Oakland Schools Guidance:
Eligibility Determination for a Specific Learning Disability

OaklandSchools
Learning today. Transforming tomorrow.

Special Education
2111 Pontiac Lake Road
Waterford, MI 48328-2736
248.209.2314
www.oakland.k12.mi.us

August 2011

For further information on this document, contact:

Special Education
Oakland Schools
2111 Pontiac Lake Road
Waterford, MI 48328
248.209.2314

For information on Specific Learning Disabilities (SLD), visit:

www.oakland.k12.mi.us/sld

Acknowledgements

This document reflects the efforts of many people within Oakland Schools, across Oakland County, and across the State of Michigan. The process of developing this guidance document began in September 2010, with a stakeholder group representing each of the quadrants of Oakland County and the multiple professional disciplines involved in making Specific Learning Disability (SLD) determination decisions. This stakeholder group met several times to review the Michigan Department of Education document titled *Michigan's Criteria for Determining the Existence of a Specific Learning Disability* and to assist Oakland Schools in identifying the implementation barriers local school districts were facing. This stakeholder group also provided feedback during the drafting process. A first draft of the document was sent out for public review and comment in December 2010. Based on formal written comments received from special education directors, district Multidisciplinary Evaluation Teams (MET), and individual practitioners, as well as additional rounds of careful analysis by the stakeholder group, a redrafting of the document took place from January to March 2011. An additional stakeholder group, formed through nominations from members of the Special Education Administrators of Oakland County (SEAOC), was convened in both February and March 2011. This group's purpose was to help identify and address the unique issues surrounding SLD determination at the secondary level.

We are extremely grateful to the stakeholders for their commitment to this product and for their contribution of time and knowledge.

Initial Stakeholder Representatives

Paul Anderson, Ph.D., School Psychologist, Bloomfield Hills
Nicole Roediger, M.A., School Psychologist, Royal Oak
Abby Cypher-Kitchen, S.Psy.S., Special Education Supervisor, Lake Orion
Leslie Hosey, Ph.D., School Psychologist, Waterford
Bill Hudson, Sp.A., School Psychologist, Clarenceville
Heather Lackey, M.A., School Psychologist, Berkley
Deborah Norton, M.A., Special Education Program Consultant, Rochester
Carrie Peters, M.A., Speech-Language Pathologist, Clarkston
Stephanie Siems, M.Ed., Special Education Supervisor, Birmingham
Cheryl Somers, Ph.D., School Psychologist, Berkley
Todd Symington, S.Psy.S., School Psychologist, Farmington

Stakeholder Representatives for Secondary Issues

Janet Armil, Sp.A., School Psychologist, Birmingham
Sharon Berke, Ed.S., Special Education Transition and 504 Coordinator, Berkley
Abby Cypher-Kitchen, S.Psy.S., Special Education Supervisor, Lake Orion
Sherry Gillespie, M.A., School Psychologist, West Bloomfield
Chrissie Gustafson, Ed.S., School Psychologist, Huron Valley
Heather Guzik, M.A., School Psychologist, Rochester
Tina Honig, M.A., Speech-Language Pathologist, Clawson
Bill Hudson, Sp.A., School Psychologist, Clarenceville
Dijana Micakaj, M.A., School Psychologist, Bloomfield Hills
Karen Stebbe, M.S., Teacher Consultant, Rochester
Jared Wood, Ph.D., School Psychologist, Lake Orion

Intermediate School Districts and Associations

This document also recognizes the exemplary efforts of other intermediate school districts in Michigan, specifically Ingham Intermediate School District, Kalamazoo Regional Education Services Agency, Ottawa Area Intermediate School District and Wayne Regional Educational Service Agency, as well as the Michigan Association of Administrators of Special Education (MAASE) SLD subcommittee.

Oakland Schools Staff

Pam Allen, M.A., Special Education Consultant
Kathy Barker, M.A., Director of Special Education
William Barley, M.A., School Psychologist
Johanna Bauer, M.S.P.A., Special Education Consultant
Jennifer Irwin, Graphic Designer
Diane Katakowski, M.A., Speech-Language Pathologist
Susan M. Koceski, Ph.D., School Psychologist
Matt Korolden, M.S., Compliance Consultant
Karen Rockhold, M.A., Special Education Supervisor
Carly A. Staunton, M.B.A., System Design Consultant

Dr. Susan M. Koceski deserves special acknowledgement for her tireless dedication to the process and to the document itself. Her contributions to the content and her commitment to reflecting the input of the stakeholders and her Oakland Schools colleagues have been remarkable.

Citations

Federal Statutes and Regulations

- Statute – The Individuals with Disabilities Education Act (IDEA) was last amended by Congress when it passed the Individuals with Disabilities Education Improvement Act (IDEIA) (P.L. 108-446) on December 3, 2004 (U.S. Department of Education, 2004). The IDEIA did not change the name of the federal special education law, which for ease of identification is now known as IDEA 2004. It is found in the United States Code at 20 U.S.C. 1400 et. seq.
- Federal Regulations – The Office of Special Education and Rehabilitative Services in the United States Department of Education is the agency that promulgates the federal regulations needed to implement the IDEA. There have been two sets of regulations issued thus far to implement IDEA 2004. The bulk of the regulatory changes were included in the first set that was released on August 14, 2006. The second set contained a provision for the written revocation of parent consent for special education, and was issued on December 1, 2008. The IDEA Federal Regulations are found in Title 34 of the Code of Federal Regulations Part 300, in sections 300.1 to 300.818 (U.S. Department of Education, 2006). The formal citation for Title 34 is 34 CFR (2004). References to specific sections of Title 34, appear as § 300.173. For ease of reading, in this guidance document we will be referring to the IDEA Federal Regulations solely by section number, e.g., § 300.309 is the citation for the new regulation entitled "Determining the existence of a specific learning disability."
- Federal Analysis of Comments and Changes – The Analysis of Comments and Changes for the IDEA 2004 was published on August 14, 2006 in Volume 71 of the Federal Register, No. 156, pages 46540-46845 (U.S. Department of Education, 2006). When the U.S. Department of Education issued the IDEA Federal Regulations (2004) (U.S. Department of Education, 2006), it also publishes within the same document a summary of comments that had been submitted by the public in response to the proposed rules, the Department's reaction to the comments (called "discussion"), and whether or not the final regulation in question was changed from the proposed regulation. While the Department's discussion in response to public comment is not binding (i.e., it is not part of the regulations), it does provide further insight into the Department's thinking and intentions in the resulting regulations. For ease of reading, quotations or references to USDOE discussion on the IDEA 2004 implementing regulations will be cited as 71 Fed. Reg. with the corresponding page number.

State Statutes and Regulations

- The *Michigan Administrative Rules for Special Education (MARSE)* are noted in text as R.340 with the following numbers indicating the subsection.

Table of Contents

Foreword

The history of public education in Oakland County is long and complex. There have been a number of pivotal points including, universal public education through the enactment of compulsory education laws in each State, the enactment of the 1975 Education for All Handicapped Children Act (most recently amended in 2004 and now called the Individuals with Disabilities Education Act, or the IDEA), and the passage of the 2001 No Child Left Behind Act (NCLB), also known as the Elementary and Secondary Education Act (ESEA).

The initial emphasis in implementing the IDEA was to open school doors to students with disabilities and to build an infrastructure that would provide special education supports and services. Within the course of the 35 years of special education legislation, however, a few unfortunate outcomes occurred. One of these outcomes was that special education services often became the "go-to" source of support for students who were at-risk, but not necessarily disabled; simply put, underachievement often translated into referrals, lengthy evaluations, and disability status. An additional outcome was that special education came to be perceived as a place where services were provided, rather than a foundation of specially designed instruction aimed at supporting the student with an IEP to find success within the scope of the general education curriculum.

Fortunately today, the reciprocal relationship between the IDEA and the ESEA reflects an increasingly unified federal education policy. The combined messages of the IDEA and NCLB are powerfully straightforward: All children have the right to appropriate instruction.

The IDEA 2004 reauthorization incorporated many of the NCLB components for appropriate instruction, either directly or by reference. The law also introduced two new options for the determination of specific learning disabilities (SLD). These new choices were meant to serve as alternatives to the prior model of a severe discrepancy between ability and achievement. The new options in the SLD determination process included:

1) The use of a student's response to scientific, research-based interventions, and
2) The existence of a pattern of strengths and weaknesses in achievement, performance, or both.

The U.S. Department of Education's regulations for the IDEA 2004 should serve to remind us of a long-standing requirement of the IDEA, namely that students should not be made eligible for special education services when the underachievement in question is primarily the result of a lack of appropriate instruction. This requirement is so significant that the U.S. Department of Education is now requiring that districts have data to demonstrate that appropriate instruction has indeed occurred.

If the right to appropriate instruction is to be realized, all education systems must ensure that every student is provided with high quality general education instruction, and that each student is offered supplemental interventions as needed. Effective core instruction and appropriate intervention must be available to all students, not just students who are being considered for special education eligibility. The use of student data to adjust instruction, and the presence of a continuum of interventions available to struggling learners are hallmarks of a responsive instructional system. The term Response to Intervention (RtI) represents a framework that can be used to implement such a system. At Oakland Schools, we believe that the IDEA requirements for SLD determination both presume and support the idea that districts do indeed have responsive instructional systems in place, making movement toward RtI a worthy goal. It is within this lens that this guidance is provided.

Kathleen Barker
Director of Special Education
Oakland Schools

Purpose

In 2010, the Michigan Department of Education (MDE) required that each local district make public its use of a State-approved methodology for the determination of a Specific Learning Disability (SLD). The *Michigan Criteria for Determining the Existence of a Specific Learning Disability* (Michigan Department of Education, 2010), referred to herein as MDE SLD Criteria, outlines the various options districts may select in order to determine the presence of a SLD. Within Oakland County, the vast majority of districts opted to use a Pattern of Strengths and Weaknesses (PSW) approach; others opted to use a Response to Intervention (RtI) methodology. Additionally, the majority of districts in the county reported that they are working toward the establishment of RtI systems. It is within this context that Oakland Schools has developed this document: *Oakland Schools Guidance: Eligibility Determination for a Specific Learning Disability*. This guidance document, bolstered by the clear direction of the U.S. Department of Education, seeks to clarify and expand upon the foundation established by the MDE. It is designed to support the Multidisciplinary Evaluation Team (MET) as they identify students with SLD as their district is moving toward implementation of RtI.

The purpose of this document is both to assist districts in complying with all state rules and federal regulations regarding SLD, and to encourage districts to make a long-term plan for reshaping identification practices. It is not intended to mandate an approach, nor is it intended to establish a single methodology for SLD identification across the county. The intended audience for this document includes special education directors and supervisors, and the MET representatives who have a role in developing district procedures for the identification of SLD. Decisions about practice implications cannot and should not be made at the ISD level.

Oakland Schools is committed to assisting districts in the development of sound, defensible procedures and practices that fit their unique service delivery context. Furthermore, it is the goal of Oakland Schools to help districts establish eligibility procedures that are based on a careful review of the options, aligned with the district's vision, and established with an eye toward the future.

The *Oakland Schools Guidance: Eligibility Determination for a Specific Learning Disability* (referred to herein as the OS SLD Guidance) is a document that will be routinely updated. In addition, a Frequently Asked Questions (FAQ) document was developed as a companion to this document. This supplemental tool provides in greater detail responses to specific questions raised by the stakeholder groups as well as questions introduced by individuals during the review process. In addition, the FAQ will be routinely updated based on changes from case law. This supplemental tool provides in greater detail responses to specific questions. An up-to-date copy of the FAQ is located at http://www.oakland.k12.mi.us/sld.

Chapter 1

Background

Federal Legislation

Current national and international data documents the poor performance of U.S. children in the areas of reading comprehension and applied mathematical thinking. Analysis of the 2007 *Trends in International Mathematics and Science Study (TIMSS)* indicated that average math achievement for U.S. students lags behind that of many other industrialized nations (Gonzales, Williams, Jocelyn, Roey, Kastberg, & Brenwald, 2008). Results from the 2008 National Assessment of Educational Progress (NAEP) demonstrated that while there are significant numbers of students across the nation who are not proficient in reading, the prevalence of poor reading proficiency is greater for minority students, students with lower socioeconomic status, and students receiving special education services (Rampey, Dion, & Donahue, 2009). Given the poor performance of students across the board, there has been increased pressure on the educational system to make some students eligible for special education services, specifically under the Specific Learning Disability (SLD) category. National data indicate that approximately half of the students receiving special education services are eligible due to a SLD, and that the majority of these students exhibit their primary difficulties in learning to read (U.S. Department of Education, 2002).

Since the inclusion of SLD as an eligibility category in 1975, the field has been challenged to operationalize the definition. Congress defined SLD as a "disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations…" § 300.8 (2)(c)(10). The U.S. Department of Education (USDOE) subsequently defined this "imperfect ability" as a "severe discrepancy" between ability and achievement. While "severe discrepancy" helped close the potential floodgates posed by the term "imperfect ability," the resulting reliance on the discrepancy model as an inclusionary criterion for SLD eligibility detracted focus from the areas of prevention, early identification, and appropriate intervention for students identified as at-risk. In addition, the failure to define "severe discrepancy" on the part of both the USDOE and many states has resulted in a high degree of variability in SLD identification rates across states (Reschly & Hosp, 2004), districts, and even school buildings within an individual district.

Minority students have historically been disproportionately identified as SLD, and assessment results from the NAEP have reflected poor outcomes for students who were identified as SLD who received special education services. Additionally, it is evident that some students who were originally identified as SLD would be more accurately identified as "curriculum casualties," that is, students who did not receive the appropriate instruction necessary to allow them to be successful learners. Over time, the special education system has become overburdened; in many cases, interventions have not been "specially designed" to address the needs of individual students, and it has become increasingly difficult to distinguish between students with a true SLD and those with low achievement.

Over the last three decades, copious amounts of data have been collected regarding the inadequacy of the methods used to identify students suspected of having a SLD. Beginning in the 1980s, the National Institute of Child Health and Human Development (NICHD) conducted a long-term, multiple-site, national research program. The project compiled a considerable body of evidence on several specific topics, including how students learn to read, what happens to students who do not learn to read, and the shortcomings of the ability-achievement discrepancy model as an identification practice for SLD. Reid Lyon, one of the primary researchers, issued the following summary of key findings from these national studies:

> For 90-95% of poor readers, prevention and early intervention programs that combine instruction in phoneme awareness, phonics, fluency development and reading comprehension strategies, provided by well trained teachers, can increase reading skills to average reading levels. However, if we delay intervention until age 9, (when most children with reading difficulties receive services) approximately 75% will continue to have difficulties learning to read throughout high schools (Lyon, 1998).

§ 300.307 Specific learning disabilities

(a) General. A state must adopt, consistent with § 300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8(c)(10). In addition, the criteria adopted by the State—

(1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether the child has a specific learning disability as defined in § 300.8 (c)(10);

(2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and

(3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in § 300.8 (c)(10).

(b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

In 1997, Congress asked the Director of the NICHD, in consultation with the Secretary of Education, to convene a national panel to assess the efficacy of different approaches used to teach children to read. In 2000, the Report of the National Reading Panel was released with a research-based focus on five big ideas for reading instruction for all students: phonemic awareness, phonics, fluency, text comprehension and vocabulary (National Institute of Child Health and Human Development, 2000).

The results of these large-scale national initiatives, focused on research-based practices in reading, created the momentum necessary for national legislation. The 2001 reauthorization of the Elementary and Secondary Educational Act (ESEA), also known as No Child Left Behind (NCLB), furthered significant changes in U.S. educational policy, and promoted dramatic shifts in achievement expectations for all students. The goal that 100% of students would meet proficiency benchmarks in mathematics and reading by 2014 was set, and with the deadline quickly approaching, educators were injected with an increased sense of urgency to ensure that all students meet grade-level benchmarks. Reading First, or Part B of the Title I portion of NCLB, instituted a state-based grant program designed to encourage the use of scientifically-based practices as the primary foundation for K–3 reading instruction. Reading First sought to achieve three main goals:

1) To embed the essential components of research-based reading materials and instruction into all classrooms.
2) To require screening and progress monitoring of students.
3) To provide the necessary professional development for all teachers to be successful.

In all, NCLB created a renewed emphasis on accountability, measurable student outcomes, data-based decision-making, and the use of research-based methods and interventions.

Consistent with changes in general education, large-scale initiatives were taking place that would significantly impact the reauthorization of the IDEA. First, the USDOE Office of Special Education Programs (OSEP) sponsored several meetings, including the Learning Disabilities Summit: Building a Foundation for the Future in 2001, and the Learning Disabilities Roundtable in 2002 and 2004. Each session reviewed current SLD identification practices and offered policy changes for the IDEA reauthorization, including alternative SLD identification practices. Second, in July 2002, The President's Commission on Excellence in Special Education released its report entitled *A New Era: Revitalizing Special Education for Children and Their Families* (U.S. Department of Education, 2002). Because of this report, the 2004 reauthorization of the IDEA made major policy shifts based on the Commission's findings that the current system of special education had the following shortcomings (U.S. Department of Education, 2002, p. 7):

- It was overly focused on process and compliance, rather than on student achievement and better student outcomes. “Too often, simply qualifying for special education becomes an end-point—not a gateway to more effective instruction and strong intervention.”
- The system was based on “an antiquated model that waits for a child to fail, instead of a model based on prevention and intervention.”
- Special education had become separate from general education, with “unique costs—creating incentives for misidentification and academic isolation—preventing the pooling of all available resources to aid learning.” Furthermore, “general education and special education share responsibilities for children with disabilities. They are not separate at any level—cost, instruction, or even identification.”

