Parent Guide to Special Education

A COMPANION TO THE KANSAS
SPECIAL EDUCATION PROCESS HANDBOOK

KANSAS STATE DEPARTMENT OF EDUCATION

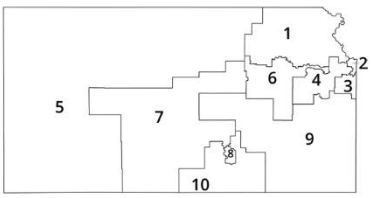
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July 1, 2025

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How the parent guide is structured:

Welcome!

This guide is meant to help parents, schools, and community members use the Kansas Special Education Process Handbook[1].

The parent guide to the Kansas Special Education Process Handbook was written by the Kansas State Department of Education (KSDE). It is a start for learning about special education requirements.

Q. **The frequently asked question will be in bold. Use the link to the page in the process handbook if you want more information on that topic.**
A short answer to the question.

It is recommended to use this guide side-by-side with the Process Handbook.

If after, or during, review of this parent guide, use of the process handbook, it may be good to talk to someone about a specific situation or to decide next steps. Contact information for supports is located on Page 2 of this parent guide.

[1] https://www.ksde.gov/policy-and-funding/special-education/special-education-law/process-handbook

For more information, contact:

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https://www.ksde.gov

An Introduction to Special Education

Q. What is the federal law about special education?

Chapter 1, Introduction[2]

Individuals with Disabilities Education Act (IDEA) ensures a free appropriate public education (FAPE) to children with disabilities and defines most of a child's rights to special education.

Q. Does Kansas have any laws about special education?

Page iii, State Imposed Rules, Regulations, and Policies in Kansas Not Required by IDEA 2004 or Federal Regulations[3]

Kansas does have some state-imposed rules, regulations, and policies that apply only in Kansas. They are not required by IDEA. These include:

- The categories of exceptionalities include the category of "gifted."
- Exceptional children attending private schools are entitled to a Free Appropriate Public Education through an IEP, upon request.
- A school district must get written consent from a parent before making a change of 25% or more of a special education service. A school district must also get written consent from a parent before making a change to a more restrictive or less restrictive educational environment for more than 25% of the school day.
- Each IEP must include, beginning at age 14, appropriate measurable postsecondary goals and a statement of the transition services needed to help the student in reaching the postsecondary goals.
- The state complaint procedures include the right of a parent to appeal the written decision of the state complaint investigator.
- A due process hearing officer must be a licensed attorney.
- General education interventions must be implemented before referring a child for a special education evaluation, unless school personnel can demonstrate such interventions are inadequate to address the areas of concern for the child or a parent has consented to an evaluation and the school district agrees that an evaluation is appropriate.
- A written evaluation report is required after completion of an evaluation with regard to all categories of exceptionality (not just required for learning disabilities).
- Facilities for exceptional children must be comparable to facilities for general education children and such facilities must provide an age appropriate environment for the exceptional children.

[2] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=9
[3] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=4

Q. What are some special education words and abbreviations that I need to know?

Exceptionalities: "Exceptional children" or children with exceptionalities means children with disabilities and children who are gifted.

FAPE: "Free appropriate public education" and "FAPE" mean special education and related services that are:

1. Are paid for by the public, under public supervision and direction, and without charge to the parent;
2. meet the standards of the state board;
3. include preschool, elementary, or secondary school education; and
4. are provided according to an individualized education program (IEP).

IEP: "Individualized education program" and "IEP" mean a written program for each child with an exceptionality that

1. describes the unique educational needs of the child and how those needs will be met; and
2. is developed, reviewed, and revised as required.

Related Services: "Related services" are developmental, corrective, and supportive services. These are services needed to assist a child with an exceptionality to benefit from special education.

Special Education: 'Special education" is specially designed instruction, at no cost to the parents, to meet the unique needs of a child with an exceptionality.

SDI: "Specially designed instruction" and "SDI" is adapting the content, methodology, or delivery of instruction:

1. To address the unique needs of the child that result from the child's exceptionality; and
2. to ensure access of any child with a disability to the general education curriculum, so that the child can meet the educational standards within the jurisdiction of the agency that apply to all children.

Q. This is a lot. Is there someone that can help me if I am stuck?

Absolutely. Parents can call:

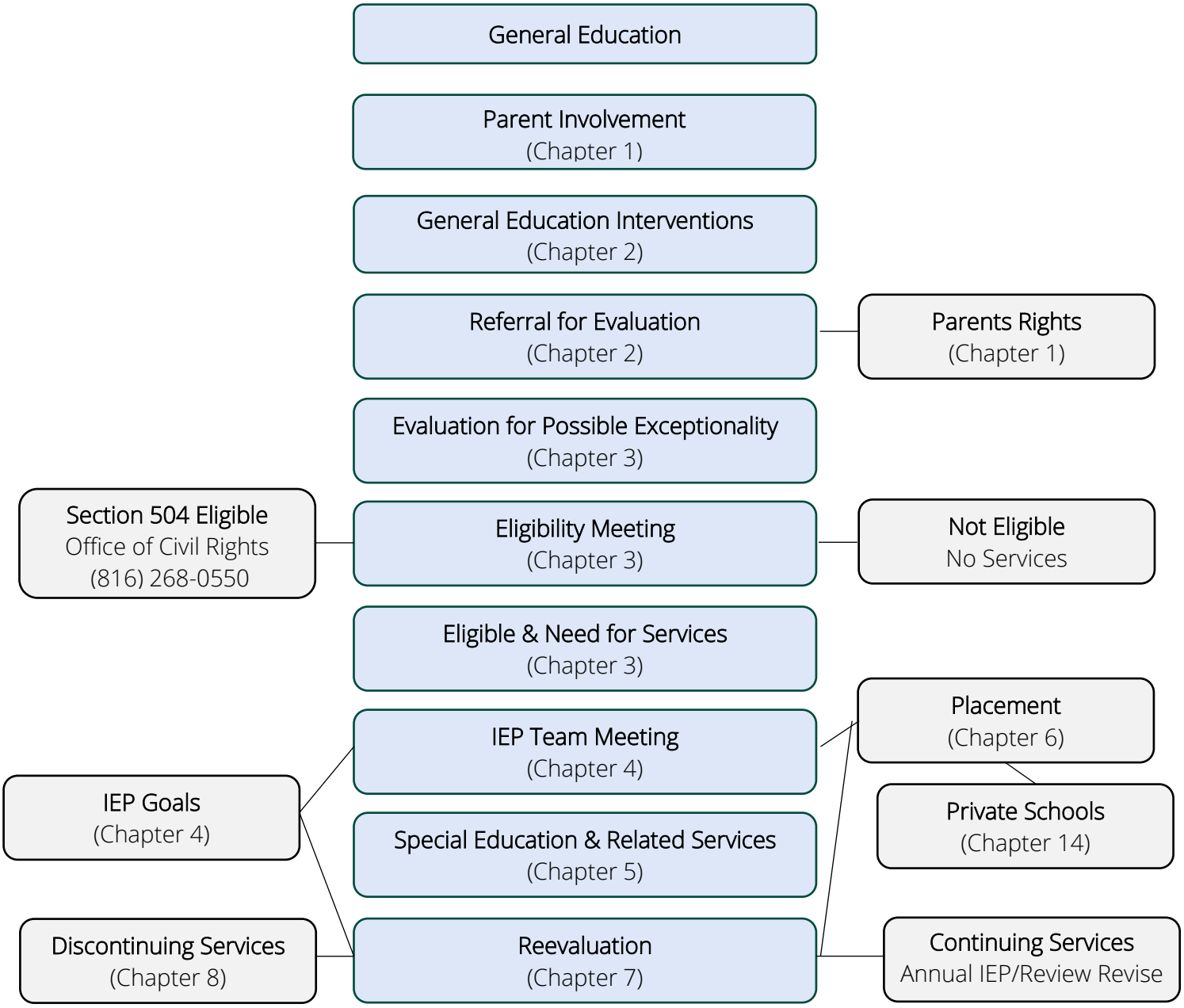
- School staff
- Kansas State Department of Education: (800) 203-9462 (in-State only) or (785) 296-7454
- Families Together: (800) 264-6343
- Disability Rights Center of Kansas (DRC): (877) 776-1541
- Keys for Networking: (785) 233-8732

There is a Kansas Special Education Process Handbook[4] on KSDE's website. Please refer to the process handbook for more information or contact one of groups listed above for additional assistance.

