

VII. Evaluation

IDEA Regulations: Evaluations	Nebraska Rule 51: Evaluations
<p>Section 300.15 Evaluation</p> <p>Evaluation means procedures used in accordance with §§300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.</p> <p>Section 300.301: Initial Evaluations</p> <p>(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§300.304 through 300.306, before the initial provision of special education and related services to a child with a disability under this part.</p> <p>(b) Request for initial evaluation. Consistent with the consent requirements in §300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.</p> <p>(c) Procedures for initial evaluation.</p> <ol style="list-style-type: none">1. The initial evaluation—<ol style="list-style-type: none">i. Must be conducted within 60 days of receiving parental consent for the evaluation; orii. If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and2. Must consist of procedures—<ol style="list-style-type: none">i. To determine if the child is a child with a disability under §300.8; andii. To determine the educational needs of the child.	<p>92 NAC 51-006.02</p> <p>006.02A. The resident school district or approved cooperative shall conduct a full and individual initial evaluation for each child being considered for special education and related services before the initial provision of special education and related services to a child with a disability. The initial evaluation shall determine whether a child is a child with a disability, and the educational needs of the child.</p> <p>006.02B1a. In implementing the requirements of 92 NAC 51-006.02B the school district or approved cooperative shall ensure that:</p> <p>006.02B1a(1). The evaluation is conducted in accordance with the procedures described in Section 006 of this Chapter.</p> <p>006.02B1a(2). The results of the evaluation are used by the child’s IEP team in meeting the requirements of Section 007 of this Chapter.</p> <p>92 NAC 51-006.02C</p> <p>006.02C1. School districts and approved cooperatives must ensure assessments and other evaluation materials used to assess a child under this Chapter;</p> <p>006.02C1a. Are selected and administered so as not to be discriminatory on a racial or cultural basis; and</p> <p>006.02C1b. Are provided and administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;</p>

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(d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—

1. The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
2. A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under §300.8.

(e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

Section 300.302 Screening for instructional purposes is not evaluation.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

Section 300.304 Evaluation procedures

(a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with §300.503, that describes any evaluation procedures the agency proposes to conduct.

(b) Conduct of evaluation. In conducting the evaluation, the public agency must—

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006.02C2. Are used for purposes for which the assessments or measures are valid and reliable.

006.02C3. School districts and approved cooperatives must ensure assessments of children with disabilities who transfer from one school or approved cooperative to another school or approved cooperative in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

006.02C4. School districts and approved cooperatives must ensure materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

006.02C5. School districts and approved cooperatives must ensure a variety of assessment tools and strategies are used to gather relevant functional, developmental and academic information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining:

006.02C5a. Whether the child is a child with a disability under 92 NAC 51-003.08; and

006.02C5b. The content of the child's IEP.

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1. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—
 - i. Whether the child is a child with a disability under §300.8; and
 - ii. The content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
 2. Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
 3. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (c) Other evaluation procedures.** Each public agency must ensure that—
1. Assessments and other evaluation materials used to assess a child under this part—
 - i. Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - ii. Are provided and administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information

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- 006.02C6.** School districts and approved cooperatives must ensure any standardized tests that are given to a child:
- 006.02C6a.** Have been validated for the specific purpose for which they are used; and
- 006.02C6b.** Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.
- 006.02C6b(i).** If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of the test administration) must be included in the evaluation report.
- 006.02C7.** School districts and approved cooperatives must ensure tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- 006.02C8.** School districts and approved cooperatives must ensure tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child’s aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child’s impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

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- on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
- iii. Are used for the purposes for which the assessments or measures are valid and reliable;
 - iv. Are administered by trained and knowledgeable personnel; and
 - v. Are administered in accordance with any instructions provided by the producer of the assessments.
2. Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 3. Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
 4. The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

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006.02C9. School districts and approved cooperatives must ensure no single measure or assessment is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

006.02C10. School districts and approved cooperatives must ensure the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

006.02C11. School districts and approved cooperatives must ensure in evaluating each child with a disability under Section 006, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

006.02C12. The school district or approved cooperative must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

006.02C13. The school district or approved cooperative must use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

006.02C14. In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each school district or approved cooperative shall:

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5. Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
6. In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
7. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

Section 300.305 Additional requirements for evaluations and reevaluations

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—

1. Review existing evaluation data on the child, including—
 - i. Evaluations and information provided by the parents of the child;
 - ii. Current classroom-based, local, or State assessments, and classroom-based observations; and
 - iii. Observations by teachers and related services providers; and

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006.02C14a. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

006.02C14b. Ensure that information obtained from all of these sources is documented and carefully considered.

