

Eligibility Indicators

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This guidance document will continue to be a working document and will be periodically updated based on input from its use in the field.

Table of Contents

Eligibility Determination	3
Examples of Sources of Data	6
Autism.....	7
Developmental Delay (age 9 and younger).....	9
Emotional Disturbance.....	11
Gifted	13
Learning Disability	15
Mental Retardation	18
Multiple Disabilities	20
Orthopedic Impairment	22
Other Health Impairment	24
Sensory Impairments.....	26
Hearing impairment, Deafness, Visual impairment, Blindness	27
Deaf-blindness	28
Speech Language Impairment.....	31
Traumatic Brain Injury.....	33
Reporting Requirements.....	35

This document contains information about eligibility determination, appropriate sources of data, and includes Federal and State definitions of each exceptionality area. It also provides information regarding exclusionary factors that must be considered and examples of indicators of eligibility to assist school personnel as they make decisions. The examples of indicators provided in this document should not be viewed as all-inclusive. The purpose of the document is to provide guidance to evaluation teams as they seek to address the two-prong test of eligibility when determining if a student is eligible for special education. For further guidance and a more complete discussion of the initial evaluation process, see Chapter 3 in the Special Education Process Handbook. This important resource may be viewed and downloaded by accessing the following web page: www.kansped.org

Eligibility Determination

The initial evaluation must include a variety of assessment tools and strategies to gather relevant functional, developmental and academic information, including information provided by the parent, that may assist in determining whether the child is an exceptional child, the educational needs of the child, and the content of the child's IEP, including information related to enabling the child to be involved, and progress in the general education curriculum or, for preschool children, to participate in appropriate activities (K.S.A. 72-986(b)(1)). When interpreting evaluation data for the purpose of making an eligibility determination, the team must ensure that the child meets the definition of one of the categories of exceptionality and, as a result of that exceptionality, needs special education and related services (KAR 91-40-1(k)(w); 34 CFR 300.8). This is known as the two-prong test of eligibility. If a child meets the definition of an exceptionality category but does not need special education and related services, s/he will not be determined to be eligible. If the child has a need for special education and related services but does not meet the definition of an exceptionality category, s/he will not be determined to be eligible. In the case of a child who is found to have a disability, but does not need special education and related services, a referral for a Section 504 evaluation may be considered.

1. Determining Whether the Child is a Child with an Exceptionality

"Exceptional children" means children with disabilities and gifted children (KAR 91-40-1 (w)). "Child with a disability" means the following: (1) a child evaluated as having mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services; and (2) for children ages three through nine, a child who is experiencing developmental delays and, by reason thereof, needs special education and related services ((KAR 91-40-1 (k); CFR 300).

When considering the first prong of the two-prong test of eligibility, the team reviews the initial evaluation and other data to determine whether or not the child is a child with an exceptionality. To do this, team members compare the data about the child to see if there is a match to one of the exceptionality categories defined in the regulations. However, even when the data point to a particular area of exceptionality, there are exclusionary factors that must be examined before determining the child is a child with an exceptionality.

Regulations are very clear with regard to the fact that a child must NOT be determined to be a child with an exceptionality if:

- (a) the determinant factor is:
 - Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB) as phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies); or
 - Lack of appropriate instruction in math; or
 - Limited English proficiency; and
- (b) the child does not otherwise meet the eligibility criteria as a child with an exceptionality (KSA 72-986(f); KAR 91-40-10(c); 34 CFR 300.306(b)).

In addition to these exclusionary factors which apply to all categories of exceptionality, there are exclusionary factors specific to certain disabilities that must also be ruled out. Those factors are contained in this document and guidance is provided to assist teams in their evaluation of these factors as they determine eligibility.

If the evaluation data indicates there is a match with a particular category of exceptionality and the team has ruled out the presence of any exclusionary factors, the team may determine that the child meets one of the requirements of eligibility as a child with an exceptionality (Prong 1 of the test of eligibility). If there is not a match or exclusionary factors are present, the team must determine that the child does not meet the eligibility of a child with an exceptionality. However, being gifted or having a disability does not necessarily qualify a child for special education services. Thus teams must also consider the component of the definition which states: "and who, by reason thereof, needs special education and related services."

2. Determining Whether the Child Needs Special Education and Related Services

The second prong of the test of eligibility is to determine whether or not the child needs special education and related services as a result of the exceptionality. It is helpful for teams to remember that by definition special education means specially designed instruction (KAR 91-40-1(kkk); 34 CFR 300.39(a)(1)), and, that specially designed instruction means adapting the content, methodology or delivery of instruction to address the unique needs of a child that result from the child's exceptionality to ensure access of the child to the general education curriculum in order to meet the educational standards that apply to all children (KAR 91-40-1 (III); 34 CFR 300.39(b)(3)(i)-(ii)). This implies that in order to have a need for special education, the child has specific needs which are so unique as to require specially designed instruction in order to access and progress in the general education curriculum.