[4] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf

Special Education Process Flow Chart

with Chapter Guide for the Special Education Process Handbook



Special Considerations:

Confidentiality (Chapter 9)
Formal Complaint (Chapter 12)
Mediation (Chapter 10)
Suspension/Expulsion (Chapter 13)

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Chapter 1: Parent Rights in Special Education

Parent Rights in Special Education (Process Handbook Chapter 1)

Q. Who is a parent?

Chapter 1, Section B[5]

In Kansas, a "parent" is defined as:

- A biological parent;
- An adoptive parent;
- A person acting as a parent. This could be a grandparent, stepparent or other relative with whom a child lives or is a person legally responsible for the welfare of a child;
- A legal guardian;
- An education advocate. This is someone formally designated by Families Together; or
- In some cases, a foster parent. Only if the foster parent has been designated the education advocate of an exceptional child.

There could be more than one person who meets the definition of parent. Generally, biological or adoptive parents are assumed to be the parents to make educational decisions, unless there is legal documentation not allowing them to make educational decisions.

In the case of **divorced parents**, the school must notify both parents of any considered special education action for their child. But, only **one parent's consent** is required for educational decision making if there is no legal documentation that prevents a parent's involvement. If both parents respond, with one giving consent and the other refusing to consent, the school is considered to have received consent and must fulfill its obligation to provide FAPE to the student. The parent who denies consent has the right to request mediation or file for due process.

Q. Who makes special education decisions for my child?

Chapter 1, Section B[6]

The IEP Team, which includes parents and/or educational decision makers.

- Parents must have the chance to be included in the team or any group or meeting that makes important educational decisions for the child, including:
- eligibility, deciding if the child qualifies for special education;
- initial evaluation and reevaluation;
- development of an individualized education program (IEP) for the provision of a free appropriate public education (FAPE); and
- educational placement.

[5] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=11

[6] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=11

Parents must agree in writing to any action for which consent is needed before the action is taken. This includes:

- initial evaluation for special education services;
- reevaluation to decide if the child still needs special education services;
- starting the provision of special education services on the IEP;
- any big changes (25% or more) in placement;
- any big changes (25% or more) in services;
- adding a new service or stopping a service;
- consent to evaluate or provide services to a child in private school;
- excusing an IEP team member from an IEP team meeting;
- consent to invite an outside agency to an IEP team meeting; and
- consent to send a bill for services to private insurance and Medicaid.

Q. How will I know <u>when</u> decisions are made?

Chapter 1, Section C[7] and D[8]

A parent must be given a Prior Written Notice (PWN) when the school offers to start or change their child's:

- identification as a child with an exceptionality;
- evaluation for special education and related services;
- educational placement; or
- provision of special education and related services (FAPE).

Sometimes parental consent is required for a special education action. In those cases, the parent's consent must be in writing and must be received by the school before the special education action can start.

Q. How will I know what is happening?

Chapter 1, Section D

A Prior Written Notice (PWN) is given to parents for each special education action the school wants to start. A sample PWN for evaluation or reevaluation and request for consent can be found here: https://www.ksde.gov/policy-and-funding/special-education/special-education-law/notices-and-forms/notice-of-meeting-and-prior-written-notice.

A PWN will be given to the parent any time informed consent is needed. Informed consent is required to ensure that parents understand the activity the school wants to take.

There is no standard form for a PWN. If the parent doesn't understand the information in the PWN, the parent can ask school staff to explain it. Districts may choose how they format it, but a PWN must contain specific information.

1. A PWN must have a description of the action offered or refused.
2. A PWN must have an explanation of why the school offers or refuses to take the action.

[7] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=13
[8] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=15

3. A PWN must have a description of each evaluation procedure, assessment, record, or report the school used as basis for the offered or refused action.
4. A PWN must describe the other options the school or IEP team considered. It must also have the reasons why they were rejected.
5. A PWN must have a description of anything else important to the offer or refusal.
6. A PWN must have a statement that parents have rights by law.
7. A PWN must list resources. This will help parents know their rights.

If the school offers to conduct an initial evaluation or a reevaluation, the PWN must explain any evaluation actions that the school wants to do.

The PWN must be written in understandable language. The PWN must be in the parent's native language unless it is clearly not possible.

Q. How will parents know about IEP meetings?

Chapter 1, Section G[9]

The school must give parents written notice of an IEP meeting at least 10 days before the meeting. https://www.ksde.gov/policy-and-funding/special-education/special-education-law/notices-and-forms/notice-of-meeting-and-prior-written-notice. The meeting should be set for a time and place agreed to by both the school and parents.

[9] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=25

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Chapter 2: Child Find

Child Find (Process Handbook Chapter 2)

Q. What is Child Find, and how does it help?

Chapter 2, Introduction[10]

Child find is the job of every school district to identify, locate, and evaluate all children between the ages of birth and 21 who might need special education and related services.

This includes children with exceptionalities who attend private schools, children with exceptionalities who advance from grade to grade, and children with exceptionalities who are homeless or wards of the state.

Q. What if a child is not in school yet but the parent thinks the child needs supports because of a delay? Can the parent request a screening? Chapter 2, Section B

Yes. Each school district must have ways to identify children from birth to age five that may have disabilities and need early intervention.

Once requested by a parent, a screening should happen within 30 calendar days. A screening is quick look at developmental areas to help in determining if a child should be referred for an initial evaluation to see if the child needs special education services. The parent can send a request for an initial evaluation to the school district's special education director or the Infant Toddler Network.

Q. What if the child is in school and the parent believes the child has an exceptionality and needs special education?

Chapter 2, Section E[11]

The parent should request an initial evaluation. The request can be made verbally by asking the teacher, principal, and or special education director in the district. The request can be in writing to the teacher, principal, and or special education director in the district. A school can set a policy on how requests can be made, and the principal or other district personnel should be able to help in navigating the policy.

KSDE suggests making your request in writing. Written requests are preferred to document the request if a disagreement happens.

Once the request is made, the school must respond within 15 school days, unless there are unusual circumstances.

There are no magic words to use when requesting an evaluation. The request for evaluation can be very simple – include the child's name, statement of request for an evaluation for special education, and the date.

[10] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=35

[11] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=45

Q. The parent requested an evaluation, and the school mentioned GEI. What is GEI, and what does it mean for the request for an evaluation?

Chapter 2, Section C[12]

What is GEI?

For children in kindergarten through age 21, schools are required to use observation, instruments, measures, and techniques that could identify a possible exceptionality and show a need for evaluation.

To meet the screening requirement, General Education Interventions (GEI) are used to help any child who shows academic or behavior concerns. GEI are used to help school staff understand what the child needs to be successful in the general education setting. The data collected during GEI is also used by school staff to decide which children should be referred for an initial evaluation for special education.

