

SPP INDICATORS 9 & 10
POLICY/PROCEDURE/PRACTICES AND
STUDENT FILE REVIEW DISPROPORTIONALITY

District Name: _____ County/District #: _____

Participants: _____

ILCD Sampling Rate/Number of Files Reviewed: _____

Identification

006.01A All children with disabilities residing in the state, including children with disabilities who are homeless children or wards of the State and children with disabilities attending nonpublic schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and evaluated and a practical method shall be developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

006.01A1 The child find requirements apply to highly mobile children including migrant children.

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006.01B2 The SAT or comparable problem solving team shall utilize and document problem solving and intervention strategies to assist the teacher in the provision of general education.

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Evaluation

006.02B1 The resident school district or approved cooperative shall conduct a full and individual initial evaluation for each child being considered for special education and related services before the initial provision of special education and related services to a child with a disability. The initial evaluation shall determine whether a child is a child with a disability, and the educational needs of the child.

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006.02B1a In implementing the requirements of 92 NAC 51-006.02B the school district or approved cooperative shall ensure that:

006.02B1a(1) The evaluation is conducted in accordance with the procedures described in Section 006 of this Chapter.

006.02B1a(2) The results of the evaluation are used by the child's IEP team in meeting the requirements of Section 007 of this Chapter.

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006.02C1 School districts and approved cooperatives must ensure assessments and other evaluation materials used to assess a child under this Chapter;

006.02C1a Are selected and administered so as not to be discriminatory on a racial or cultural basis; and

006.02C1b Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;

006.02C2 Are used for purposes for which the assessments or measures are valid and reliable.

006.02C3 School districts and approved cooperatives must ensure assessments of children with disabilities who transfer from one school or approved cooperative to another school or approved cooperative in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

006.02C4 School districts and approved cooperatives must ensure materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

006.02C5 School districts and approved cooperatives must ensure a variety of assessment tools and strategies are used to gather relevant functional, developmental and academic information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining:

006.02C5a Whether the child is a child with a disability under 92 NAC 51-003.08; and

006.02C5b The content of the child's IEP.

- 006.02C6 School districts and approved cooperatives must ensure any standardized tests that are given to a child:
 - 006.02C6a Have been validated for the specific purpose for which they are used; and
 - 006.02C6b Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.
 - 006.02C6b(i) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of the test administration) must be included in the evaluation report.
- 006.02C7 School districts and approved cooperatives must ensure tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- 006.02C8 School districts and approved cooperatives must ensure tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
- 006.02C9 School districts and approved cooperatives must ensure no single measure or assessment is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
- 006.02C10 School districts and approved cooperatives must ensure the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- 006.02C11 School districts and approved cooperatives must ensure in evaluating each child with a disability under Section 006, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
- 006.02C12 The school district or approved cooperative must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- 006.02C13 The school district or approved cooperative must use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.
- 006.02C14 In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each school district or approved cooperative shall
 - 006.02C14a Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
 - 006.02C14b Ensure that information obtained from all of these sources is documented and carefully considered.

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Multidisciplinary Evaluation Team (MDT) Requirements

006.03A The multidisciplinary evaluation team (including the child's parents) shall be responsible for the analysis, assessment and documentation of educational and developmental abilities and needs of each child referred for the purpose of individual evaluation. Using the documentation collected and the verification criteria found in Section 006 of this Chapter and the definitions found in 92 NAC 51-006.04, the MDT shall make all verification decisions. Documented information shall be collected to facilitate the development of a statement of present level of development and educational performance on the IEP.

006.03B For children attending nonpublic schools, an administrator of the nonpublic school or a designated representative of the nonpublic school shall be a member of the MDT.

006.03C In making a determination of eligibility, a child shall not be determined to be a child with a disability if the determining factor is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in Section 614(a)(5)(A) of the Individuals with Disabilities Education Act of 2004 (See Appendix A), lack of instruction in math, or limited English proficiency.

006.03D If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Section 007 of this Chapter.

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006.03E Multidisciplinary Evaluation Team Written Report (for all suspected disabilities except specific learning disabilities)

006.03E1 The team shall prepare a written report of the results of the evaluation.

006.03E2 The report shall include a statement of:

006.03E2a Whether the child qualifies as a child with a disability based on the criteria and definition contained in 92 NAC 51-006.04;

006.03E2b The child's educational needs;

006.03E2c The basis for making the determination; and

006.03E2d A listing of the team members.

006.03E3 Each team member shall certify in writing if the report reflects his or her conclusion. If it does not reflect his or her conclusions, the team member shall submit a separate statement presenting his or her conclusion.

006.03E4 A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent at no cost.

