

InstructionSpecial Education

DC West Community Schools adopts this special education policy with the intent that the policy maintains the District's compliance with all applicable laws affecting special education services and programs. The Superintendent or designees shall develop regulations or procedures to implement these policies. Employees and contractors of the District are expected to comply with these policies and all regulations, guidelines and procedures related to this policy in all respects.

The District will abide by all state and federal laws relating to special education. The District's special education policy and regulations, guidelines and procedures related to this policy are to be interpreted so as to be in compliance with such laws. In the event of changes in law, the school administration shall be authorized to implement modifications of practice to comply with such changes (whether the changes impose more or less stringent procedural or substantive requirements) until such time as amended policies are adopted by the Board of Education. References herein to 92 NAC 51 citations are made to Rule 51 as in effect on the date of the adoption of these policies. In the event of renumbering or other revisions to Rule 51, the policy shall be interpreted and implemented consistent with such renumbering or revisions.

**1. Free Appropriate Public Education**

A free appropriate public education shall be made available to all children with disabilities residing in the District, including children with disabilities who have been suspended or expelled, from date of verification through the school year in which the child is no longer eligible or the student reaches twenty-one (21) years of age, whichever occurs earlier. An Individualized Education Plan ("IEP") will be created for each such child that will enable the student to make progress appropriate in light of the student's unique circumstances.

Legal Reference: 92 NAC 51-004.01 through 004.03A and 007.07C2 through 007.07C6

**2. Full Educational Opportunity Goal**

The District shall take steps to ensure that its children with verified disabilities, through the age of twenty-one, have available to them the variety of educational programs and services available to children without disabilities in the areas served by the District, including art, music, industrial arts, family consumer science education, and vocational education.

Legal Reference: 92 NAC 51-004.11A

**3. Child Find**

All children from birth to age twenty-one (21) with disabilities residing in the District, including children with disabilities who are homeless or are wards of the state or attending nonpublic schools, regardless of the severity of their disabilities, who are in need of special education and related services, will be identified, located and evaluated. A practical method shall be developed and implemented by the administration to determine which children with disabilities are currently receiving needed special education and related services. The District will implement multiple methods to provide parents, guardians, and community members with information regarding how to refer a child for an evaluation and the identification process and

will publish an annual notice of any significant activity that is designed to identify, locate, or evaluate children to publicly notify parents, guardians, or appointed surrogates. The District's child find process will be consistent with Federal and Nebraska regulations. Legal Reference: 92 NAC 51-006.01 through 006.01A2

#### **4. Pre-Referral Interventions**

For a school age student, a general education student assistance team (SAT) or a comparable problem solving team shall be used prior to referral for multidisciplinary team evaluation. The SAT or comparable problem solving team shall utilize and document problem solving and intervention strategies to assist the teacher in the provision of general education. If the student assistance team or comparable problem solving team feels that all viable alternatives have been explored, a referral for multidisciplinary evaluation shall be completed. A referral shall include information from the SAT or comparable problem solving team, meeting the requirements of 92 NAC 51-006.01B and a listing of the members of the SAT or comparable problem solving team.

Legal Reference: 92 NAC 51-006.01B

#### **5. Disability Verification and Eligibility**

Eligibility for services will be determined by a multidisciplinary team based on the results of a comprehensive evaluation. The multidisciplinary team will identify whether a child is eligible for special education services based on the disability categories identified by Nebraska and Federal regulations. The multidisciplinary team will rule out the determinant factor is due to a lack of appropriate instruction in reading or math or due to lack of English proficiency. The team will prepare a written report documenting all evaluation findings in accordance with Federal and Nebraska requirements that will be provided to the parent, guardian, or appointed surrogate. When a child is not eligible for services, the multidisciplinary team will determine if general education interventions or strategies are needed.

Legal Reference: 92 NAC 51-006.03; 92 NAC 51-006.04B through 006.04N;

#### **6. Individualized Education Program (IEP)**

An individualized education program, or an individualized family service plan, is to be developed, reviewed, and revised for each child with a disability in accordance with 92 NAC 51-007 by teams that will include all roles identified within Federal and Nebraska rules. Any draft of an IEP that is developed will not be considered final until it is reviewed and revised based on the team, including the parent, guardian, or appointed surrogate, input, and consensus. The district will make reasonable efforts to obtain informed consent from the parent, guardian, or appointed surrogate for special education placement on the IEP form before services are initiated. Revocation of consent for services must be documented by the parent, guardian, or appointed surrogate in writing.

