writing whether the report reflects his or her conclusion. If the report does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusion.

006.10 A copy of the multidisciplinary team report shall be given to the parent and services coordinator at no cost consistent with 92 NAC 52-009.02F3.

007 Individual Family Service Plan (IFSP)

007.01 For each infant or toddler with a disability, the school district or approved cooperative shall participate in the development, review, and implementation of an Individualized Family Service Plan (IFSP) developed by a multidisciplinary team, which includes the parent.

007.02 Procedure for IFSP development, review and evaluation

007.02A For a child referred for early intervention services and determined to be eligible as an infant or toddler with a disability, the school district or approved cooperative shall participate in a meeting to develop the initial IFSP within the 45 calendar day time period described in 92 NAC 52-006.02.

007.02B The school district or approved cooperative shall participate in a review of the IFSP for a child and the child's family every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine: the degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.

007.02C The school district or approved cooperative shall participate on at least an annual basis in the meeting to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted under 92 NAC 52-006 shall be used by the school district or approved cooperative in determining the FAPE early intervention services that are appropriate and will be provided.

007.02D The school district or approved cooperative shall ensure that all IFSP meetings and reviews are conducted in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

007.02E The school district or approved cooperative shall provide each FAPE early intervention service as soon as possible but in no case later than 30 days after the parent provides consent for that service. The school district or approved cooperative is not responsible for providing early intervention services that are not FAPE early intervention services.

007.03 Initial and Annual IFSP Team Meetings

007.03A The district or approved cooperative shall ensure that the following individuals participate in each initial IFSP meeting and each annual IFSP Team meeting.

007.03A1 A person or persons directly involved in conducting the evaluations and assessments in 92 NAC 52-006;

007.03A2 As appropriate, persons who will be providing FAPE early intervention services under this Chapter to the child or family; and

007.03A3 A representative of the school district or approved cooperative who has the authority to commit resources.

007.03B If a person listed in 92 NAC 52-007.03A1 is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

007.03B1 Participating in a telephone conference call;

007.03B2 Having a knowledgeable authorized representative attend the meeting; or

007.03B3 Making pertinent records available at the meeting.

007.04 The school district or approved cooperative shall provide information to assist in the development of an IFSP: 480 NAC 3 requires that the IFSP contains the following components:

007.04A A statement of the infant or toddler with a disability's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on the information from that child's evaluation and assessments conducted under 92 NAC 52-006.05.

007.04B A statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family and the criteria, procedures, and timelines used to determine:

007.04B1 The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

007.04B2 Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.

007.04C A statement of the specific early intervention services, based on peer reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in 92 NAC 52-007.04B including:

007.04C1 The length, duration, frequency, intensity, and method of delivering the early intervention services;

007.04C1a Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis;

007.04C1b Method means how a service is provided (such as individually or in a group);

007.04C1c Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period);

007.04C1d Duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes of his or her IFSP).

007.04C2 A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with 92 NAC 52-003.06, 003.18, and 007.06 or subject to 007.04C3, a justification as to why an early intervention service will not be provided in the natural environment.

007.04C3 The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service that must be:

007.04C3a Made by the IFSP Team (which includes the parent and other team members);

007.04C3b Consistent with the provisions in 92 NAC 52-003.14 and 92 NAC 52-007.06; and

007.04C3c Based on the child's outcomes that are identified by the IFSP Team in 92 NAC 52-007.04B.

007.04C4 The location of the early intervention services;

007.04C5 For children who are at least three years of age, an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills.

007.04D The projected date for the initiation of each early intervention service in 92 NAC 52-007.04C, which date must be as soon as possible after the parent consents to the service, but not later than 30 days of receipt of parental consent, as required in 92 NAC 52-007.02E.

007.05 Interim IFSPs

A school district or approved cooperative may commence FAPE early intervention services for an eligible child and the child's family before the completion of the evaluation and assessments in 92 NAC 52 006.05 through 006.07, if the following conditions are met:

007.05A1 Parental consent is obtained by the services coordinator.