The reauthorization of the IDEA in 2004 encouraged a major shift in SLD identification practices and made a deliberate effort to connect the principles of ESEA with the requirements of the IDEA. For nearly 35 years, the IDEA required the use of ability-achievement discrepancy as an inclusionary method to identify students with SLD, despite both practice complaints (e.g., “wait to fail”) and research findings (e.g., lack of reliable decision-making regarding who was or was not eligible). In the IDEA 2004, Congress gave states the option to address the major shortcomings of the ability-achievement discrepancy model. Additionally, the 2004 reauthorization put an increased emphasis on the use of appropriate research-based instruction (see § 300.307 in side-bar), and, for the first time, allowed districts to spend up to 15% of their IDEA Part B funds on early intervention services for at-risk, general education students with the aim of preventing later special education eligibility. The IDEA 2004 provided three options regarding the use of inclusionary procedures for SLD identification including:

1) Permitting or requiring response to scientific, research-based interventions.
2) Permitting or prohibiting ability-achievement discrepancies.
3) Omitting, permitting, or requiring a third alternative research-based procedural model.

As with its predecessors, the IDEA 2004 continued to require that when a district cited a student’s inadequate achievement in math and reading as a basis for determining any special education eligibility, the primary cause of the inadequate achievement in reading and mathematics must not be due to a lack of appropriate instruction. In order to ensure that this requirement is implemented with fidelity in SLD determinations, the IDEA 2004 added the following specific requirements:

1) The evaluation team must consider information that demonstrates whether the child received appropriate instruction.

This legal mandate to provide data-based documentation of appropriate instruction is required for all SLD evaluations and cannot be circumvented. While the IDEA 2004 does not mandate the use of Response to Intervention (RtI) there is intentional philosophical overlap. A commitment to appropriate instruction for all children, and progress monitoring for struggling students are core principles of both RtI and the IDEA. District-wide implementation of RtI not only provides direct benefits to the majority of at-risk children, it also facilitates the use of the IDEA evaluations for children who inadequately respond to increasingly intense general education interventions, and who may subsequently present with a suspected disability.

Thus, an important shift in special education law occurred with the enactment of the IDEA 2004, which in turn is producing a significant change in practice. In the USDOE commentary on the Final Regulations for the IDEA 2004, the USDOE made clear its intention to make major changes in identification practices (U.S. Department of Education, 2006):

> The regulations reflect the Department’s position on the identification of children with SLD and our support for models that focus on assessments that are related to instruction and promote intervention for identified children...Consensus reports and empirical synthesis indicate a need for major changes in the approach to identifying children with SLD. Models that incorporate RtI represent a shift in special education toward goals of better achievement and improved behavioral outcomes for children with SLD because the children who are identified under such models are most likely to require special education and related services (71 Fed. Reg. at 46647).

Michigan's Response

In Michigan, a number of reports and guidance documents have been released which are aimed at assisting districts in implementing the IDEA 2004. In 2005, the Michigan Association of Administrators of Special Education (MAASE) established a committee to research and develop an RtI guidance document. MAASE subsequently published the document, *RtI: Enhancing the Learning of All Children* (2007) in an effort to assist districts in moving RtI initiatives forward. In April 2009, *Michigan Administrative Rules for Special Education* was released. Specific Learning Disability (R 340.1713) allows for the use of either a response to scientific research-based intervention, or a pattern of strengths and weaknesses in the SLD identification process. Additionally, in November 2009, the MAASE SLD subcommittee recommended an intra-academic PSW model for SLD identification for districts using the PSW option. In May 2010, the MDE issued a notice requiring school districts to make public their processes for determining the existence of a SLD by September 1, 2010. In the same communication, the MDE issued a guidance document entitled *Michigan Criteria for Determining the Existence of a Specific Learning Disability* (Michigan Department of Education, 2010) (hereinafter MDE SLD Criteria). The MDE SLD Criteria provided further guidance to districts by providing the following recommendations:

- "The continued use of severe discrepancy is discouraged." While not prohibited, it "must never be used exclusively to determine the existence of a SLD" (p. 4).
- Only two options for SLD determination are allowed:
    1. A student's response to scientific, research-based intervention and/or
    2. A pattern of strengths and weaknesses.
- While the IDEA allows for the use of "Other Alternative Research-Based Procedures," Michigan currently "has not identified other alternative research-based procedures", but might consider a proposed alternative in the future (p. 9).
- Despite the SLD indicator, RtI or PSW, a comprehensive assessment is required.

Oakland Schools Perspective on SLD

Oakland Schools interpretation of research and consensus papers about SLD has guided this document, and is outlined here:

- SLD is a valid construct manifested by difficulties in the acquisition of academic skills.
- Not all academic problems are caused by learning disabilities.
- SLD exists on a continuum of severity, and any established cut-point is essentially arbitrary. SLD, however, clearly represents the lower end of the achievement distribution, and is characterized by varying degrees of severity.
- Identification of SLD does require the presence of low achievement.
- A hallmark of SLD is that the low achievement is both unexpected and uncommon.
- The manifestation of SLD is influenced by the complex interactions of variables within the instructional environment. Chief among these interactions is the concept of the "instructional match"; that is, the match between the student's prior knowledge and skills, the specific academic demands of the task, and teacher behavior (instruction). These are the variables that have the most influence on student academic outcomes, as opposed to the relatively small contribution that may be attributed to the intrinsic potential inferred from an ability score which is used to predict future academic performance.
- Students with a SLD may exhibit some cognitive differences in their test performance on measures of cognitive processing. Cognitive processing deficits have been linked to some SLD areas (e.g., reading and phonological processing). Specific cognitive processes correlated with SLD areas other than reading are not well understood (e.g., written expression, mathematics, etc.). In addition, there is little evidence that the presence of cognitive processing deficits supports the conclusion that the difficulty in achievement is neurobiological in origin as a SLD is an integration of environmental and biological factors. Therefore, using cognitive processing constructs for use in eligibility determination has proven troublesome and remains questionable.
- Part of an evaluation for SLD identification requires information about a student's response to instruction in order to assess if environmental (experiential) and instructional deficits (lack of appropriate instructional opportunity) are the cause of the student's inadequate achievement.
- Inadequate response to intervention exists on a continuum, and no qualitative characteristics separating adequate responders from inadequate responders have yet been identified. Research is emerging that suggests that as a group, inadequate responders are more significantly impaired in academic skills. When the influence of their initial reading skills are considered, cognitive differences between responders and non-responders are negligible (Fletcher, Stuebing, Barth, Denton, Cirino, Francis, & Vaughn 2011; Gresham & Vellutino, 2010).

Oakland Schools Approach to Operationalizing RtI and PSW

This guidance document is aimed at providing the Multidisciplinary Evaluation Team (MET) with specific methods to operationalize both RtI and PSW, with an emphasis on assessment to instruction.

Response to Intervention (RtI)

While there are a variety of ways to implement RtI, this guidance document represents RtI as a service delivery model conceptualized as a multi-tier system of services (MTSS). Essentially, RtI is the practice of providing high-quality instruction and intervention specifically matched to student needs while also monitoring students' rates of learning and level of achievement over time with the goal of making the best possible educational decisions (Batsche, et al., 2005). RtI is based upon the following components (National Center on Response to Intervention, March 2010):

- A school-wide, multi-level instructional and behavioral system for preventing school failure
- Universal Screening
- Progress Monitoring
- Data-based decision making for instruction, including:
  - movement within the multi-level system, and
  - disability identification (in accordance with state law)

Using RtI as a part of an instructional assessment focuses on the use of valid and reliable assessment tools to describe the student's present level of academic performance, define relevant academic discrepancies in measurable terms, and assess alterable variables that impact student learning in the instructional environment. These tools are typically more direct, functional academic measures aligned to the curriculum and instruction with the goal of determining:

- what the student knows and can do
- what the student does not know and cannot do
- what are the student's most important instructional needs
- how to best teach and support the student

RtI itself is described as a set of principles that do not change, but from its principles stem features that do indeed vary in their presentation between models (e.g., how many tiers).

> Response to intervention integrates assessment with intervention within a multi-level prevention system, to maximize student achievement and to reduce behavioral problems. With RtI, schools use data to identify students at-risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, adjust the intensity and nature of those interventions depending on a student's responsiveness, and identify students with learning disabilities or other disabilities (National Center on Response to Intervention, March 2010, p.2).

Determining SLD eligibility for some students is one part of an MTSS; RtI is not, and has never been conceptualized as a stand-alone identification model. It requires the MET to attend to inclusionary and exclusionary factors consistent with the requirements of the IDEA Federal Regulations in the identification of a SLD. The notion of using RtI as one component of a full and individual evaluation stems directly from the consensus group of researchers assembled as part of the OSEP LD Roundtable (Bradley, Danielson, & Hallahan, 2002, p. 791-804). The SLD identification model depicted by Fletcher, Lyon, Fuchs, & Barnes in 2007, and proposed by the consensus group, represents a "Hybrid Model", as it incorporates multiple criteria (e.g., features of RtI and low achievement within the context of a full and individual evaluation, including:

1. The student demonstrates low achievement.
2. The student demonstrates an insufficient response to core instruction and research-based interventions which are aligned with student needs, as determined by regular progress monitoring. The progress monitoring must be used to make appropriate instructional adjustments. This information is vital in order to determine if the low achievement is unexpected (a central component of SLD).
3. The MET has explored all exclusionary factors (ruling out times when low achievement is expected).

Guiding the MET on the specific implementation of an RtI framework is beyond the scope of this document (See Batsche, et al., 2005; Gersten, et al., 2008; National Center on Response to Intervention, 2010; University of Texas Center for Reading and Language Arts, 2005). This document focuses on the advanced decision-making that is required of teams when determining a student's response to instruction within a multi-tier RtI framework (Hosp, 2011; Fuchs, 2003).

Pattern of Strengths and Weaknesses (PSW)

School districts around the country and in the State of Michigan have operationalized PSW in a variety of ways. Some of these models involve the use of either global IQ or cognitive processing deficits as a central feature in identification decision rules (see Hanson, Sharman, & Esparza-Brown, 2009 for a review).

Consistent with the guidance from the MAASE SLD Subcommittee, Oakland Schools is defining PSW in an instructionally-based manner (Fletcher, Lyon, Fuchs, & Barnes, 2007). Defining PSW in this way is born out of a vision to incorporate the fundamental principles of RtI into SLD evaluations. This represents a shift away from focusing on assessment of global IQ and cognitive processing, and moves toward an analysis of intra-achievement patterns and instructional/environmental variables as a central consideration in SLD decision-making. This allows for the incorporation of cognitive processing data into SLD decision-making, but shifts the focus away from cognitive processing deficits as a defining feature of SLD. Viewing PSW in an instructional context focuses the evaluation on the academic manifestations and the observable, functional determinants of SLD, rather than on an assessment of underlying cognitive processes, as the presumed causes of SLD.

Defining PSW in an instructionally-based manner allows the MET to begin to incorporate the principles of RtI into every comprehensive evaluation, while the district continues to build the infrastructure necessary for full implementation of RtI. Consistent with RtI, PSW defined in this manner focuses the SLD evaluation on the use of valid and reliable assessment tools. These tools are used to describe the student's present level of academic performance, define relevant academic discrepancies in measurable terms, assess alterable variables that impact student learning in the instructional environment, and use more direct, functional, academic measures aligned to the curriculum and instruction in order to determine:

- what the student knows and can do
- what the student does not know and cannot do
- what are the student's most important instructional needs
- how to best teach and support the student

PSW Limitations

Using a PSW approach to determine a SLD, when applied in this functional, academic context, provides both districts and the MET an opportunity to take a significant step away from the use of the ability-achievement discrepancy model, which fails to assess and consider the contributions of the instructional environment in determining student academic outcomes. However, analysis of low achievement, intra-achievement patterns, cognitive processing, or ability-achievement discrepancies, in the absence of assessment of the instructional environment and the student's response to instruction, ultimately does little to distinguish several factors, including:

- students with low achievement due to a disability from those with low achievement due to a lack of appropriate instruction
- students who will and will not respond to targeted instruction
- students with mild academic deficits requiring less intensive (strategic) interventions from students with severe academic deficits which do require intensive interventions to close the achievement gap.

The Use of Intellectual or Cognitive Processing Instruments in SLD Evaluations

The most widely-accepted definitions of SLD are consistent in describing the cause of the disorder as a neurobiological dysfunction (National Association of School Psychologists, 2007) (Bradley, Danielson, & Hallahan, 2002) (National Joint Committee on Learning Disabilities, 1998). Cognitive processes are certainly related to SLD. In fact, it is impossible to engage in any academic task without accessing a cascade of cognitive processes. The controversy about the role of cognitive processing is less a theoretical debate; instead it is much more a procedural one. Does including the assessment of cognitive processing in SLD procedures reliably differentiate those who have SLD and those who do not?

A recent report from the National Joint Committee on Learning Disabilities (NJCLD) (March , 2011), outlined the points of general agreement about SLD, misconceptions, and unresolved issues in scholarship and practice. Regarding the role of cognitive processing, the report indicated:

> The assessment of cognitive processes has been used in clinical evaluation and to determine eligibility for special education services, but there is conflicting evidence regarding its value in LD identification or in informing educators about the efficacy of specific instructional methods (p. 4).

The utility of cognitive processing or intellectual assessment in the practice of SLD evaluation has caused a considerable dispute in the field of learning disabilities over the last three decades, and will continue to do so for years to come.

Some of the key questions related to the cognitive processing issue include:

1. What essential information does cognitive processing assessment add to the identification and intervention of a SLD that has not already been learned through academic achievement assessment?
2. Do cognitive processing assessments have validity relative to intervention planning?
3. Does evidence of a cognitive processing deficit confirm a neurological basis for SLD?

At the point of publication of this document, the field of School Psychology is in an intense debate over SLD determination methodology. To better understand the nature of this debate, practitioners are encouraged to review two documents: *Learning Disabilities Association of America's White Paper on Evaluation, Identification, and Eligibility Criteria for Students with Specific Learning Disabilities* (February, 2010) and *A Response to the Learning Disabilities Association of America White Paper on Specific Learning Disabilities Identification* (December, 2010).

The OS SLD guidance document was not developed to settle this argument. With respect to the role of intellectual assessment or cognitive processing assessment, the guidance provided in this document is grounded in the IDEA 2004, the IDEA Federal Regulations released in 2006 that guide implementation of the IDEA 2004, the Michigan Administrative Rules for Special Education (MARSE), and the MDE SLD Criteria. There is no requirement for either intellectual assessment (IQ) or cognitive processing assessments in the identification of a SLD.

The Michigan Criteria specifically state that, "the continued use of severe discrepancy is discouraged. Severe discrepancy must never be used exclusively to determine the existence of a SLD." The IDEA Federal Regulations do recognize intellectual development as one of the standards for comparison in PSW, and the USDOE commentary on the Final Regulations for IDEA 2004 does note that "intellectual development" was referred to as "commonly measured by IQ tests… Use of this term is consistent with the discretion provided in the Act in allowing the continued use of discrepancy models." Best practice in the identification of students with SLD, however, prohibits the use of intellectual assessment as a determining factor. It has been documented that measures of IQ are poor predictors of academic achievement. Cognitive processing tools (distinguished from overall ability measures) may be used as one part of a comprehensive evaluation if the MET, during evaluation planning, determines that the information is necessary in order to determine the student's educational needs.

In the USDOE commentary on the Final Regulations for the IDEA 2004, which operationalize the IDEA, the excerpt in Table 1.1 provides clear guidance about the use of IQ and cognitive processing assessments.

The IDEA Federal Regulations clearly document a change in direction for SLD eligibility determination.

> The increased emphasis on using information on how a child responds to scientifically-based instruction and intervention to support eligibility and entitlement decisions is coupled with a decreased emphasis on the use of standardized, norm referenced assessments of achievement, cognitive ability and cognitive processing (Illinois State Board of Education, p. 2).

The regulations attempt to move practitioners closer to aligning assessment with instruction and student need.

Comments about the IDEA Federal Regulations	Response from Department of Education in the Discussion
Several commenters noted that the criteria in §300.309 do not fully address the definition of SLD in §300.8(c)(10), which includes a processing disorder in one or more of the basic psychological processes… Several commenters stated that failure to consider individual differences in cognitive processing skills reverses more than 20 years of progress in cognitive psychology and developmental neuroscience… One commenter stated that the shift away from requiring diagnostic assessments in the area of cognition would make it conceptually impossible to document that a child has a disorder in one or more of the basic psychological processes…	The Department does not believe that an assessment of psychological or cognitive processing should be required in determining whether a child has an SLD. There is no current evidence that such assessments are necessary or sufficient for identifying SLD. Further, in many cases, these assessments have not been used to make appropriate intervention decisions. However, § 300.309(a)(2)(ii)permits, but does not require, consideration of a pattern of strengths or weaknesses, or both, relative to intellectual development, if the evaluation group considers that information relevant to an identification of SLD. In many cases, though, assessments of cognitive processes simply add to the testing burden and do not contribute to interventions. As summarized in the research consensus from the OSEP Learning Disability Summit (Bradley, Danielson, and Hallahan, 2002), "Although processing deficits have been linked to some SLD (e.g., phonological processing and reading), direct links with other processes have not been established. Currently, available methods for measuring many processing difficulties are inadequate. Therefore, systematically measuring processing difficulties and their link to treatment is not yet feasible…" (p.797).