Kansas regulations at KAR 91-40-7(c)(1-2), require that prior to referral for an initial evaluation the school must have data-based documentation of the following: (1) having provided appropriate instruction to the child in regular education settings that was delivered by qualified personnel (2) repeatedly assessing the child's academic achievement at reasonable intervals which reflect formal assessment of the child's progress during instruction; (3) having provided the assessment results to the child's parents; and, (4) that the assessment results indicate an evaluation is appropriate. Gone are the days where school teams can simply indicate the interventions tried with anecdotal remarks to indicate the need for evaluation. The data collected prior to referral must now be documented as indicated above and, if the child goes on for evaluation, that data becomes an integral part of the eligibility determination of need. Whether the school is implementing a system of school-wide multi-tiered model of intervention (MTSS) or uses an individual problem solving approach

(SIT, SAT, CARE, etc.) to carry out interventions and document the child's progress, the school will have data regarding the child's needs related to the intensity of instruction and supports required for the child to be successful.

The team must review the evaluation data in such a way as to understand the extent of the child's needs with regard to specially designed instruction. Teams should be able to use the data to describe the intensity of the support needed to assist the child in accessing and progressing in the general education curriculum. It is only through this discussion that the team can determine whether or not the child's need for having adapted content, methodology, or delivery of instruction is so great that it cannot be provided without the support of special education.

If the team determines that the child's need for having adapted content, methodology, or delivery of instruction is so great that it cannot be provided in regular education without the support of special education, the team may determine that the child needs special education and related services (Prong 2 of the eligibility test). If the data suggests the child's needs for instruction can be provided within regular education without the support of special education and related services, the team must determine that the child is not in need of special education and related services.

Examples of Sources of Data

1. General Education Interventions or Results of Screening/General Education Curriculum Progress

Data that the child was provided appropriate instruction in general education settings, including repeated assessments of achievement at reasonable intervals, reflecting formal assessment of child progress during instruction. Includes records of interventions attempted and data collected during monitoring and evaluation of interventions and data collected through screening measures.

2. Record Review

Information provided by the parents, current classroom-based assessments, information from previous services providers, prior screenings, previous evaluations, reports from other agencies, portfolios, discipline records, cumulative file, health records, portfolios, performance in relationship to curricular standards, and other records.

3. Interview (Parent and other caregivers, Student, Teacher)

Parents, teachers, and the child can all typically provide insight into areas of strengths and needs. Interviews can also provide information about significant historical events in the child's life as well as about his performance in the classroom and other settings. May include instructional history, social history, medical information, and/or developmental history.

4. Observation

Structured observations, rating scales, ecological instruments (e.g., EBASS, TIES-II), behavioral interventions, functional analysis of behavior and instruction, anecdotal notes, and other observations (conducted by parents, teachers, related services personnel, and others). The purpose of the observation is to help the evaluation team understand the extent to which the child's skills are impacting his/her ability to participate and progress in a variety of settings.

5. Tests

Standardized norm-referenced tests are helpful if the information being sought is to determine how a child compares to a national group of children of the same age or grade. Criterion-reference tests are helpful in determining if the child has mastered skills expected of a certain age or grade level. Tests may include individual measures of ability or aptitude, curriculum-based assessments (e.g., CBA, CBM, or CBE), performance-based assessments (i.e., rubric scoring), or other skill measures such as individual reading inventories. Diagnostic testing might include measures of reading, math, written language, or other academic skills, or tests of motor functioning, speech/language skills, adaptive behavior, or self-concept, or appropriate tests of any domain of concern.

Autism

KAR 91-40-1

(f) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three but not necessarily so, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT</u> be determined to be a child with an exceptionality if: the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<p>The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.</p>	<p>The team should rule out the presence of an emotional disturbance. If the data the team collects matches the indicators for emotional disturbance, the student should be identified as a child with an emotional disturbance rather than a child with autism.</p>
<p><i>Prong 1: Does the child exhibit an exceptionality?</i></p>	
<p>Examples of Indicators</p>	
<p>Records contain medical information which provides evidence of autism</p>	
<p>Record review, interview, and/or observations indicate student's skills in verbal and nonverbal communication and social interaction are significantly different from peers</p>	
<p>Record review, interview, and/or observations provide information which substantiates student characteristics such as: engagement in repetitive activities and stereotyped movements; resistance to environmental change or change in daily routines; and unusual responses to sensory experiences which are significantly different than peers.</p>	
<p>Record review, interview and/or observations indicate concerns regarding the student's communication and social interaction skills were evident before age 3</p>	
<p>Record review, interview and/or observation indicate that the student's condition adversely impacts his/her educational performance</p>	
<p>Measures of the student's communication and social skills indicate skill level is markedly below that of peers</p>	
<p>Student progress monitoring data shows student's educational performance is markedly below that of peers</p>	
<p><i>Prong 2: Does the child need special education?</i></p>	
<p>Examples of Indicators</p>	
<p>Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate adequate progress</p>	
<p>Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas</p>	
<p>Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions to address communication, social interaction, and/or academic skills.</p>	
<p>Student Progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.</p>	