What does GEI mean for the parent's request for evaluation?

With the parent request for an evaluation, the school will likely provide some information about the GEI process to the parent. Information about GEI process is to be informative. The information should explain what GEI is and how it is used. The parent has a right to participate in the GEI process.

The parent could withdraw the request for evaluation to allow for the GEI process to continue. This is a parent choice. A parent can request that the initial evaluation be conducted without waiting for the GEI process to finish.

Chapter 2, Questions and Answers 3, 4, and 5[13]; Chapter 3, Questions and Answers 1, 2, and 3[14]

Q. Does a child have to go through GEI before being evaluated for special education eligibility?

Chapter 3, Questions and Answers[15]

No. A child who may have a disability must be evaluated. The school cannot use a GEI system in a way that delays the evaluation of a child who is suspected of having a disability. Whether the system is called a student information or intervention team (SIT), general education intervention (GEI), Multi- Tier System of Supports (MTSS), or Response to Intervention (RTI), it cannot be used in a way that results in delaying evaluation of children who are suspected of having a disability.

[12] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=38
[13] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=46
[14] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=77
[15] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=77

Chapter 3: Evaluation

Evaluation: Initial and Reevaluation (Process Handbook Chapters 3 and 7)

Q. What is an initial evaluation?

Chapter 3, Introduction[16]

Many tests are used to collect information about the child. The information is related to the child's abilities, development and schoolwork. This information helps schools decide if the child is eligible for special education and related services.

Q. How does the school decide that a child needs an initial evaluation?

Chapter 3, Section A[17]

Referrals for an initial evaluation can come from different ways. These include:

- Early Childhood Screening
- Part C Infant-Toddler Program- if an infant or toddler is receiving services through a specific program, that program will request an evaluation for the child.
- School staff -General Education Intervention (GEI) Team or Grade/Content Area Collaborative Team
- Parents
- Self-requested by adult student - The student can request an evaluation if the student is 18 years old.

A request for an initial evaluation is made whenever it is believed that a child may be a child with an exceptionality.

Q. How will the parent know if someone requested an initial evaluation for their child?

Chapter 3, Section B[18]

Once the request for an initial evaluation has been made, the first thing the school must do is give the parent a copy of the Parent Rights in Special Education (Procedural Safeguards)[19].

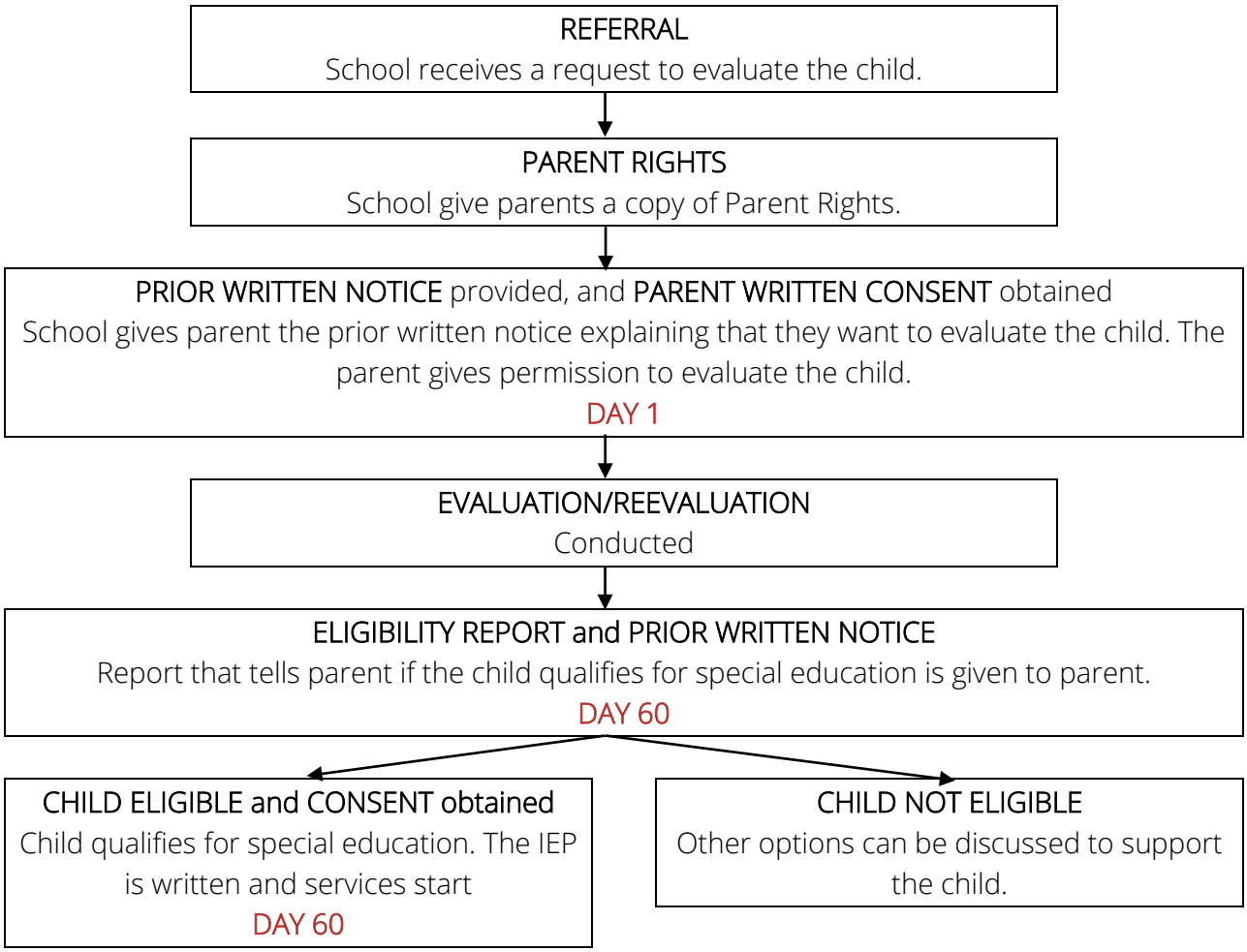
Whenever the school gets a request for an evaluation, the school must provide Prior Written Notice (PWN) to the parents. The PWN must describe the evaluation procedures the school wants to do. The parent should be able to understand what the school wants to do and why.

The school must get informed written consent from the parent before doing the evaluation. If the parent does not agree to or understand what is requested, the school cannot do the initial evaluation.

Important Note: Giving consent for the initial evaluation is not the same thing as giving consent for the start of special education and related services. If the child was evaluated and qualifies for special education the school will ask the parent for consent to begin the services.

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[16] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=51
[17] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=52
[18] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=53
[19] https://www.ksde.gov/policy-and-funding/special-education/special-education-law/notices-and-forms/parents-rights



Q. Does a school have to do an initial evaluation if requested by the parent?

Chapter 3, Questions and Answers[20]

No. If the school does not believe an initial evaluation for special education is needed, the district or cooperative is required to give the parents a Prior Written Notice telling the parents that the child will not be evaluated and telling the parents why that decision was made. This notice also tells parents that certain procedural safeguards are available to the parents, including a right to initiate a due process hearing.

[20] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=77

Q. How long does it take to do the initial evaluation?

Chapter 3, Section D[21]

In Kansas the initial evaluation must be completed within **60 school-days**. This timeline starts when the school gets the parent's written consent for the initial evaluation. If the child qualifies for special education, the timeline ends when the special education services start. If the child does not qualify, the 60-school day timeline ends when the evaluation report is completed.

