

VERIFICATION GUIDELINES

VIDEOCONFERENCE QUESTIONS

INTRODUCTION

As a result of the Verification Guidelines videoconference (02-06-09), a number of questions were submitted to NDE for response. The questions fell within several general categories and have been grouped into these categories. In some cases the question was not sufficiently clear to enable the Special Education Office to adequately respond to the question. Stakeholders are encouraged to submit any additional questions to the regional special education consultant assigned to your area. As questions are answered they will be added to the information contained in this document.

SECTION I: GENERAL VERIFICATION QUESTIONS

A significant number of questions were submitted dealing with the general verification procedures. In some cases these questions contained examples which fell within specific verification categories. However, the responses to these questions remain the same regardless of the verification category specified in the question, thus, they are included in this section.

1. **⇒ QUESTION:**
How will uniformity of service provision be ensured if the verification guidelines are being implemented differently?

The purpose of the Verification Guidelines is not to guarantee uniformity of the verification of children with disabilities. It is to assist MDT members in gathering information from multiple sources to be used along with their informed professional judgment to determine if the child under consideration meets the verification criteria and needs to receive special education services to meet educational goals.

As Nebraska has never had a uniform battery of assessment instruments that were mandated for use in the verification process, the decisions made by the MDT varied by individual child and circumstances. It is anticipated that information from multiple assessment instruments, informal assessments, and observations considered in concert with professional judgment will result in the appropriate verification of children across the state.

2. **⇒ QUESTION:**
Some districts mandate specific curricular reading interventions based on district policy or contractual agreements with private entities. Following multiple repetitions of the same mandated curricular materials and methods, would that student be ineligible for special education services due to a lack of appropriate instruction?

92 NAC 51-006.03C states: "In making a determination of eligibility, a child shall not be determined to be a child with a disability of 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, lack of instruction in math, or limited English proficiency." Thus, whether the district mandates specific curricular reading interventions based on district policy or contractual agreements with private entities, the MDT team is responsible for making a decision as to whether the determining factor making the child eligible for special education and related services is lack of appropriate instruction in reading, math or limited English proficiency. If the MDT makes this determination the child would not be eligible for special education services.

However, the student would not necessarily be ineligible for special education services based solely on the fact that multiple repetitions of the same curricula materials and methods did not result in progress in reading. Prior to referral to the MDT, the school may want to use a Response to Intervention (RtI) approach or scientifically-based problem solving process of decision-making to provide more intensive instruction to determine if the child makes progress in his/her reading achievement.

As a part of this problem solving process, various types of classroom based assessment, informal and formal assessments, and other assessments will be completed. A determination will then be made regarding whether the child should be referred for MDT evaluation for having a specific learning disability. The district may also consider using the severe discrepancy process to determine whether the child qualifies as having a disability.

After reviewing all of the assessment data, and a determination that lack of proper instruction is not the determining factor, the MDT may conclude that the child is a child with a specific learning disability if there is evidence that the child meets the criteria for a child with a Specific Learning Disability, there is documentation of an adverse effect on educational performance, and there is a determined need for special education.

3. **⇒ QUESTION:**
May a school team continue a student's verification through a review reevaluation if the original qualifying scores no longer meet the score criteria in the new Rule 51? (Examples would be in MH where a student had previously qualified with an IQ score of 76 or a student who was verified as SLD with a prior score of 87 in reading.)

⇒ QUESTION:
Is it allowable for a MDT to verify (by review or assessment) students with scores outside of the discrepancy formula (SLD) and outside of the two SD below average (MH) if they document adverse effect, need for special education, and a rationale for why they have used their professional judgment rather than using scores as a formula?

⇒ QUESTION:
Is the Verification Criteria Technical Assistance document set procedures or may we use professional judgment in making verification determinations?

Prior to August 31, 2008, Rule 51 outlined specific scores necessary for a child to be eligible for special education. The Rule was revised to incorporate the requirements of IDEA 2004, and, as part of that revision, the specific scores were removed from the regulations and were placed in a technical assistance document. The technical assistance document is intended to guide the MDT, but does not contain regulatory language.