Developmental Delay (age 9 and younger)

KAR 91-40-1

(q) "Developmental delay" means such a deviation from average development in one or more of the following developmental areas that special education and related services are required:

- (A) Physical;
- (B) cognitive;
- (C) adaptive behavior;
- (D) communication; or,
- (E) social or emotional development

The deviation from average development shall be documented and measured by appropriate diagnostic instruments and procedures.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT</u> be determined to be a child with an exceptionality if: the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>

<ul style="list-style-type: none"> and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, etc.</p>
<p><u>Prong 1: Does the child exhibit an exceptionality?</u></p>	
<p>Examples of Indicators</p>	
<p>Records indicate student is age 9 or under</p>	
<p>Rate of skill acquisition as measured by progress monitoring is markedly different from peers</p>	
<p>Performance is significantly below developmental expectations as evidenced on a criterion referenced instrument in one or more developmental areas</p>	
<p>Performance is significantly below normative sample on a standardized assessment in one or more developmental areas</p>	
<p>Record review, interview, and/or observations demonstrate significant deviation from average development in one or more developmental areas</p>	
<p>Student performance is significantly lower than peers on one or more benchmark assessments, curricular objectives or state assessments</p>	
<p><u>Prong 2: Does the child need special education?</u></p>	
<p>Examples of Indicators</p>	
<p>Student progress monitoring data indicates intense or sustained resources needed in order for student to: (a) physically negotiate and manipulate the environment, or (b) understand age appropriate information, reason, and solve problems, or (c) exhibit developmentally appropriate adaptive skills such as: self-care, home living, community use, self-direction, health and safety, and functional academics, or (d) convey and comprehend communication and social intent, or (e) positively impact relationships with peers and adults, or (f) initiate, respond to, and maintain positive social relationships, or (g) meet behavioral expectations (e.g. following directions, rules, and routines)</p>	
<p>Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more developmental areas</p>	
<p>Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions to address communication, social interaction, and/or academic skills.</p>	
<p>Student progress monitoring data measuring results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.</p>	

Emotional Disturbance

KAR 91-40-1

(v) "Emotional disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (1) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (3) inappropriate types of behavior or feelings under normal circumstances;
- (4) a general pervasive mood of unhappiness or depression; or
- (5) a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia, but shall not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>

<ul style="list-style-type: none"> and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>
<p>The student may not be socially maladjusted, unless it is determined that they also have an emotional disturbance</p>	<p>Courts have interpreted social maladjustment to mean a conduct disorder. Teams should review records to rule out that the student has been identified as a student having a conduct disorder, unless other evidence that the student also has an emotional disturbance exists.</p>
<p><u>Prong 1: Does the child exhibit an exceptionality?</u></p>	
<p>Examples of Indicators</p>	
<p>Record reviews, interviews, and/or observations indicate levels of physical symptoms or fears which are different from peers and are correlated with school problems</p>	
<p>Record reviews, interviews, and/or observations indicate student exhibits inappropriate behaviors or feelings under normal circumstances</p>	
<p>Record reviews, interviews, and/or observations indicate an inability to build or maintain satisfactory interpersonal relationships with peers and teachers</p>	
<p>Record reviews, interviews, and/or observations indicate a pervasive mood of unhappiness or depression</p>	
<p>Record reviews, interviews, and/or observations indicate that emotional difficulties have been exhibited over a long period of time</p>	
<p>Record reviews, interviews, and/or observations indicate that emotional characteristics are adversely affecting the student's educational performance</p>	
<p>Records document a DSM-IV diagnosis that substantiates one or more of the following: an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems and includes schizophrenia</p>	
<p>Record reviews, interviews, and/or observations indicate a history of academic failure in school curricula that cannot be explained by intellectual, sensory, or health factors</p>	
<p>Assessments indicate behavioral and emotional characteristics are exhibited to a marked degree when compared to peers</p>	
<p><u>Prong 2: Does the child need special education?</u></p>	
<p>Examples of Indicators</p>	
<p>Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate adequate progress</p>	
<p>Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas</p>	
<p>Modifications of instruction, curriculum, and the environment have not adequately addressed the behaviors, feelings, relationships, moods, fears, or physical symptoms that adversely affect the student's educational performance</p>	
<p>Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions</p>	
<p>Student progress monitoring data showing results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum</p>	

Gifted

KAR 91-40-1

(cc) "Gifted" means performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience and environment.

Prong 1: Does the child exhibit an exceptionality?