Important note: the timeline is 60 **school days**. This means that weekends and days that students aren't in school, like winter break or summer break, are not counted.

Q. Are the parents included in the initial evaluation?

Chapter 3, Section C[22]

Yes. Once the school receives the parent's written consent, a team will be formed to do the evaluation process. These team members are the same as those who would be on the child's IEP Team. The team includes the parents.

Q. What is the evaluation process?

Chapter 3, Section E[23]

The initial evaluation must include more than one assessment tool or strategy to gather important information about the child, including information provided by the parent, to help in deciding:

- if the child is a child with an exceptionality;
- if the child needs special education and related services;
- the educational needs of the child;
- the present levels of academic and functional performance of the child; and
- the content of an individualized education plan (IEP) for the child, if the child qualifies.

The school should not use a single source of information as the only basis for deciding if the child is a child with an exceptionality and for deciding what special education the child needs. During the evaluation process, the child is tested or observed in all areas related to the suspected exceptionality. This could include things like health, vision, hearing, social and emotional status, general intelligence, school performance, and ability to communicate and move.

Q. Can the parent bring information to the team that could help decide if the child qualifies for special education?

Chapter 3, Section F[24]

Yes. As a member of the evaluation team, the parent may give information they have to the evaluation team. Parents may also review existing data that is already available at the school. Parents may contribute relevant medical data or other records that the parent has concerning the child.

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[21] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=61
[22] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=60
[23] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=62
[24] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69

Q. Is the parent involved in making the decision if the child qualifies for special education?

Chapter 3, Section F[25]

Yes. Parents are part of the team. The team that decides if the child qualifies for special education is made up of school staff and the parents. The parents participate with school staff in every aspect of deciding if the child qualifies. The eligibility report is the document that shows if the child qualifies for special education. School staff must certify that the eligibility report reflects their conclusions. Parents don't have to certify that the eligibility report reflects their conclusions. If the parent disagrees with the eligibility report, the parent has a right to request an independent educational evaluation at public expense or file for a due process hearing.

Q. How exactly is the decision made when a child qualifies for special education?

Chapter 3, Section F[26]

When the evaluation is finished, and the information is compiled, the team should find a time to meet to decide if the child qualifies for special education. This is called "determining eligibility." Parents are included in this meeting and should be given notice of the meeting. The school must give the parent notice at least 10 calendar days before the meeting date.

At this meeting, the team must make sure that all the information from the evaluation is documented and carefully studied. The team should review the results of the initial evaluation to decide:

1. if the child has a defined exceptionality; and
2. what special education the child needs.

The team has to make sure that that the child meets the definition of one of the types of exceptionalities, and as a result of that exceptionality, needs special education and related services. This is referred to as the two-pronged test. In order for a child to qualify for special education the child must meet both.

If the child meets the definition of a type of exceptionality but does not need special education and related services, the child will not qualify for special education.

If the child has a need for special education and related services but does not meet the definition of one of the types of exceptionalities, the child will not be determined eligible for special education.

[25] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69
[26] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69

Q. What are the types of exceptionalities?

Chapter 3, Section F[27]

The law doesn't try to list every possible exceptionality, but it does provide types of exceptionalities. The following types of exceptionalities are listed in IDEA and/or Kansas Special Education law:

- Intellectual Disability;
- Hearing Impairment, including Deafness;
- Speech or Language Impairment;
- Visual Impairment, including Blindness;
- Emotional Disturbance;
- Orthopedic impairment;
- Autism;
- Traumatic Brain Injury;
- Other Health Impairment;
- Specific Learning Disability;
- Deaf-Blindness;
- Multiple Disabilities;
- Developmental Delay (ages 3-9); and
- Giftedness.

Additionally, there are several types of disabilities that list conditions within them. Some examples are listed below.

- Specific Learning Disability (SLD) may have:
  - Perceptual Disabilities
  - Brain Injury
  - Minimal Brain Dysfunction;
  - Dyslexia
  - Developmental Aphasia.
- Other Health Impairment (OHI) may have:
  - Asthma
  - Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD)
  - Diabetes
  - Epilepsy
  - A Heart Condition
  - Hemophilia
  - Lead Poisoning
  - Leukemia
  - Nephritis
  - Rheumatic Fever
  - Sickle Cell Anemia
  - Tourette Syndrome.
- Emotional disturbance (ED) may have:
  - Depression
  - Mood Disorder
  - Schizophrenia

Note: Schools do not make a medical diagnosis. One reason the school tests the child for an exceptionality is so that the school knows what type of help to give the child so they can participate in school.

[27] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69

Q. How do I know if my child meets one of the types of exceptionalities (Prong 1)?

Chapter 3, Section F[28]

Each type of disability in IDEA and Kansas law has different factors that a child must meet in order to qualify for special education services.

A resource for parents to help understand specific disabilities is the eligibility indicators document on the Kansas State Department of Education's website. https://www.ksde.gov/docs/default-source/csas/special-education-eligibility-indicators.pdf.

Q. How is it decided if a child needs special education and related services because of the child's exceptionality (Prong 2)?

Chapter 3, Section F[29]

It is important to remember that by definition special education means instruction specially designed for the student. Specially designed instruction means adapting or modifying the information or how the information is taught to the student. These modifications are intended to meet the unique needs that the child has because of child's exceptionality. This should allow the child to have access to general education so the child can meet the educational standards that apply to all kids in school.

The team must look at the evaluation information, including GEI data, so that they understand what kind of special education or related services the child needs. The team should be able to use the information to describe the amount of support the child will need to participate and make progress in the general education curriculum.

Q. Will the decision whether a child qualifies for special education be written somewhere?

Chapter 3, Section F[30]

After looking at all the information from the child's evaluation, the team must write out the decision made regarding the child qualifying for special education and related services. This will usually be typed and printed out.

This written evaluation report is the documentation confirming that the child qualifies for special education. A copy of the report must be given to the parent for free. The school must keep a copy of the report. KSDE recommends that the parent keep their copy too.

Note: If the child qualifies for special education and the school provides FAPE, the school doesn't have to write down the type of exceptionality the child has. The written evaluation report may just say that the child has an exceptionality, but not say what type (Prong 1).

[28] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69
[29] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69
[30] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69

Q. Is there anything else in writing that shows if a child qualifies for special education?

Chapter 3, Section G[31]

When the decision is made that a child qualifies for special education, the school must give the parent Prior Written Notice (PWN). The PWN must explain that the school wants to qualify the child for special education and that the child needs special education and related services.

If the child does not qualify for special education the school must give the parents a PWN with an explanation.

Note: Because the parent consented to have the child tested, no consent is needed to decide that the child qualifies for special education. Parent would need to consent for the special education and related services to start.

Q. What if I don't agree with the evaluation?

Chapter 3, Section H[32]

Once the evaluation is finished the parent may disagree with it. The parent can ask for an independent educational evaluation (IEE) at no cost to the parent. The new evaluation will be considered by the school when decisions are made about providing FAPE to the child.

Note: That the district does not have to agree to an IEE. If the district does not agree to an IEE, the district will file for due process to defend the evaluation.

Q. What happens if a child did not qualify for special education?

Chapter 3, Section F[33]

A child could meet the definition of a type of exceptionality but not need special education. In this case, the child does not qualify for special education. The school could provide help to the child in other ways.

1. Section 504. A different evaluation could be done to see the child qualifies for services under Section 504. Section 504 is another federal law intended to give help to students with disabilities if they qualify. Ask the school principal or other school staff for additional information about Section 504.