Table 1.1 Excerpt from 71 Fed. Reg. at 46651.

Guidance about Cognitive Processing

This document does not rule out the use of cognitive assessment instruments as part of the SLD eligibility evaluation plan. Consistent with the Federal Regulations, this document permits, but it does not require, the use of cognitive assessment instruments in the SLD determination process. The MET makes an evaluation plan based on what is already known and what needs to be known in order to make an eligibility determination. In the event the student is eligible, the MET uses the evaluation data to develop an appropriate IEP. There is leeway for professional judgment regarding all assessment tools. However, the MET should keep in mind that one of the four purposes of the evaluation is to describe the student's educational needs. When making choices about which instruments to use, the MET should select tools that provide specific data describing what the student knows, can do, and cannot do. This kind of assessment information assists in understanding the student's needs, and informs instruction and intervention planning regardless of the educational setting in which these needs are met (general education or special education).

Cognitive processing tools may be useful if interpretations are guided by research and are matched to what is known about the relationship between academic skills and cognitive skills in order to determine "(a) why certain methods of instruction or intervention were not effective; (b) what interventions, compensatory strategies, and accommodations might be more effective; and (c) the most promising means of delivering instruction and implementing intervention" (Flanagan, Fiorello, & Ortiz, 2010, p. 739).

In summary, the guidance about the use of intellectual or cognitive processing instruments as a component of the SLD evaluation is as follows:

- No global or composite IQ is required for SLD identification
- The student's level of intellect must not be used to exclude a student from SLD eligibility if the student otherwise qualifies
- The use of cognitive processing results as the sole determinant to rule-in or rule-out a SLD is strongly discouraged.

Bibliography

Batsche, G., Elliott, J., Graden, J., Grimes, J., Kovaleski, J., Prasse, D., et al. (2005). *Response to intervention: Policy considerations and implementation.* Alexandria, VA: National Association of State Directors of Special Education, Inc.

Bradley, R., Danielson, L., & Hallahan, D. (2002). *Identification of learning disabilities: Research to practice.* Mahwah, New Jersey: Lawerence Erlbaum Associates, Inc.

Consortium for Evidence-Based Early Intervention Practices, The (December, 2010). *A Response to the Learning Disabilities Association of America (LDA) White Paper on Specific Learning Disabilities (SLD) Identification.* Author.

Flanagan, D., Fiorello, C., & Ortiz, S. (2010). Enhancing practice through the application of Cattel-Horn-Carroll theory and research: A third method approach for specific learning disability identification. *Psychology in Schools*, 739-760.

Fletcher, J. M., Lyon, G. R., Fuchs, L. S., & Barnes, M. A. (2007). *Learning disabilities: From identification to practice.* New York: Guilford Press.

Fletcher, J., Stuebing, K., Barth, A., Denton, C., Cirino, P., Francis, D. & Vaughn, S. (2011). Cognitive correlates of inadequate response to reading intervention. *School Psychology Review, 40*, 3-22.

Fuchs, L. (2003). Assessing intervention responsiveness: Conceptual and technical issues. *Learning Disabilities Research and Practice, 18*(3), 172-186.

Gersten, R., Compton, D., Connor, C., Dimino, J., Santoro, L., Linan-Thompson, S., et al. (2008). *Assisting students struggling with reading: Response to intervention and multi-tier intervention for reading in the primary grades: A practice guide.* Washington, D.C.: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

Gresham, F., & Vellutino, F. (2010). What is the role of intelligence in the identification of specific learning disabilities? Issues and clarifications. *Learning Disabilities Research and Practice, 25*(4), 194-206.

Gonzales, P., Williams, T., Jocelyn, L., Roey, S., Kastberg, D., & Brenwald, S. (2008). *Highlights from TIMSS 2007: Mathematics and science achievement of U.S. fourth- and eighth-grade students in an international context (NCES 2009–001 Revised).* Washington, D.C.: National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education.

Hanson, J., Sharman, L., & Esparza-Brown, J. (2009). *Pattern of strengths and weaknesses in specific learning disabilities: What's it all about?* Oregon School Psychologists Association SLD pattern of strengths and weaknesses committee technical assistance paper.

Hosp, J. (2011). *Advanced-decision making in RTI.* A Presentation at the Michigan Association of School Psychologists. Lansing, Michigan.

Illinois State Board of Education. (2010, January). *Illinois special education eligibility and entitlement procedures and criteria within a response to intervention (RtI) framework: A guidance document.* Author.

Learning Disabilities Association. (2010, February). *The learning disabilities association of America's white paper on evaluation, identification, and eligibility criteria for students with specific learning disabilities.* Retrieved from www.ldanatl.org/pdf/LDA%20White%20Paper%20on%20IDEA%20Evaluation%20Criteria%20for%20SLD.pdf

Learning Disabilities Policy Roundtable. (2002). *Recommendations for the reauthorization of the Individuals with Disabilities Education Act (IDEA).* Retrieved July 13, 2011, from The Learning Disabilities Association of America: http://www.ldanatl.org/legislative/joint_activities/policyrec.asp

Learning Disabilities Policy Roundtable. (2004). *Comments and recommendations on regulatory issues under the Individual with Disabilities Education Improvement Act of 2004 Public Law 108-446.* Retrieved February 1, 2011, from http://www.nasponline.org/advocacy/2004LDRoundtableRecsTransmittal.pdf

Learning Disabilities Summit: Building a Foundation for the Future, The (2001). *Learning Disabilities Summit.* Retrieved February 1, 2011, from http://ldsummit.air.org/

Lichtenstein, R. (2008). Best practices in identification of learning disabilities. In A. Thomas, & J. Grimes, *Best Practices in School Psychology V* (pp. 295-317). Bethesda, MD: National Association of School Psychologists.

Lyon, G. (1998). *Overview of reading and literacy initiatives.* Statement to the Committee on Labor and Human Resources (pp. 1-14). Washington, DC.: Retrieved on 11/22/10 from http://www.dys-add.com/ReidLyonJeffords.pdf.

Michigan Association of Administrators of Special Education (MAASE). (2007). *Response to intervention: Enhancing the learning of all children.* MAASE.

Michigan Department of Education. (2009). *Michigan administrative rules for special education supplemented with IDEA federal regulations.* Lansing, Michigan: Office of Special Education and Early Intervention Services.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a Specific Learning Disability.* Lansing, Michigan: Michigan Department of Education Office of Special Education and Early Intervening Services.

National Association of School Psychologists. (2007). *Identification of students with specific learning disabilities* (Position Statement). Bethesda, MD: Author.

National Center on Response to Intervention. (2010, March). *Essential components of RTI: A closer look at response to intervention.* U.S. Department of Education, Office of Special Education Programs, National Center on Response to Intervention.

National Institute of Child Health and Human Development. (2000). Report of the National Reading Panel. *Teaching children to read: An evidence-based assessment of the scientific research literature on reading and its implications for reading instruction.* (NIH Publication No. 00-4769). Washington, D.C.: US Government Printing Office.

National Joint Committee on Learning Disabilities. (1998). *Operationalizing the NJCLD definition of learning disabilities for ongoing assessment in schools.* Asha: in press.

National Joint Committee on Learning Disabilities. (2011, March). *Learning disabilities: Implications for policy regarding research and practice.* Retrieved July 13, 2011, from LD Online: http://www.ldonline.org/about/partners/njcld#reports

Rampey, B., Dion, G. S., & Donahue, P. L. (2009). *NAEP 2008 trends in academic progress (NCES 2009–479)*. Washington D.C.: National Center for Education Sciences, U.S. Department of Education.

Reschly, D., & Hosp, J. L. (2004). State SLD policies and practices. *Learning Disability Quarterly, 27,* 197-213.

U.S. Department of Education. (2002). *A new era: Revitalizing special education for children and their families.* Washington, DC.

U.S. Department of Education. (2004). *Individuals with Disabilities Education Improvement Act of 2004.* Pub. L. No. 108-446 1400 et seg.

U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

University of Texas Center for Reading and Language Arts. (2005). *Introduction to the three-tier reading model: Reducing reading difficulties for kindergarten through third-grade students.* Austin, Texas: Author.

Chapter

2 Evaluation Procedures

Part I. Full and Individual Initial Evaluation

Key Questions

- *Who is part of the evaluation team for the determination of a Specific Learning Disability (SLD) eligibility?*
- *What key questions does the IDEA Federal Regulations require to be addressed in an evaluation?*
- *How can the Multidisciplinary Evaluation Team (MET) organize the evaluation plan to ensure the use of a variety of tools and methods in the evaluation?*

Introduction

A full and individual initial evaluation is a process conducted by the MET. Evaluation procedures must be used in accordance with § 300.300 through § 300.311 to determine whether a student has a SLD and an educational need for special education and related services. This chapter reviews and highlights the requirements for conducting a full and individual initial evaluation and reevaluation for a SLD consistent with:

- The IDEA Federal Regulations (U.S. Department of Education, 2006),
- *Michigan Administrative Rules for Special Education (MARSE) (Michigan Department of Education, 2009),*
- *Procedures for Review of Existing Evaluation Data (REED) and Development of an Evaluation Plan (Michigan Department of Education, 2009, April),*
- *Michigan Criteria for Determining the Existence of a Specific Learning Disability (Michigan Department of Education, 2010),*
- Draft MDE Evaluation Procedures (Michigan Department of Education, 2011, March).

Regardless of the process used to determine SLD eligibility, response to scientific, research-based intervention (often referred to as the RtI option) or pattern of strengths and weaknesses (PSW), schools must follow all of the regulatory requirements of the IDEA Federal Regulations and the Michigan Administrative Rules for Special Education (MARSE).

§ 300.301 Initial evaluations

(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with § 300.304 through 300.306, before the initial provision of special education and related services to a child with a disability under this part.

R. 340.1713

(3) A determination of learning disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:

(a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

§ 300.305 Additional requirements for evaluations and reevaluations

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

(1) Review existing evaluation data on the child, including—

(i) Evaluations and information provided by the parents of the child;

(ii) Current classroom-based, local, or State assessments, and classroom-based observations; and

(iii) Observations by teachers and related services providers; and

2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

(i)(A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or

(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;

(ii) The present levels of academic achievement and related developmental needs of the child;

(iii)(A) Whether the child needs special education and related services; or

(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

Initial Evaluation

The school district must conduct a full and individual initial evaluation before special education or related services can be provided to a student (see § 300.301(a) in sidebar).

Evaluation Team Membership for the Determination of a SLD Eligibility

According to the MARSE R. 340.1713, a determination of a specific learning disability is based on a full and individual evaluation by the MET. The MET must include an individual who meets one of the following criteria (see R 340.1713 (3) in sidebar):

- The student's general education teacher, or
- a general education teacher qualified to teach a student of his or her age (if the student does not have a general education teacher), or
- is qualified by the state educational agency to teach a child of his or her age (for a child less than school age).

The MET must also include at least one person qualified to conduct an individual student diagnostic assessment and who has knowledge of the suspected disability, such as a school psychologist, a teacher of speech and language or a teacher consultant. While conducting a SLD evaluation, the MET is required to use a variety of tools and strategies (see § 300.304(b)(1) in sidebar) and evaluation methods that are reliable and valid for the purposes of assessment (see § 300.304(c)(1)(iii) in sidebar). Furthermore, with the option for districts to use a student's response to scientific, research-based intervention as a part of the eligibility criteria, there is a need for staff with expertise in assessment, progress monitoring, and data analysis. These qualities should be considered when designating membership of the MET.

The Evaluation Plan

As part of the initial evaluation process, the MET may consider existing evaluation data, as appropriate (see § 300.305(a)(1) in sidebar). The MDE *Review of Existing Evaluation Data (REED) and the Development of an Evaluation Plan* provide guidance and a general framework for this process. While the REED is not required for an initial evaluation, both the MDE REED document and this OS SLD Guidance document recommend that districts use the REED for initial evaluations.

Initial Evaluations
Is this child a child with a disability?
What is the present level of academic performance and related developmental needs?
Does the child need special education and related services?

Table 2.1. Required questions outlined by the IDEA during an evaluation.

The IDEA Requirements for an Evaluation

The evaluation of a student with learning difficulties is complex. When forming an evaluation plan, the MET needs to determine what additional information is needed to answer the required question outlined in the IDEA Federal Regulations (see § 300.305(a)(2) in sidebar and summarized in Table 2.1).

The MET conducts assessments that not only answer the questions in Table 2.1 relative to whether the student is a student with a disability (eligibility), but also answers questions that are relevant to intervention planning. Regardless of whether or not a student is determined to be eligible for special education services, the evaluation must yield information that can be used to address the student's educational needs. An evaluation provides the foundation for instruction by establishing the present level of academic performance, acknowledging contextual factors that influence learning, and determining educational need.

The IDEA Federal Regulations requires the MET to adhere to specific evaluation procedures when conducting an evaluation to determine eligibility for special education. Foremost in the IDEA Federal Regulations section on evaluation procedures, is the requirement that a school notify the parent of evaluation procedures that the school district proposes to conduct (see § 300.304(a) in sidebar).

Included in the IDEA Federal Regulations section on evaluation procedures, are three central principles of assessment. First, the IDEA Federal Regulations require that the MET use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information (see § 300.304(b)(1) in sidebar). The purpose of gathering these data is beyond identifying if the student is a student with a SLD. The MET must also understand the conditions that promote and/or impede learning that will inform the content of the IEP. This requirement emphasizes the functional nature of assessment or "how the student actually performs in the school environment" (Lichtenstein, 2008, p. 308).

Second, the MET must not use any single measure or assessment as the sole criterion for a SLD decision-making (see § 300.304(b)(2) in sidebar). In the past, the MET was primarily dependent on norm-referenced assessments to answer eligibility questions. This requirement means that the MET must include data from a variety of sources, including, but not limited to, standardized tests, student performance on grade-level standards, and progress monitoring. Not only does the MET need to gather a variety of data, they are also required to

§ 300.304 Evaluation procedures.

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

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

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—

(i) Whether the child is a child with a disability under § 300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(c) Other evaluation procedures. Each public agency must ensure that—

(1) Assessments and other evaluation materials used to assess a child under this part–

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

...continued on next page

§ 300.304 Evaluation procedures (continued).

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

(c) (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under § 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

consider multiple sources of data when making decisions. This distinction is particularly critical for the MET. This requirement necessitates that the MET are skilled in more than one type of assessment (e.g., screening, progress monitoring, diagnostic and outcome) and places a heightened expectation on the MET to have knowledge of tools that may be used from different disciplines (e.g., teacher of speech and language, school psychologist, educational consultant, etc.).

Third, the MET must use technically sound instruments that assess the relative contribution of cognitive and behavioral factors (§ 300.304(b)(3) in sidebar). This means that the MET must use current, valid and reliable assessment instruments and techniques.

Along with the three central principles (i.e., use a variety of tools and strategies, consider multiple measures for decision-making, and use technically sound tools), the IDEA Federal Regulations require that persons conducting the evaluation have an understanding of both the *purpose* and *limits* of assessments and other evaluation materials, specific to the student being evaluated. These include assessments that are being non-discriminatory, administered in the student's native language or other mode of communication, used for the purposes for which they are valid and reliable, administered by trained personnel and in accordance with requirements from the producer of the assessment (see § 300.304(c)(i) through § 300.304(c)(v) in sidebar). (*see Chapter 9: Exclusionary Factors* for details on procedures with English language learners).

Furthermore, the IDEA Federal Regulations require that the assessments and other evaluation materials are: a) tailored to the students specific needs; b) that assessments measure what the tests purport to measure, especially in the case of sensory or speaking impairments; c) the student is assessed in all areas related to the suspected disability; d) assessments of a student who transfers from one district to another within a school year are completed expeditiously; e) that the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, "whether or not commonly linked to the disability category in which the child has been classified," and f) that assessment tools and strategies directly assist in providing information in determining educational needs (see § 300.304(c)(2) through § 300.304(c)(7) in sidebar for details).

In summary, the MET needs to keep the "conduct of evaluation" in mind as they develop an evaluation plan for a student suspected of having a SLD. The evaluation must have "variety, be relevant, technically sound, and nondiscriminatory" (Hosp, 2011).

Evaluation Domains	R Review	I Interview	O Observe	T Test
I Instruction	Review Instruction	Interview Instruction	Observe Instruction	Test Instruction
C Curriculum	Review Curriculum	Interview Curriculum	Observe Curriculum	Test Curriculum
E Environment	Review Environment	Interview Environment	Observe Environment	Test Environment
L Learner	Review Learner	Interview Learner	Observe Learner	Test Learner

Assessment Procedures

Table 2.2. The RIOT X ICEL Framework adapted from Hosp, 2008.

