

## **Special Education Procedures**

The following procedures describe the steps that the Hitchcock County School District will generally follow in implementing certain portions of the Individuals with Disabilities in Education Act and Rule 51 of the Nebraska Department of Education (NDE). If any procedure described herein conflicts with or is inconsistent with state or federal laws or regulations, the law or regulation will control. Nothing in the following procedures creates any enforceable right, educational entitlement or procedural protection that is separate from or in addition to the rights provided by state and federal law and regulation.

### **Suspension and Expulsion Reporting (Rule 51 § 004.06A10 and § 004.06A11)**

The school district shall report the suspension, expulsion, alternative educational placement, and other disciplinary information required by 92 NAC 004.06A10 and 92 NAC 004.06A11 to the State electronically through the NDE website on at least an annual basis. If disciplinary discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities, the school district shall review its policies, procedures, and practices related to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure that they comply with IDEA.

### **District-Wide Assessments (Rule 51 § 004.05B and § 004.05C)**

Each student who has been verified under Rule 51 will participate in district-wide assessments in a manner that is appropriate for the student. Each student's IEP team will determine how the student will participate in district-wide assessments. The method of assessment will be recorded on the student's IEP. Alternate assessments will be administered at the same time that state and district-wide assessments are administered to the student's grade level peers.

### **Childfind Process (Rule 51 § 006.01A)**

To identify, locate and evaluate children residing within the geographic boundaries of the school district who may qualify for special education (including homeless children and wards of the State), the school district will take the following practical steps:

- a) announce in mailings sent to families with school-aged children at least annually that the school district will identify and verify children at no charge for possible disabilities;
- b) include information about the identification and verification of children for possible disabilities at no charge in mailings sent to patrons, homeless shelters, and Health and Human Service offices located in the school district at least annually; and
- c) accept referrals for evaluation directly from parents, school personnel, and other state and regional agencies.

### **Student Assistance Teams (Rule 51 § 006.01C)**

The school district will use student assistance teams to develop individualized programs of support for students who may be experiencing difficulties in school. The school district will generally work to assist a student through the SAT process prior to evaluating the student for possible verification under Section 504 of the Rehabilitation Act or Rule 51 of the Nebraska Department of Education.

The SAT will be an ad hoc group created around a student, and will generally include building staff with expertise in the specific content area(s) identified as problematic for the student. The SAT may also involve other interested or relevant staff and may, but is not required to, include the student's parent.

The team will review the strengths and interests that are unique to the student and determine the academic or social challenges the student is facing at school. The team will then develop ideas and strategies that may help the student be more successful in school.

If the SAT determines that appropriate general education interventions have been attempted without success, it will consider evaluating the student for eligibility under Section 504 of the Rehabilitation Act or referring the student to the multidisciplinary team for evaluation pursuant to Rule 51.

### **Multidisciplinary Evaluation Team (Rule 51, § 006.03A–D)**

The school district will appoint a Multidisciplinary Evaluation Team (MDT) which will be responsible for making all verification decisions pursuant to

the qualification criteria in Rule 51 of the Nebraska Department of Education. The MDT will analyze, assess, and document the needs of each student, and the MDT's compiled information will be used on the Individual Family Service Plan (IFSP) or Individualized Education Plan (IEP) if the MDT determines that the student qualifies for special education.

The MDT will not base a student's verification upon 1) lack of appropriate instruction in reading as contemplated in Section 614(a)(5)(A) of the Individuals with Disabilities Education Act of 2004, 2) lack of instruction in math, or 3) limited English proficiency.

If a nonpublic school student qualifies for the school district's special education program, an administrator or other designated representative of the student's nonpublic school shall be appointed as a member of the student's MDT.

#### **Review of Existing Evaluation Data (Rule 51, § 006.06)**

For initial evaluations and reevaluations, the IEP team and other qualified professionals will review all existing educational assessments as well as parental, classroom and other relevant observations in determining whether:

- a) the student is a student with a disability or continues to be a student with a disability qualifying for special education;
- b) a student with a disability needs or continues to need special education services; and
- c) a student with a disability needs additional or modified special education to meet the goals of the student's IEP or the general goals of the school district's curriculum.

#### **Independent Education Evaluation (Rule 51 § 006.07)**

When a student's parent requests an independent education evaluation, the student's case manager or the district's special education director will respond in writing without unnecessary delay that (1) the school district will initiate a hearing under 92 NAC 55 to show that its evaluation is appropriate OR (2) an independent educational evaluation will be provided at public expense. The written response will (1) include a copy of the

board's policy on IEEs and (2) if appropriate, identify at least one qualified individual who meets the policy's criteria within the geographic area.