007.05A2 An interim IFSP is developed that includes:

007.05A2a The name of the services coordinator who will be responsible for implementing the interim IFSP and coordinating with other agencies and persons;

007.05A2b The name of the school district or approved cooperative representative who has the authority to commit district resources; and

007.05A2c The FAPE early intervention services that have been determined to be needed immediately by the child and the child's family.

007.05A3 Evaluations and assessments are completed within the 45 calendar day timeline in 92 NAC 52-006.02.

007.06 Natural Environments

007.06A To the maximum extent appropriate, FAPE early intervention services provided by the school district or approved cooperative shall be provided in natural environments including home and community settings in which children without disabilities participate.

007.06B The provision of FAPE early intervention services for any infant or toddler may occur in a setting other than a natural environment only when FAPE early intervention cannot be achieved satisfactorily in a natural environment, as determined by the parent and the IFSP Team.

007.07 Year Round Continuous Services

007.07A FAPE early intervention services provided by the school district or approved cooperative may not be interrupted or modified or otherwise changed for reasons unrelated to the child's needs such as service provider availability or scheduling.

008 Transition to Preschool and Other Programs for Infants and Toddlers Below Age Three

008.01 Transition Planning

008.01A Pursuant to 480 NAC 3, if a toddler with a disability may be eligible for preschool services under 92 NAC 51, the services coordinator, with the approval of the family of the toddler, convenes a conference, among the family, and the school district or approved cooperative not fewer than 90 days, and, at the discretion of all parties, not more than 9 months, before the toddler's third birthday to discuss any services the toddlers may receive under 92 NAC 51; and

008.01B If the school district or approved cooperative determines that a toddler with a disability is not potentially eligible for services under Part B of IDEA, the services coordinator, pursuant to 480 NAC 3 with the approval of the family of that toddler, makes reasonable efforts to convene a conference among the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.

008.02 Any child served pursuant to 92 NAC 52 has the right, at any time, to receive FAPE, if qualified, (as that term is defined at 92 NAC 52-003.07) under 92 NAC 51 instead of FAPE early intervention services under 92 NAC 52.

008.03 School districts and approved cooperatives shall continue to provide all FAPE early intervention services identified in the toddler with a disability's IFSP under 92 NAC 52-007 (and consented to by the parent under 92 NAC 52-007.02E) beyond age three until that toddler begins receiving services under 92 NAC 51. This provision does not apply if the school district or approved cooperative has requested parental consent for an evaluation under 92 NAC 51-009.08 and the parent has not provided that consent.

008.04 For toddlers with disabilities age three and older, the school district or approved cooperative shall ensure a smooth transition to preschool by:

008.04A Participating in a transition conference, between the parents and the school district or approved cooperative, not fewer than 90 days and, at the discretion of all parties, not more than 9 months before the child will no longer be eligible to receive, or no longer receives, FAPE early intervention services under this section, to discuss any services that the child may receive under 92 NAC 51; and

008.04B Establishing a transition plan in the IFSP not fewer than 90 days and, at the discretion of all parties, not more than 9 months before the child will no longer be eligible to receive, or no longer receives FAPE early intervention services under this section.

009 Procedural Safeguards

009.01 Confidentiality and Notice to Parents

009.01A The school district or approved cooperative must ensure that the parents of a child referred for early intervention services are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.

009.01B The parents of infants or toddlers who are referred to, or receive early intervention services, are afforded the opportunity to inspect and review all early intervention records about the child and the child's family that are collected, maintained, or used under 92 NAC 52, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of FAPE early intervention services, individual complaints involving the child, or any part of the child's early intervention record under 92 NAC 52.

009.01B1 The confidentiality procedures described in 92 NAC 52-009.01B apply to the personally identifiable information of a child and the child's family that:

009.01B1a Is contained in early intervention records collected, used, or maintained by the school district or approved cooperative; and

009.01B1b Applies from the point in time when the child is referred for early intervention services under 92 NAC 52 until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable Federal and State laws.

009.02 Records

009.02A The following definitions apply to 92 NAC 52-009.01 through 009.02M2:

009.02A1 Destruction means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under 92 NAC 52-009.02A4.