Examples of Indicators

Student progress monitoring indicates student's skill level in one or more academic areas is much above that of peers
Multiple characteristics of giftedness exhibited when interventions provide adaptations, enrichment, or acceleration
Record reviews, interviews, and/or observations indicate student demonstrates a significantly high level of conceptual understanding in specific academic areas
Record reviews, interviews, and/or observations indicate student demonstrates superior reasoning and problem solving ability
Record reviews, interviews, and/or observations indicate student shows persistent intellectual curiosity and asks searching questions
Record reviews, interviews, and/or observations indicate student shows initiative and originality in intellectual work
Record reviews, interviews, and/or observations indicate student has developed one or more interests to considerable depth
Ease of task completion indicates a significantly high level of intellectual ability and excellence in academics
Persistence to task and generalization of knowledge gained indicate a remarkably high level of accomplishment
Rate of acquisition and retention indicate a significantly high level of intellectual ability and excellence in academics
Coursework analysis indicates a significantly high level of intellectual ability and excellence in academics when provided with interventions
Products from home or school indicate a significantly high level of intellectual ability and excellence in academics
GPA, classroom portfolio or rubrics indicate a significantly high level of intellectual ability and excellence in academics
Work samples and projects show flexibility in thinking and considers problems from a number of viewpoints
Performance significantly higher than peers on one or more areas on benchmark assessments, curricular objectives, or state assessments
District, state and national assessments indicate a significantly high level of intellectual ability and excellence in academics
A rank of not less than the 95th percentile on national norms on a standardized, norm-referenced achievement test in one or more of the academic fields (mathematics, language arts (including reading), science, and social science), or evidence that such test scores do not adequately reflect the child's excellence in academics
A composite rank of not less than the 97th percentile on an individually administered, standardized, norm-referenced test of intellectual ability, or evidence that the child's standardized, intelligence test score does not adequately reflect the child's high intellectual potential
College entrance exams indicate a significantly high level of intellectual ability and excellence in academics
Pre-tests consistently indicate student has already mastered end of unit/curricular objectives prior to instruction

<i>Prong 2: Does the child need special education?</i>
Examples of Indicators
Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate appropriate progress
Evidence of student's mastery of successive levels of instructional objectives or course requirements indicates the need for intensive adaptations or acceleration
Student progress monitoring data shows that targeted supplemental interventions are insufficient for student to demonstrate appropriate progress
Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum at appropriate levels of instruction
Intensive changes or modifications needed in instruction, curriculum, grouping, assignments, etc. for student to demonstrate appropriate progress
Evidence of student's frustration with enriched instructional environments indicates the need for intensive adaptations or acceleration
General education interventions such as alternative course selections or cross-age grouping are insufficient to support student progress

Learning Disability

KAR 91-40-1

(mmm) "Specific learning disability" means a disorder in one of more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term shall not include learning problems that are primarily the result of any of the following:

(1) Visual, hearing, or motor, disabilities; (2) mental retardation; (3) emotional disturbance; or (4) environmental, cultural, or economic disadvantage.

KAR 91-40-11

(b) A group evaluating a child for a specific learning disability may determine that the child has such a disability only if the following conditions are met:

(1) The child does not achieve adequately for the child's age or meet state-approved grade-level standards, if any, in one or more of the following areas, when the child is provided with learning experiences and instruction appropriate for the child's age and grade level: (A) Oral expression; (B) listening comprehension; (C) written expression; (D) basic reading skill; (E) reading fluency skills; (F) reading comprehension; (G) mathematics calculation; and (H) mathematics problem solving.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT</u> be determined to be a child with an exceptionality if: the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>

<ul style="list-style-type: none"> and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>
<p>The determinant factor for why the child does not achieve adequately for the child's age or does not make sufficient progress to meet age or State-approved grade level standards, or exhibits a pattern of strengths and weaknesses, is not primarily the result of:</p> <ul style="list-style-type: none"> A visual, hearing or motor disability; emotional disturbance; cultural factors; environmental or economic disadvantage; limited English proficiency; or 	<p>If any of these factors are an issue for the student being evaluated, provide evidence that the student was provided with appropriate accommodations and interventions to address them. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, these factors are ruled out as the primary cause. However, it should be recognized that learning disabilities can co-exist with other types of disabilities (i.e., co-morbidity).</p>
<ul style="list-style-type: none"> mental retardation 	<p>Evidence shows that student information does not match indicators for mental retardation.</p>

Prong 1: Does the student exhibit an exceptionality?