The RIOT X ICEL Framework

The preceding section reviewed the IDEA Federal Regulations evaluation requirements for reviewing of existing data (i.e., review), gathering input from parents and teachers or related staff (§ 300.305(a) (i.e., interview) and appropriate selection and use of assessments and other evaluation data (§ 300.304) (i.e., test). The next section will address the requirements for conducting observations (§ 300.310) (i.e., observe). All of these requirements can be organized into procedures known as Review, Interview, Observe and Test (i.e., RIOT).

The RIOT assessment procedures are central in determining whether or not a student has a student with a SLD and will provide documentation of the use of a variety of assessment tools and strategies. There are specific evaluation domains that the RIOT procedures should use. A student's present level of academic performance is dependent on understanding the interactions between the **instruction** provided, the **curriculum** standards, the learning **environment**, and the **learner** himself (referred to as ICEL domains). These interactions are essential for determining a SLD eligibility, due to the direct impact of these variables on a student's academic achievement, which is a core requirement of a SLD identification (inadequate achievement). The environment, curriculum and instruction are also at the heart of evaluating the suitability of instruction/ intervention required in determining appropriate instruction or in using RtI (see *Chapter 5: Evidence of Appropriate Instruction* and *Chapter 6: Evaluating Response to Scientific, Research-Based Intervention*).

The RIOT X ICEL framework (see Table 2.2) is used to guide the MET using multiple procedures (review, interview, observe and test) to collect data from several domains (instruction, curriculum, environment, and learner). (Howell & Nolet, 1999).

The RIOT X ICEL framework is based on the fundamental principle that assessments need to focus on alterable variables; these are variables that may be observed, measured and manipulated within the instructional environment, and which may contribute to difficulties in a student's learning or behavior. Examples of alterable variables include quality of instruction, time on task, scope and sequence of curriculum materials, and prior knowledge. In contrast, unalterable variables are considered those which educators cannot reasonably expect to change through instruction (i.e., student mobility, gender, race).

The RIOT X ICEL framework fosters the use of functional assessment. This functional, environmental focus is very different from that of the ability-achievement discrepancy model, which focused exclusively on intra-student deficits and potential. The RIOT X ICEL framework ensures that the MET is using a variety of tools and strategies. In this framework, all sources of data are considered. Furthermore, "tests" are not put on a pedestal when compared to all other sources of data. It is important to select measures and procedures that provide the most useful information for decision-making. Table 2.3 contains examples of questions which would be considered during functional assessments relevant to SLD identification.

Examples of Functional Questions	
Direct Observation:	What are the academic demands for successful completion of the learning task?
Teacher Interview:	What is the child's typical performance pattern in the classroom? Can the child work independently? How often does the child complete assignments satisfactorily?
Review Work Samples:	When comparing work samples from the student to those of his peers, what is his relative level of proficiency?

Table 2.3. Examples of assessment questions that would be functional in nature (Lichtenstein, 2008).

§ 300.310 Observation

(a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

(b) The group described in § 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—

(1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or

(2) Have at least one member of the group described in § 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with § 300.300(a), is obtained.

(c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

Review-Interview-Observe-Test (RIOT) Procedures

The RIOT procedures are specifically ordered in terms of intensity and time requirement for completion. For example, reviewing data is considered at the low end of the spectrum of difficulty and time commitment, while testing is at the high end. The four methods are described below:

Review

It is essential for the MET to review information from parents (any relevant physical/medical conditions, the student's social or cultural background, any adaptive behavior, etc.), school records (teacher reports, report cards, discipline records, attendance), previous assessments including classroom, district, state, and data that includes the history of and response to supplemental interventions. Also, screening and progress monitoring data is included as part of the data review process. If adequate data exists to answer the evaluation questions, there is no need to collect any additional data.

Interview

Interviewing serves to document the input of relevant persons, including the parent, staff, student, non-school personnel or others who have important information about the student's needs. In order to clarify the extent of the academic problem, it is important to gain perspectives from those who come in contact with the child on a regular basis, both within the school environment and outside it. The evaluation must include evidence to show that parents were provided with an opportunity for meaningful input into the evaluation process. Some examples of interviewing resources include Functional Assessment of Academic Behavior (Ysseldyke & Christenson, 2002) and Academic Skills Problems: Direct Assessment and Intervention (Shapiro, 2011).

Observation

The IDEA Federal Regulation § 300.310 requires that the student be observed in the student's learning environment (including the regular classroom setting) to document the student's academic performance and behavior in the areas of difficulty (see § 300.310 in sidebar). The MET must decide to either use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred or conduct an observation after the child has been referred for an evaluation and parental consent has been obtained.

Observation has now become an essential component of data collection and problem-solving in determining the presence of a SLD. This is due to the requirements to ensure that a student's inadequate achievement is not from lack of appropriate instruction and the inclusion of RtI as one of the options of SLD identification.

Observations of the student within his learning environment can be used as a powerful strategy to gather data about a) the match of core instruction to the student's needs in order to determine if appropriate instruction has been provided; b) intervention integrity by observing Tier Two or Tier Three interventions to determine effectiveness; c) useful strategies to inform instruction; d) learning conditions that promote or inhibit learning; e) and to establish a baseline during the intervention phase. Best practice suggests conducting an observation at a time

when the student is engaged in the specific area of concern identified by the evaluation team. Observations across multiple instructional settings and times, and conducted by different team members, are often helpful. When observing a student it is important to observe for the following conditions of instruction:

- Are expectations and directions communicated clearly so that all or most students understand what to do and how to do it?
- How is the instruction delivered? Is the instruction differentiated to meet the needs of diverse learners? Does the instruction match the target student's needs and skills?
- Does the target student understand what is expected?
- Is there adequate modeling, monitoring and feedback to ensure accurate, active responding?
- Does the target student promptly and actively engage in classroom work? If not, is the lack of engagement due to a skills deficit, persistence problems or motivational issues? Explain.
- How does the target student's performance compare to that of classroom peers? Is the student's performance similar to others, or does it stand out as being below that of peers? If below others, how far below?
- Under what conditions does the target student have difficulty?
- Under what conditions is the target student successful?

Neither the IDEA Federal Regulations nor the MARSE require a specific type of observation. This remains at the discretion of the MET. See Frequently Asked Questions document about the OS SLD Guidance for more details on strategies to conduct observations.

Test

While standardized tests can certainly be useful tools, § 300.304 refers to assessment tools and strategies, not only tests. In general terms, testing could include screening, diagnostic, and outcome assessments, and these sources should be considered evaluation data. Tests are not limited to standardized, norm-referenced assessments. According to § 300.304(c)(1)(iii), the tests chosen must be used for the purposes for which the assessments or measures are valid and reliable. Routinely, tests have been adapted for purposes other than their intended use. It is necessary for the MET to determine the type of information needed, and then determine which tests or tools would best provide the necessary information and remain within the parameters of their intended use.

There are several dimensions to consider in the selection and use of many norm-referenced cognitive and language measures. The MET should consider these dimensions in making choices regarding the domains to assess and tool selection.

a) **The best way to assess an academic problem is to directly measure that academic problem.** Norm-referenced cognitive and language assessments are typically used to make inferences about relationships between processing skills and academic skills observed in classroom performance. It is always important to validate high inference measures with more direct measures of essential skills in order to increase the reliability and validity of the decision-making. When given the choice, choose assessment instruments that most closely approximate to the instructional environment.

b) **The MET's shared understanding of common assessments will improve SLD decision-making.** A second dimension of assessment to be considered by the MET is the duplication in evaluations performed in schools that involve measuring cognitive, language, and academic achievement skills. These types of evaluations are costly due to the time taken for administration. The greater the shared understanding of the role of assessments in the SLD eligibility determination process, the more effective and efficient student evaluation plans will be in identifying the data necessary for eligibility and intervention planning.

   For instance, measures of "retrieval," "rapid naming," or phonological awareness are included in all of the following academic, language and cognitive assessments: CELF-IV, WJIII-Cog, CTOPP, KTEA-2, DIBELS. How these equivalent tasks are described, labeled, and classified has more to do with the background of the examiner than with any meaningful difference in the task or skill itself. When a school psychologist measures phonemic awareness, he is likely to refer to it as a "cognitive processing skill," while a speech pathologist, who measures phonemic awareness, is likely to call it a "language processing skill," and when a teacher consultant measures phonemic awareness, he will likely refer to it as an "academic skill" (e.g., WJIII-Cog Ga-Sound Blending, DIBELS PSF, CTOPP Blending, WIAT-III Early Reading Skills). When given the choice between instruments, it is important to select measures that are more direct and aligned to the demands of the task in the instructional environment and avoid duplication.

c) **Using a variety of assessment procedures covering many domains will ensure that data collected will functionally describe the student and their needs.** Finally, there is not a direct relationship between broad-band achievement tests and the curriculum at the local level. While guidance offered in the MDE SLD Criteria encourages administration of a norm-referenced achievement test as one of the required measures for SLD determination, norm-referenced results should always be validated and compared to other functional performance measures. Since there is often little overlap between broad-based achievement tests and local curriculum (Shapiro, 2011), teams will need to consider whether or not the information matches observations, interviews, and other test results. When evaluating multiple sources of data in an assessment, be sure that the assessment data functionally describes the student within the learning context.

Instruction-Curriculum-Environment-Learner (ICEL) Domains

Traditional assessments have been primarily focused on student deficits. The shift in practice triggered by the IDEA 2004 ensures that information about the interactions between the student and the curriculum, the instruction, and the environment is gathered. Using the ICEL domains enables an assessment to look beyond the student, rather than stopping with the student. It focuses on alterable variables that educators can reasonably be expected to change (e.g., prior knowledge, quality of curriculum). Focusing on alterable variables is a fundamental principle of RtI. When focusing an assessment in this way, the MET is also moving the assessment toward instruction; that is, identifying targets for intervention in order to help improve achievement. The following descriptions were adapted from several sources (Howell & Nolet, 1999; Hosp, 2008; and Ingham County ISD, 2010).

Instruction

Instruction is “how” the curriculum is taught. This domain includes instructional decision-making regarding the choice of materials, the level of difficulty of the materials for the students (instructional match), the instructional delivery (directions, explanations, flexible groupings, etc.), and any assessments used to determine if a student is demonstrating learning (progress monitoring). Examples of other instructional variables include communicating criteria for success, direct instruction with explanations and cues, sequencing lesson designs to promote success, and offering a variety of activities and experiences for practice and application.

Curriculum

Curriculum refers to ‘what’ is taught. It is the scope and sequence of instruction. It contains the knowledge and skill development required for all students. This domain includes the long range direction, intent, and stated outcomes of the area of study. It also includes the content arrangement, and pacing of steps leading to the outcomes. Before instruction can be aligned to student needs, an appropriate curriculum that has been carefully selected should be in place. Furthermore, the curriculum must align with State standards and benchmarks.

Environment

The environment is “where” the instruction (academic and behavior) takes place. There are many different aspects to the environment, including the classroom, the school, the home and the community. The classroom setting may include physical arrangement, rules, management plans, routines, expectations and other factors such as lighting, noise, and temperature. The school environment may include the facilities, school climate, and access to materials, such as books, supplies and computers. The home and community environments may include basic needs, safety, homework assistance, supervision, job pressure for secondary students, and peer and family influences.

Learner

The learner is “who” is being taught. The student’s prior knowledge of the instructional content is a critical variable. Before the student’s skills and motivation are called into question, it should be confirmed that the curriculum and instruction are appropriate and that the instructional environment is positive (Daly, et al 1997). It is important to note that interventions in the student-learner domain are not likely to be successful if problems in the other domains are not adequately addressed.

See the *RIOT X ICEL Framework* and the *Functional Assessment: Using Multiple Methodologies (RIOT) to Assess Multiple Domains (ICEL)* at the end of this chapter for more detailed information about the RIOT X ICEL framework.

Part II: Reevaluation

Key Questions

- *What does the IEP team need to consider when reevaluating a student using new SLD procedures?*

- *What are some examples of existing data sources that would help the IEP team determine if a reevaluation is warranted?*

Introduction

The IDEA 2004 requires that a reevaluation for each child with a disability must occur at least once every three years, but not more than once a year, unless the parent and the district agree otherwise (see § 300.303 sidebar). A reevaluation may also occur if the district determines that the needs of the child warrant a reevaluation, or if the child's parent or teacher requests a reevaluation. The reevaluation must be conducted in accordance with § 300.304 through § 300.311 (see *Chapter 2: Part I: Full and Individual Initial Evaluatio*n). The IEP team and other qualified professionals, as appropriate, must conduct a Review of Existing Evaluation Data (REED) for a reevaluation and upon termination of eligibility.

This section will 1) discuss some considerations when completing reevaluations using current evaluation procedures, and 2) review the key questions that must be addressed in completing a reevaluation.

§ 300.303 Reevaluations

(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—

(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child's parent or teacher requests a reevaluation.

(b) Limitation. A reevaluation conducted under paragraph (a) of this section—

(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and

(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary

Reevaluation

The school district must ensure that a reevaluation of each student with a disability is conducted (see § 300.303(a) in sidebar).

Special Considerations When Completing Reevaluations

Each year many students require a reevaluation for continuation of special education programs and services. In cases where assessments are conducted as part of reevaluation, the IEP team is now faced with a new challenge of implementing tools, strategies and procedures that are different than what was required for the initial eligibility determination. In some cases, the IEP team is evaluating students who have been in special education programs for years, and find that these students no longer qualify for services.

The USDOE commentary on the Final Regulations for the IDEA 2004 gives guidance for this dilemma:

> States that change their eligibility criteria for SLD may want to carefully consider the reevaluation of children found eligible for special education services using prior procedures. States should consider the effect of exiting a child from special education who has received special education and related services for many years and how the removal of such supports will affect the child's educational progress, particularly for a child who is in the final year(s) of high school. Obviously, the group should consider whether the child's instruction and overall special education program have been appropriate as part of this process. If the special education instruction has been appropriate and the child has not been able to exit special education, this would be strong evidence that the child's eligibility needs to be maintained (71 Fed. Reg. at 46648).

Since the Michigan SLD Criteria does not provide specific guidance regarding completing reevaluations using new evaluation procedures, districts should consider the federal commentary to guide procedures.

Reevaluation
What is the present level of academic performance and related developmental needs?
Does this child continue to exhibit a disability?
Does the child continue to need special education and related services?
Are any additions or modifications to the special education and related services needed to enable the child to meet the measurable annual goals set out in his IEP and participate, as appropriate, in the general education curriculum?

Table 2.4. Required questions outlined by the IDEA during a reevaluation.

Questions That Need to be Answered in a Reevaluation

The IEP team must conduct a *Review of Existing Evaluation Data (REED)* as one of the first steps in a reevaluation. The MDE *Review of Existing Evaluation Data (REED) and the Development of an Evaluation Plan* document provides both guidance and a general framework for the development of an evaluation plan (MDE REED Manual). When forming an assessment plan as part of the REED, the IEP team needs to determine if additional information is needed to answer the questions required by the IDEA Federal Regulation § 300.305(a) (see Table 2.4).

Following the REED document helps the IEP team make key decisions and eliminate the need for any unnecessary evaluation. The REED process provides guidance when determining if there is sufficient data given existing resources or if new information is needed to answer the questions in Table 2.4.

It is critical for the IEP team to understand which scenarios require a full and individual evaluation for SLD determination. The routine of completing full and individual evaluations of students with SLD to redetermine eligibility are largely unnecessary and unwarranted, unless there is a question about whether or not the student continues to have a disability, or to determine if a change in eligibility is necessary. Through the REED process, the IEP team and other qualified professionals as appropriate, consider the existing information and determine what additional steps are necessary which may or may not include additional testing.

Decision-Making in Conducting a Reevaluation

Case Examples

The following case examples demonstrate the variety of data that may be considered by the IEP team when conducting a REED. For each case, a review of existing evaluation data is documented including the data source used and a description of the information obtained from these data sources. Based on the review of this existing information, four questions are answered in each case to illustrate the IEP's rationale used to decide what additional data is needed to construct an evaluation plan.

Example A describes Arnold, a fifth grade student, who was found eligible with a SLD in written expression when he was in the second grade. Example B revisits Arnold and includes more detailed information which leads to different actions by the team. Example C describes Michael, a fifth grade student, who was found eligible with a SLD in basic reading skills when he was in the second grade, but currently demonstrates difficulty in reading fluency and written expression.

REVIEW OF EXISTING EVALUATION DATA Review, describe, and identify the data source for the following information:		
Information	**Data Source**	**Description of Information**
Review of existing evaluations including current classroom-based, local, or state assessments; and classroom-based observations.	Assessments from the evaluation three years ago: WISC-IV WJ-III Current Data: MEAP Report Card Grades	Previous evaluation data indicates Arnold has average to above average cognitive abilities with a full scale IQ of 119. His verbal and performance scores were high average. The standardized academic achievement assessment indicated above average scores in reading (SS=117), well above average scores in math (SS=123) and low average scores in written expression (SS=80). Current assessments indicate that Arnold was able to pass the reading and math portions of the MEAP in fourth grade, but did not pass the writing portion, with a partially proficient score of 3. His current report card shows As and Bs in all areas, except writing and spelling. He had a C- in both areas, and a notation indicating that these grades were modified.
Review teacher and related service provider observations.		Arnold has active engagement during instruction. He benefits from the use of graphic organizers during process writing activities. In comparing his written work to others in class, Arnold has substantially more errors in use of capital letters, spelling and run-on sentences which make his writing appear to be much below grade level. His teacher indicates that he is making some improvements in writing, but if grades were not modified, he would be failing grade level expectations in both spelling and writing (E grades).
Review evaluations and information provided by parents.		Parents continue to be concerned in the area of writing. They feel that the writing skills of their daughter, who is two years younger, are more advanced than Arnold's skills.
Review information from the student	Student Interview	Arnold indicates that writing is very difficult and he is not able to read his own notes when studying for a test. When his teacher asks him to edit his written work, he does not know what changes he should make and often turns in a paper with only a few minor changes.