2. General Education Intervention (GEI)
    a. The school may also be able to meet your child's needs through GEI. The school may have a team that finds ways to give the child individual help through their general education class. This team is sometimes called a student support team, student improvement team, care team, or something similar.
    b. Some schools in Kansas use a Multi-Tier System of Supports (MTSS). In those schools, a system is created to help students, usually through small groups. The help could be for math, reading, or behavior. Schools check each child's progress during the school year so they can change the help the student gets as needed.

[31] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=76
[32] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=76
[33] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=69

Reevaluation

Q. What is a reevaluation?

Chapter 7, Introduction[34]

A reevaluation is an evaluation that is done for a child that already qualifies for special education. This is the testing that is done to decide if the child still qualifies for special education.

Q. Why is a reevaluation needed?

Chapter 7, Sections A[35] *and B*[36]

A child with an exceptionality must be reevaluated every three years. If it is needed, a reevaluation could be done more often.

1. The reevaluation is needed to decide:
2. If the child continues to be a child with an exceptionality;
3. What the child's strengths and needs are;
4. Whether the child continues to need special education and related services; and,
5. If there needs to be any changes or additions to the child's IEP to participate in the general education curriculum.

Q. Can I ask for a reevaluation?

Chapter 7, Introduction[37]

Yes. A parent can ask for a reevaluation at any time. However, a reevaluation cannot be done more than once a year, unless the parent and school agree.

Q. How will I know when a reevaluation will happen?

Chapter 7, Section C[38]

When the school wants to do a reevaluation, the school must give the parent a Prior Written Notice. The PWN should list and explain any evaluation procedures or tests the school wants to do.

Before any of the testing is done, the school must get informed consent in writing from the parent.

Q. Is the parent part of the reevaluation team?

Chapter 7, Section D[39]

Yes. The team doing the evaluation and deciding if the child still qualifies for special education is the same as the IEP Team. Other people could be added to the team if needed. The parent is a key member of the team.

[34] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=177
[35] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=177
[36] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=178
[37] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=177
[38] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=179
[39] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=183

Q. How is continued eligibility determined?

Chapter 7, Sections E[40] and F[41]

When the evaluation is finished, the team should meet to talk about the results. The information discussed will be about the child's strengths and needs and how well the child has been doing in school. The team will use that information to decide if the child still qualifies for special education.

The team includes the parents. The school should give the parents notice of this meeting in writing at least 10 days before.

Q. Will there be a report like there was for my child's initial eligibility?

Chapter 7, Section F[42]

Yes. After the reevaluation is done, the team will write a report. The parent is part of the team.

A copy of the report and information about the child qualifying for special education will be given to the parents.

Q. What if there is no need for a reevaluation? Does this have to happen?

Chapter 7, Questions and Answers[43]

No. Before doing the reevaluation, the parent and the school will decide if a reevaluation is needed. A reevaluation should be done at least once every three years, unless the parent and school agree in writing that one is not needed.

Q. Can the school end a child's qualification for special education?

Chapter 8, Section A[44]

No. Once a child qualifies for special education services, it can't be ended or changed without an evaluation, an IEP team meeting, and written consent by the parent.

Q. Can a parent stop special education services for their child?

Chapter 8, Section D[45]

Yes. This is called revoking consent. You can revoke your consent for special education services in writing at any time. If a parent stops special education for their child, the child will not have the many rights and protections for special education students. For example, without those protections, the child could be suspended or expelled for behavior that is caused by a disability.

If the parent decides later that the child could use special education and related services again, an initial evaluation needs to be done.

Before stopping special education, a parent could first try to ask for an IEP meeting to talk about why the services being provided are not working as the parent thought they would.

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[40] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=184
[41] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=189
[42] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=189
[43] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=191
[44] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=193
[45] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=195

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Chapter 4: The Individualized Education Program (IEP)

The Individualized Education Program (IEP) (Process Handbook Chapters 1 and 4)

Q. What is an IEP?

Chapter 4[46]

The Individualized Education Program (IEP) is the written plan for the child's special education and related services. The team that decides what to include in the IEP is made of school staff and parents. The student is also on the team as needed. When the student reaches 14, it is required to invite him or her to the meeting. Depending on the situation others may be invited to the meeting if the parent agrees. Each IEP has written special instructions and services to meet the child's strengths and needs. These strengths and needs are based on the evaluations that were done.

If the child qualifies for special education the IEP must be written and special education must start within 60 school days the parent signs the district's request to evaluate (PWN). In general, school districts must have an IEP in effect for each child with a disability at the beginning of each school year. The IEP must be reviewed and updated at least once each year.

Q. Does an IEP expire?

No. IEPs do not expire. The IEP is to be reviewed at least once each year. If the IEP is not reviewed within the year, or the IEP team cannot agree on what should be in the IEP, the current IEP remains in effect and the child will continue receiving special education and related services

Q. What is an IEP team?

Chapter 4, Section A[47]

The IEP team is a group of parents and school staff who know about the child. The team meets to write the IEP, or change the IEP if needed. Parents or school district personnel **can ask for an IEP team meeting at any time**. All members of the IEP team are equal partners in IEP discussions.

[46] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=85

[47] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=85

Q. Who attends the IEP team meeting?

Chapter 4, Section A[48]

The following people must be at the IEP meeting and are considered required IEP team members:

1. The Student: For discussion of transition services and other participation as appropriate.
2. The Parent(s): Generally, the most knowledgeable about the child. (See Chapter 1 of this Process Handbook for a discussion of who may act as a parent.)
3. The Special Education Teacher or someone who gives special services to the child: This could be a resource room teacher, speech therapist, or occupational therapist. [Preschool: If the child is in a preschool program run by the district the preschool teacher would attend the IEP meeting. If the child is in a preschool not run by the district, the school has to invite the preschool teacher, but can't make the preschool teacher attend.]
4. Regular Education Teacher: The classroom teacher should be present if the student is or may be in a regular educational setting.
5. School District Representative: This is usually the school principal or someone they choose. This person must be able to give or supervise special education. They should also know about the general curriculum and what resources are available.
6. Person to Explain Evaluation Results: This is a person who can explain the evaluation results. He or she can also explain what the results mean for teaching the student. This could be a person already on the team.
7. Others: Other people can be invited. These would be people with knowledge or special expertise about the student. They can be invited by the district or parents.

Sometimes a person can hold more than one role on the IEP team. The person must meet all the qualifications of each role. For example, the special education teacher may also be the person who can explain the evaluation results.

If parents can't hear or do not speak English, the school district must have an interpreter at the meeting.

Q. How are IEP meetings scheduled?

The IEP team meeting must be scheduled at a time and place that works for the parents and the school. The school should try to work with parents to find a time that will work, but the school can also consider its own planning needs.

School districts must tell parents in writing 10 calendar days before the IEP team meeting. This is so that one or both parents can attend the meeting.

The written notice must tell the purpose, time, and place of the meeting, and who will attend. The school may ask parents if they are going to bring someone to the meeting.

[48] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=85

Q. Who makes decisions about the child's IEP?

Chapter 3, Question 15[49]

The team should work together to make decisions. If an IEP team can't agree the school has the final obligation to give the child a free appropriate public education (FAPE). The school representative will make the final decision if the team can't agree.

After an IEP team meeting, the school must give the parents Prior Written Notice of the services the school wants to provide. If the parents and school still can't agree on the services then the parents or school can request mediation or due process hearing to resolve the differences.