Legal Reference: 92 NAC 51-007

#### **7. Least Restrictive Environment**

To the maximum extent appropriate, children with disabilities, through the age of twenty-one, including children in public or private institutions or other care facilities, are to be educated with children who are not disabled. Placement for a student with a disability will be based upon a completed IEP developed by a group of persons, including the parent, guardian, or appointed surrogate, knowledgeable about the child, the meaning of the evaluation data, and the placement options. Special classes, separate schooling, or other removal of children with disabilities from

the regular educational environment will occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (the “Least Restrictive Environment Rules”). The District will ensure that a continuum of alternative placements is available to meet the needs of children with disabilities, particularly those in disproportionate groups, for special education and related services.

Legal Reference: 92 NAC 51-008.01

### **8. Procedural Safeguards**

Children with disabilities and their parents, guardians, or appointed surrogates shall be afforded the required procedural safeguards. Parents, guardians, and appointed surrogates will be given a copy of their procedural safeguards annually or upon initial referral or parental (parent, guardian, or appointed surrogate) request for evaluation; upon request by a parent, guardian, or appointed surrogate; upon receipt by the school district or approved cooperative of the first occurrence of the filing of a complaint under 92 NAC 51-009.11 and the first occurrence of filing a special education due process case under 92 NAC 55; and in accordance with the discipline procedures in 92 NAC 51-016.

Legal Reference: 92 NAC 51-009.01 through 009.07; 009.10 through 009.12; 009.14, 006.07

### **9. Disciplinary Removal of Children with Disabilities**

School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension as long as those removals do not constitute a change of placement. The District defines a change of placement as it is defined under 92 NAC 51-016. The school district will ensure that school personnel appropriately consider unique circumstances on a case-by-case basis when determining whether a change in placement has occurred. Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district, the parent, and relevant members of the student’s IEP shall conduct a manifestation determination pursuant to 92 NAC 51-016. If the conduct which gave rise to the violation of the school code is determined to be a manifestation of the student’s disability, any change of placement for the student will only be made by a student’s IEP team. For disciplinary changes in placement that would exceed ten (10) consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures that would be applied to children without disabilities.

Legal Reference: 92 NAC 51-016

### **10. Evaluation, Identification, and Reevaluation Procedures**

Children with disabilities shall be evaluated, identified, and reevaluated by a team of multidisciplinary qualified professionals in accordance with 92 NAC 51-006. The MDT of a child suspected of having a specific learning disability shall include the additional requirements in accordance with 92 NAC 51-006.04K. The District will make reasonable efforts to obtain written permission for evaluation in accordance with Federal and Nebraska rules. Revocation for consent for evaluation must be documented by the parent, guardian, or appointed surrogate in writing.

The documented results of the evaluation will be provided to parent, guardian, or appointed surrogate and included in student files. All evaluation components will be at district expense. The District will utilize a variety of assessment instruments to ensure district teams have access to appropriate measures to complete evaluations. The district will follow any publisher guidelines for assessments and will not use outdated or culturally inappropriate tools.

The District will respond to a request for an Independent Educational Evaluation without unnecessary delay. The parent, guardian, or appointed surrogate will be given written notice of the District's decision to either move forward with the Independent Educational Evaluation or to initiate a hearing to determine the appropriateness of the evaluation. If the District agrees to move forward with the evaluation, locations of any evaluator shall be within a reasonable distance of the District. A reasonable distance means within 100 miles of the school building the child attends and within Nebraska. In the event this geographic area restriction would prevent a parent, guardian, or appointed surrogate from obtaining an Independent Educational Evaluation, the location of the evaluator may be outside the specified geographic area but must be within Nebraska. The District will provide the parent, guardian, or appointed surrogate with a list of qualified agencies/evaluators within the geographic area. The evaluators are to have their rates approved by the Nebraska Department of Education to be authorized to conduct the evaluation.

Legal Reference: 92 NAC 51-006

#### **11. Confidentiality of Personally Identifiable Information**

A system of safeguards will be implemented to protect the confidentiality of student records and information in accordance with law.