009.02A2 Early intervention records mean all records regarding a child that are required to be collected, maintained, or used under 92 NAC 52.

009.02A3 Participating agency means any school district or approved cooperative that collects, maintains, or uses personally identifiable information to implement the requirements in 92 NAC 52.

009.02A4 Personally identifiable information means personally identifiable information as defined in 34 CFR 99.3, as amended, except that the term "student" in the definition of personally identifiable information in 34 CFR 99.3 means "child" as used in 92 NAC 52 and any reference to "school" means school district or approved cooperative as used in 92 NAC 52.

009.02B Access Rights

009.02B1 Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under 92 NAC 52. The agency must comply with a parent's request to inspect and review

records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to 92 NAC 55, and in no case more than 10 days after the request has been made.

009.02B2 The right to inspect and review early intervention records under this section includes:

009.02B2a The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records.

009.02B2b The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

009.02B2c The right to have a representative of the parent inspect and review the early intervention records.

009.02B3 An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.

009.02C Record of access

009.02C1 Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under 92 NAC 52 (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.

009.02D Records on more than one child

009.02D1 If any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

009.02E List of types and locations of information

009.02E1 Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

009.02F Fees for records

009.02F1 Each participating agency may charge a fee for copies of records that are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in 92 NAC 52-009.02F3.

009.02F2 A participating agency may not charge a fee to search for or to retrieve information under this Chapter.

009.02F3 A participating agency must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible but in no case more than seven days after each IFSP meeting.

009.02G Amendment of records at a parent's request

009.02G1 A parent who believes that information in the early intervention records collected, maintained, or used is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.

009.02G2 The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

009.02G3 If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under 92 NAC 52-009.02H.

009.02H Opportunity for a hearing

009.02H1 The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a hearing under the participating agencies' procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22).

009.02I Result of hearing

009.02I1 If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it must amend the information accordingly and so inform the parent in writing.

009.02I2 If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, it must inform the parent of the right to place in the early intervention records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

009.02I3 Any explanation placed in the early intervention records of the child under this section must:

009.02I3a Be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency; and

009.02I3b If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.

009.02J Hearing procedures

009.02J1 A hearing held under 92 NAC 52-009.02H must be conducted according to the procedures under 34 CFR 99.22.

009.02K Consent prior to disclosure or use

009.02K1 Except as provided in 92 NAC 52-009.02K2, prior parental consent must be obtained before personally identifiable information is:

009.02K1a Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under 92 NAC 52, subject to 92 NAC 52-009.02K2; or

009.02K1b Used for any purpose other than meeting a requirement of this part.

009.02K2 A participating agency may not disclose personally identifiable information, as defined in 92 NAC 52-009.02A4, to any party except participating agencies (including the co-lead agencies and early intervention service providers) that are part of the State's early intervention system without parental consent unless authorized to do so pursuant to 34 CFR 303.414(b).

009.02K3 The school district or approved cooperative must provide policies and procedures to be used when a parent refuses to provide consent under 92 NAC 52 (such as a meeting to explain to the parents how their failure to consent affects the ability of their child to receive services under this Chapter) provided that those procedures do not override a parent's right to refuse consent under 92 NAC 52-009.03A.

009.02L Safeguards

009.02L1 Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.

009.02L2 One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

009.02L3 All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under 92 NAC 52-009.01 through 009.02M and 34 CFR Part 99.

009.02L4 Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

009.02M Destruction of information

009.02M1 The participating agency must inform parents when personally identifiable information collected, maintained, or used under 92 NAC 52 is no longer needed to provide services to the child under Part C of the IDEA, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR parts 76 and 80.

009.02M2 Subject to 92 NAC 52-009.02M1, the information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information (including address and phone number), names of services coordinator(s) and early intervention service provider(s), and exit data (including year and age upon exit, and any programs entered into upon exiting) may be maintained without time limitation.