Table 2.5. Example A.

EXAMPLE A

In some cases when conducting a REED as part of the reevaluation process, the team has enough information to continue eligibility, but needs more information for instructional planning. The case involves Arnold, a fifth grade student, who was found eligible with a SLD in written expression when he was in the second grade. Table 2.5 contains the information that the IEP team reviewed when conducting the REED.

What is the present level of academic performance and related developmental needs?

Not enough information. Currently, there is not enough information to determine a present level of academic performance and educational need. Based on existing information, it is difficult to describe the student's skills. Current IEP goals in writing include working on correct capitalization and including a beginning, middle, and end to his stories in writing. He is receiving specialized instruction in written expression; however, little information was provided about what skills are being targeted by instruction and what progress has been made toward the goals. Additional data is needed that describes his current level of performance in writing, which then indicates his needs, and how far below grade level he is in writing (achievement gap).

For example, progress monitoring data that would illustrate his performance skill level compared to the lowest acceptable level in general education, information about his performance on a common assessment, interview and observation data on conditions that facilitate and inhibit learning such as a response to explicit instruction in writing, differences in task demands (shorter or longer written assignments), and supports that he uses, that are and are not helpful.

Does this child continue to exhibit a disability?

Yes. In looking at current work samples, MEAP scores, grades in writing and input from parents, student and teacher, the IEP team has adequate information to determine that Arnold continues to exhibit a disability.

Does the child continue to need special education and related services?

Yes. When reviewing existing data including work samples, MEAP scores, and grades, the IEP team has enough information to determine that Arnold continues to need special education. However, additional data giving specific information about his current level of performance and need will provide more compelling evidence for special education services.

Does the student need any additions or modifications to special education and related services to meet IEP goals and participate in general education?

Not sure. Additional data about Arnold's current level of performance will assist the team in understanding if he needs any additions or modifications to his IEP. More specifically, there is not enough information provided about his progress on his current goals, his progress in general education, and the status of the accommodations currently provided. Some additional questions the team may consider include:

- If his current accommodations were taken away would he still be successful?
- Does he need other accommodations given his current level of performance?
- What type of specialized instruction does he required in the area(s) of deficit?

Example A Conclusion

For Arnold, further data is needed to determine present level of academic performance and educational needs, but a full and individual evaluation is not required. There is sufficient information for the IEP team to re-determine eligibility without further data. However, additional data, including functional assessments, is needed in order to describe his current level of performance in writing, and indicate specifically his needs in writing. Since there is sufficient data to re-determine eligibility, a MET form is not needed in this case. The team needs to conduct an IEP that redetermines eligibility. A report, indicating the results of the additional assessments, should be attached to the IEP and REED.

REVIEW OF EXISTING EVALUATION DATA Review, describe, and identify the data source for the following information:		
Information	**Data Source**	**Description of Information**
Review of existing evaluations including current classroom-based, local, or state assessments and classroom-based observations.	Assessments from the evaluation three years ago: WISC-IV WJ-III Current Data: MEAP Report Card Grades Step Up to Writing Rubric AIMSweb Writing Sample	Previous evaluation data indicates Arnold has average to above average cognitive abilities with a full scale IQ of 119. His verbal and performance scores were high average. The standardized academic achievement assessment indicated above average scores in reading (SS=117), well above average scores in math (SS=123) and low average scores in written expression (SS=80). Current assessments indicate that Arnold was able to pass all areas of the MEAP except the writing portion. His current report card shows two As (P.E. and computers), five Bs (social studies, music, reading, math and science), and two Cs (writing and spelling, which were modified grades). He scored a 65% on the writing rubric, whereas the average for the class was 90%. He scored in the lowest 5th percentile. Per the AIMSweb written expression measure (WE-CBM), Arnold wrote 33 words (10-25th percentile). He had 28 Words Spelled Correctly (WSC) (10-25th percentile) and 7 Correct Writing Sequences (CWS) (<10th percentile). For all three areas of criteria, Arnold fell in the below average range when compared to same-grade peers. Per an analysis of his writing sample, areas of concern include: fragmented sentence structure, missing end punctuation (4/5 sentences), and capitalizations of unnecessary words (7/33).
Review teacher and related service provider observations.	General Education Teacher Special Education Teacher	Teacher comments on Arnold's most recent report card indicate that he is a hard working student. His classroom participation is adequate and he offers sufficient background knowledge to classroom discussions. Although he has good ideas it can be difficult for him to formulate those ideas into a written document. He utilizes graphic organizers and has access to a word processor as accommodations. These tools allow him to be more successful in the general education environment. His ELA class is team taught by his general education and special education teacher and he gets additional writing support in a special education setting. His teacher indicates that he is making some improvements in writing, but if grades were not modified, he would be failing grade level expectations in both spelling and writing (E grades). Arnold's special education teacher reports that he is making slow progress. The teacher changed her remediation strategy two months ago in order to solicit a more rapid rate of growth and continues to monitor progress weekly. Arnold is given direct instruction in written expression in both the general education classroom and the special education setting. He is getting 90 minutes of instruction in reading and writing each day. The specialized instruction appears to be effective; however it will need to continue in order to make at least a year's worth of growth per year.
Review evaluations and information provided by parents.	Parent Interview	Arnold's parents are very supportive at home. They have purchased programs such as "Inspiration" for the computer to assist with pre-writing strategies. They proofread written work and assist Arnold with making corrections. Learning disabilities run in Arnold's family. Arnold attends Sylvan Learning Center on the weekends and receives tutoring from a National Honor Society student on Wednesday evenings. These tutoring sessions focus on work completion but not necessarily remediation.
Review information from the student	Student Interview	Arnold indicates that writing is very difficult and he is not able to read his own notes when studying for a test. When his teacher asks him to edit his written work, he does not know what changes he should make and often turns in a paper with only a few minor changes.

Table 2.6. Example B.

EXAMPLE B

In some cases, when conducting a REED as part of the reevaluation process, the IEP team has enough information to continue eligibility and plan for instruction. The following case revisits Arnold, our fifth grade student who was found eligible with a SLD in written expression when he was in the second grade. Table 2.6 contains the information the IEP team gathered, which results in a different conclusion when conducting the REED.

What is the present level of academic performance and related developmental needs?

There is enough information. There is enough data for the IEP team to establish a present level and describe his current needs. Current progress monitoring data gives specific information indicating the areas of difficulty, and these assessments are closely aligned to the instruction he is receiving in class. His IEP goals are specifically written to target his areas of weakness, and he is receiving high-quality instruction, specifically tailored to meet his needs. His progress is closely monitored, and changes to instruction are made when the data indicates that he is not making expected progress.

Does this child continue to exhibit a disability?

Yes. There is an area of deficit that appears to be unexpected and rare. Despite special education remediation and support, there continues to be a significant gap between Arnold's actual performance and State-approved grade-level standards and his same aged peers.

Does the child continue to need special education and related services?

Yes. The information seems clear that special education is still required, including specialized instruction and accommodations in general education to access the general education curriculum.

Does the student need any additions or modifications to special education and related services to meet IEP goals and participate in general education?

No. The data provided indicates that Arnold is making adequate progress given the current support systems.

Example B Conclusion

For Arnold, no additional assessment is needed to redetermine eligibility. The team needs to conduct an IEP that redetermines eligibility. A MET is not required. The REED needs to be attached to the IEP.

REVIEW OF EXISTING EVALUATION DATA Review, describe, and identify the data source for the following information:		
Information	**Data Source**	**Description of Information**
Review of existing evaluations including current classroom-based, local, or state assessments and classroom-based observations.	Assessments from the evaluation three years ago: WISC-IV WJ-III Current Data: MEAP Report Card Grades	Previous evaluation data indicates Michael has average to above average cognitive abilities with a full scale IQ of 105. The standardized academic achievement assessment indicated low average scores in reading (SS=83), average scores in math (SS=94) and average scores in written expression (SS=93). Current assessments indicate that Michael was able to pass the math and reading portion of the MEAP in 4th grade, but did not pass the writing portion, with a partially proficient score of three. His current report card shows As and Bs in all areas, except writing and spelling. He had a C- in both areas, and a notation indicating that these grades were modified. In reading, although he had a B-, reading fluency was an area of concern (a minus sign in that box on the report card).
Review teacher and related service provider observations.	Classroom observations Work Samples	Michael is engaged in instructional materials. In reading, he has made very good improvements, now that he has mastered basic and advanced phonics and improved his sight vocabulary. He appears to be able to read grade level material, but may need more time to complete assignments. Although accuracy in reading is good, he still struggles with reading fluency. His reading volume in the classroom is poor. On tests and assignments that involve reading, he is usually one of the last students to complete assignments. Similarly, his written expression is poor. His ideas are constrained by his limited spelling skills. He complains during writing assignments. When asked to dictate either a narrative or information writing piece, he provides examples, elaborations, and excellent word choice. Reading fluency and writing have not been direct goals on his IEP. The classroom teacher notes that he does benefit from the use of graphic organizers during process writing activities. In comparing his written work to others in class, Michael has substantially more errors in the use of capital letters, spelling and run-on sentences which make his writing appear to be much below grade level
Review evaluations and information provided by parents.	Parent Interview	Parents are very pleased with his improvement in reading but continue to be concerned in the areas of reading fluency and writing. According to his parents, he rarely engages in reading outside of school and complains about daily reading assignments. They feel that Michael's writing skills are poor.
Review information from the student	Student Interview	Michael indicates that writing is very difficult and he is not able to read his own notes when studying for a test. When his teacher asks him to edit his written work, he does not know what changes he should make and often turns in a paper with only a few minor changes.

Table 2.7. Example C.

EXAMPLE C

In some cases, when conducting a REED as part of the reevaluation process, the IEP team may need more information to redetermine eligibility and plan for instruction. The following case involves Michael, a fifth grade student, who was found eligible with a SLD in basic reading skills when he was in the second grade. His teachers and parents report that he has made significant gains in reading, but express concerns in the areas of reading fluency and written expression. Table 2.7 contains the information the IEP team reviewed when conducting the REED.

What is the present level of academic performance and related developmental needs?

Not enough information. Current data suggests that Michael may not continue to qualify in the area of basic reading skills, but indicates concerns in the areas of reading fluency and written expression. Grades and teacher/parent reports indicate good progress in basic reading skills. There are concerns about weaknesses in reading fluency and writing. However, the information is not specific enough to describe Michael's present level of academic performance and educational needs. Since eligibility is in question, as part of the REED process, the IEP team needs to develop an evaluation plan that provides additional data to specifically describe the student's present level of academic performance and educational needs (see section on Required Procedures for Completing an Evaluation).

Does this child continue to exhibit a disability?

Not sure. The information the IEP team reviewed during the REED is not sufficient to determine if, and in what areas Michael may have a disability. More information is needed to answer this question. Data from the functional assessments given, as well as other data the team collects during the evaluation period, provides information that indicates how severe and rare the achievement gap is between Michael and his peers, in the areas of concern. This information will help to determine if he continues to exhibit a disability.

Does the child continue to need special education and related services?

Not sure. Again, the IEP team needs to gather additional information in order to answer this question. During the evaluation period, the information gathered specifically describes Michael's areas of need, and provides evidence whether he continues to exhibit a disability. If the evidence supports that Michael does continue to exhibit a disability, the IEP team then determines if he requires special education services in order to meet his needs.

Does the student need any additions or modifications to special education and related services to meet IEP goals and participate in general education?

Not enough information. Additional data about Michael's current level of performance will assist the team in understanding if he needs any additions or modifications to his IEP, especially as new eligibility areas are considered. There is not enough information about if he is using accommodations currently or what accommodations may be needed if he is found eligible in another SLD area.

Example C Conclusion

For Michael, the IEP team does not have enough information to describe his current level of academic performance and/or educational needs. There is a need to develop an evaluation plan and conduct a full and individual evaluation in order to describe the student's current level of performance in reading and writing, and determine if he continues to be eligible for special education services. In this case, there is a need to conduct both a MET and an IEP that redetermines eligibility. The REED should be attached to the MET and IEP.

Additional Resources

RIOT X ICEL Framework

Examples of RIOT X ICEL tasks that the MET may use to gather data in an RIOT X ICEL format (adapted from Howell & Nolet, 1999)

	Review	Interview	Observe	Test
Instruction	• Assignments • Tests • Pacing • Grading Criteria	Teachers re: • Practices • Expectations	Teaching • Practices • Expectations	Diagnostic Teaching • Measure student response to instruction
Curriculum	• Materials • Curriculum Guides • Scope + Sequence • Standards/ Benchmarks	• Teachers • LEA Staff	Students interacting with Curriculum materials & tasks	Text Readability
Environment	• School/Classroom Rules • Procedures / Routines • Social / Cultural Norms • Local Achievement Data	• Teachers • Principals • Support Staff • Parents	Interaction Pattern • Student-peer • Student-teacher Setting Conditions	Establish Local Norms • Reading • Writing/Spelling • Math
Learner	Student Records: • Attendance/Health • Cumulative History • Test Performance • Permanent Products • Error Analysis	• School staff • Parents • Student	• Target Behaviors • Dimensions of the problem within the school setting	Student Performance • Define discrepancy (Expected vs. Actual performance) • Functional hypothesis for performance deficit

Functional Assessment: Using Multiple Methodologies (RIOT) to Assess Multiple Domains

Functional Questions Linked to RIOT X ICEL

Instruction

Sources of Data Where you might find this information	**Functional Questions** Why you are looking for this information
Review • Permanent products • Classroom work (demands of the task, difficulty levels and skill requirements) • Class schedules • Lesson plans/IEP goals	• What are the skill requirements for the academic task? • How successful is this student compared to peers on work samples? • How systematically were outcome data collected from interventions? For example, are there progress monitoring records?
Interview • Permanent student products • Scope and sequence of lessons • Curriculum materials (books, worksheets, curriculum guides) • Teacher at current or previous grade level • Student	• How much time is allocated toward instruction? • What instructional approaches, pacing, difficulty, prerequisite skills are required by the teacher? • What is the teacher's expectation? • What does the student understand as the expectation? What is the student's attitude toward academic tasks? Does it vary by type of task or the subject area? • Can the student work independently? • How often does the student complete assignments satisfactorily? • What are the teacher's preferred instructional practices? • What strategies and interventions have been tried? For how long? With what degree of intensity and fidelity? • How does the student interact with peers? Is the student sensitive to ridicule or embarrassment regarding poor academic performance?
Observe • Systematic observation • Checklists • Anecdotal recording	• Is there evidence of effective teaching practices? • Is there evidence of differentiated instruction at an appropriate level of difficulty? • Are there modifications of materials? • What classroom management and behavioral routines are used?
Test • CBA, classroom tests, norm-referenced tests and self-reports, diagnostic teaching	• Is the instructional content actually being measured by assessments used in the classroom (unit tests)? • What level of materials does the student need? What instructional approaches will work for this student? • Is there an instructional match between the student and the materials?

Curriculum

Functional Questions Linked to RIOT X ICEL	
Sources of Data Where you might find this information	**Functional Questions** Why you are looking for this information
Review • Permanent student products • Scope and sequence of lessons • Curriculum materials (books, worksheets, curriculum guides)	• What is being taught currently to the student? • Has this material been covered in the past?
Interview • Teachers, curriculum directors, or policy makers regarding the adoption and use of curriculum materials	• What is the organization and structure of curriculum materials? • Is there a match between what is taught and what the student needs? • What is the expected coverage of curriculum?
Observe • Use of materials • Modification of materials • Teacher instruction • Assignments and assessments	• Is there alignment of materials and curriculum? • Are there task related prerequisite skills required to display learning?
Test • Aggregate peer performance on class assessments	• How do all students perform?

Environment

Functional Questions Linked to RIOT X ICEL	
Sources of Data Where you might find this information	**Functional Questions** Why you are looking for this information
Review • Reports or statements about: school rules, class sizes; policies on disruptive behavior, peer work, grades, attendance	• What policies and procedures are in place that define what is behaviorally appropriate for the student? • What is the standard of peer performance in behavior? • Where does the behavior of concern occur?
Interview • Teachers, parents, peers, other personnel like paraprofessionals, principal, ancillary staff, private staff	• What are the classroom instructional routines, rules, and behavioral plans? • What is the culture or tone of the classroom? • What is the perception of the peers - toward the student? - toward the teacher? - toward the school?
Observe • Systematic observation for: academic focus, opportunity to learn, distractions, demographic of peers	• What is the physical environment (seating, equipment, lighting, temperature, noise level)? • What interactions are visible between the student, teacher and environment? • What are the consequences for successful and unsuccessful performance associated with learning tasks? • What stressors or distractors appear to affect the student?
Test • Aggregate peer performance on class assessments	• What is the effectiveness of the learning environment as indicated by student test scores? • How is the response of the student compared to local norms, small group, grade level, etc.

