

Kansas Administrative Regulations

State Department of Education

Article 40.—Special Education

91-40-10. Eligibility determination.

(a) (1) After completion of appropriate evaluation procedures, a team of qualified professionals and the parent of the child who has been evaluated shall prepare a written evaluation report that includes a statement regarding each of the following matters:

- (A) The determination of whether the child has an exceptionality;
- (B) the basis for making the determination;
- (C) the relevant behavior noted during the observation of the child;
- (D) the relationship of that behavior to the child's academic functioning;
- (E) educationally relevant medical findings, if any; and
- (F) if the child was evaluated for a specific learning disability, the additional information specified in subsection (e).

(2) Each team member shall certify in writing whether the report reflects the member's conclusion. If the report does not reflect that member's conclusion, the team member shall submit a separate statement presenting the member's conclusion.

(b) Each agency shall provide, at no cost, a copy of the evaluation report to the child's parent.

(c) An evaluation team shall not determine a child to be an exceptional child if the determinant factor for that eligibility determination is the child's lack of appropriate instruction in reading or mathematics or limited English proficiency, and if the child does not otherwise qualify as a child with an exceptionality.

(d) Each evaluation team, in determining whether a child is an exceptional child and what the educational needs of the child are, shall meet the following requirements:

(1) The evaluation team shall draw upon information from a variety of sources, including the following:

- (A) Aptitude and achievement tests;
- (B) parent input;

- (C) teacher recommendations;
- (D) physical condition;
- (E) social or cultural background; and
- (F) adaptive behavior.

(2) The evaluation team shall ensure that the information obtained from all of the sources specified in paragraph (1) of this subsection is documented and considered.

(e) If the evaluation team and the parent determine the parent's child to be a child with a specific learning disability, the evaluation team and the parent shall prepare a written evaluation report that includes a statement regarding each of the following matters:

- (1) An indication of 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 applicable laws and regulations;
- (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) educationally relevant medical findings, if any;
- (5) an indication of whether the child meets the following criteria:
 - (A) Does not achieve adequately for the child's age or meet state-approved grade-level standards; and
 - (B)(i) Does not make sufficient progress to meet age standards or state-approved grade-level standards; or
 - (ii) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development; and
- (6) the determination of the team concerning the effect of the following factors on the child's achievement level:
 - (i) Visual, hearing, or motor skills disability;
 - (ii) mental retardation;
 - (iii) emotional disturbance;
 - (iv) cultural factors;
 - (v) environmental or economic disadvantage; and

(vi) limited English proficiency.

(f) If the child has participated in a process that assessed the child's response to scientific, research-based intervention, the evaluation report shall also address the following matters:

(1) The instructional strategies used and the student-centered data collected; and

(2) the documentation indicating that the child's parent or parents were notified about the following:

(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;

(B) strategies for increasing the child's rate of learning; and

(C) the right of a parent to request an evaluation.

(g) (1) Except as provided in paragraph (2) of this subsection, after a child has been determined to be a child with an exceptionality and has been provided special education or related services, an agency shall conduct a reevaluation of the child before terminating special education or related services to the child.

(2) An agency shall not be required to conduct a reevaluation of a child with an exceptionality before terminating special education or related services to the child if the reason for termination of services is due to either of the following:

(A) The child has graduated from high school with a regular high school diploma.

(B) The child has reached the age of 21 years.

(3) An agency shall provide prior written notice before terminating special education services for either of the reasons stated in paragraph (g)(2).

(h) An agency shall not be required to classify children with disabilities according to their categories of disabilities if each child with a disability is regarded as a child with a disability and is provided FAPE.

(i) With regard to children ages three through nine who are determined to need special education and related services, an agency shall use one or more of the categories of disabilities described in the definition of the term "child with a disability" or the term "developmental delay."

(Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-986; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

***** Authenticated Kansas Administrative Regulation *****