### **IEP Meetings (Rule 51 § 007.09A–C, G-H)**

Each student's IEP team will meet initially to develop the student's IEP within 30 calendar days of the determination that the student qualifies for special education. Thereafter, each IEP team will meet at least once annually to determine whether the annual goals of the student's IEP are being achieved. The student's IEP team will also ensure that the student's IEP is in effect at the beginning of each school year. The school district will encourage the consolidation of reevaluation meetings with other IEP Team meetings to the extent possible. The school district and parents may agree to meeting participation by video conference, conference call, or other electronic or alternative means.

### **IEP Distribution to Parents (Rule 51 § 007.09D, F)**

A copy of the IEP will be provided to the parent at no cost. If the IEP is amended, the parent will be provided with a revised copy of the IEP with the amendments incorporated upon request.

### **IEP Modification by Written Amendment (Rule 51 § 007.09E)**

The school district and the parent may agree to change a student's IEP after the annual IEP meeting without convening another IEP meeting by written amendment.

### **Distribution of IEP information to staff (Rule 51 § 007.09E1 and § 007.09E1)**

The case manager for each student with an IEP will provide the staff assigned to work with that student with information about the student's disabling conditions, the modifications and accommodations called for in the student's IEP. The case manager will also inform relevant staff of any subsequent changes made to the student's IEP. This information may be provided by: giving staff members a copy of the student's IEP; giving staff members a copy of the accommodations page of the student's IEP; or using any other method reasonably calculated to communicate relevant information to the responsible staff member(s).

**Early Intervention Transition (Rule 51 § 007.16)**

The school district shall ensure that students participating in early intervention services experience a smooth and effective transition to preschool programs and/or services provided under Part B of IDEA by following the procedures described in 92 NAC 51-007.16.

**Least Restrictive Environment (Rule 51 § 008.01A)**

The school district will assure that, whenever possible, all students with disabilities are educated in the same manner and in the same environment as students without disabilities by using supplementary aids and services. A student with a disability or disabilities will be removed from the regular educational environment and given special services and classes *only* when the nature of the disability does not allow for the satisfactory education of the student in regular classes.

**Procedural Steps for Infants and Toddlers (Rule 51 § 009.04B)**

The school district will make a referral to the agency responsible for providing services coordination in the Planning Region within two working days after learning of the infant's or toddler's potential eligibility for services. A multidisciplinary team evaluation must be completed within 45 calendar days from the date of referral. In the event of exceptional circumstances of the family that make it impossible to complete the evaluation within the 45 days, the school district will document those circumstances, inform the parent of the time estimated by the district to complete the evaluation, and develop and implement an interim IFSP as necessary. Upon completion of a multidisciplinary team verification decision, and within 45 days of the referral, the school district shall participate in an individualized family service plan (IFSP) conference. Special education placement shall be completed within five school days of receipt of parental consent

**Written Notice of Change (Rule 51 § 009.05A-D)**

The school district will provide the parents of a student with a disability with prior written notice within a reasonable time before the school district either proposes or refuses to make a change to the student's identification, evaluation, or educational placement, or the provision of a free appropriate

public education. The written notice will comply with sections 009.05B-D of Rule 51 of the Nebraska Department of Education.

**Procedural Safeguard Notice (Rule 51 § 009.06A-D)**

A copy of the procedural safeguards will be given by the school district one time per school year. A copy shall also be given to the parent upon: a) initial referral or parental request for evaluation, b) upon request by a parent, c) upon receipt by the school district of the first occurrence of the filing of a complaint under section 009.11 of Rule 51, d) the first occurrence of filing a special education due process case under Rule 55, and e) in accordance with the discipline procedures in section 016 of Rule 51. The notice shall include a full explanation of all procedural safeguards in compliance with section 009.06B of Rule 51. The notice shall be written in English and provided in the native language of the parent as required by sections 009.05C-D of Rule 51.

**Informed Parental Consent (Rule 51 § 009.08)**

The school district will obtain informed parental consent before a) conducting an initial evaluation to determine if a child qualifies as a child with a disability, b) conducting a reevaluation, c) initial placement of a child with disabilities in a program providing special education and related services or early intervention services.