Learner

Functional Questions Linked to RIOT X ICEL	
Sources of Data Where you might find this information	**Functional Questions** Why you are looking for this information
Review • Health records, student work, social history, records of meetings or teacher intervention records, grade book	• Are there health problems (i.e., disorders, medication interactions) related to the area of concern? • Are there consistent skill and or performance problems over time? • What is the student's performance in relation to teacher expectations or task demands? • What has been the response to intervention?
Interview • Student • Parent • Behavioral rating scales or structured interviews	• What is the student's perception of the problem including the nature and intensity? • Current level of student skills and knowledge? • How long has this problem existed?
Observe • Systematic observation, recording, data collection of nature and dimensions of target behavior, response to intervention, knowledge of expectations and interactions	• What is the student's present level of performance compared to peers? • What is the student's response to interventions, structures, or scaffolding? • Is the target behavior observable and can it be described in measurable terms? • What is the student's task engagement compared to peers? • What is the student's level of frustration or stress either academically or behaviorally? • Does the student display effort?
Test • Curriculum-based assessments, classroom tests, norm-referenced tests and self-reports	• What does the student know and what does the student not know? • Are there skill deficits? • Does the student have a performance deficit or a skills deficit? • Is there progress monitoring data and what are the results?

Bibliography

Daly, E. J., Witt, J. C., Marsten, B. K., & Dool, E. J. (1997). A model for conducting a functional analysis of academic performance problems. *School Psychology Review*, *26*(4), 554-574.

Hosp, J. (2008). Best practices in aligning academic assessment with instruction. In A. Thomas, & J. Grimes, *Best Practices in School Psychology V* (pp. 363-376). Bethesda, MD: National Association of School Psychologists.

Hosp, J. (2011). *Advanced-decision making in RTI.* Michigan Association of School Psychologists. Lansing, Michigan.

Howell, K., & Nolet, V. (1999). *Curriculum-based evaluation: Teaching and decision making,* (3rd ed.). Belmont, CA: Wadsworth Thompson Learning.

Ingham Intermediate School District. (2010). *Specific learning disabilities evaluation and eligibility guidelines.* Ingham Intermediate School District.

Lichtenstein, R. (2008). *Best practices in identification of learning disabilities.* In A. Thomas, & J. Grimes, Best Practices in School Psychology V (pp. 295-317). Bethesda, MD: National Association of School Psychologists.

Michigan Department of Education. (2009). *Michigan administrative rules for special education supplemented with IDEA federal regulations.* Lansing, Michigan: Office of Special Education and Early Intervention Services.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a specific learning disability.* Lansing, Michigan: Office of Special Education and Early Intervening Services.

Michigan Department of Education. (2009, April). *Procedures for review of existing evaluation data (REED) and development of an evaluation plan.* Lansing, Michigan: Office of Special Education and Early Intervention Services.

Michigan Department of Education. (2011, March). *Evaluation procedures.* Lansing, MI: Michigan Department of Education: Office of Special Education and Early Intervening Services.

Shapiro, E. (2011). *Academic skills problems: Direct assessment and intervention,* (4th ed.). New York, NY: The Guildford Press.

U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

Ysseldyke, J., & Christenson, S. (2002). *Functional assessment of academic behavior.* Sopris West Educational Services.

Chapter

3 Applying the IDEA 2004 Eligibility Criteria

Key Questions

- *What is the definition of a Specific Learning Disability (SLD)?*
- *What are the required components of a SLD eligibility determination?*

Introduction

The statutory definition of a SLD has not changed since its inception in P.L. 94-142, also known as the Education of All Handicapped Children Act of 1975 (EAHCA) (see § 300.8(c)(10) in sidebar). The EAHCA was a funding law; funding laws require periodic reauthorizations, often resulting in amendments to both the title and the content of the underlying law. The federal special education law has been reauthorized and amended on several occasions (1986, 1990, 1997, 2004), and is now known as the Individuals with Disabilities Education Act (IDEA). During the most recent reauthorization process, which resulted in the IDEA 2004, the 2002 Learning Disabilities Policy Roundtable, comprised of member organizations of the National Joint Committee on Learning Disabilities (NJCLD) released the report, *Finding Common Ground,* which intentionally recommended that the statutory definition of SLD be maintained in the reauthorization (Learning Disabilities Policy Roundtable, 2002).

There does, however, remain some confusion about the differences between the statutory definition of a SLD in the Individuals with Disabilities Education Act (20 U.S.C. 1401 (30)), which expresses the general concept, and the IDEA Federal Regulations (§ 300.8, § 300.300 through § 300.306, and § 300.307-311), which expresses the implementation aspects of the definition. The focus of the IDEA 2004 reauthorization was on changing how a SLD itself was identified. Moreover, the statute is quite clear in its focus on the specific manifestations (i.e., listen, think, speak, read, write, spell, or do mathematical calculations), as opposed to specifying that a SLD is defined as a "disorder of psychological processes." The IDEA Federal Regulations have historically focused on the areas in which a SLD may occur, as opposed to specifying psychological processes that must be measured.

Therefore, practitioners must keep in mind that while the definition remains unchanged, the IDEA Federal Regulations, which operationalize the statute, have changed significantly. There is no requirement to adhere to the statutory definition of SLD. Rather, the IDEA Federal Regulations are designed to guide IDEA implementation and compliance.

§ 300.8 Child with a disability

(c)(10) Specific learning disability —(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

NJCLD Definition and Construct

Despite an extensive body of scientific research on the SLD construct over the last 40 years, the field of SLD has been replete with controversies about assessment, identification practices and prevalence issues throughout its history. For the purposes of this OS SLD Guidance document, an expanded definition of SLD was used to guide this document which stems directly from the work of the National Joint Commission of Learning Disabilities (NJCLD). NJCLD is a national committee of representatives of organizations that provides multi-organizational leadership to inform policy and research. The following SLD definition was adopted in 1990 and remains the current definition over 20 years later (NJCLD, 1998):

> Learning disabilities is a general term that refers to a heterogeneous group of disorders manifested by significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning, or mathematical skills. These disorders are intrinsic to the individual, presumed to be due to central nervous system dysfunction, and may occur across the life span. Problems in self-regulatory behaviors, social perception and social interaction may exist with learning disabilities but do not, by themselves, constitute a learning disability. Although learning disabilities may occur concomitantly with other disabilities (e.g., sensory impairment, mental retardation, serious emotional disturbance), or with extrinsic influences (such as cultural differences, insufficient or inappropriate instruction), they are not the result of those conditions or influences.

The NJCLD definition is based on the following five constructs adopted by NJCLD in 1998:

1. Learning disabilities are heterogeneous both within and across individuals. Intraindividual differences involve varied profiles of learning strength and need and/or shifts across the life span within individuals. Inter individual differences involve different manifestations of learning disabilities for different individuals.

2. Learning disabilities result in significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning, and/or mathematical skills. Such difficulties are evident when an individual's appropriate levels of effort do not result in reasonable progress given the opportunity for effective educational instruction and with the recognition that all individuals learn at a different pace and with differing effort. Significant difficulty cannot be determined solely by a quantitative test score.

3. Learning disabilities are intrinsic to the individual. They are presumed to be related to differences in central nervous system development. They do not disappear over time, but may vary in expression and severity at different life stages.

4. Learning disabilities may occur concomitantly with other disabilities that do not, by themselves, constitute a learning disability. For example, difficulty with self-regulatory behaviors, social perception, and social interactions may occur for many reasons. Some social interaction problems result from learning disabilities; others do not. Individuals with other disabilities, such as sensory impairments, attention deficit hyperactivity disorders, mental retardation, and serious emotional disturbance, may also have learning disabilities, but such conditions do not cause or constitute learning disabilities.

5. Learning disabilities are not caused by extrinsic influences. Inconsistent or insufficient instruction or a lack of instructional experience cause learning difficulties, but not learning disabilities. However, individuals who have had inconsistent or insufficient instruction may also have learning disabilities. The challenge is to document that inadequate or insufficient instruction is not the primary cause of a learning disability. Individuals from all cultural and linguistic backgrounds may also have learning disabilities; therefore, assessments must be designed acknowledging this diversity in culture and language, and examiners who test children from each background must be sensitive to such factors and use practices that are individualized and appropriate for each child.

Components of SLD Eligibility Determination

Classification systems have traditionally used both inclusionary criteria (characteristics ruling in SLD) and exclusionary criteria (characteristics ruling out SLD), measured over time, to establish SLD eligibility. The goal is to define characteristics that reflect the construct of a SLD and differentiate among the many different types of low achievement. Historically, inclusionary criteria for determining eligibility for a SLD has included ability-achievement discrepancy models, cognitive processing deficits, absolute low achievement, and more recently, insufficient progress to meet State-approved grade-level standards or RtI (Fletcher, Barth, & Stuebing, 2011; Fletcher, N.D.).

Figure 3.1 was adapted from an article by Lichtenstein (2008) and illustrates how the IDEA Federal Regulations and the Michigan Administrative Rules for Special Education (MARSE) (Michigan Department of Education, 2009) outline decision making for a SLD identification. The remainder of the document reviews the IDEA Federal Regulations and provides the MET/IEP team with guidance to meet these requirements.

Criterion A

Criterion A is "inadequate achievement" in one or more of the eight areas of SLD, including the recently added area of reading fluency, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards. Inadequate achievement is a required element, and is considered an inclusionary criterion for determination of a SLD. The MDE SLD Criteria guidance document uses the term "academic skill deficit" when referring to inadequate achievement, and these terms are used interchangeably in this document (Michigan Department of Education, 2010).

It is easy to focus on achievement alone when applying this criterion, but it is important to consider the entire "inadequate achievement" inclusionary statement in § 300.309 (see Table 3.1). Inadequate achievement needs to be unexpected, given the student's history of learning experiences and exposure to appropriate instruction. There are many possible reasons for inadequate achievement; SLD is only one possibility. Exclusionary criteria and diagnostic assurance statements are in fact designed to address these issues. Exclusionary criteria require that the MET rule out other known causes of inadequate achievement. For example, "cognitive impairment" is expected to result in inadequate achievement, and a "lack of appropriate instruction" (diagnostic assurance statement § 300.306(b)(1)) is a known cause of inadequate achievement.

Criterion B

Criterion B is documentation of appropriate instruction, which is a new requirement. State regulations require documentation and verification of appropriate instruction as opposed to an assurance statement. It is best thought of as an inclusionary criterion, and is required for all SLD evaluations.

Criterion C

Criterion C provides two options. The first option, a student's insufficient progress to meet age or State-approved grade-level standards when using a process based on the student's response to scientific, research-based intervention, was added to the IDEA statutory language in 2004. RtI is the most well-known and most frequently implemented scientific, research-based intervention process (Batsche, et al., 2005; National Center on Response to Intervention, March 2010). The overarching principle in the RtI process is a commitment to effectively teach all children. A strong component of RtI is the use of scientific, research-based interventions to address the learning needs of at-risk students. Appropriate instruction is an inherent characteristic of RtI and is required for all evaluations. Response to targeted, scientifically-based intervention is another RtI component and is an option for schools to consider as a part of their evaluation. RtI is not, and never has been, conceptualized as a stand-alone identification model.

IDEA Federal Regulations § 300.309	SLD Characteristic Addressed
"…the child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas"	The student possesses significant inadequate achievement in specific identified areas.
"..when provided with learning experiences and instruction appropriate for the student."	The inadequate achievement is unexpected.

Table 3.1. Comparison of the IDEA Federal Regulation and the SLD characteristic it reflects.

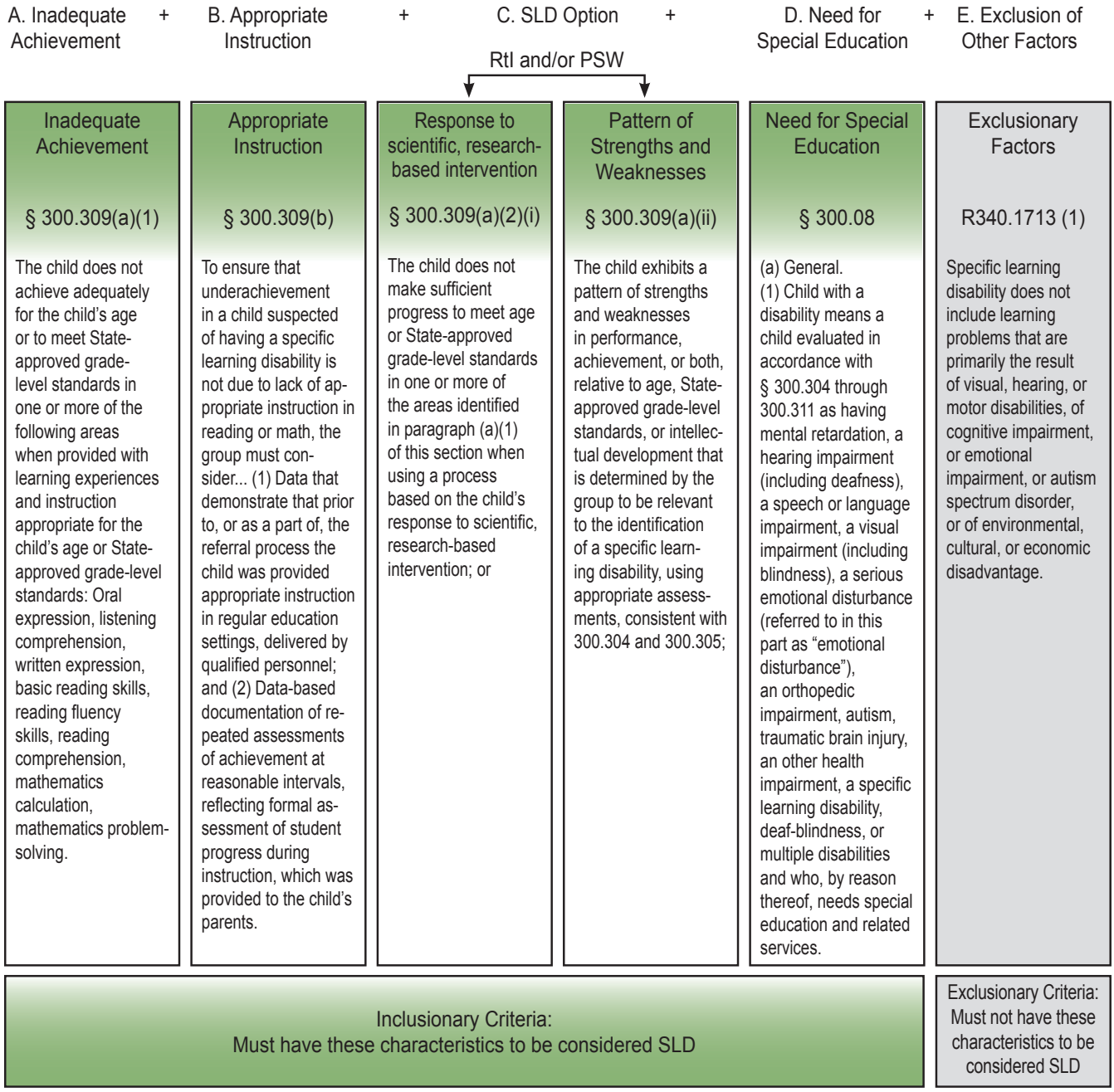


Figure 3.1. Required components of a SLD eligibility determination.

The second option, a pattern of strengths and weaknesses (PSW) in performance, achievement or both, relative to age, State-approved grade-level standards or intellectual development, replaced the severe discrepancy language in the IDEA 2004 regulations issued by the USDOE in 2006. The PSW option allows for continued use of the discrepancy model (i.e., achievement in comparison to intellectual development), but now additionally requires the MET to look at a pattern of strengths in comparison to a pattern of weaknesses, versus the traditional comparison of IQ to a single achievement measure (severe discrepancy between ability and achievement). It allows for various types of strength and weakness comparisons including:

a) performance with State-approved grade-level standards,
b) comparison of achievement tests with intellectual ability, and
c) intraindividual differences in achievement.

Lichenstein (2008) underscores that "the list of possible comparisons does not include intraindividual differences in cognitive processes. As stated in the IDEA regulations commentary, the U.S. Office of Education (2006, p. 44651) did not find evidence to justify assessment of intraindividual cognitive functions as contributing to identification and intervention decisions" (p. 310).

Criterion D

Criterion D requires that the severity of impact is considered. Students can meet the criteria for disability as defined in the MARSE and not demonstrate an adverse impact to the point that they are considered in need of special education programs and services.

Criterion E

Criterion E includes the necessary exclusionary factors. Conditions other than a SLD that are known to cause low achievement must be ruled out as the primary cause of the learning problems.

Eligibility Guide

Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all of the components of a SLD eligibility determination.

Bibliography

Batsche, G., Elliott, J., Graden, J., Grimes, J., Kovaleski, J., Prasse, D., et al. (2005). *Response to intervention: Policy considerations and implementation.* Alexandria, VA: National Association of State Directors of Special Education, Inc.

Fletcher, J. (n.d.). *Identifying learning disabilities in the context of response to intervention: A hybrid model.* Retrieved January 1, 2011, from RTI Action Network: http://www.rtinetwork.org/learn/ld/identifyingld

Fletcher, J., Barth, A., & Stuebing, A. (2011). A response to intervention (RTI) to SLD identification. In D. Flanagan, & V. Alfonso, *Essentials of Specific Learning Disability Identification* (pp. 115-143). Hoboken, N.J.: John Wiley & Sons, Inc.