Q. Can the school conduct an IEP meeting without a parent?

Chapter 4, Section B.3[50]

Schools must make serious efforts to include parents at the IEP meeting and must be reasonable about scheduling and location. The school must document that they made multiple attempts to contact the parents and the parents did not respond, or the school is unable to convince them to participate. The school must have attempted at least two of the following methods: telephone calls, visits to parents' home, copies of correspondence sent to the parents, and detailed records of other methods.

Q. The school came to the IEP team with a draft of an IEP. Is that ok?

Yes, so long as it is a draft. The school may have discussions prior to the IEP team meeting and may draft their recommendations on the IEP form so it can be used for discussion at the IEP team meeting. But, the school is not allowed to make IEP team decisions without the parent and or educational decision maker. If the school makes IEP team decisions before the IEP team meeting, it is called "predetermination," and it is not allowed. If this has been done, contact the school principal or special education director. You could also file a formal complaint, request mediation, or request a due process hearing.

Q. Can members of the IEP team be excused from a meeting?

Chapter 4, Section A.2[51]

Any required team member may be excused if the parent and the school district agree in writing. If parent and school district do agree that a required team member may be excused, the team member must provide a written report if his or her subject matter is discussed at the meeting. If the parent does not agree, then the team member should be present at the meeting or the meeting should be rescheduled. Here is a sample Excusal from Attendance at IEP Meetings of Required IEP Team Members[52] form.

[49] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=81
[50] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=94
[51] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=91
[52] https://www.ksde.gov/docs/default-source/sets/iep_meeting-excusalfromattendance.pdf

Q. Can the IEP be changed without a meeting?

Chapter 4, Section F.2[53]

The law allows changes to be made to the IEP without a meeting, but only if the changes are in writing and by agreement of the school district and parents. This does not change the requirement of an annual IEP review meeting.

Q. What must be in my child's IEP?

Chapter 4, Section E.2[54]

The child's IEP should be based on evaluation information that identifies the child's needs and provides a basis for the IEP. This includes how the child's exceptionality affects participation and progress in the general education curriculum. [PRESCHOOL: instead of the general education curriculum, the team would look at the child's participation and progress in age appropriate activities.]

The child's IEP will include:

- Present Levels of Academic Achievement and Functional Performance (PLAAFPs)
  - PLAAFPs summarize your child's current performance and provide the foundation upon which all other decisions in the IEP will be made. Chapter 4, Section E.2.a[55]
- Measurable Annual Goals
  - Measurable annual goals are descriptions of what your child can reasonably be expected to accomplish within a 12-month period with the provision of special education (specially designed instruction) and related services.
- Benchmarks or Short-Term Objectives
  - Benchmarks or short-term objectives are only required on the IEP of a child with a disability who takes an alternate assessment aligned to alternate achievement standards.
- Measuring and Reporting Progress on Annual Goals
  - The IEP team must include a description of how your child's progress toward meeting the annual goals will be measured.
  - This measure of progress will enable parents, children, and educators to monitor progress during the year, and, if appropriate, to revise the IEP to be consistent with the child's instructional needs.
- Participation in State Assessments and District-Wide Assessments (only for a child with disabilities)
  - For state assessments, the team must determine whether your child with a disability will take the state assessment or the alternate assessment for each curricular area being tested in the child's grade level during the IEP year.
- Secondary Transition (only for a child with disabilities)
  - Secondary transition planning is required beginning at age 14 to help the child decide what they would like to do after high school, and then to have a plan to do that.

[53] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=119
[54] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=101
[55] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=101

  - Transition services should be individualized for your child. Transitions services could be minimal or extensive depending on the needs of the child. For a detailed discussion of transition services see Chapter 4, Section E.2.f[56] of the process handbook.

- Age of Majority
  - Beginning at age 17, the IEP team must inform the parent and child that under Kansas law, rights will transfer to the child at age 18. At this time, the child becomes the educational decision maker.
    See process handbook Chapter 1, section J[57], and Chapter 4, Section E.2.g[58].

- Statement of Special Education and Related Services
  - Your child's IEP must include the special education services, related services, supplementary aids and services, including accommodations, a statement of program modifications, and supports for school personnel.

- Least Restrictive Environment (LRE)
  - The least restrictive environment means the educational placement where, as much as possible and as appropriate, the child with a disability is educated with children who are nondisabled.

Q. How can I learn about my child's progress?

You must be regularly informed of your child's progress. How often this occurs must be stated on the IEP. The school district is obligated to inform you at least as often as it informs parents of children without disabilities.

Q. How can I be sure my child's teachers will follow the IEP?

IDEA requires that your child's IEP be accessible to anyone responsible for implementing your child's IEP. Each teacher or provider must be informed of his or her role in carrying out the IEP and of the individualized accommodations, modifications, and supports identified on your child's IEP.

Q. My child turned 18, can I still attend my child's IEP team meeting?

Chapter 1, Section J[59]

When a student turns 18, the student becomes the educational decision maker. The school must still provide all the required special education notices to both the parent and the student but parents are not entitled to attend the IEP meeting. The child or the school can invite parents to the IEP team meeting as someone who is knowledgeable about the student. If the school needs informed consent for a particular special education action, the school will send it to the student.

If a court judged a student to be unable to make educational decisions, the school must obtain informed consent from the person the court appointed as the legal education decision maker.

[56] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=110
[57] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=30
[58] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=115
[59] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=30

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Chapter 5: Placement in the Least Restrictive Environment (LRE)

Placement in the Least Restrictive Environment (Process Handbook Chapter 6)

Q. What is an educational placement?

Educational placement is the educational environment where special education and related services will be provided. It is not a specific physical place or location, such as a specific classroom or school. The IEP team determines educational placement. The school decides the physical location for those services.

Q. How is placement decided?

Chapter 6, Section B[60]

Educational placement is determined by the IEP team once the team decides what services the child needs.

The continuum of placement options is the scope of placements where an IEP can be implemented, and ranges from less to more restrictive.

Continuum of Placement Options Chapter 6, Section B.1[61]

- A regular classroom
- A regular classroom with modifications and/or supplemental aids and services
- A resource room for special education instruction
- A classroom for children with disabilities located in a regular school (self-contained classroom)
- Day or residential special schools, where many or all students may have disabilities
- A home, hospital, or institution-based program

Placement should be reviewed every year to decide if the child's placement continues to meet their needs. You can see the least restrictive environment decision tree in Chapter 6[62].

Q. What is the Least Restrictive Environment (LRE)?

Chapter 6, Section C[63]

By law, children with disabilities must be educated in the Least Restrictive Environment. Congress has defined the Least Restrictive Environment (LRE) as the placement closest to a regular education environment yet still capable of meeting the needs of a child with disabilities. This means that the LRE varies according to the needs of the child. A child must be educated in the regular classroom with supplemental aids and services unless the child cannot be appropriately educated there.

When deciding a child's placement, the school district must consider **potential harmful and positive effects on the child**. The district must also consider the quality and quantity of services the child needs. In addition, the educational impact on other students in the class must be considered.

[60] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=159
[61] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=160
[62] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=170
[63] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=162

For example, a regular classroom may not be appropriate even with aids and services, if the child is greatly agitated by the noise and movement of a large group or is so disruptive that other students are unable to learn. Chapter 6, Section B.2[64]

When a child is removed from a regular classroom, the school district must ensure that, whenever appropriate, the child will be with children who are in regular classes for nonacademic and extracurricular activities.

Q. What if I don't like the placement?

Placement decisions must be reviewed each time the IEP is significantly revised. Since an IEP must be reviewed annually, placement decisions also must be made at least annually. However, as a parent, you have the right to request a change in placement if you feel a placement is not working.