Legal Reference: 92 NAC 51-003.16, 003.20, 009.03 through 009.03M3

#### **12. Transition of Children from Part C to Preschool Programs**

**Children participating in early intervention programs under Part C of the IDEA (early intervention services) will be appropriately evaluated, identified, and have services under Part B of the IDEA by age 3 in a manner consistent with 92 NAC 52-008. Children receiving early intervention services under Part C of the IDEA may continue to receive Part C services, upon parental consent, until the August 31st following the child's third birthday. The District will participate in transition planning conferences arranged by the designated lead agency.**

Legal Reference: 92 NAC 52-008

#### **13. Children in Nonpublic Schools**

To the extent consistent with the number and location of children with disabilities in the District who are enrolled by their parents, guardians, or appointed surrogates in nonpublic elementary and secondary schools in the District, provision will be made for the participation of those children in the programs assisted or carried out under Part B of the IDEA (services for school-aged children) by providing them with special education and related services.

Legal Reference: 92 NAC 51-012.08 and 015

#### **14. Personnel Standards and Personnel Development**

Personnel providing special education or related services to children with disabilities shall be appropriately and adequately prepared and trained in accordance with IDEA requirements and

the District will take measurable steps to recruit, hire, train and retain personnel meeting the requirements of IDEA to provide such services.

Legal Reference: 92 NAC 51-010

#### **15. Accessibility of IEP and Responsibility to Implement**

A child's IEP shall be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for the IEP's implementation. Each of the aforementioned providers shall be informed of his or her specific responsibilities related to implementing the child's IEP, and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. All providers who are responsible for the implementation of a child's IEP are expected to implement the child's IEP according to its terms.

#### **16. Participation in and Reporting of State and District Wide Assessments**

All children with disabilities shall be included in all general state and district wide assessment programs, including assessments described under section 612(a)(16)(A) of the IDEA with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs. The District will make available to the Nebraska Department of Education the information necessary to carry out its duties relating to the reporting of children with disabilities participation in assessments.

Legal Reference: 92 NAC 51-004.05

#### **17. Suspension and Expulsion Rates**

The District will examine data, including data disaggregated by race/ethnicity, gender, LEP status, and disability category, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities.

Legal Reference: 92 NAC 51-004.06E

#### **18. Access to Instructional Materials**

As part of any printed instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of printed instructional materials, the District will enter into a written contract with the publisher of the printed instructional materials to:

- A. Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Material Access Center, electronic files containing the contents of the printed instructional materials using the National Instructional Materials Accessibility Standard, or
- B. Purchase instructional materials from the publisher that are produced in, or may be rendered in specialized formats.

Legal Reference: 92 NAC 51-004.15

#### **19. Over-Identification and Disproportionality**

Procedures shall be in place to ensure that testing and evaluation materials and procedures utilized for the evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it is clearly not feasible to do so, and no single procedure shall be the sole criterion for

determining an appropriate educational program for a child. All District special education provisions will be equitably available to all children regardless of race, ethnicity, language, location, transience, income level, and access to medical care.

Legal Reference: 92 NAC 51-006.02C

## **20. Prohibition on Mandatory Medication**

Children shall not be required to obtain a prescription for a controlled substance as a condition of attending school, receiving an evaluation to determine whether a child has a disability or the nature and extent of special education and related services the child needs, or receiving special education services.

Legal Reference: 92 NAC 51-004.11D; 21 U.S.C. §812(c)

## **21. Transportation**

Transportation will be provided for children with disabilities who are eligible for transportation and residents of the school district as required by law to access academic, related services, and nonacademic services and activities as determined by the child's IEP. Except when a parent is transporting only his or her child, the District shall require that the driver and vehicle meet the standards required by 92 NAC 91 and 92.

Legal Reference: 92 NAC 51-014.01 through 014.02

## **22. Surrogates**

A surrogate will be appointed, and other action taken to ensure the rights of children with a disability as required by law. The surrogate may represent the child in all matters related to the identification, evaluation, and educational placement of a child and the provision of a free appropriate public education to the child.

Legal Reference: 92 NAC 51-009.10

## **23. Early Intervention Services – Consent**

When a parent refuses to provide consent under 92 NAC 52, a meeting will be held or offered to explain to the parents how their failure to consent affects the ability of their child to receive services under 92 NAC 52.

Legal Reference: 92 NAC 52

Legal Reference: 34 CFR Parts 300, 303 and 304  
Neb. Rev. Stat. Sec. 79-1110 to 79-1167  
92 NAC 51, 52 and 55

Date of Adoption: October 16, 2023