

TOPIC: Transfer Student

When a child with a disability moves in and out of Nebraska, must an evaluation be conducted each time the child returns to the state? If so, is the evaluation considered an initial evaluation or is it a reevaluation?

The relevant regulations are found in 92 NAC 51 - 007.08B states:

007.08 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 or approved cooperative in Nebraska, and enrolls in a new school within the same school year, the new school district or approved cooperative (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 or approved cooperative), until the new school district or approved cooperative:

007.08B1 Conducts an evaluation pursuant to Section 006 of this Chapter (determined to be necessary by the new school district or approved cooperative); and

007.08B2 Develops, adopts, and implements a new IEP, if appropriate that meets the requirements of 92 NAC 51-007. (Emphasis added)

This question was addressed by OSEP during the public comment on the federal regulations issued in 2006. At that time a commenter asked for clarification on whether the evaluation would be considered an initial evaluation or a reevaluation. OSEP responded that the evaluation would be considered an initial evaluation.

An initial evaluation may be conducted by a review of existing evaluation data pursuant to 92 NAC 51-006.06. Therefore, the IEP team and other qualified professionals may review existing evaluation data to determine whether the child continues to qualify for special education services and the child's educational needs.