Examples of Indicators

<p>Observation in the student's learning environment (must include the general education classroom) provides evidence of the student's performance and behavior in the area of difficulty. <i>[Note: This is required for all evaluations of students suspected of having a learning disability]</i></p>
<p>Record reviews shows DSM-IV diagnosis of learning disability by clinical psychologist or previous identification as having a learning disability</p>
<p>Measures of achievement in basic reading skills, reading fluency skills, and/or reading comprehension is significantly lower than peers</p>
<p>Measures of achievement in math calculation or math problem-solving is significantly lower than peers</p>
<p>Measures of achievement in written expression is significantly lower than peers</p>
<p>Measures of oral expression and/or listening comprehension indicate student performance is significantly lower than peers</p>
<p>Interviews indicate student demonstrates a high level of understanding during oral discussions but lacks mastery of basic skills</p>
<p>Interviews indicate student exhibits good reasoning/mastery of skills outside of academic areas</p>
<p>Student performance significantly lower than peers on one or more benchmark assessments, curricular objectives, or state assessments</p>
<p>Student demonstrates average or above scores in one achievement domain but significantly low scores in a different domain</p>
<p>Severe discrepancy (at least 25 points) between standard scores of ability and achievement</p>
<p>Progress monitoring data displayed on charts or graphs shows slow rate of growth in at least one achievement domain despite provision of intense, explicit instructional interventions</p>
<p>Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.</p>

<i>Prong 2: Does the child need special education?</i>
Examples of Indicators
Student progress monitoring data indicates intense or sustained resources needed in order for student to demonstrate adequate progress
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas
Despite modifications of instruction, curriculum, and environment, the student progress monitoring data shows variability across academic performance areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student Progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.
Despite implementation of tertiary prevention practices, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas

Mental Retardation

KAR 91-40-1

(oo) "Mental retardation" means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT</u> be determined to be a child with an exceptionality if: the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<i>Prong 1: Does the student exhibit an exceptionality?</i>
Examples of Indicators
Records, interviews, and/or observations indicate child's level of educational performance has been significantly less than peers over an extended period of time
Records, interviews, and/or observations indicate adaptive behavior deficits have occurred over an extended period of time
Records and/or interviews indicate deficits in adaptive behavior and low intellectual functioning were manifested during the developmental period
Records indicate a medical diagnosis of mental retardation
Records, interviews, and/or observations indicate student exhibits deficits in adaptive skill areas
Student's rate of learning as measured by progress monitoring is markedly different from peers
Student's performance is significantly lower than peers on benchmark assessments, curricular objectives, or state assessments
Measures of adaptive behavior skills indicate significant deficits in two or more areas
Measures of academic achievement indicate significant delays across subject areas
Student's score is two or more standard deviations below the mean on an individually administered, standardized, norm-referenced test of intellectual ability
Record review, interview and/or observation indicate that the student's condition adversely impacts his/her educational performance
<i>Prong 2: Does the child need special education?</i>
Examples of Indicators
Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
Despite modifications in instruction, curriculum and environment, student's adaptive behavior skills in various age appropriate environments is significantly delayed from peers
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student Progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.

Multiple Disabilities

KAR 91-40-1

(pp)) "Multiple disabilities" means coexisting impairments, the combination of which causes such severe educational needs that those needs cannot be accommodated in special education programs solely for one of the impairments. The term shall not include deaf-blindness.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<u>Prong 1: Does the student exhibit an exceptionality?</u>
Student progress monitoring data shows student's educational performance is much below that of peers despite modifications of instruction, curriculum, and environment
Records contain medical information which provides evidence of multiple disabilities
Interviews indicate a history of co-existing impairments
Measures of educational performance indicate the following: <ul style="list-style-type: none"> • the coexisting impairments are such that the student cannot be provided services appropriately in classrooms solely for students with one of the impairments; or • the coexisting impairments are such that the student cannot be provided services appropriately in general education classrooms without specific assistance, modifications, adaptations, or supports necessary to accommodate the multiple impairments
Record review, interviews, and/or observations show that the student's educational performance is much below that of peers
Record review, interviews, and/or observations show that the student's condition adversely impact his/her educational performance
<u>Prong 2: Does the child need special education?</u>
Examples of Indicators
Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
Despite modifications in instruction, curriculum and environment, student's adaptive behavior skills in various age appropriate environments is significantly delayed from peers
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.
Student progress monitoring data indicates intense or sustained resources are needed to support interventions (e.g. specific assistance, modifications, adaptations, or other supports) necessary to accommodate student needs resulting from coexisting impairments
Record review, interviews, and observations show the coexisting impairments adversely affect the child's participation and progress in the general curriculum or participation in age-appropriate activities