In Kansas, the school may make small changes to a child's educational placement without the parent's consent. Small changes are 24% or less of the child's school day. Changes that are 25% or more require parent consent. Parents are also to be part of any decision regarding placement.

Q. Can I visit my child's classroom?

You can always make the request to see where your child is or will be educated before making a decision on placement. School districts may have policies about school visitation by parents and guests that are designed to eliminate distractions to students and staff. So long as those policies are reasonable and applied equally to all, the school can enforce them.

Q. What are my placement rights?

You have the right as a member of the IEP team to participate in discussions and decisions regarding placement.

You have the right to give or withhold consent for your child's initial placement in special education. If you do not consent, the school district cannot override your refusal to consent. You have the right to receive prior written notice any time the district proposes a change in placement. You also have the right to written notice any time the district refuses your request to change your child's placement.

You have the right to request an IEP meeting, mediation, write a letter of complaint, or request a due process hearing to resolve any disagreement about placement.

[64] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=159

Q. What if I want the school district to pay for private school?

Chapter 14, Section B[65]

You always have the right to place your child in a private school at your own expense. In some cases, you may be entitled to reimbursement for private school costs from the school district if there is strong evidence that the district did not provide a free and appropriate public education (FAPE) to your child.

However, before seeking reimbursement, you must give notice to the district of your intent to place your child privately and the reasons for this decision. **This notice must be given at the IEP team meeting before the parent enrolls the child in the private school, or in writing within 10 business days (including holidays) before you remove your child from public school.**

Once you give notice of your intention, the district may ask to evaluate your child or agree to change the IEP to address your concerns.

Please note that reimbursement may be reduced or denied for any of the following reasons:

- You did not give notice of your intent to place your child in private school.
- The school district is providing FAPE to your child.
- You did not make your child available for evaluations when asked by the district.
- The private school does not provide FAPE.

[65] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=277

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Chapter 6: School Discipline

School Discipline (Process Handbook Chapter 13[66])

Q. Why do I need to know about discipline?

Schools may use customary disciplinary techniques for all children, including those with disabilities. For children with disabilities, traditional forms of discipline such as detention, or the restriction of privileges can also be used so long as these forms of discipline are also used with nondisabled children and do not violate the provisions of a child's Individualized Education Program (IEP or the child's right to a free appropriate public education (FAPE).

Q. Can a student with a disability be suspended?

Yes, but there are protections. Suspensions, or removals, may affect the child's educational placement.

There are two types of suspensions: suspensions that are not a change in educational placement; and suspensions that are a change in educational placement.

- Short-term removal that is not a change of educational placement.
    - A short-term removal is a suspension that is not more than 10 days in a row.
    - For short term removals that equal 10 days or less, the school may suspend a child with a disability without providing services (Chapter 13, Section C[67]). No IEP team meeting is required. Remember that you can request an IEP team meeting, but the law doesn't require one.
- Long-term removals and short-term removals that are a change of educational placement.
    - Long-term removals are suspensions that are more than 10 days in a row.
    - A series of short-term removals can be a change in placement if there is a pattern. Chapter 13, Section E[68]

Q. If my child is suspended, what obligation does the district have to provide my child with educational services?

Beginning on the 11th cumulative school day of suspension the school must provide services to the child that enable the child to participate in the general education curriculum, and to make progress towards their annual goals.

If your child is suspended for any part of a day it counts as a day of suspension. Count all the days of short-term removals in the school year.

Q. Can students with disabilities be expelled?

A school district cannot expel a student with a disability for misconduct that is a manifestation of the student's disability. When a district decides to suspend or expel a student with a disability for more than 10 days, it must hold an IEP meeting within 10 days

[66] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=251
[67] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=257
[68] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=259

to determine whether the misconduct was related to the student's disability. This is known as a manifestation determination[69].

The team must make factual findings before it may determine that the student's behavior was not related to the child's disability. If the team determines that the conduct was not disability related, it may seek to expel the child as it would any other student.

Q. How will I be informed if this is happening with my child?

Under these circumstances, you must be given notice of the IEP meeting and manifestation determination within a reasonable time before the meeting. You must also be given notice of the intended disciplinary action on the date that the decision to take disciplinary action is made. Finally, you must be given notice of procedural safeguards, which is an explanation of your rights under IDEA.

Even if your child is expelled following a decision that the misconduct was not related to a disability, the school district must still provide services to your child in an interim alternative setting. The setting is determined by the IEP team and must allow your child to make progress toward IEP goals and continue to participate in the general education curriculum.

Q. What is the manifestation determination?

Chapter 13, Section E.1[70]

The manifestation determination team decides if your child's misconduct is related to a disability. When the school proposes a removal that is a change of placement a manifestation determination must be conducted. Removals that are a change of placement are long-term removals, or short-term removals that show a pattern of behavior.

The team must consider all relevant information, including evaluations, your own observations, your child's IEP and placement (including behavior plans), related services, and other supports. The team must determine if:

1. Your child's behavior was caused by, or had a direct and substantial relationship to, his or her disability; or
2. The conduct in question was a direct result of the school district's failure to implement the IEP.

Q. What if it is determined by the team that the misconduct is because of my child's disability?

If the child's misconduct is a manifestation of the child's disability, then the school can't suspend or expel the child. The school must also implement a behavior intervention plan (BIP) for the child. If the child already has a BIP, the school must review it and revise it as needed.

Q. What if it is determined by the team that the misconduct is not because of my student's disability?

If the child's misconduct is not a manifestation of the child's disability, the school may proceed with the suspension or expulsion.

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[69] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=260

[70] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=260

School officials may order a change in placement of a child with a disability to an appropriate interim alternative educational placement for not more than 186 school days. The IEP team decides what services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

Parental consent for this disciplinary change in placement, and for the services to be provided in that placement, is not required.

Q. Who should be part of my child's manifestation determination team?

A representative of the school district, you and all relevant members of the IEP team should be included. Together, you and the district determine the relevant members. If there are teachers or counselors at the school who understand your child and your child's behavior, you can ask specifically for those staff members to be part of the manifestation determination team.

If there are professionals such as a private therapist working with your child outside of school they may have important input to contribute. It would be your responsibility to write to them in order that they are included on the team.

Q. What if I disagree with the manifestation determination?

Chapter 13, Section H[71]

You may request an expedited due process hearing to challenge a manifestation determination or a change of placement arising from misconduct. Under these circumstances, your child is placed in the interim alternative placement during the due process hearing until the decision of the Special Education Due Process Hearing Officer is final, or until the end of the disciplinary removal, whichever occurs first, unless you and the district agree otherwise.

Q. What if a child with a disability brings drugs or weapons to school?

Chapter 13, Section F[72]

If a student with a disability carries a weapon to school or to a school function, or knowingly uses, sells, or solicits the sale of illegal drugs at school or a school function, the school district may place the student in an appropriate interim alternative educational placement for up to 45 school days.

This placement is considered a safer temporary setting while the student's appropriate educational placement is being worked out by the parent and district. Under these circumstances, it doesn't matter if the misconduct is a manifestation of the child's disability. The school must still conduct the manifestation determination. A parent who disagrees with an interim placement arising from the student's involvement with a weapon or drugs may request an expedited due process hearing.

[71] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=264
[72] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=263

Q. Will my child get special education in the alternative placement?

The IEP team must determine what the interim alternative setting will be. The setting chosen by the team must allow your child to progress in the general education curriculum (although in another setting) and make progress toward IEP goals.

Q. What happens after the 45 school days is over?

After the 45-school day interim placement is over, your child must be returned to his or her current placement (the placement before the interim alternative setting), unless you and the district agree otherwise. However, if the district believes that it is dangerous for your child to return to the current placement while due process proceedings are ongoing, it may request an expedited due process hearing on this issue.