009.03 Parental Consent and Notice

009.03A Parental consent and ability to decline services

009.03A1 Pursuant to 480 NAC 3, the services coordinator must ensure parental consent is obtained before:

009.03A1a Administering screening procedures under 92 NAC 52-006.03 that are used to determine whether a child is suspected of having a disability;

009.03A1b Initial evaluation and assessments of the child are conducted under 92 NAC 52-006.04 through 006.07; and

009.03A1c FAPE early intervention services are provided to the child under 92 NAC 52.

009.03A2 School districts or approved cooperatives shall ensure parental consent is obtained before:

009.03A2a All evaluation and assessments of the child are conducted pursuant to 92 NAC 52-006.04 through 006.07 except those provided in 009.03A1b;

009.03A2b Public benefits or private insurance is used to pay for FAPE early intervention services if such consent is required under 92 NAC 52-011.03C and 011.04A; and

009.03A2c Disclosure of personally identifiable information by the school district or approved cooperative consistent with 92 NAC 52-009.02K.

009.03A3 If a parent does not give consent under 92 NAC 52-009.03A2a the school district or approved cooperative must make reasonable efforts to ensure that the parent:

009.03A3a Is fully aware of the nature of the evaluation and assessment of the child or FAPE early intervention services that would be available; and

009.03A3b Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.

009.03A4 The school district or approved cooperative may not use the due process hearing procedures under 92 NAC 55 to challenge a parent's refusal to provide any consent that is required under 92 NAC 52-009.03A2.

009.03A5 The parents of an infant or toddler with a disability;

009.03A5a Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service at any time, in accordance with State law; and

009.03A5b May decline a service after first accepting it, without jeopardizing other FAPE early intervention services under 92 NAC 52.

009.03B Prior written notice and procedural safeguards notice

009.03B1 Except for initial evaluation and assessment, prior written notice must be provided by the school district or approved cooperative to parents a reasonable time before the school district or approved cooperative proposes or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of FAPE early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

009.03B2 The notice must be in sufficient detail to inform parents about:

009.03B2a The action that is being proposed or refused;

009.03B2b The reasons for taking the action; and

009.03B2c All procedural safeguards that are available under 92 NAC 52-009, including a description of mediation in 92 NAC 52-009.05, how to file a State complaint in 92 NAC 52-009.06 and a due process complaint in the provisions adopted under 92 NAC 55, and any timelines under those procedures.

009.03B3 The notice must be written in language understandable to the general public; and provided in the native language, as defined in 92 NAC 52-003.21, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

009.03B3a If the native language or other mode of communication of the parent is not a written language, the school district or approved cooperative must take steps to ensure that:

009.03B3a(i) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

009.03B3a(ii) The parent understands the notice; and

009.03B3a(iii) There is written evidence that the requirements of 92 NAC 52-009.03B3a have been met.

009.04 Surrogate Parents

009.04A The school districts or approved cooperatives must ensure that the rights of a child under 92 NAC 52 are protected when no parent (as defined in 92 NAC 52-003.20) can be identified); the school district or approved cooperative, after reasonable efforts, cannot locate a parent; or the child is a ward of the State under the laws of Nebraska.

009.04B The duty of the school district or approved cooperative under 92 NAC 52-009.04A, includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for determining whether a child needs a surrogate parent; and assigning a surrogate parent to the child.

009.04B1 In implementing the provisions under this section for children who are wards of the State or placed in foster care, the school district or approved cooperative must consult with the public agency that has been assigned care of the child.

009.04C In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by the school district or approved cooperative under 92 NAC 52-009.04B may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in 92 NAC 52-009.04D1 and 009.04E.

009.04D The school district or approved cooperative may select a surrogate parent in any way permitted under State law.

009.04D1 School districts or approved cooperatives must ensure that a person selected as a surrogate parent:

009.04D1a Is not an employee of the co-lead agencies or any other public agency or early intervention service provider that provides early intervention services, education, care, or other services to the child or any family member of the child;

009.04D1b Has no personal or professional interest that conflicts with the interest of the child he or she represents; and

009.04D1c Has knowledge and skills that ensure adequate representation of the child.

009.04E A person who is otherwise qualified to be a surrogate parent under 92 NAC 52-009.04D1 is not an employee of the school district or approved cooperative solely because he or she is paid by the school district or approved cooperative to serve as a surrogate parent.

