

# VIII. Additional Evaluation Requirements for Specific Learning Disabilities (SLD)

IDEA Regulations: SLD Evaluations	Nebraska Rule 51: SLD Evaluations
<p><b>Section 300.307 Specific learning disabilities</b></p> <p><b>(a) General.</b> A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8(c)(10). In addition, the criteria adopted by the State—</p> <ol style="list-style-type: none"><li>1. Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in §300.8(c)(10);</li><li>2. Must permit the use of a process based on the child’s response to scientific, research-based intervention; and</li><li>3. May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in §300.8(c)(10).</li></ol> <p><b>(b) Consistency with State criteria.</b> A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.</p> <p><b>Section 300.308 Additional group members</b></p> <p>The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.8, must be made by the child’s parents and a team of qualified professionals, which must include—</p> <p><b>(a)</b></p> <ol style="list-style-type: none"><li>1. The child’s regular teacher; or</li><li>2. If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or</li></ol>	<p><b>006.04K2</b> The MDT of a child suspected of having a specific learning disability shall include at least:</p> <p><b>006.04K2a</b> The child’s parents;</p> <p><b>006.04K2b</b> 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;</p> <p><b>006.04K2c</b> For a child below age 5, a teacher qualified to teach a child below age 5;</p> <p><b>006.04K2d</b> Special educator with knowledge in the area of specific learning disabilities;</p> <p><b>006.04K2e</b> 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</p> <p><b>006.04K2f</b> A school district administrator, or a designated representative.</p> <p><b>006.04K3</b> The MDT may determine that a child has a specific learning disability if:</p> <p><b>006.04K3a</b> 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.</p> <p><b>006.04K3b</b> 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-</p>

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3. For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

(b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

### Section 300.309 Determining the existence of a specific learning disability

(a) The group described in §300.306 may determine that a child has a specific learning disability, as defined in §300.8(c)(10), if—

1. 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:
  - i. Oral expression.
  - ii. Listening comprehension.
  - iii. Written expression.
  - iv. Basic reading skill.
  - v. Reading fluency skills.
  - vi. Reading comprehension.
  - vii. Mathematics calculation.
  - viii. Mathematics problem solving.
2.
  - i. The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of

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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

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the areas identified in paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention; or

- ii. The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with §§300.304 and 300.305; and

3. The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—

- i. A visual, hearing, or motor disability;
- ii. An intellectual disability;
- iii. Emotional disturbance;
- iv. Cultural factors;
- v. Environmental or economic disadvantage; or
- vi. Limited English proficiency.

**(b)** 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 §§300.304 through 300.306—

- 1. Data that demonstrate that prior to, or as a part of, the referral process, the child was

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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

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provided appropriate instruction in regular education settings, delivered by qualified personnel; and

2. 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.

**(c)** The public agency 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 §§300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in §300.306(a)(1)—

1. If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and
2. Whenever a child is referred for an evaluation.

### Section 300.310 Observation

**(a)** The public agency 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.

**(b)** The group described in §300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—

1. Use information from an observation in routine classroom instruction and monitoring of the child's performance that

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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

### 92 NAC 51-006.03

**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

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was done before the child was referred for an evaluation; or

2. Have at least one member of the group described in §300.306(a)(1) 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 §300.300(a), is obtained.

(c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

### Section 300.311 Specific documentation for the eligibility determination

(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in §300.306(a)(2), must contain a statement of—

1. Whether the child has a specific learning disability;
2. The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1);
3. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
4. The educationally relevant medical findings, if any;
5. Whether—
  - i. The child does not achieve adequately for the child's age or to meet State-

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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(1);

**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

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approved grade-level standards consistent with §300.309(a)(1); and

**ii.**

**A.** The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with §300.309(a)(2)(i); or

**B.** 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 §300.309(a)(2)(ii);

**6.** The determination of the group concerning the effects of a visual, hearing, motor disability, or an intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

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

**i.** The instructional strategies used and the student-centered data collected; and

**ii.** The documentation that the child's parents were notified about—

**A.** The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

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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.

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<p><b>B.</b> Strategies for increasing the child’s rate of learning; and</p> <p><b>C.</b> The parents’ right to request an evaluation.</p> <p><b>(b)</b> Each group member must certify in writing whether the report reflects the member’s conclusion. If it does not reflect the member’s conclusion, the group member must submit a separate statement presenting the member’s conclusions.</p>	

## District Considerations for Policy and Procedure Development

### Sample district policy statements

[Xyz school district] will collect students’ reading, math, and writing performance data [X] times a year. School teams will make data-based decisions to determine who is in need of general education interventions. Interventions will include evidenced-based practices. The students’ progress will be monitored in the area of the deficit at least twice a month. School teams will review all collected data, and if it is suspected that a student has a specific learning disability, the student will be referred for an evaluation. The parent has a right to request an evaluation at any time. The district will develop procedures to ensure compliance with all Federal and state regulations concerning evaluations. [Cite applicable regulations]. District education and assessment staff will be trained annually on procedures and district-level policies.

### Another sample policy

[Xyz school district] will develop and implement a general education intervention manual and SLD evaluation procedures consistent with Federal and state regulations. The manual and procedures will be posted on the district site and will be submitted to the Nebraska Department of Education for approval when developed and when there are substantive revisions.

### Procedural considerations

Consider breaking down tasks and identifying who is responsible, timeframes, and forms needed for initial evaluations and reevaluations.

- General intervention decision-making process and team members (including data collection, intervention planning, progress monitoring methods and review)
- Parent request for evaluations
- Evaluation team members and their roles

- Evaluation components
- Written evaluation results and signatures
- Meeting planning (notice, facilitation, etc.)
- Meeting facilitation

**Guidance resources**

- [OSEP Memo 11-07](#)
- OSEP Letter for SLD and gifted question: [Delisle letter dated 12/20/13 re high cognition \(PDF\)](#)