- 006.03F Multidisciplinary Evaluation Team Written Report for a Child with a Suspected Specific Learning Disability
- 006.03F1 The MDT shall prepare a written report of the results of the evaluation.
- 006.03F2 The report shall include a statement of:
- 006.03F2a Whether the child has a specific learning disability based on the criteria and definition contained in 92 NAC 51-006.04K.
 - 006.03F2b The child's educational needs;
 - 006.03F2c The basis for making the determination including an assurance that the determination was made in accordance with 92 NAC 51-006.02C14;
 - 006.03F2d The relevant behavior if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
 - 006.03F2e The educationally relevant medical findings, if any;
 - 006.03F2f Whether the child does not achieve adequately for the child's age or to meet state-approved grade level standards consistent with 92 NAC 51-006.04K3a and the child does not make sufficient progress to meet age or state approved grade level standards consistent with 92 NAC 51-006.04K3b; or whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade level standards or intellectual development consistent with 92 NAC 51-006.04K3b(i);
 - 006.03F2g The determination of the team concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
 - 006.03F2h If the child has participated in a process that assesses the child's response to scientific, research-based intervention, then the instructional strategies used and the student-centered data collected; and the documentation that the child's parents were notified about:
 - 006.03F2h(1) The school district's or approved cooperative's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - 006.03F2h(2) Strategies for increasing the child's rate of learning; and
 - 006.03F2h(3) The parent's right to request an evaluation.
 - 006.03F2i A listing of the team members.
- 006.03F3 Each team member shall certify in writing whether the report reflects his or her conclusion. If the report does not reflect his or her conclusions, the team member shall submit a separate statement presenting his or her conclusion.
- 006.03F4 A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent at no cost.
- 006.03G For a school age child who after initial MDT evaluation does not qualify for special education services or for a child with a verified disability who upon reevaluation no longer qualifies for special education services, a problem solving team shall document a plan to assist the teacher(s) in the provision of regular education.

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Eligibility

006.04B Autism

006.04B1 To qualify for special education services in the category of Autism, the child must have a developmental disability which:

006.04B1a significantly affects verbal and nonverbal communication and social interaction;

006.04B1b Is generally evident before age three; and

006.04B1c That adversely affects the child's educational performance.

006.04B1d Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routine, and unusual responses to sensory experiences.

006.04B2 Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance as defined in 92 NAC 51-006.04E.

006.04B3 A child who manifests the characteristics of autism after age 3 could be verified as having autism if the other criteria in 92 NAC 51-006.04B1 are met.

006.04C Deaf-Blindness

006.04C1 To qualify for special education services in the category of Deaf-Blindness, the child must have concomitant hearing and visual impairments, the combination of which causes:

006.04C1a Severe communication needs; and

006.04C1b Other developmental and educational needs.

006.04C1c The severity of these needs is such that they cannot be accommodated in special education programs solely for children with deafness or blindness.

006.04D Developmental Delay

006.04D1 To qualify for special education services in the category of developmental delay, the child shall have a significant delay as measured by appropriate diagnostic instruments and procedures in one or more of the following areas and, by reason thereof needs special education and related services:

006.04D1a Cognitive development,

006.04D1b Physical development,

006.04D1c Communication development,

- 006.04D1d Social or emotional development,
- 006.04D1e Adaptive behavior or skills development, or
- 006.04D1f A diagnosed physical or mental condition that has a high probability of resulting in a substantial delay in function in one or more of such areas.

006.04D2 Developmental delay may be considered as one possible eligibility category for children age three through the school year in which the child reaches age eight.

006.04E Emotional Disturbance

006.04E1 To qualify for special education services in the category of emotional disturbance, the child must have a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's educational performance:

- 006.04E1a An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- 006.04E1b An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- 006.04E1c Inappropriate types of behavior or feelings under normal circumstances;
- 006.04E1d A general pervasive mood of unhappiness or depression; or
- 006.04E1e A tendency to develop physical symptoms or fears associated with personal or school problems.

006.04E2 The term includes schizophrenia. The term does not apply to children with social maladjustments, unless it is determined that they have an emotional disturbance.

006.04F Hearing Impairment

006.04F1 To qualify for special education services in the category of Hearing Impairment, a child must have an impairment in hearing which:

- 006.04F1a Is so severe that the child is impaired in processing linguistic information through hearing with or without amplification, or
- 006.04F1b Is permanent or fluctuating, and
- 006.04F1c Adversely affects the child's educational performance.

006.04F2 This term combines the state definition of "deaf" contained in Neb. Rev. Stat. 79-1118.01(4), the state definition of "hard of hearing" in 79-1118.01(7), the federal definition of "deafness" in 34 CFR 300.8(c)(3), and the federal definition of "hearing impairment" in 34 CFR 300.8(c)(5).

006.04G Intellectual Disability

006.04G1 To qualify for special education services in the category of Intellectual Disability, the child must demonstrate:

- 006.04G1a Significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

006.04H Multiple Impairments

006.04H1 To qualify for special education services in the category of Multiple Impairments, the child must have concomitant impairments (such as intellectual disability-visual impairment, intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

006.04H2 This classification does not include children with deaf-blindness.