**Appointment of Surrogate For Student (Rule 51 § 009.10 B)**

The school district shall ensure that the rights of students with disabilities are protected by informing the members of the student's IEP team whenever (1) a parent cannot be identified, (2) a parent(s), legal guardian or individual acting *in loco parentis* for the student cannot be located, (3) the child is an unaccompanied homeless youth, or (4) the child is a ward of the State or court, The team will then hold a meeting to discuss and consider whether the school district must appoint a surrogate to participate on the IEP team and fulfill the role of the student's parent. The team will select a community member who qualifies according to the criteria provided in Rule 51.

**Personnel Standards (Rule 51 § 010)**

The school district shall ensure that all personnel are appropriately and adequately trained and prepared to provide special education and related services to children with disabilities as required by law including but not limited to Section 2122 of the Elementary and Secondary Education Act of 1965, Rule 51, and IDEA. The school district shall ensure that its recruits, hires, trains, and retains such personnel by doing the following:

- 1) Advertising for only qualified candidates.
- 2) Verifying that all personnel hold the required certificate, license, registration, or other credentials and training during the interview process or prior to employment.
- 3) Verifying that all personnel maintain the required certificate, license, registration, or other credentials and training during employment.
- 4) Providing continuing education opportunities and training programs.
- 5) Evaluating personnel performance for compliance with federal and state law and regulations and school district standards and policies.

#### **Contracted Programs (Rule 51 § 013.02)**

The school district shall be responsible for the development and maintenance of the IEP and the participation in all IEP meetings and shall assure that IEP meetings are arranged with the contracted program and the parents. Such arrangements may include meetings with the contracted program, the school district, and the parent. Meetings may occur within the district, at the contracted program site, or another site if more appropriate. For infants and toddlers the school district of residence shall be responsible for meeting the requirements of section 007.12 through 007.18 of Rule 51.

#### **Transportation (Rule 51 § 014)**

The school district shall provide transportation or transportation services to special education students who qualify for it under law as provided in NEB. REV. STAT. 79-1129, Rule 51, and IDEA. This may include paying mileage reimbursement to parents, transporting children with school district vehicles, contracting with a transportation company, or using any other

method that is proper and necessary to transport students. Transportation eligibility will be determined by the student's IEP Team. The plan for transportation for the student shall be part of the IEP if required by law.

**Children Placed In or Referred To a Nonpublic School or Facility by the School District or Approved Cooperative As a Means of Providing Special Education and Related Services (Rule 51 § 015.01)**

A special education student may be placed in a nonpublic school or facility, if the student's IEP team develops an IEP for the child in accordance with Section 007 that places the student in the nonpublic school or facility. If a student's IEP team determines that the student will be placed in a nonpublic school or facility, the school district will ensure that the student is provided special education and related services in conformance with the provisions of Rule 51 at no cost to the student or parents. The school district will be responsible for initiating and conducting IEP meetings after the student has been placed in the nonpublic school or facility and will insure that both the parents and representatives from the nonpublic school or facility are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.

**Children Placed In a Nonpublic School by Parents As a Means of Obtaining Special Education and Related Services; FAPE is At Issue (Rule 51 § 015.02)**

The school district will not pay for the cost of education, including special education and related services, of a child with a disability at a nonpublic school or facility if the school made FAPE available to the child and the parents elected to place the child in a nonpublic school or facility as a means of obtaining special education and related services. However, the school district will include that child in the population whose needs are addressed consistent with Rule 51. Disagreements between a parent and the school district regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures of Rule 55 of the Nebraska Department of Education.

**Working with Nonpublic Schools within the Boundaries of the District (Rule 51 § 015.03B and § 015.03D1a)**

The school district will provide written information to each non-public school within its geographic boundaries that the public school will identify and verify children for possible disabilities at no charge. This communication will also inform the non-public school officials, staff and parents about the availability of equitable services for students with disabilities who attend non-public schools that are not within the geographic boundaries of the district.

A student who attends a nonpublic school may participate in the school district's special education program to receive FAPE provided that (1) the student has been verified pursuant to Rule 51 and (2) the student is a resident of the school district as defined by NEB REV. STAT. § 79-215. The student's IEP team will determine the physical location where the student will receive services and will consider whether it is necessary for the student to be transported to the service location. A non-resident student who attends a nonpublic school within the geographic boundaries of the district may receive equitable services if the student has been verified pursuant to Rule 51.

Disagreement between parents and the school district over whether or not the school district has a program available to serve the needs of a special education student, including claims for tuition reimbursement by parents, are subject to the appeal procedures established in Rule 55.