009.04F The surrogate parent has the same rights as a parent for all purposes under 92 NAC 52.

009.04G The school district or approved cooperative must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after the school district or approved cooperative determines that the child needs a surrogate parent.

009.05 Mediation

009.05A Parties to disputes involving any matter under 92 NAC 52, including matters arising prior to the filing of a due process complaint, may resolve disputes through a mediation process at any time.

009.05B The mediation process:

009.05B1 Is voluntary on the part of the parties;

009.05B2 Is not be used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under 92 NAC 52; and

009.05B3 Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

009.05C Mediation Process Requirements

009.05C1 The Nebraska Department of Education maintains a list of individuals who are qualified mediators and are knowledgeable in laws and regulations relating to the provision of FAPE early intervention services.

009.05C2 The Nebraska Department of Education assigns mediators on a random, rotational or other impartial basis.

009.05C3 The Nebraska Department of Education bears the cost of the mediation process including the costs of meetings described in 92 NAC 52-009.05E.

009.05C4 Each session in the mediation process must be scheduled in a timely manner and must be held at a location that is convenient to the parties in the dispute.

009.05C5 If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:

009.05C5a States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

009.05C5b Is signed by both the parent and a representative of the school district or approved cooperative who has the authority to bind such school district or approved cooperative.

009.05C6 A written signed mediation agreement under 92 NAC 52-009.05C5 is enforceable in any State court of competence jurisdiction or in a district court of the United States.

009.05C7 Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of Nebraska.

009.05D An individual who serves as a mediator under 92 NAC 52:

009.05D1 May not be an employee of the co-lead agencies or an early intervention provider that is involved in the provision of early intervention services or other services to the child; and

009.05D1a A person who otherwise qualifies as a mediator is not an employee of the co-lead agencies or an early intervention provider solely because he or she is paid by the co-lead agencies or provider to serve as a mediator.

009.05D2 Must not have a personal or professional interest that conflicts with the person's objectivity.

009.05E School districts and approved cooperatives may offer to parents that choose not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:

009.05E1 Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center established under section 671 or 672 of the IDEA; and

009.05E2 Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

009.06 Complaints

009.06A An organization or individual may file a signed written complaint under the procedures described in 92 NAC 52-009.06.

009.06B The complaint must include:

009.06B1 A statement that a public agency has violated a requirement of 92 NAC 52;

009.06B2 The facts on which the statement is based;

009.06B3 The signature and contact information for the complainant; and

009.06B4 If alleging violations with respect to a specific child:

009.06B4a The name and address of the residence of the child;

009.06B4b The name of the school district or approved cooperative serving the child;

009.06B4c A description of the nature of the problem of the child, including facts relating to the problem; and

009.06B4d A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

009.06B5 The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received.

009.06B6 The party filing the complaint must forward a copy of the complaint to the public agency serving the child at the same time the party files the complaint with the Nebraska Department of Education.

009.06C Within 60 days of receipt of a complaint meeting the requirements of 92 NAC 52-009.06B the Nebraska Department of Education will:

009.06C1 Carry out an independent on-site investigation, if the Nebraska Department of Education determines that an investigation is necessary;

009.06C2 Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

009.06C3 Provide the public agency with an opportunity to respond to the complaint, including, at a minimum:

009.06C3a At the discretion of the Nebraska Department of Education, a proposal to resolve the complaint; and

009.06C3b An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation, consistent with 92 NAC 52-009.05;

009.06C4 Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of 92 NAC 52; and

009.06C5 Issue a written decision to the complainant that addresses each allegation in the complaint and contains:

009.06C5a Findings of fact and conclusions; and

009.06C5b The reasons for the Nebraska Department of Education's final decision.

009.06C5c If the Nebraska Department of Education finds a failure to provide appropriate services the final decision must include corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family including technical assistance activities, negotiations, and corrective actions to achieve compliance.