006.04I Orthopedic Impairment

006.04I1 To qualify for services in the category of Orthopedic Impairment, the child must have a severe orthopedic impairment that adversely affects the child's educational performance.

006.04I2 The category includes children with impairments caused by:

006.04I2a congenital anomaly,

006.04I2b impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and

006.04I2c impairments from other causes (e.g., cerebral palsy, amputations and fractures or burns that cause contractures).

006.04J Other Health Impairment

006.04J1 To qualify for special education services in the category of Other Health Impairment, the child must have:

006.04J1a Limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems which adversely affects the child's educational performance such as:

006.04J1a(1) asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome.

006.04K Specific Learning Disability

006.04K1 To qualify for special education services in the category of specific learning disability the child must have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The category includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The category does not include children who have learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disabilities; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

006.04K2 The MDT of a child suspected of having a specific learning disability shall include at least:

006.04K2a The child's parents;

006.04K2b For a school age child, the child's regular teacher(s) or if a child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age;

006.04K2c For a child below age 5, a teacher qualified to teach a child below age 5;

006.04K2d Special educator with knowledge in the area of specific learning disabilities;

- 006.04K2e At least one person qualified to conduct initial individual diagnostic examinations of children, such as a school psychologist, speech language pathologist, or remedial reading teacher; and
- 006.04K2f A school district administrator or a designated representative.
- 006.04K3 The MDT may determine that a child has a specific learning disability if:
 - 006.04K3a The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving.
 - 006.04K3b The child does not make sufficient progress to meet age or State approved grade-level standards in one or more of the areas identified in 92 NAC 51-006.04K3a when using a process based on the child's response to scientific, research-based intervention; or
 - 006.04K3b(1) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the team to be relevant to the identification of a specific learning disability, using appropriate assessments consistent with 92 NAC 51-006.02.
- 006.04K4 The team determines that its findings under 92 NAC 51-006.04K3a and 006.04K3b are not primarily the result of:
 - 006.04K4a A visual, hearing, or motor disability;
 - 006.04K4b Intellectual disability;
 - 006.04K4c Emotional disturbance;
 - 006.04K4d Cultural factors,
 - 006.04K4e Environmental or economic disadvantage; or
 - 006.04K4f Limited English proficiency.
- 006.04K5 To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in 92 NAC 51-006.02:
 - 006.04K5a Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - 006.04K5b Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.
- 006.04K6 The school district or approved cooperative must promptly request parental consent to evaluate the child to determine if the child needs special education and related services and must adhere to the timeframes described in 92 NAC 51-009.04A1, unless extended by mutual written agreement of the child's parents and a team of qualified professionals, as described in 92 NAC 51-006.04K2.
- 006.04K6a If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction as described in 92 NAC 51-006.04K5a and b; and
- 006.04K6b Whenever a child is referred for an evaluation.

006.04K7 The school district or approved cooperative must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

006.04K8 The MDT, in determining whether a child has a specific learning disability, must decide to:

006.04K8a Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or

006.04K8b Have at least one member of the MDT described in 92 NAC 51-006.04K2 conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with 92 NAC 51-009.08 is obtained.

006.04K8c In the case of a child of less than school age or out of school, an MDT member must observe the child in an environment appropriate for a child of that age.

006.04L Speech-Language Impairment

006.04L1 To qualify for special education services in the category of Speech- Language Impairment, the child must have:

006.04L1a a communication disorder such as:

006.04L1a(1) stuttering;

006.04L1a(2) impaired articulation;

006.04L1a(3) language impairment; or

006.04L1a(4) a voice impairment.

006.04L2 This disorder must adversely affect the child's educational performance.

006.04M Traumatic Brain Injury

006.04M1 To qualify for special education services in the category of Traumatic Brain Injury, the child must have:

006.04M1a an acquired injury to the brain caused by external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects the child's educational performance.

006.04M1b The category includes open or closed head injuries resulting in impairments in one or more areas such as:

006.04M1b(1) cognition;

006.04M1b(2) language;

006.04M1b(3) memory;

006.04M1b(4) attention;

006.04M1b(5) reasoning;

006.04M1b(6) abstract thinking;

006.04M1b(7) judgment;

- 006.04M1b(8) problem solving;
- 006.04M1b(9) sensory, perceptual and motor abilities;
- 006.04M1b(10) psychosocial behavior;
- 006.04M1b(11) physical functions;
- 006.04M1b(12) information processing; and
- 006.04M1b(13) speech.

006.04M2 The category does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

006.04N Visual Impairment including Blindness

006.04N1 To qualify for special education services in the category of Visual Impairment, including blindness, the child must have;

006.04N1a an impairment in vision that, even with correction, adversely affects the child's educational performance.

006.04N2 This category includes children who have partial sight or blindness.

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