School districts must ensure that a reevaluation of each child with a disability occurs at least once every three years unless the parent and school district agree that a reevaluation is unnecessary. This requirement may be met by either conducting a full reevaluation of the child or by conducting a review of existing data, including evaluations and information provided by the parents of the child, current classroom based local or state assessments and classroom observations. The purpose of each type of reevaluation is to determine whether the child continues to be a child with a disability and the educational needs of the child.

In determining whether the child has a disability, or continues to have a disability, the MDT is required to determine: (1) whether the child meets the criteria for the disability category contained in Rule 51; (2) whether the disorder has an adverse effect on the child's educational or developmental performance; and (3) whether the child needs special education and related services. To assist MDT teams in making this determination, the Verification Guidelines Technical

Assistance document was prepared. The Verification Guidelines document outlines recommended practices as opposed to regulations. The specific scores previously required by Rule 51 have been moved to the technical assistance document and therefore they are guidelines, not regulations. MDT teams must review all available data related to the child and make a determination as to whether the child meets the criteria contained in Rule 51. If the child does not meet the criteria in Rule 51, the child is not eligible for special education and related services. Conversely, if the Technical Assistance document suggests that the child's IQ should fall within a specific range and the student's IQ falls outside of that range, the team may use their professional judgment as to whether or not the child qualifies for special education services. Both informal and formal assessment data, classroom observations, parent input, and teacher input should be examined as a part of the decision-making process.

4. ⇨ QUESTION:
If a child is verified with MH and their speech-language skills are commensurate with their MA, can they be identified for SLP services?

Yes, 92 NAC 51-007.0C6 states, "The need for related services of an instructional nature shall be documented on the IEP or IFSP present level of performance, goals, and objectives, and shall be based on documented diagnostic evidence. Determination of the need for a related service for a child with a verified disability does not require the additional verification of a secondary disability." Therefore, if a student qualifies for special education and related services in any category, he/she may receive any related service necessary to benefit from their special education program.

In this type of situation, a child whose primary disability is MH, whose speech-language skills are commensurate with their mental ability, and who needs speech-language services in order to benefit from special education services, the child would receive speech-language services as a related service.

5. ⇨ QUESTION:
If an academic composite score yields reliability just below 90, are teams required to administer a separate achievement test in that particular academic area? Example: certain subtests and age scores on the Woodcock Johnson III yield composite scores just under 90, so do teams then administer a GORT or another academic test along with parts of the WJIII?

92 NAC 51-060.02C1c requires school districts to assure that assessments and other evaluation materials used to assess a child are valid and reliable for the purpose for which they are used. Additionally, 006.02C6 requires school districts to ensure that any standardized tests that are given to a child have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordance with any instruction provided by the producer of the assessments. Since both of these requirements are contained in Rule 51, they must be implemented by the district. In addition to the regulatory provisions, the Verification Technical Assistance document also contains guidelines on test reliability. The contents of the technical assistance document are provided to assist districts in determining best practices. The MDT team however, must use their professional judgment in the implementation of regulatory requirements regarding test reliability.

The test score is only one piece of data as the MDT determines if a child is a child with a disability. In order for the MDT to determine if the child meets the eligibility as a child with a disability:

- a. The child must meet the verification criteria (92 NAC 51-006);
- b. The MDT must document adverse effect on educational performance; and
- c. The MDT must document the need for special education.

6. ⇨ **QUESTION:**
If a young child could qualify as having Developmental Delay or Mental Handicap, why choose one over the other?

⇨ **QUESTION:**
If a child has been verified as having a Mental Handicap and their behavior becomes progressively inappropriate, negatively impacting instruction, should their verification be changed?

The purpose of the category of Developmental Delay is to allow the young child to receive special education services when the MDT initially cannot precisely determine a specific disability category due to the child's age. As the child progresses and assessment information accumulates indicating a particular disability category is appropriate, the MDT should change the verification to one of the other disability categories. (This must be done by the time the child reaches age nine.) The MDT should determine the eligibility category based on all available data.