009.06D The Nebraska Department of Education will permit an extension of the time limit under 92 NAC 52-009.06C only if:

009.06D1 Exceptional circumstances exist with respect to a particular complaint; or

009.06D2 The parent or individual and the public agency involved agree to extend the time to engage in mediation pursuant to 92 NAC 52-009.06C3b.

009.06E Complaints which are also the subject of a due process hearing

009.06E1 If a written complaint is received that is also the subject of a due process hearing under 92 NAC 55, or contains multiple issues of which one or more are part of that hearing, the Nebraska Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described in 92 NAC 52-009.06C and D.

009.06E2 If an issue raised in a complaint filed under 92 NAC 52-009.06 has previously been decided in a due process hearing involving the same parties the due process hearing decision is binding on that issue and the Nebraska Department of Education must inform the complainant to that effect.

009.06E3 A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the Nebraska Department of Education.

009.07 Due Process Complaint

009.07A A parent, school district, approved cooperative, or Co-Lead agency may file a due process complaint under 92 NAC 55 relating to the proposal or refusal of a school district or approved cooperative to initiate or change the identification, evaluation, or placement of an infant or toddler under 92 NAC 52 or the provision of FAPE early intervention services to the infant or toddler with a disability and that infant's or toddler's family under 92 NAC 52.

009.07B The due process complaint must allege a violation of 92 NAC 52 that occurred not more than two years before the date the parent or school district or approved cooperative knew, or should have known, about the alleged action that forms the basis of the due process complaint.

009.07B1 The time limitation in 92 NAC 52-009.07B does not apply to a parent if the parent was prevented from filing a due process complaint due to the following:

009.07B1a Specific misrepresentations by a Co-Lead agency or school district or approved cooperative that it had resolved the problem forming the basis of the due process complaint; or

009.07B1b A Co-Lead agency's, school district's, or approved cooperative's failure to provide the parent information that was required under 92 NAC 52 to be provided to the parent.

009.07C The school district or approved cooperative shall inform the parent of any free or low-cost legal or other relevant services available in the area if the parent requests the information or if the parent or school district or approved cooperative files a due process complaint under this subsection.

009.07D Whenever a due process complaint is received the parents or the early intervention service provider involved in the dispute have the opportunity for an impartial due process hearing, consistent with the procedures in 92 NAC 55.

009.07E During the pendency of any proceeding involving a due process complaint under 92 NAC 55, unless the school district or approved cooperative and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate FAPE early intervention services in the setting identified in the IFSP that was consented to by the parents.

009.07F If the due process complaint under 92 NAC 55 involves an application for initial services under 92 NAC 52, the child must receive those services that are not in dispute.

009.08 Resolution Process

009.08A The Resolution Meeting

009.08A1 Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing, the school district or approved cooperative must convene a meeting with the parent and the relevant member or members of the IFSP Team who have specific knowledge of the facts identified in the due process complaint that:

009.08A1a Includes a representative of the school district or approved cooperative who has decision-making authority on behalf of that agency; and

009.08A1b May not include an attorney of the school district or approved cooperative unless the parent is accompanied by an attorney.

009.08A2 The purpose of the resolution meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint so that the school district or approved cooperative has the opportunity to resolve the dispute that is the basis for the due process complaint.

009.08A3 The meeting described in 92 NAC 52-009.08A1 and 009.08A2 need not be held if:

009.08A3a The parent and school district or approved cooperative agree in writing to waive the meeting; or

009.08A3b The parent and school district or approved cooperative agree to use the mediation process described in 92 NAC 52-009.05.

009.08A4 The parent and the school district or approved cooperative must determine the relevant members of the IFSP Team to attend the meeting.

009.08B Resolution Period

009.08B1 If the school district or approved cooperative has not resolved the due process complaint to the satisfaction of the parties within 30 days of the receipt of the due process complaint, the due process hearing may occur.

009.08B2 Except as provided in 92 NAC 52-009.08C, the timeline for issuing a final decision under 92 NAC 55 begins at the expiration of the 30-day period in 92 NAC 52-009.08B1.