92 NAC 51-006.06

006.06A. As part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP team and other qualified professionals as appropriate, shall:

006.06A1. Review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based local or State assessments and classroom-based observations, and observations by teachers and related services providers; and

006.06A2. On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:

006.06A2a. Whether the child is a child with a disability, as described in 92 NAC 51-003.08, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

006.06A2b. The present levels of academic achievement and related developmental needs of the child;

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2. On the basis of that review, and input from the child’s parents, identify what additional data, if any, are needed to determine—
 - i.
 - A. Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child.

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006.06A2c. Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

006.06A2d. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

006.06B. The school district or approved cooperative shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP team under 92 NAC 51-006.06A2.

006.06C. The IEP team and other qualified professionals may conduct its review without a meeting.

006.06D. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child’s educational needs the school district or approved cooperative:

006.06D1. Shall notify the child’s parents of:

006.06D1a. That determination and the reasons for the determination; and

006.06D1b. The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child’s educational needs.

006.06D2. The school district or approved cooperative shall not be required to conduct such an assessment unless requested to by the child's parents.

006.06E. A school district or approved cooperative shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

006.06E1. The evaluation described in 92 NAC 51-006.06E is not required before the termination of a student's eligibility under this Chapter due to graduation from secondary school with a regular high school diploma, or to exceeding the age eligibility for a free appropriate public education under Neb. Rev. Stat. §79-1126. For a child whose eligibility terminates under these circumstances, a school district or approved cooperative shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

92 NAC 51-009.04*

009.04A1. Referral, notice to parents (See 92 NAC 51-009.05), and parental consent, shall be completed within a reasonable period of time. The initial multidisciplinary team evaluation shall be completed within 45 school days of receiving parental consent for the evaluation.

009.04A1a. The 45 school day timeline shall not apply to a school district or approved cooperative if:

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	<p>009.04A1a(1). A child enrolls in a school served by the school district or approved cooperative after the relevant timeline in 92 AC 51-009.04A1 has begun and prior to a determination by the child’s previous school district or approved cooperative as to whether the child is a child with a disability, but only if the subsequent school district or approved cooperative is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district or approved cooperative agree to a specific time when the evaluation will be completed; or</p> <p>009.04A1a(2). The parent of a child repeatedly fails or refuses to produce the child for the evaluation.</p> <p>*See NDE Memo below regarding timeline clarifications</p>

District Considerations for Policy and Procedure Development

Sample district policy statements

When a child is suspected of having a disability, [xyz school district] will complete a comprehensive initial evaluation within 45 school days or 60 calendar days (whichever comes first) from the date of parental consent to determine eligibility for special education services. All evaluations (both initial evaluations and reevaluations) will be completed by multidisciplinary qualified professionals and will follow Federal and state regulations. The documented results of the evaluation will be provided to parents and included in student files. The district will purchase a variety of assessment instruments to ensure district teams have access to appropriate measures to complete evaluations. The district will follow publisher guidelines for assessments (professional qualifications, use of materials, interpretations) and will not use outdated or culturally inappropriate tools. The district will identify procedures to audit a sampling of evaluations to ensure regulations are followed. All evaluation components will be at district expense.

Procedure considerations

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

Areas to include

- Referral team or reevaluation decisionmaking
 - » Who are the team members?
 - » Who should be considered on an as needed case-by-case basis? And what is the process for involving them? (e.g., English as a Second Language [ESL] teacher, Speech language pathologist (SLP), etc.)
- Timelines
 - » When a request for an evaluation or reevaluation is received, how long does the district have to respond to the request?
 - » Districts should define “must make reasonable efforts to obtain from parent informed consent” (9.08a3).
- Assessment planning (including vision and hearing screening if needed)
 - » Consider forms to use as a checklist to meet regulations.
- Parental notice—who is responsible for sending the parental notice?
- Parental consent—what are the steps needed in gaining consent for evaluation?
- Selection of assessment instruments
 - » Forms needed to document individual differences
 - » Considerations to help with selection
 - » Consideration of cultural and linguistic differences when selecting assessments
- English Learner (EL) considerations in assessment planning and instrument selection
 - » Use of interpreters
 - » Collaboration with ESL teachers
- Documentation of evaluation results: how are results communicated, who is responsible, etc.
- Parental notification of meeting
- What to do if a parent does not respond to a meeting invitation
- Meeting
 - » Identify any needed roles such as who acts as interpreter of results (any training needed and how they will receive it)
 - » Eligibility decisions
- Transfer students—what procedures are needed for students (including wards of the state) who transfer to schools within the district, from a different district within the state, from out of state?

Guidance resources

- [Dear Colleague Letter and Resource Guide on Students with ADHD \(ed.gov\)](#)
- [Other Health Impairment | Center for Parent Information and Resources \(parentcenterhub.org\)](#)
- [OSEP Policy Letter—OSEP 17-05—Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act. \(PDF\)](#)
- [NDE Evaluation Timeline Memo: Clarification on guidance for 92 NAC 51—009.04 and IDEA 60 Day Timeline for School Age Children](#)