However, whether the child qualifies in one category or another should not impact the services a child receives. Special education services are based on student needs, not the category in which the child was determined to be eligible for services. A child with a verified disability can receive any type of service that the IEP team deems appropriate regardless of the disability category.

7. ⇨ **QUESTION:**
Multiple assessments are required. Who should gather data? Can one member of the MDT collect all data?

Neither Rule 51 nor the technical assistance document specifies which member of the MDT team is responsible for collecting data. As various members of the MDT have skills in different domains, the data should be collected by the MDT member who is best qualified to gather and share the information. Therefore, the determination of which MDT member is responsible is a matter left to the discretion of the MDT.

8. ⇨ **QUESTION:**
Can the MDT be expanded from the list in the Verification Guidelines document? Is everyone who is listed required?

With the exception of Specific Learning Disability, the list of required members in the Verification Technical Assistance document is a recommended guideline. If the MDT determines that additional members should be included or that suggested members are unnecessary, they can adjust the recommended membership accordingly. However, both state and federal regulations require parents to be members of the multidisciplinary team for all disability categories. In the case of Specific Learning Disability, the team membership is included in both the federal and state regulations and therefore must be fully implemented by the school district.

9. ⇨ **QUESTION:**
When a student moves from another state and was previously verified as SLI, what needs to be done to determine if they qualify in Nebraska?

92 NAC 51-007.08B contains the procedures to be used if a child with a disability transfers to a school district in Nebraska. The regulation states: "If a child with a disability (who had an IEP that was in effect in a previous public agency in another state) transfers to a school district in Nebraska and enrolls in a new school within the same school year, the new school district (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous school district) until the new school district conducts an evaluation pursuant to Section 006 of this Chapter (determined to be necessary by the new school district) and develops, adopts, and implements a new IEP, if appropriate, that

meets the requirements of 92 NAC 51-007". Thus, the school district in Nebraska must review the child's education records to determine if it is necessary to conduct an initial evaluation to determine whether the child is eligible for special education and related services pursuant to Nebraska's regulations, or whether sufficient information is contained in the student's records to document that the child meets Nebraska's eligibility criteria. If the child is determined to be eligible for services, the district may implement the child's current IEP or develop and implement a new IEP for the student.

10. ⇨ **QUESTION:**
A parent brings a physician's letter indicating their child has been diagnosed with Prader-Willi Syndrome. The child has never received special education services. What should the district do?

⇨ **QUESTION:**
For OHI – is a diagnosis of fine motor delay from a doctor appropriate for this category?

Both of these questions center on issues surrounding a medical diagnosis and how school districts should respond to them. A medical diagnosis in and of itself does not qualify a child to receive special education and related services. Rather, the child must meet the definition of a child with a disability as set out in 92 NAC 51 in order to qualify for special education services. In those cases where a parent presents a medical diagnosis to the district, the district should determine whether the medical condition is impacting the child's education. If the child is experiencing difficulties in learning, the classroom teacher should begin the SAT process to determine if the child can make progress with specific instructional strategies, supports and adaptations provided in regular education. If the child cannot progress, then the child should be referred to the MDT for evaluation in the area where the child is having specific difficulty. The MDT will determine if the child meets the eligibility criteria.

In order to qualify for services in the category of Other Health Impaired (OHI), the student must have 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 or developmental performance. Examples include 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.

The medical diagnosis of a fine motor delay does not in and of itself qualify the child for special education services in the category of Other Health Impaired. If a physician diagnoses a child with a fine motor delay, the MDT may consider that report as a part of the MDT evaluation data. While a diagnosis of a fine motor delay does not commonly fit within the category of OHI, the MDT must make eligibility decisions on an individual basis. The MDT must determine and collect the different types of evaluation data that will be needed in order to determine: (1) if the child meets the verification criteria for OHI; (2) if there is documentation of an adverse effect on educational or developmental performance; and (3) if there is a determination of a need for special education services in order to verify the child as having Other Health Impairment.

11. ⇨ **QUESTION:**
If after three meeting notifications have been made for an IEP/MDT and a parent still does not attend or respond, how should a team proceed? All assessment has been completed within the 45 days clause.