009.08B3 Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding 92 NAC 52-009.08B1 and 009.08B2, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

009.08B4 If the school district or approved cooperative is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, including documenting its efforts, the school district or approved cooperative may, at the conclusion of the 30-day period, request that the hearing officer dismiss the parent's due process complaint.

009.08B5 If the school district or approved cooperative fails to hold the resolution meeting specified in 92 NAC 52-009.08A within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

009.08C The 45-day timeline for the due process hearing described in 92 NAC 55 starts the day after one of the following events:

009.08C1 Both parties agree in writing to waive the resolution meeting;

009.08C2 After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; or

009.08C3 If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or school district or approved cooperative withdraws from the mediation process.

009.08D If a resolution to the dispute is reached at the meeting described in 92 NAC 52-009.08A1 and 009.08A2, the parties must execute a legally binding agreement that is:

009.08D1 Signed by both the parent and a representative of the school district or approved cooperative who has the authority to bind the agency; and

009.08D2 Enforceable in any State court of competent jurisdiction or in a district court of the United States.

009.08E If the parties execute an agreement pursuant to 92 NAC 52-009.08D, a party may void the agreement within three business days of the agreement's execution.

010 Qualifications of Early Intervention Personnel for Program Approval and Reimbursement

010.01 School districts and approved cooperatives that provide FAPE early intervention services shall ensure that all personnel necessary to carry out the school district's or approved cooperative's responsibilities under 92 NAC 52 are appropriately and adequately prepared and trained as required by 92 NAC 51-010, including those personnel that have content knowledge and skills to serve infants and toddlers with disabilities.

011 Use of Funds for FAPE early intervention services

011.01 General Information

011.01A Pursuant to the provision of 92 NAC 51-011, IDEA Part B funds are available to provide FAPE services to infants and toddlers with verified disabilities from date of diagnosis until August 31 following their third birthday.

011.02 General Limitation in Budget Development

011.02A Except as provided in 92 NAC 52-007.05, only infants and toddlers with a verified disability shall receive FAPE early intervention services. This shall include the initial evaluation of an infant or toddler with a suspected disability regardless of the outcome of the verification decision.

011.02B Pursuant to Neb. Rev. Stat. 79-1126, an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with disabilities under the age of three), the school district or approved cooperative may not charge the parents of the infant or toddler with a disability for any services that are part of FAPE for that infant or toddler and the child's family, and those FAPE services must meet the requirements of both Parts B and C of the Individuals with Disabilities Education Act (IDEA).

011.02C Special Education Assurances and the IDEA Consolidated Application of a school district for providing services to infants and toddlers with disabilities shall be submitted annually via the NDE website to the Office Special Education. Any amendment to the Assurances or the IDEA Consolidated Application shall be subject to the same review as the initial assurances and funding application.

011.02C1 The fiscal year for FAPE early intervention services shall be September 1 to August 31.

011.02D The allowable and reimbursable costs for FAPE early intervention services as budgeted within the IDEA Consolidated Application are restricted to the items specified in 92 NAC 51-011.01B, which shall be documented and are subject to audit.

011.03 Use of Public Benefits or Public Insurance to Pay for FAPE early intervention services

011.03A A school district or approved cooperative may not use the public benefits or insurance of a child or parent to pay for FAPE early intervention services unless the school district or approved cooperative provides written notification, consistent with 92 NAC 52-011.03C, to the child's parents, and the school district or approved cooperative meets the no-cost protections identified in 92 NAC 52-011.03B.

011.03B With regard to using the public benefits or insurance of a child or parent to pay for FAPE early intervention services, the school district or approved cooperative:

011.03B1 May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving FAPE early intervention services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;

011.03B2 Must obtain consent, consistent with 92 NAC 52-003.04 and 92 NAC 52-009.03A2b to use a child's or parent's public benefits or insurance to pay for FAPE early intervention services if that use would:

011.03B2a Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;

011.03B3b Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;

011.03B3c Results in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or

011.03B3d Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.

011.03B3 If the parent does not provide consent under 92 NAC 52-011.03B1 or 011.03B2, the school district or approved cooperative must still make available those FAPE early intervention services on the IFSP to which the parent has provided consent.