Orthopedic Impairment

KAR 91-40-1

(tt) "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance and includes impairments caused by any of the following: (1) congenital anomaly, such as clubfoot or absence of a limb; 2) disease, such as poliomyelitis or bone tuberculosis; and 3) other causes, such as cerebral palsy, amputation, and fractures or burns that cause contractures.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p> <p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<u>Prong 1: Does the student exhibit an exceptionality?</u>
Records contain medical information which provides evidence of orthopedic impairment
Records contain information substantiating an impairment caused by: congenital anomaly, such as clubfoot or absence of a limb; disease, such as poliomyelitis or bone tuberculosis; and, other causes such as cerebral palsy, amputation, and fractures or burns that cause contractures
Records and/or interviews indicate a history of orthopedic impairment
Records, interviews, observations, and/or tests show that the student's educational performance is much below that of peers
Records, interviews, observations, and/or tests show that the student's orthopedic condition adversely impacts his/her educational performance
Measures of motor skills indicate the student's skills are much below that of peers
<u>Prong 2: Does the child need special education?</u>
Examples of Indicators
Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
Despite modifications in instruction, curriculum and environment, student's adaptive behavior skills in various age appropriate environments is significantly delayed from peers
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.

Other Health Impairment

KAR 91-40-1

(uu) "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment and that meets the following criteria: (1) is due to chronic or acute health problems, including asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and 2) adversely affects a child's educational performance.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<u>Prong 1: Does the student exhibit an exceptionality?</u>
Examples of Indicators
Records contain medical information which document chronic or acute health problems including: asthma; attention deficit disorder or attention deficit hyperactivity disorder; diabetes; epilepsy; heart condition; hemophilia; lead poisoning; leukemia; nephritis; rheumatic fever; sickle cell anemia; or Tourette syndrome.
Record review, interviews, observations, and/or tests show that the student's educational performance is much below that of peers
Record review, interviews, observations, and/or tests show the student's strength, vitality, or alertness is/are significantly different from peers
Record review, interviews, observations, and/or tests show the student demonstrates limited alertness with respect to the educational environment
Record review, interviews, observations, and/or tests show that the student's condition adversely impacts his/her educational performance
<u>Prong 2: Does the child need special education?</u>
Examples of Indicators
Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
Providing modifications in instruction, curriculum and environment does not alleviate adverse effects on student's educational performance due to differences in strength, vitality, or alertness
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.

Sensory Impairments

KAR 91-40-1

(dd) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that does not constitute deafness as defined in this regulation.

(p) "Deafness" means a hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification, and adversely affects the child's educational performance.

(uuu) "Visual impairment" means an impairment in vision that, even with corrections, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(g) "Blindness" means a visual impairment that requires dependence on tactile and auditory media for learning

(o) "Deaf-blindness" means the combination of hearing and visual impairments that causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for the hearing impaired or the visually impaired.

The following exclusionary criteria apply to Hearing impairment, Deafness, Visual impairment, Blindness, and Deaf-Blindness

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p> <p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>

<ul style="list-style-type: none"> Limited English proficiency ; 	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
<ul style="list-style-type: none"> and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

The following indicators apply to Hearing Impairment, Deafness, Visual Impairment, and Blindness

Prong 1: Does the student exhibit an exceptionality?

Examples of Indicators

Records contain medical information which provides evidence of hearing impairment, deafness, or visual impairment

Measures of hearing indicate the following:

- a 30dB (or greater) sensorineural or mixed hearing loss across speech frequencies in the better ear with amplification
 - a 30dB (or greater) conductive hearing loss across speech frequencies in the better ear with amplification (will require annual audiological evaluations to maintain deaf-blind certification)
 - a previous chronic condition exists which interferes with the auditory learning mode
 - congenital malformations of the auricle (e.g., absence of a pina or ear canal opening)
- "functionally deaf", "cortically deaf", or "central processing loss"- the hearing structures are present and working; however, the student does not attend, respond, localize, or process hearing to receive information from the environment or accurately interpret information about the environment

Measures of vision indicate the following:

- Measured or estimated corrected visual acuity of 20/20 or less in the better eye
 - A previous chronic condition exists which interferes with the visual learning mode
 - Ocular motor (e.g., Muscle imbalance)
 - Anophthalmus (absence of actual eyeball)
 - Visual field of 40 degrees or less in the better eye
- "Functionally blind" or "cortically visually impaired"- the visual structures are present and working; however, the student does not track, localize, or process vision to receive information from the environment or accurately interpret information about the environment

Measures of educational performance indicate the following: <ul style="list-style-type: none"> Hearing or vision losses are such that the student cannot be provided services appropriately in the general education classroom without specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss
Record review, interviews, observations, and/or tests show that the student's educational performance is much below that of peers
Record review, interviews, observations, and/or tests show that the student's impairment adversely impact his/her educational performance
Testing indicates student is "functionally deaf", "cortically deaf", or has "central processing loss"- the hearing structures are present and working; however, the student does not attend, respond, localize, or process hearing to receive information from the environment or accurately interpret information about the environment
Testing indicates student is "functionally blind" or "cortically visually impaired"- the visual structures are present and working; however, the student does not track, localize, or process vision to receive information from the environment or accurately interpret information about the environment
Information from multiple sources of data indicates that the student exhibits a hearing impairment, whether permanent or fluctuating, that adversely affects a child's educational performance
Information from multiple sources of data indicates that the student exhibits a hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification, and adversely affects the child's educational performance
Information from multiple sources of data indicates that the student exhibits a visual impairment that, even with correction, adversely affects a child's educational performance
<u>Prong 2: Does the child need special education?</u>
Examples of Indicators
Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
Student progress monitoring data indicates intense or sustained resources (e.g. specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss) are needed in order for student to demonstrate adequate progress
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.
The following indicators apply to Deaf-blindness
<u>Prong 1: Does the student exhibit an exceptionality?</u>
Examples of Indicators
Records contain medical information which provides evidence of deaf-blindness