A school may conduct an IEP team meeting without the parent(s) in attendance if the school, despite repeated attempts, has been unable to contact the parents to arrange for a mutually agreed upon time or convince the parents that they should participate. The school must keep a record of attempts to arrange a mutually agreed on time and place to secure the parents' participation. In this case, the district must keep a record of its attempts to arrange a mutually agreed on time and place such as:

- Detailed records of telephone calls made or attempted, including the date, time, person making the calls, and the results of those calls;
- Detailed records of visits made to the parents' home or place of employment, including the date, time, person making the visit, and the results of the visits;
- Copies of correspondence sent to the parents and any responses received; and
- Detailed records of any other method attempted to contact the parents and the results of that attempt.

If neither parent is able attend the IEP meeting in person, they may participate through video conferencing, web cam, or conference call.

SECTION II: MENTALLY HANDICAPPED

12. ⇔ **QUESTION:**
If a child's IQ is above 71 and doesn't qualify as MH, what might the MDT consider as another option?

Depending on the difficulties that the child may be experiencing, the child may qualify as a child with a specific learning disability. A reminder that a child must meet a three-part eligibility requirement in order to be verified as a child with a specific learning disability:

- a. The child must meet verification criteria (92 NAC 51-006);
- b. The MDT must document adverse effect on educational performance; and
- c. The MDT must determine that there is a need for special education.

13. ⇔ **QUESTION:**
Do all areas of adaptive behavior and academic achievement need to fall two standard deviations below the mean to verify a student as having MH verification?

912 NAC 51-006.04G1 and 006.04G2 state, "To qualify for special education services in the category of Mental Handicap, the child must demonstrate significantly sub average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational or in the case of a child below age five, a child's developmental performance." NDE has defined "significantly below average functioning" as "at least 2.0 standard deviations below the mean (30 standard points) in adaptive behavior across settings (school, home, and community), based on assessment and analysis of adaptive skills in the three component areas of: adaptive behavior, academic achievement and intellectual functioning." In addition, there must be documentation of adverse effect on development and/or educational performance and a determination that a need for special education is evident.

14. ⇔ **QUESTION:**
How can you justify not re-evaluating adaptive behaviors for consideration of current needs? We may not need to re-evaluate for benefiting from special education, but we do need current information for program planning. Parent advocacy groups encourage regular measurement of adaptive behaviors.

The only situation in which the MDT would not re-evaluate adaptive behavior skills would be if the IEP team determined that there was sufficient data to either determine that the child re-qualifies or to determine that the child does not re-qualify as having a mental handicap. The definition for mental handicap includes both medical ability as well as adaptive behaviors. Although the IEP team may determine that the child does not need re-evaluation, the parent can request re-evaluation and the school will be required to complete the re-evaluation.

The Verification Guidelines were developed only for the purpose of determining a child's eligibility for special education. The process of verification is not designed as a comprehensive program planning procedure. After the MDT has determined that a child qualifies for special education services, the IEP team can determine if more data needs to be gathered to establish baselines and guide development of the IEP.

SECTION III: SLD

15. ⇨ **QUESTION:**
If reading fluency is a predictor of reading comprehension, but a child's reading comprehension scores are in line with ability but fluency is deficit, how do you support SLD verification in fluency?

The MDT may decide that the child does not qualify as a child with a specific learning disability because if the MDT uses the three-part eligibility question, the child may not need special education, but rather need intensive fluency instruction in the regular education curriculum. In order for a child to be identified as having a disability by a MDT, there must be documentation the child meets the eligibility criteria, there is an adverse effect on the child's educational performance, and the child needs special education.

16. ⇨ **QUESTION:**
Is average or above average IQ still required when verifying a student with SLD if using the discrepancy model of the RtI model? (For example: a student who has turned nine and previously been verified under the Developmental Delay category may not have an IQ above 85.) Would he/she be potentially verified under the SLD category?

The IQ criterion is no longer a part of SLD verification; therefore, the MDT would need to address the three-part eligibility question to determine if the child qualifies as a child with a disability.