Learning Disabilities Policy Roundtable. (2002). *Recommendations for the reauthorization of the Individuals with Disabilities Education Act (IDEA).* Retrieved July 13, 2011, from The Learning Disabilities Association of America: http://www.ldanatl.org/legislative/joint_activities/policyrec.asp

Lichtenstein, R. (2008). Best practices in identification of learning disabilities. In A. Thomas, & J. Grimes, *Best Practices in School Psychology V* (pp. 295-317). Bethesda, MD: National Association of School Psychologists.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a specific learning disability*. Lansing, Michigan: Office of Special Education and Early Intervening Services.

Michigan Department of Education. (2009). *Michigan administrative rules for special education supplemented with IDEA federal regulations.* Lansing, Michigan: Office of Special Education and Early Intervention Services.

National Center on Response to Intervention. (2010, March). *Essential components of RTI: A closer look at response to intervention.* U.S. Department of Education, Office of Special Education Programs, National Center on Response to Intervention.

National Joint Committee on Learning Disabilities. (1998). *Operationalizing the NJCLD Definition of learning disabilities for ongoing assessment in schools.* ASHA, 40 (suppl. 18).

National Joint Committee on Learning Disabilities. (1990/1994). *Learning Disabilities: Issues on definition.* Collective perspectives on issues affecting learning disabilities: Position papers and statements (pp. 61-66). Austin, TX: Pro-ed.

U.S. Department of Education. (2004). *Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446 § 1400 et seq.*

U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

Chapter

4 Determining Inadequate Achievement

Key Questions

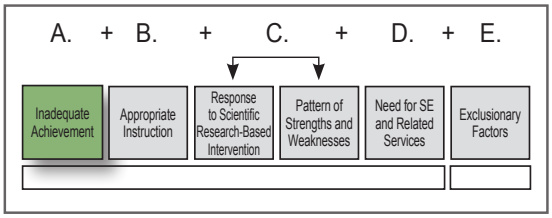
- *How is inadequate achievement defined?*
- *How can the Multidisciplinary Evaluation Team (MET) determine whether or not a student meets age and/or state-approved grade-level standards?*
- *What are the steps the MET can take to determine inadequate achievement?*
- *How can the MET determine whether the gap between expected and actual academic performance is severe?*

Introduction

Establishing that a student demonstrates inadequate achievement is the first of five required components for specific learning disability (SLD) determination (see § 300.309 in sidebar). There must be evidence that the student is not achieving adequately for his age and/or is not meeting State-approved grade-level standards in one or more of eight possible areas when provided with appropriate learning experiences and instruction. The eight areas of potential eligibility include:

1. Oral expression
2. Listening comprehension
3. Written expression
4. Basic reading skill
5. Reading fluency skills
6. Reading comprehension
7. Mathematics calculation
8. Mathematics problem-solving

The eight areas listed above are the only possible areas of eligibility the MET can reference when determining the existence of SLD. To determine inadequate achievement, the MET must determine if there is an academic deficit that is severe, as defined by local decision rules. It is important for the MET to follow clearly defined decision rules during the SLD determination process. Inadequate achievement is a requirement regardless of the SLD process used (RtI or PSW). It is possible for a student to demonstrate inadequate achievement without meeting the other criteria for SLD eligibility (appropriate instruction, exclusionary rules, etc.) and therefore not be eligible as a student with a SLD.



§ 300.309 Determining the existence of a specific learning disability

(a) (1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:

(i) Oral expression.

(ii) Listening comprehension.

(iii) Written expression.

(iv) Basic reading skill.

(v) Reading fluency skills.

(vi) Reading comprehension.

(vii) Mathematics calculation.

(viii) Mathematics problem-solving.

Defining Inadequate Achievement

While there are a variety of reasons why a student may demonstrate inadequate achievement, the student with a SLD has inadequate achievement despite participation in appropriate learning experiences and instruction.

In order to determine if a student meets the "inadequate achievement" SLD eligibility component, the MET must utilize established, objective criteria. This means that local school districts must identify their criteria for determining how severe the academic deficit must be in order to be considered "inadequate" achievement for the purposes of § 300.309(a)(1). The finding of an academic skill deficit or of insufficient progress must not be based on any one measure. The MDE SLD Criteria include the following parameters for determining the presence of inadequate achievement (p. 7):

- "The finding of an academic skill deficit and insufficient progress must not be based on any one measure."
- ...one benchmark for considering a student's extent of adequate achievement must be age" (e.g., a national norm-referenced achievement test) or Michigan-approved grade-level standards" (e.g., a criterion referenced measure aligned to the State-approved grade-level standards).
- "No single benchmark or measure is sufficient under Michigan criteria; the student should evidence inadequacy on multiple measures to be determined SLD eligible."

Oakland Schools recommends that at least one of the multiple measures required is a standardized academic achievement test (broad-band or narrow-band) with established reliability and validity (see Table 4.1).

The MDE SLD Criteria emphasizes that the parameters provided for establishing an academic skills deficit are not intended to be used as "absolute cut-points" (Michigan Department of Education, 2010, p. 7). The rigid application of cut points in SLD determinations can easily lead to inappropriate eligibility decisions. SLD exists on a continuum of severity and is considered to be a multi-dimensional disorder (Shaywitz et al. 1992), much like ADHD, hypertension or obesity. According to Shaywitz, the manifestations of SLD are heterogeneous and vary widely, both between and within individuals, in response to changing environmental demands experienced across the life span. Furthermore, since measurement error is usually associated with any test score, there is always some uncertainty about the student's true score. Given the fact that variability in SLD expression is the norm, and that some degree of measurement error is present in any test score, it is difficult to reliably pinpoint a student's true score (skill or ability) based on any single assessment.

Consequently, when using norm-referenced achievement assessments, it is imperative that the assessor and the MET consider the standard error of measurement (SEM) and confidence interval for the obtained score. The MET should also validate the results by using multiple measures, and exercise professional judgment when determining the severity of the academic deficit.

Evidence of Inadequate Achievement

There are three broad categories of assessments loosely outlined by the MDE SLD Criteria that are necessary to consider when determining inadequate achievement. These include:

1. Norm-Referenced Achievement Tests (Broad-Band):

These tests are considered broad-band because they are composed of a limited number of test items that span a broad range of skills (e.g., 3-90 years or grades pre-K -12). They typically have established reliability and validity. Following the recommendation of the MDE SLD Criteria, a score at or below the 9th percentile, when compared to national norms, may represent inadequate achievement. Scores between the 10-25th percentile indicate academic risk, and may trigger strategic or supplemental interventions.

2. Curriculum-Based Measurement (CBM) (Narrow-Band Achievement Tests):

CBM assessment tools have been designed and validated for two assessment purposes; first, as universal screening assessments to identify who is at-risk for academic failure in reading and mathematics, and second, as formative assessments (progress monitoring) for monitoring the general progress of students, and the efficacy of reading, writing and mathematics interventions. By design, research-validated use of CBM tools for these purposes reaches a ceiling at the end of 8th grade performance level. However, new CBM reading and mathematics tools designed for use at the high school level are currently under development. CBM tools are considered to be narrow-band achievement tests (Howell & Nolet, 1999) because each assessment probe consists of numerous items which target expected performance at a single grade level. CBM scores are easily compared to national or local norms. When using CBM to determine an academic deficit, the following guidelines ensure consistency with the MDE SLD Criteria:

- **CBM Benchmark Assessments:** CBM Benchmark scores at or below the 9th percentile, or scores that fall into the deficit range on grade-level materials when compared to either local or national norms, may be evidence of an academic skill deficit. Scores falling between the 10th and 25th percentile likely indicate that the student has a moderate deficit and that supplemental or strategic interventions may be necessary.
- **CBM - Progress Monitoring:** Progress monitoring is defined as frequent assessment (two-four times per month) of students who are at-risk of not meeting State-approved grade-level standards. The MDE SLD Criteria suggest that six CBM progress monitoring data points that fall at or below the 9th percentile in grade-level materials can provide sufficient evidence of inadequate achievement. The MET is reminded that the performance of a student who is progress monitored in out-of-level materials (i.e., fourth grade student monitored in third grade materials), must be interpreted in reference to the expectations of the student's grade placement, and that to do otherwise would significantly understate the severity of the student's academic deficit.

3. Criterion-Referenced Measurement (CRMs):

Criterion-Referenced Measurement (CRMs) or Criterion-Referenced Tests (CRTs) are designed to determine whether individuals have reached a pre-established level or standard of performance, usually in an academic subject area or skill (Sattler, 2001). District-wide and teacher-made criterion-referenced tests provide information about students' progress in mastering classroom curriculum. With CRMs, student performance is compared to a criterion for "content domain" mastery instead of comparing his performance to that of other individuals (norm-referenced). CRMs provide explicit information as to what the student can do and cannot do, thereby providing information about the student's personal performance independent of the performance of others. CRMs are considered narrow-band achievement tests, as each assessment covers a narrow band of curriculum and is generally composed of items at the same grade level (Howell & Nolet, 1999). CRMs are usually based on short-term instructional objectives that are either obtained directly from the school district's or State's curriculum, or from a task analysis of an objective found in the curriculum. Most locally developed CRMs do not typically have established reliability and validity. However, because some published criterion-referenced tests do report evidence of reliability and validity while others do not, it is important for the MET to understand the construction and characteristics of the specific tool being used. Despite these cautions, CRMs play a pivotal role in defining present levels of performance and providing data needed for goal setting and instructional planning.

Examples of CRMs include those constructed by teachers using the curriculum or state-approved grade-level standards, published CRMs, or state assessments like MEAP. In order to use a CRM or CRT, it is necessary to first establish a standard of acceptable performance to be achieved within a specified timeframe. This specificity allows the MET to make comparisons between the expected performance (State-approved grade-level standards) and the actual performance of a student. When determining whether a student has inadequate achievement using CRM/CRTs, the MET may wish to consider academic skill deficits of at least 1.5-2.0 grade levels below the student's grade placement as sufficient evidence of inadequate achievement. Another criterion that may be applied is student performance on a grade-level CRM that meets less than 50% of the State-approved grade-level standards. For secondary students, the MET may consider whether the student's actual performance is both 1.5-2.0 years below grade level, and whether the specific academic skill deficit significantly interferes with the student meeting State-approved grade-level standards.

When interpreting MEAP results, it is essential that the MET consider the local context of the student's score before drawing conclusions from the data. Passing the MEAP does not mean that a student cannot exhibit a SLD; the cut scores indicating grade-level proficiency have historically been low. For a detailed discussion, see *The Proficiency Illusion* by Cronin, Dahlin, Adkins, & Kingsbury, 2007 or *An Agenda for Michigan* by Arellano, 2011). In fact, in many districts over half of the students who receive special education services pass one or more of their MEAP grade level tests. In addition, in light of the MEAP's history of fluctuating cut scores from one year to the next, it is important to evaluate a student's individual MEAP results by making comparisons to the overall performance of same grade peers and other appropriate subgroups within the local district environment (i.e., special education students, ELL students). When interpreting MEAP results, the MET should consider the following:

- The overall level of performance assigned. Students who take the MEAP and achieve a level 3 or 4 may be considered as having evidence of an academic deficit.
- The actual MEAP score should be considered. Some students demonstrate passing or not passing scores based on one or two questions. It is important to determine how close the student is to meeting the benchmark regardless of whether the cut score is low or high.
- The student's results should be compared to local norms for the general education population, as well as to appropriate subgroups in the district in order to determine how rare or unexpected the student's specific academic problem is in the actual learning environment. For example, John received a score of 3 (370) indicating that he did not meet grade-level expectations on the fourth grade MEAP Reading test. On this assessment, 95% of general education students and 78% of special education students performed at the Proficient Level or above. John's score indicates that his reading performance does not meet state-approved grade-level standards, and that scores at this level or below are rare in his district, occurring in only 5% of the general population and 22% of the special education subgroup.

  To summarize, the convergence of data from all three types of assessment instruments–nationally norm-referenced tests, CBMs (allowing direct comparisons to local norms), and CRMs (allowing direct comparisons to State-approved grade-level standards)–provides the strongest evidence for the presence or absence of inadequate achievement, and leads to useful instructional planning (see Table 4.1).

Guidelines for Determining Inadequate Achievement		
Academic Skills Assessments	Expected Performance	Criteria for Determining a Severe Academic Deficit
Norm-Referenced Achievement Tests (Broad-Band achievement tests considered as diagnostic) Examples: WJIII, WIAT-4, GORT, KTEA, Key Math, etc.	40th percentile	Deficit is performance at or below the 9th percentile Scores between the 10th-25th percentile may indicate at-risk status and a need for intervention
Curriculum-Based Measurement (CBM) - Benchmark Assessments (Narrow-Band achievement tests used for grade-level screening) Examples: DIBELS, AIMSweb	40th percentile or Meets Benchmark Standard	Deficit is overall performance in the deficit range and at or below the 9th percentile on grade-level assessments and materials Scores falling in the at-risk range or between the 10th-25th percentile indicate a need for intervention
Curriculum-Based Measurement (CBM) - Progress Monitoring (Narrow-Band achievement tests used for progress monitoring) Examples: DIBELS, AIMSweb	Performance at or above the Aim line when working toward a current grade-level benchmark goal	A minimum of 6 data points are required for a baseline to establish a data trend. Deficit is performance at or below the 9th percentile on grade-level materials (local or national norms)
Criterion-Referenced Measurement (CRM's) (Narrow Band measures considered as diagnostic) There are at least three types of CRMs to consider each with their own predetermined grade-level criteria: • CRM's constructed by teachers • Published CRM's (i.e., QRI), with grade-level standards • District or State Assessments (i.e., MEAP)	Meets current grade-level expectation MEAP Level 1 or 2	Deficit is performance at least 1.5-2.0 grade levels below grade placement or meeting less than 50% of grade-level criteria MEAP Level 3 or 4
NOTE: For norm-referenced assessments, be sure to consider the standard error of measurement and confidence interval when determining an academic deficit.		

Table 4.1. Summarizes the tools and criteria used to judge the severity of a student's academic deficit.

Steps in Determining Inadequate Achievement

Documentation of inadequate achievement is a requirement regardless of the SLD option selected (RtI or PSW). The MET will determine which SLD option to use based on their district's policy and procedures. If the MET is using an RtI approach, the Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD would be selected (see p. 6.19 for an example) to document inadequate achievement. If using a PSW approach, the Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD would be selected to document inadequate achievement (see p. 7.11 for an example).

The following four steps illustrate how the MET can determine inadequate achievement using the data from a student named Henry. For this example, the Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD worksheet is used to demonstrate each step.

Step 1: Use decision rules to characterize assessment results

Using the *Guidelines for Determining Inadequate Achievement* (Table 4.1.), the MET characterizes each collected data source as meeting the criteria for one of the following: Expected Performance, At-Risk, or Academic Deficit. An excerpt of Table 4.1 Guidelines for Determining Inadequate Achievement is below.

For example, the Gray Oral Reading Test (GORT) was administered. It is a norm-referenced achievement test based on age. Henry achieved a rate score of the 2nd percentile which meets the inadequate achievement criteria (below the 9th percentile).

Guidelines for Determining Inadequate Achievement		
Academic Skills Assessments	**Strength based on Expected Performance**	**Criteria for Determining a Weakness (severe academic deficit)**
Norm-Referenced achievement tests (Broad-Band achievement tests considered diagnostic) Examples include WJIII, WIAT-4, KTEA, Key Math, etc.	40th percentile	Weakness is percentile rank at or below the 9th percentile. Scores between the 10th -25th percentile may indicate at-risk status and a need for intervention
Curriculum-Based Measurement (CBM) Benchmark assessments (Narrow-Band achievement tests used for	40th percentile or Meets Benchmark Standard	Weakness is overall performance in the "Deficit" range and at or below the 9th percentile on grade-level assessments and materials.

Summary of Relevant Data: Using the PSW Option within a Full and Individual Eval					
	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement
		Measure	Target		
Reading Basic Skills					
Reading Comp					
Reading Fluency	*Norm Ref*	*GORT Rate*	*SS 96 (40th %tile)*	*70 (2nd %tile)*	
Written Expression					

Figure 4.1. Example of a partially completed worksheet for Henry illustrating Step 2.

Step 2: Transfer the results to the summary worksheet

After the MET determines which worksheet to use to display the student data, the next step is to transfer each data source to the corresponding column and row of the worksheet. To document inadequate achievement on either form, it is important to include the type of assessment (e.g., CBM, Norm-Referenced, Criterion-Referenced), the name of test, the criteria for expected performance (e.g., 40th percentile), the student's actual score, and the score's descriptive category (e.g., Expected, At-Risk, or Deficit). Figure 4.1 is an example of an assessment that has been completed with Henry's data in the area of Reading Fluency with a GORT Rate score at the 2nd percentile.

The MET then transfers the data from each source according to the eight areas of eligibility. There are times when one measure may yield data covering multiple areas. For instance, the global score on the Developmental Reading Assessment (DRA) is a criterion-referenced assessment that will provide data in the areas of basic reading skills, accuracy, fluency (rate), and comprehension. The MET should place the evidence from each specific measure in the academic skill area where it makes the most logical sense.