Q. What if a student has not yet been found eligible for special education?

Chapter 13, Section I[73]

If the district knows that a student in regular education has a disability, the student cannot be excluded without following IDEA procedures. The district is considered to know that the student has a disability if:

- The parent expressed concern in writing that the student needed special education
- The parent requested a special education evaluation
- A teacher or other staff expressed concern to the special education director or other supervisor about the behavior or performance of the child

Even if a district did not know that the student had a disability, the parent of a regular education student whom the district seeks to exclude may request an expedited evaluation. During the course of the evaluation, the student must remain in the placement determined by the district.

[73] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=267

Chapter 7: Resolving Disagreements (or Dispute Resolution)

Resolving Disagreements (Process Handbook Chapters 10, 11, and 12)

Q. There is a lot to remember. What if I just don't agree with what the "public agency (e.g., Kansas State Department of Education (KSDE) or local education agency (cooperative, interlocal, or school district providing special education services) is doing with my child?

There will be times when parents and public agency staff disagree about a child's special education. Disagreements can occur in any area of a child's special education program. There are informal and formal methods parents may use to try to work out problems with the school. You can look at a table comparing the dispute resolution options here Special Education State Complaint Resolution System: A Comparison of Services Available to Parents and Schools[74]. In general, it's best to try to resolve difficulties as soon as they occur.

Q. What can I do to resolve a disagreement informally?

Depending on how the disagreement came about there are several ways to try to resolve it informally. At the building level, try working things out with the teacher or principal. You can request an IEP team meeting. If the issue can't be resolved at the building level, you can try contacting with the special education director or superintendent.

Q. I have tried working things out informally, what else can I do?

Parents also have formal dispute resolution options. These are mediation, formal complaint, and due process hearing. Dispute resolution forms[75] for each option can be found on KSDE's website.

Q. What is mediation?

Mediation can be used to resolve any disagreement regarding special education. Mediation is voluntary, but both the parents and the school must agree to mediate. The state covers the cost of mediation; there are no costs to either the parents or the local public agency. The goal of the parties in mediation is to reach an agreement that is workable for all. Detailed information about mediation can be found in the Kansas Special Education Process Handbook, Chapter 10[76].

Q. What is a formal complaint?

A parent, or any person or organization, may file a formal complaint if they believe that the public agency (e.g., Kansas State Department of Education (KSDE) or local education agency (cooperative, interlocal, or public agency providing special education services) is not complying with state or federal special education law. This is can be used for students with exceptionalities (disabilities or giftedness).The formal complaint must be for a situation that occurred during the past calendar year. Detailed information about filing a formal complaint can be found in the Kansas Special Education Process Handbook, Chapter 11[77].

[74] https://www.ksde.gov/docs/default-source/sets/specialeducationstatecomplaintresolutionsystem.pdf
[75] https://www.ksde.gov/policy-and-funding/special-education/special-education-law/dispute-resolution
[76] https://www.ksde.gov/docs/default-source/sets/ph-ch10.pdf
[77] https://www.ksde.gov/docs/default-source/sets/ph-ch11.pdf

Q. What is a due process hearing?

The due process hearing provides a place where disagreements about the identification, evaluation, educational placement, or provision of a free appropriate public education for students with exceptionalities may be decided. This is the most formal option.

Parents or public agencys (e.g., Kansas State Department of Education (KSDE) or local education agencys (cooperative, interlocal, or school district providing special education services) considering a request for a due process hearing are encouraged to consult with an attorney who practices in special education law, but it is not required. The issues identified in the request for due process hearing must have occurred within the previous two calendar years. Detailed information about filing for a due process hearing can be found in the Kansas Special Education Process Handbook, Chapter 12[78].

Q. Do I have to choose one dispute resolution option?

No. Parents may file a formal complaint before, at the same time, or after filing for a due process hearing. However, if the issue is the same, a formal complaint investigation will be suspended until due process is resolved.

[78] https://www.ksde.gov/docs/default-source/sets/ph-ch12.pdf

Chapter 8: Miscellaneous

Gifted, Private School, Seclusion and Restraint, Law Enforcement Miscellaneous (Process Handbook Chapters 1 and 14)

Q. My child was found eligible for gifted services. Is there anything different in Kansas Special Education laws that I need to know?

Chapter 1, Section H[79]

Yes. Special education services are not required for children who are gifted. Parents of gifted children may choose to accept whatever special education services are proposed by the IEP team. Schools are required to provide the services specified in an IEP once the parent gives consent.

Parents of, and children with giftedness (who do not also have a disability) have the same rights as parents of, and children with disabilities, with the following exceptions:

1. Disciplinary protections for children receiving special education do not apply to students who are gifted;
2. Preschool children under the age of 5 are not eligible for gifted services;
3. Students who are gifted do not have the same considerations for least restrictive environment (LRE) as students with disabilities, but the IEP team must make placement decisions based on their individual needs;
4. Students who are gifted are not eligible for all of the related services;
5. Students who are gifted are not provided Extended School Year (ESY) services;
6. Students in JJA or DOC facilities do not receive gifted services;
7. Students who are gifted are not applicable for requirements for secondary transition and summary of performance.

Q. My child has an exceptionality, and I want them to attend a private school. Is there anything different in Kansas Special Education laws that I need to know?

Chapter 14, Section D[80]

Yes. State law requires that when a parent requests services, the public agency of residence will make available all services and will provide any or all of the special education and related services that are identified by an IEP team for any child with an exceptionality, to which the parent provides consent. The parent of a child attending a private school would go to the district of residence to request services.

Children whose parents request the district of residence to provide services identified by the IEP team would receive services through an IEP. The IEP is developed as it would be for any other child.

Parents of children attending a private school and receiving services in a public school in accordance with an IEP have all the due process rights under state statutes and regulations and must have a free appropriate public education made available to them.

[79] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=27
[80] https://www.ksde.gov/docs/default-source/sets/ph-complete.pdf#page=280

If services are provided at the public school, the public agency must provide transportation to and from the public school. The public school is not required to provide transportation outside the boundaries of the resident public agency.

Q. My child wanted to play sports, why didn't the school let my child on the team?

A student must have an equal opportunity to participate in extracurricular activities, but the equal opportunity to participate does not guarantee the student a place on the team.

Eligibility criteria are permissible so long as those criteria are uniformly applied to students with and without disabilities and not discriminatory.

Q. My child was secluded or restrained at school, what can I do?

Seclusion and physical restraint are emergency safety interventions (ESI) and should not be used as a form of discipline. Emergency safety interventions should only be used when a student presents a reasonable and immediate danger of physical harm to self or others with the present ability to affect such physical harm. Emergency safety intervention requirements are not special education requirements. Emergency safety interventions requirements are general education requirements that apply to all students.

More information about the ESI requirements can be found on:

- KSDE's website at https://www.ksde.gov/policy-and-funding/esi,
- The Technical Assistance Systems Network (TASN) website at https://ksdetasn.org/universal_search?search_term=emergency+safety+interventions,
- The Emergency Safety Interventions regulations may be found at https://rules.ks.gov/search?query=91-42-1.

Q. What if the police were called on my child?

This is a serious issue, but it is not addressed in the special education requirements. If you have questions, you should call the school. The school should have in place a policy about when law enforcement is contacted.

Under the emergency safety intervention (ESI) law, if the school is aware that a law enforcement officer or school resource officer used seclusion, physical restraint, or mechanical restraint on a student, the school must tell the parent the day the incident occurred.