- Does the child meet the verification criteria (92 NAC 51-006)?
- Is there documentation of adverse or adverse effect on educational performance? and
- Is there a documented need for special education?

The MDT will use the process that is defined and described in Section 11 of the technical assistance document, Verification Guidelines for Children with Disabilities.

17. ⇨ **QUESTION:**
How can a student be verified SLD if a 20-point discrepancy does not exist?

The school should use the Response to Intervention (RtI) model to provide universal screening and determine if the child is in need of intensive instructional services. During the RtI process, ongoing formal and informal assessments will be completed. These will include classroom assessments, curriculum-based assessments, observations, etc. Based on the results of these assessments, the determination should be made whether the child should be referred for MDT evaluation. If there is a referral, the MDT evaluation will include a review of all of the assessment data that has already been collected as well as completion of other evaluations and assessments that the MDT deems necessary. The final decision regarding the eligibility of the child for special education services must include the three-part eligibility questions: does the child meet the verification criteria listed in 92 NAC 51-006, is there documentation of the adverse effect on educational performance, and is there documentation of the need for special education?

18. ⇨ **QUESTION:**
Can we use Standard Error of Measurement (SEM) for both IQ and achievement when using the discrepancy model? If so, what documentation is suggested to back up doing so?

It is the responsibility of the test administrator to be aware of the technical adequacy of the instrument. The MDT must not focus solely on the test scores, but only consider them as one piece of data. Therefore, the team's decision must be clearly articulated in the MDT report as to how they arrived at their decision using the three-part eligibility question. Does the MDT have:

- a. Evidence that the child meets the verification criteria (92 NAC 51-006);
- b. Documentation of adverse effect on educational performance; and
- c. Documentation of the need for special education.

19. ⇨ **QUESTION:**
What is the difference between SLD verification in the area of understanding and using language-spoken or written, and SLI verification in the area of language?

In order 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.

In order to qualify for special education services in the category of **Speech-Language Impairment** in the area of language, the MDT must determine the child has a language disorder. This is defined as impaired comprehension and/or use of spoken, written, and/or other symbol systems, which may involve content, form, and/or use. It may be developmental or acquired. Language refers to the rule-based use and comprehension of spoken, written, and/or other symbolic systems.

20. ⇨ **QUESTION:**
The definition of SLD includes "brain injury". Does this include Traumatic Brain Injury?

In the definition of SLD, "brain injury" is listed as a possible cause. This may refer to "Traumatic Brain Injury" (TBI) including acquired brain injuries that may occur prenatally, perinatally, or postnatally. The MDT must use their professional judgment to decide which disability category is most appropriate based on the data regarding the child.

21. ⇨ **QUESTION:**
SLD – What are some writing assessments with .90 reliability?

Some frequently used writing tests and sub-tests that have .90 reliability include:

- Test of Early Written Language (TEWL-2)
- Test of Written Language (TOWL -3), except spontaneous quotient for ages 7 and 8;
- Wechsler Individual Achievement Test (WIAT-II);
- Test of Adolescent and Adult Language (TOAL-4); and
- OWLS Written Expression Scale, various ages.

The Verification Guidelines provide technical assistance to guide the MDT in making a professional judgment about a child's eligibility for special education. As the IDEA requires the use of multiple sources of information, the MDT does not make a determination based on one test score. The MDT should use scores from those tests that they are confident present an accurate reflection of student performance in unison with their observations and judgment about the student's qualification and need for special education services.

22. ⇨ **QUESTION:**
Federal law still includes at least average intelligence within the SLD definition, so by removing this element from the Verification Guidelines how does this align with the state definition of ruling out whether the student’s learning is due to a mental handicap?

Both Rule 51 and the Federal Regulations for IDEA use identical language in the definition for specific learning disability. In both documents the definition of specific learning disability specifies that the category *does not include children who have learning problems that are primarily the result of a mental handicap.*

SECTION IV: SLI

23. ⇨ **QUESTION:**
The verification guidelines for speech-language impairment changed significantly from the January 2007 draft of the technical assistance document to the final version. Was there another draft released between the January 2007 and the final?