<p>Measures of hearing indicate the following:</p> <ul style="list-style-type: none"> • A 30db (or greater) sensorineural or mixed hearing loss across speech frequencies in the better ear with amplification • A 30db (or greater) conductive hearing loss across speech frequencies in the better ear with amplification (will require annual audiological evaluations to maintain deaf-blind certification) • A previous chronic condition exists which interferes with the auditory learning mode • Congenital malformations of the auricle (e.g., Absence of a pina or ear canal opening) • "Functionally deaf", "cortically deaf", or "central processing loss"- the hearing structures are present and working; however, the student does not attend, respond, localize, or process hearing to receive information from the environment or accurately interpret information about the environment
<p>Measures of vision indicate the following:</p> <ul style="list-style-type: none"> • Measured or estimated corrected visual acuity of 20/20 or less in the better eye • A previous chronic condition exists which interferes with the visual learning mode • Ocular motor (e.g., Muscle imbalance) • Anophthalmus (absence of actual eyeball) • Visual field of 40 degrees or less in the better eye • "Functionally blind" or "cortically visually impaired"- the visual structures are present and working; however, the student does not track, localize, or process vision to receive information from the environment or accurately interpret information about the environment
<p>Measures of educational performance indicate the following:</p> <ul style="list-style-type: none"> • The combined vision and hearing losses are such that the student cannot be provided services appropriately in classrooms solely for students with visual or hearing impairments; or • The combined vision and hearing losses are such that the student cannot be provided services appropriately in general education classrooms without specific assistance, modifications, adaptations, or supports necessary to accommodate both sensory losses
<p>Record review, interview, observation, and/or tests show that the student's educational performance is much below that of peers</p>
<p>Record review, interview, observation, and/or tests show that the student's impairments adversely impact his/her educational performance</p>
<p><u>Prong 2: Does the child need special education?</u></p>
<p>Examples of Indicators</p>
<p>Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers</p>
<p>Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers</p>
<p>Student progress monitoring data indicates intense or sustained resources (e.g. specific assistance, modifications, adaptations, or supports necessary to accommodate the sensory loss) are needed in order for student to demonstrate adequate progress</p>
<p>Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas</p>
<p>Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions</p>
<p>Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.</p>

Fall 2007

Student progress monitoring data indicates intense or sustained resources (e.g. specific assistance, modifications, adaptations, or supports necessary to accommodate both sensory losses) are needed in order for student to demonstrate adequate progress
Information from multiple sources of data indicates that the student exhibits a combination of hearing and visual impairments which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for the hearing or visually impaired

Speech or Language Impairment

KAR 91-40-1

(III) "Speech or language impairment" means a communication disorder, including stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<u>Prong 1: Does the student exhibit an exceptionality?</u>
Examples of Indicators
Record review, interview, observations, and/or assessments indicate student's voice, fluency, speech sounds, or language skills not commensurate with age appropriate expectations and have an adverse effect on the student's educational performance
Record review, interview, observations, and/or assessments indicate student's communication skill level is much below that of peers
Record review, interview, observations, and/or assessments indicate student's communication skills have impacted development in other areas, e.g. social-emotional, cognitive
Records and interviews indicate a history of academic difficulty relative to communication skills
Student performance significantly lower than peers on measures of language which are related to curricular performance
Information from multiple sources of data indicates that the student exhibits stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects educational performance
<u>Prong 2: Does the child need special education?</u>
Examples of Indicators
Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers
Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
Student progress monitoring data shows that the student's behavior of concern is resistant to targeted supplemental and intensive interventions
Student progress monitoring data results of increasingly customized and individually tailored instruction and intervention indicate that the student needs specially designed instruction to access the general curriculum.

Traumatic Brain Injury

KAR 91-40-1

(sss) "Traumatic brain injury" means an acquired injury to the brain, caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term shall apply to open or closed head injuries resulting in impairments in one or more areas, including the following: (1) cognition; (2) language; (3) memory; (4) attention; (5) reasoning; (6) abstract thinking; (7) judgment; (8) problem-solving; (9) sensory, perceptual and motor abilities; (10) psychosocial behavior; (11) physical functions; (12) information processing; and (13) speech. The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.