011.03C Prior to using a child's or parent's public benefits or insurance to pay for FAPE early intervention services, the school district or approved cooperative must provide written notification to the child's parents that includes:

011.03C1 A statement that parental consent must be obtained under 92 NAC 52-009.02K, if that provisions applies, before the school district, approved cooperative, or EIS provider discloses, for billing purposes, a child's personally identifiable information to the Department of Health and Human Services that is responsible for the administration of the public benefits or insurance program (e.g., Medicaid);

011.03C2 A statement of the no-cost protection provisions in 92 NAC 52-011.03B and that if the parent does not provide the consent under 92 NAC 52-011.03B, the school district or approved cooperative must still make available those FAPE early intervention services on the IFSP for which the parent has provided consent;

011.03C3 A statement that the parents have the right under 92 NAC 52-009.02K, if that provision applies, to withdraw their consent to disclosure of personally identifiable information to DHHS, the agency that is responsible for the administration of the public benefits or insurance program (e.g., Medcaid), at any time; and

011.03C4 A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as co-payments or deductibles, or the required use of private insurance as the primary insurance).

011.04 Use of private insurance to pay for Part C services

011.04A The school district or approved cooperative may not use the private insurance of a parent or toddler with a disability to pay for FAPE early intervention services unless the parent provides parental consent, consistent with 92 NAC 52-003.04 and 92 NAC 52-009.03A2b, to use private insurance to pay for FAPE early intervention services for his or her child.

011.04A1 Parental consent must be obtained:

011.04A1a When the school district or approved cooperative or EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and

011.04A1b Each time consent for services is required under 92 NAC 52-009.03A1c due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

011.04B If a school district or approved cooperative requires a parent to pay any costs that the parent would incur as a result of the school district's or approved cooperative's use of private insurance to pay for FAPE early intervention services (such as co-payments, premiums, or deductibles), those costs must be identified in the school district's or approved cooperative's system of payments policies under §303.521; otherwise, the school district or approved cooperative may not charge those costs to the parent.

011.04C When obtaining parental consent required under 92 NAC 52-011.04A or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service under 92 NAC 52, the school district or approved cooperative must provide to the parent a copy of the school district's or approved cooperative's system of payments policies that identifies the potential costs that the parent may incur when their private insurance is used to pay for FAPE early intervention services under 92 NAC 52 (such as co-payments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).

012 Transportation for Infants and Toddlers with Disabilities and Families

012.01 Responsibility for Transportation

012.01A The school district shall provide transportation and related costs that are necessary to enable an infant or toddler with a disability to receive FAPE early intervention services pursuant to Neb. Rev. Stat. 79-1129 by:

012.01A1 Paying a parent for transporting his or her infant and toddler for actual miles traveled and claimed; or

012.01A2 Operating vehicles for the purpose of transporting infants and toddlers with disabilities; and

012.01A3 Contracting for transportation services for infants and toddlers with disabilities; or

012.01A4 Purchasing services from a common carrier; or

012.01A5 Arranging for such other transportation as is proper and necessary to transport infants and toddlers with disabilities.

012.01B The school district shall select an efficient and effective means of transportation for the infant or toddler with a disability at a reasonable cost.

012.01C The school district shall not be relieved of the obligation to provide transportation for an eligible infant or toddler with a disability because of the inability or unwillingness of the parents to provide transportation. No eligible infant or toddler may be denied or have limitations placed on the infant's or toddler's receipt of FAPE early intervention services required by an IFSP as a result of the inability or unwillingness of the parents to provide transportation.

012.02 Allowable Expenses

012.02A The school district shall provide for expenses equal to the statutory amount for each mile or fraction thereof traveled between the place of residence and under Neb. Rev. Stat. 81-1176 the location of the FAPE early intervention service when a parent transports his or her infant or toddler with a disability.

012.02B The school district shall provide for the transportation expenses of infants and toddlers with disabilities transported by the parents of such infants and toddlers, upon receipt of claims submitted to the school district by the parents. Such claims shall be documented and subject to audit pursuant to 92 NAC 51-014.03.