NDE received input and feedback on SLI verification guidelines which resulted in changes in the guidelines from the draft copy to the final copy in order to assist each MDT to diagnose speech language impairments in a more explicit manner. This input came from speech-language pathologists, Nebraska Association of Special Education Supervisors (NASSES), NDE Regional Workshop participants, Special Education Advisory Council (SEAC), and stakeholder groups.

24. ⇨ **QUESTION:**
Isn’t it unethical to “ignore” the voice concern because the school doesn’t want to pay for it? Example: Teacher referral for voice – SLP “suggests” the parents ask their doctor the next time they go and not continue the process until they have gone?

If the MDT has a concern about a child’s possible voice disorder, the MDT is required to refer the child to a physician for evaluation as a part of the MDT evaluation. The physician should respond with a report that the MDT should consider as the team determinations if the child is a child with a disability. In this situation, the school would be responsible for payment for the evaluation if it was completed as a part of the overall evaluation of the child. The school can ask the physician to apply to NDE for a service provider rate. If this occurs and the physician is approved, the amount paid by the school for the evaluation can be included as a part of the Final Financial Report for reimbursement by NDE.

25. ⇨ **QUESTION:**
SLI – What level of relative language deficit should be considered for recommending language services?

The intent of the verification guidelines is to encourage the members of the multidisciplinary evaluation team to identify a pattern of significant deficits from among the multiple data sources noted in the guidelines. The establishment of a specified “deficit level” is to be avoided. Rather, the team is responsible for analysis of the data from many sources, one or more of which may be norm referenced test. If only one formal test is included, it should be a comprehensive measure, assessing the child across a number of language variables, rather than a single, narrow focus.

26. ⇨ **QUESTION:**
When using norm referenced tests, define “average” and “below average” with regard to S-LI Language verification.

Unless a particular assessment uses another normative reference, it is assumed that standard scores of 85 to 115 (16th to 85th percentile) ranges are “average”. Any score outside these ranges is either above or below the average range. Confusion may arise when the term “range” is not applied. Since a standard score of 100 is the mean or average, anything below that is often referred to as below average. Applying the above information, any standard score below 85 would be considered significantly below average for use with the verification guidelines.

27. ⇔ **QUESTION:**

In the 0-5 population, is the below average performance considered to be below a standard score of 85? Will this open the door for those children previously not served (70-85)?

The standard score average range applies to the birth to five population as well as school age children. The charge to the verification guidelines committee was to develop guidelines consistent for children throughout the full range of ages, thus eliminating the use of separate criteria for children below age five and different criteria for children age five and above. The use of verification guidelines allow for the possibility that more young children, especially late talkers, could be eligible for intervention. Their determination of eligibility and subsequent intervention may, however, prevent these children from developing problems with academic learning in later years.

The evidence is clear that many children with language skills below the average range (below SS85) will later demonstrate significant language-based learning disabilities. Up to 40 percent of children whose communicative development is delayed at age two continue to demonstrate immature speech patterns and language usage, and develop additional language problems that place them at risk for later educational failure. The evidence increasingly suggests that today's language-delayed preschooler may mature into tomorrow's learning disabled student (particularly in the area of reading). Certain variables such as low receptive language skills, and poor narrative ability are more predictive of later learning problems than others. It is therefore incumbent upon the members of the MDT to carefully analyze the pattern of deficits to determine eligibility.

28. ⇔ **QUESTION:**

Since the frequently-used service delivery model emphasizes primary service provider (PSP) at ages 0-3, won't most children be verified as having a speech-language impairment?

The MDT must determine if the child meets the three part eligibility requirement involving the child's need for special education services. If in their professional judgment, the child's development is likely to be delayed due to his/her needs, the child can be verified as having a disability. The MDT has the option of using the Developmental Disability category if the child has delays across domains and there is no diagnosed medical condition.

The delivery model for services is not related to the verification decision. The MDT must decide if a child qualifies based on the eligibility guidelines. Once that determination has been made, the IEP/IFSP team will design the intervention plan, then select the most appropriate means of delivering special education services.