Exclusionary Criteria:

Exclusionary Factor	How to Evaluate
<p>A child <u>must NOT be determined to be a child with an exceptionality if:</u> the determinant factor is:</p> <ul style="list-style-type: none"> • Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB); • Lack of appropriate instruction in math; or • Limited English proficiency ; • and the child does not otherwise meet the eligibility criteria as a child with an exceptionality 	<p>Evidence shows that the student's previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>Evidence shows that the student's previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from (a) an evaluation of the school's basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.</p>
	<p>If the student being evaluated is an English Language Learner, provide evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as: proficiency in English and in the student's native language, amount of time in the country, level of education in the student's native country, etc. If, in spite of appropriate accommodations and interventions, the student's learning difficulties persist, this factor is ruled out.</p>
	<p>Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.</p>

<p>The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.</p>	<p>The term TBI is not used for a person who is born with a brain injury. It also is not used for brain injuries that happen during birth. Evidence is provided that the brain injury was sustained after some period of normal development.</p>
<p>The term shall not include brain injuries that are the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.</p>	<p>The term TBI is not used for a person who sustained a brain injury as a result of a brain tumor, brain infection, cerebral vascular accident (stroke), or poisoning. Evidence is provided that the brain injury sustained was not caused by these conditions. (Note: Students with these conditions <i>may</i> meet eligibility requirements under the category of "Other Health Impaired".)</p>

Prong 1: Does the student exhibit an exceptionality?

Examples of Indicators

<p>Records contain medical information which provides evidence of traumatic brain injury</p>
<p>Record review, interview, observation, and/or tests indicate the injury adversely affects the student's educational performance</p>
<p>Record review, interview, observation, and/or tests indicates that the student has an acquired injury to the brain (applies to both open or closed head injuries, including near drowning) caused by an external physical force that has resulted in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance</p>
<p>Record review, interviews, observations, and/or tests in one or more areas (cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech) indicate student's skill level is much below that of peers</p>
<p>Record review and/or interview indicates the brain injury is not congenital or degenerative or induced by birth trauma</p>
<p>Record review and/or interview indicates the brain injury is not the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.</p>

Prong 2: Does the child need special education?

Examples of Indicators

<p>Despite modifications in instruction, curriculum and environment, student's rate of learning is significantly less than peers</p>
<p>Despite modifications in instruction, curriculum and environment, student's educational performance in various age appropriate environments is significantly delayed from peers</p>
<p>Student progress monitoring data indicates intense or sustained resources are needed to support interventions (e.g. specific assistance, modifications, adaptations, or other supports) necessary to accommodate the needs resulting from the injury</p>
<p>Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas</p>
<p>Student progress monitoring data shows that student's behavior of concern is resistant to targeted supplemental and intensive interventions</p>

Reporting Requirements

When the initial evaluation and eligibility determination are completed, the evaluation team must prepare a written evaluation/eligibility report. The report must include not only the evaluation results, but also document the eligibility determination.

The evaluation report serves as the documentation of the child's eligibility. The evaluation report and the documentation of eligibility must be provided, at no cost, to the parent (KAR 91-40-10(b); 34 CFR 300.306(a)(2)). There are specific requirements for reporting the eligibility determination (KAR 91-40-10(a), (e); 34 CFR 300.311). The report must include a statement of:

- a. whether the child is a child with an exceptionality;
- b. the basis for making the determination;
- c. the relevant behavior noted during the observation of the child (and for LD the relationship of that behavior to the child's academic functioning);
and
- d. the educationally relevant medical findings, if any;

And for a child determined to have a learning disability, the report must also include documentation of the following:

- (i) the child does not achieve adequately for the child's age or to meet State-approved grade-level standards when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards,
- (ii) AND
 - the child does not make sufficient progress to meet age or State-approved grade-level standards when using a process based on the child's response to scientific, research-based intervention;
OR
 - the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development.
- (iii) The determinate factor for why the child does not achieve adequately for the child's age or does not make sufficient progress to meet age or State-approved grade level standards, or exhibits a pattern of strengths and weaknesses, is not primarily the result of:
 - A visual, hearing or motor disability;
 - mental retardation;
 - emotional disturbance;
 - cultural factors;
 - environmental or economic disadvantage; or
 - limited English proficiency.

(iv) If the child has participated in a process that assesses the child's response to scientific, research-based intervention (RTI/MTSS), the report must also document

- the instructional strategies used; and
- the student-centered data collected.

Documentation that the child's parents were notified about the process, including the following information:

- the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
- strategies for increasing the child's rate of learning; and
- the parent's right to request an evaluation (K.A.R. 91-40-10(e), (f); K.A.R. 91-40-9(a)(2)(3); 34 C.F.R. 300.309(a)(3); 34 C.F.R. 300.311(a)).