SECTION V: RtI

29. ⇔ **QUESTION:**

If the purpose of the Guidelines is a guide, can a district use the discrepancy model for verification since RtI is not fully in place? Will RtI be a choice in 2012 and severe discrepancy non-existent as used now?

The Individuals with Disabilities Education Act (IDEA) was reauthorized in 2004 to include language which required states to adopt criteria for making the determination of whether a child has a specific learning disability. In making the eligibility determination for students with a specific learning disability, the federal regulations specifically state that the criteria "...**must not** require the use of a severe discrepancy between intellectual ability and achievement for determining whether the child has a disability and **must** permit the use of a process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures..." Therefore, districts can use either a discrepancy model or Response to Intervention in determining whether a child qualifies for special education services in the category of specific learning disability. The next reauthorization of the Individuals with Disabilities Education Act is due in 2009. During that reauthorization, it is possible that the option of using a discrepancy formula will be removed from law. If that happens, it will also be removed from Rule 51. However, should the federal law continue to authorize the use of a discrepancy model, school districts in Nebraska will be able to continue its use as well.

30. ⇔ **QUESTION:**
Does the state allow SLD verification using the RtI process without state approval for a RtI plan and without a 20-point discrepancy?

⇔ **QUESTION:**
Will the State of Nebraska require documentation from schools to be sure that the Essential Elements of RtI are in place before it can be used for verification?

As part of the special education application process, districts are required to sign a Statement of Assurances for Special Education. RtI has been included in this Annual Statement of Assurances. One of the assurance statements indicates that if a district intends to use RtI for the verification of a specific learning disability, the district must submit its RtI implementation plan to NDE for review. The Special Education Office, in collaboration with the RtI Consortium will review the plan and provide feedback to the district. The feedback is intended to assist the district in strengthening the RtI plan and its implementation. In order for NDE and the RtI Consortium to have enough information to evaluate the RtI plan, districts will need to include in their RtI plan sufficient information on how they are implementing the essential elements of RtI.

31. ⇔ **QUESTION:**
If a child has been involved with RtI but has not made significant process, what other data in addition to RtI data should be used for an SLD consideration?

92 NAC 51-006 includes numerous references to the types of data which must be considered in making a verification determination. Section 006.02C9 states that no single measure or assessment may be used as the sole criterion for determining whether a child is a child with a disability. Section 006.02C10 requires the child be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, and communicative status and motor abilities. Additionally, 006.02C14a requires districts to draw upon information from a variety of sources, including aptitude tests, achievement tests, parent input, teacher observations, physical condition, social or cultural background and adaptive behavior.

When the child is referred for a special education evaluation, the MDT will determine the additional data from multiple sources that may be needed in order to determine if the child meets the eligibility criteria as a child with a disability.

32. ⇨ **QUESTIONS:**
What kind of data could be provided to ensure that appropriate instruction has been provided? Where should this be documented?

The various types of assessment, observation and anecdotal data collected while providing instruction will verify that appropriate instruction has been provided. While RtI data is used as part of the verification process, documentation concerning the instructional strategies and other interventions implemented and the results of the implementation should be included in the MDT report.

SECTION VI: TRAINING OPORTUNITIES

33. ⇨ **QUESTION:**
Is this videoconference going to be available on CD or other media?

A DVD of the videoconference was distributed in March to Directors of Special Education in each LEA and ESU. Copies can be made or contact the NDE Office of Special Education to request a DVD.

34. ⇨ **QUESTION:**
The steps taken by NDE in clarifying and supporting changes in verification have been helpful. In next steps, how can private evaluation providers receive clarification and support to understand the new verification processes in comparison to traditional numeric diagnoses?

Private evaluation provides who are contracted by an LEA to provide evaluation of children may use the technical assistance guide, the DVD outlining each disability category, and the DVD from the videoconference as part of their in-service. Directors of Special Education are responsible for distributing this material to the private providers. In addition, private providers may certainly be invited to participate in any in-service which is provided by the LEA or ESU regarding the use of the technical assistance guide.