Summary of Relevant Data: Using the PSW Option within a Full and Individual Eval					
	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement
		Measure	Target		
Reading Basic Skills					
Reading Comp	*Norm Ref* *Norm Ref* *CR*	*WJ-III Reading Comp* *GORT Comp* *DRA*	*SS 96 (40th %tile)* *40th %tile* *20 (independent)*	*88 (21st %tile)* *37th %tile* *6 (independ.)*	*At-risk* *Expected* *At-risk*
Reading Fluency	*Norm Ref* *CBM*	*GORT Rate* *ORF (Fall 2nd grade)*	*SS 96 (40th %tile)* *44 CWPM*	*70 (2nd %tile)* *16 CWPM*	*Deficit* *Deficit*

Figure 4.2. Example of a partially completed worksheet for Henry illustrating Step 3.

Step 3: Categorize each data source

The next step is for the MET to categorize scores from each data source as falling into the Expected, At-Risk, or Deficit range using agreed upon decision rules. The MET should review all of the data for each academic area, and determine if the overall area is considered to meet the criteria for Inadequate Achievement. The MET needs to exercise professional judgment in evaluating the strength of the evidence obtained from each of the measurement tools, taking into consideration their knowledge of the strengths and weaknesses of the assessment tool as well as its characteristics, including reliability and validity. The MET also needs to consider for each area if at least one measure is a standardized academic achievement test (broad-band or narrow-band) with established reliability and validity, and if there is convergence of the evidence (multiple measures and multiple data points) indicating that the academic skill area is a deficit. See Figure 4.2 for an example of this step.

In Henry's case, there is consistency in the measurement of his reading fluency on two different types of measures, both suggesting significant deficits. However, there are mixed results when considering Henry's performance with three different reading comprehension measures. Henry's score at the 37th percentile on the GORT Comprehension is considered by the MET to represent performance in the Expected range. However, on the Woodcock-Johnson Achievement Test (WJIII), his reading comprehension score of 88 (21st percentile) represents skills in the At-Risk range. Furthermore, on the DRA, a Criterion-Referenced measure, Henry's independent reading level is a level 6. Since the district's pre-established criterion for second grade is 20 (for the time of year that the assessment was administered), Henry's score falls within the Deficit range (the score is more than one grade level below the standard). Since Henry is currently in the second grade, the MET determines that Henry demonstrates a significant academic deficit in reading fluency that represents inadequate achievement for his age and grade.

Step 4: Determine the severity of the academic deficit in the context of the instructional environment by analyzing the following:

a) How severe is the problem when compared to age or grade-level standards?

b) How uncommon is the academic deficit when compared to norms for peers in the local instructional environment (grade, school, and district)?

It is important for the MET to consider whether the student demonstrates inadequate achievement in the context of the instructional environment. A student may be below the standard, yet very near to meeting State-approved grade-level standards, and thus the underachievement is not at a level of severity that warrants the provision of special education services. Another student may have more significant underachievement, but if 30% of the students in the classroom are performing at this same level, then the underachievement is more likely indicative of inadequate instruction and less likely to indicate the presence of a SLD. Only underachievement that is both severe and uncommon (unexpected) may be considered to meet the criteria of inadequate achievement for SLD.

Eligibility Guide

Determining inadequate achievement is one component of a SLD eligibility determination. Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all the components of SLD eligibility determination.

Bibliography

Arellano, A. (2011). *Becoming a leader in education: An agenda for Michigan.* Ann Arbor, Michigan: The Education Trust - Midwest.

Cronin, J., Dahlin, M., Adkins, D., & Kingsbury, G. G. (2007). *The proficiency illusion.* Thomas B. Fordham Institute.

Howell, K., & Nolet, V. (1999). *Curriculum-based evaluation: Teaching and decision making,* (3rd ed.). Belmont, CA: Wadsworth Thompson Learning.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a specific learning disability.* Lansing, Michigan: Office of Special Education and Early Intervening Services.

Sattler, J. (2001). *Assessment of children: Cognitive applications.* La Mesa, CA: Jerome M. Sattler, Publisher, Inc.

Shaywitz, S., Escobar, M., Shaywitz, B., Fletcher, J., & Makuch, R. (1992). Evidence that dyslexia may represent the lower tail of a normal distribution of reading ability. *New England Journal of Medicine,* 145-150.

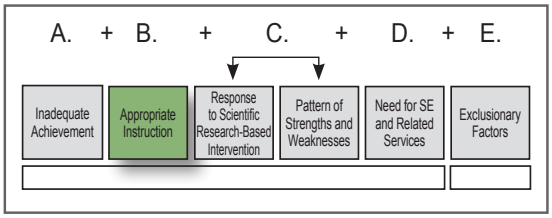
U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

Chapter

5 Evidence of Appropriate Instruction

Key Questions

- *What is required to document that the student's inadequate achievement is not from lack of appropriate instruction?*
- *What are some indicators of appropriate instruction?*



Introduction

The Individuals with Disabilities Act (IDEA) of 2004 has aligned with the Elementary and Secondary Education Act of 2001 (ESEA), known as No Child Left Behind (NCLB), which requires schools to provide students with highly qualified teachers, explicit and systematic instruction in reading and mathematics, and to focus on results. The IDEA Federal Regulations clearly state that regardless of the disability category, students must have had appropriate reading and mathematics instruction prior to any special education eligibility determination (see § 300.306 in sidebar).

Poor instruction is a known cause of low achievement. Appropriate instruction, therefore, is especially relevant to the identification of students suspected of having a specific learning disability (SLD). In *Chapter 4: Determining Inadequate Achievement*, inadequate achievement (§ 300.309(a)(1)) was discussed as a required component of SLD identification. Inadequate achievement means that the student has not achieved adequately given the student's age, or has not met State-approved grade-level standards "when provided with appropriate instruction." Fundamental to understanding the student's inadequate achievement is a simultaneous consideration of the provisions of appropriate instruction. SLD eligibility is contingent upon the district's provision of appropriate instruction and documentation of the student's response over time with data. The USDOE commentary on the Final Regulations for the IDEA 2004 concluded that "Children should not be identified as having a disability before concluding that their performance deficits are not the result of lack of appropriate instruction" (71 Fed. Reg. at 46656).

It is necessary for the MET to formally determine if the reason for the student's inadequate achievement is lack of appropriate instruction, regardless of the SLD option chosen (RtI or PSW). In this OS SLD Guidance document, determining appropriate instruction is considered to be an inclusionary criterion. Students with a SLD are students who have learning deficits despite their exposure to appropriate instruction.

§ 300.306 Determination of eligibility

(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—

(1) If the determinant factor for that determination is—

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under § 300.8(a).

§ 300.309 Determining the existence of a specific learning disability

(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306 –

(1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

(2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

To meet the IDEA Federal Regulations (see § 300.309(b) in sidebar), all SLD evaluations must consider and document the following:

1. Data that demonstrate that prior to, or as part of the referral process, the child was provided with appropriate instruction in regular education settings, delivered by qualified personnel.
2. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting a formal assessment of student progress during instruction, which was provided to the child's parents.

The SLD eligibility requirements specify the need for documentation of appropriate instruction in the regular education setting by qualified personnel. It may include instruction prior to, or as part of the referral process. This is an important element, as there may be situations that warrant determining appropriate instruction with data as part of the evaluation process (e.g., a student who just moved to a district with no prior records).

The importance of documenting appropriate instruction in the area of the suspected disability is one of the most visible and fundamental changes in the IDEA 2004 implementation. The school must employ data-based documentation of the student's progress during instruction. Data-based documentation is deemed to be critical in determining if there has been effective instruction for the student suspected of having a specific learning disability, if there has been meaningful parent involvement, and if there has been parent awareness of the school's concern. The USDOE commentary on the Final Regulations for the IDEA 2004 includes the following statement:

> We believe that one of the most important aspects of good teaching is the ability to determine when a child is learning and then to tailor instruction to meet the child's individual needs. Effective teachers use data to make informed decisions about effectiveness of a particular instructional strategy or program. A critical hallmark of appropriate instruction is that data documenting a child's progress are systematically collected and analyzed and that parents are kept informed of the child's progress. Assessments of a child's progress are not bureaucratic, but an essential component of good instruction (71 Fed. Reg. at 46577).

Definitions

The USDOE Commentary on the Final Regulations for the IDEA 2004 indicates that "data-based documentation" refers to an objective and systematic process of documenting a child's progress (71 Fed. Reg. at 46657). The USDOE allows districts and States to decide how best to operationalize this requirement. To meet the IDEA 2004 requirements, there must be documentation of repeated assessments of achievement at **reasonable intervals** that reflect a **formal** assessment of student progress **during** instruction. This OS SLD Guidance document defines these terms as follows:

- **Reasonable intervals** are at least as frequent as a card marking. The MEAP does not occur at a frequency that would meet the reasonable intervals requirement (Heinzelman, LaPointe, & VanderPloeg, 2008).
- **Formal** reflects standardized assessments that are reliable and valid. Classroom tools, such as running records, unit tests, or work samples scored with a rubric, are less defensible as the sole source of data because they do not generally have established reliability and validity.
- **During** reflects formative and not just summative assessments.

The use of benchmark and progress monitoring tools like Curriculum-Based Measurement (CBM) would meet all three requirements (reasonable intervals, formal, during assessments). The gold standard is having universal screening data on all students collected at multiple times during the school year, and for students involved in interventions; progress monitoring data aligned with each specific reading or mathematics instructional goal and collected every two weeks. This allows the MET to compare the student's growth rate to that of peers in the same classroom and grade-level, as well as to peers also currently receiving intervention services. The USDOE commentary on the Final Regulations for the IDEA 2004 indicates that:

> The Department believes that good instruction depends on repeated assessments of a child's progress. This allows teachers to make informed decisions about the need to change their instruction to meet the needs of the child, and also provides parents with information about their child's progress so that they can support instruction and learning at home (71 Fed. Reg. at 46658).

Documenting appropriate instruction is more challenging for the MET when the child has been attending a school other than the school where the evaluation is taking place (e.g., home school, transfer from another district). In these cases, there may be a lack of information available to determine if the student has been exposed to appropriate instruction. The IDEA, however, does not provide leeway in these circumstances. The USDOE commentary on the Final Regulations for the IDEA 2004 includes the following statement:

> For children who attend private schools or charter schools or who are home-schooled, it may be necessary to obtain information from parents and teachers about the curricula used and the child's progress with various teaching strategies. The requirement for special education eligibility or the expectations for the quality of teachers or instructional programs are not affected, and do not differ, by the location, or venue of the child's instruction (71 Fed. Reg. at 46656).

The MET may need to use information from current classroom-based assessments and classroom observations. The MET also needs to begin to collect data to assess the student's response to high-quality general education instruction. If a team determines that appropriate instruction was not provided prior to the referral, the MET may begin to provide appropriate instruction (which may include supplemental or remedial instruction such as Tier Two and Tier Three interventions), and gather further diagnostic information within the general education setting as part of the evaluation process in order to determine:

a) the degree to which exposure to appropriate instruction will result in improved academic performance, and

b) what conditions may be either facilitating or impeding the learning process.

This information must be collected within Michigan's requirements for evaluation timelines consistent with the Michigan Administrative Rules for Special Education (MARSE). Ideally, teams would identify a specific instructional goal in reading or mathematics, specify a timeline and a performance criterion, and collect data across at least four to six data points to determine the student's response to instruction (see *Chapter 6: Evaluating Response to Scientific, Research-Based Interventions* for more details).

Maintaining Records

Districts need to establish procedures for maintaining records of the interventions and supports provided in general education to students with academic problems. These records need to be easily accessible in the event of a referral to special education. This is especially important as students change schools in a district or matriculate to middle school and high school. Districts using AIMSweb or DIBELS to monitor interventions have some of this data stored in the online data systems of those tools. Districts are also encouraged to use electronic formats such as Pearson Inform, Excel spreadsheets or Word document templates such as the Student Information and Data Review (see http://maase.pbworks.com/w/page/9881735/Student-Information-and-Data-Review).

Indicators of Appropriate Instruction

The spirit of the evidence supporting the requirement of appropriate instruction is to align with the ESEA's requirements and to promote effective instructional principles, especially for students who are considered at-risk and who subsequently may be referred for consideration for special education services. The appropriate instruction requirement encourages general education and special education personnel to have a shared understanding of the curriculum content in reading and mathematics, instructional delivery, and tools necessary to assess student progress and outcomes. It is the collaborative responsibility of the MET to gather any information necessary for decision-making about appropriate instruction. The MET may develop specific procedures, including who gathers information, what strategies and sources will be used, and who documents the findings in the report. Just as each student's case varies from the next, the personnel and roles of each MET differ from team to team. Districts need to develop specific procedures to document appropriate instruction, including what strategies and sources will be used, how the information is documented, and, if there is lack of available data, what procedures will be utilized.

There are several indicators for the MET to review and consider, including teacher qualifications, student participation in instruction, implementation of the core curriculum in reading and mathematics, effective instructional methodologies implemented with fidelity in reading and mathematics, documented assessments given at reasonable intervals used to inform instruction in reading and mathematics, and communication of the school's concerns to the parents. The descriptions of these indicators that follow are summarized in Table 5.1 entitled *Indicators of Appropriate Instruction*. For examples of activities consistent with the descriptions below, see *Draft MDE Evaluation Procedures* (p.18).

Highly Qualified Teacher

According to the MDE SLD Criteria, the MET needs to consider the qualification and training of the person delivering the instruction. Teachers must meet ESEA requirements for the highly qualified standard, and must have been trained in curriculum materials: The school principal, central office or public reporting can provide the evidence necessary to document this requirement.

Curriculum, Instruction and Assessment (Effectiveness) in Reading and Mathematics

Curriculum. Appropriate instruction in reading and mathematics should be founded on a well-designed, research-based core curriculum that is aligned to State-approved grade-level standards. The MET must document the school's efforts to provide the student with scientifically-based instruction in the essential components of reading and mathematics. "Scientifically-based" is a term used to describe practices and programs that have been thoroughly and rigorously reviewed to determine whether they produce positive educational results in a predictable manner. This determination is made based on objective, external validation. Scientifically-based reading programs include the essential components of reading instruction as defined in the No Child Left Behind Act of 2001, Sec. 1208 (U.S. Department of Education, 2002): Phonemic awareness, phonics, reading fluency including oral reading skills, vocabulary development, and reading comprehension strategies. Scientifically-based mathematics programs include the essential components of mathematics instruction, 1. conceptual understanding, 2. procedural fluency, 3. strategic competence, 4. adaptive reasoning, 5. productive disposition as recommended in *Adding it Up* by the National Research Council and the National Math Panel (2008). Reading and mathematics curriculum typically include well-defined scope and sequence, that helps teachers know which skills and strategies to introduce and in what order, depending on the student's current instructional level. Often times, units of study exist to organize this delivery of grade-level content.

Instruction. Gathering evidence of appropriate instruction also includes examining the instructional delivery methods and instructional materials being used in the regular education setting, as well as interventions (Tier Two and Tier Three, if using an RtI framework). To document evidence of appropriate instruction, the MET should consider using tools, such as treatment integrity checklists or structured observations, to determine the degree to which there is a match between the referred student's needs and the instructional environment. These tools help determine the effectiveness of the overall instructional program or intervention (see *Chapter 2: Evaluation Procedures* regarding tools that may be useful when completing observations).

Assessment. Assessment is the cornerstone of effective instruction. If a change in student behavior (learning) does not occur as a result of instruction, then teaching is not effective, and adjustments are warranted. Schools that have better overall effectiveness use assessments for a variety of purposes (screening, progress monitoring, diagnostic assessment and outcome). These assessments are used to guide instruction and program evaluation. It is not enough to have a well designed curriculum and instructional methods if student results do not demonstrate effectiveness. When determining if a student has been provided with appropriate instruction, student performance data at the school, grade level, or classroom could be used to demonstrate overall curricular and instructional effectiveness. In addition, assessment data in small group interventions could also be an indicator of appropriate instruction. A good rule of thumb for concluding if the instruction has been effective is determining whether 80% or more of the students have responded positively to the instruction or intervention (e.g., 80% of students are meeting state or district standards on CBM universal screening (formative) or outcome assessments; or 80% of students receiving intervention services are on track to meet the instructional goal within the specified timeline). For districts that might have difficulty demonstrating that the core instruction is indeed meeting the needs of most students, a student's participation in intervention support may provide additional evidence to document appropriate instruction.

Student Participation

For the individual student, participation in the general education curriculum is required to determine if the student's inadequate achievement is due to a disability or due to a lack of instructional opportunities (e.g., excessive absences). State law does not specify a minimum percentage of time a student must participate in regular instruction prior to determining SLD eligibility; local districts may set their own criteria. Guidance put forth by the OS SLD Guidance document suggests using, at a minimum, 85% attendance (no more than 27 absences per the 180 day school year). Each MET should closely evaluate not only the number of missed opportunities for learning based on absences, but should consider if there are excessive tardies that would also have deleterious impact on learning.

According to the MDE SLD Criteria (Michigan Department of Education, 2010), if the student has missed significant instruction due to poor attendance, frequent moves between schools, or other factors, the MET must implement a plan to provide instruction and assess the student's response to that instruction. The plan may involve behavioral interventions with the student and family to ensure school attendance and focus on the student's instructional needs.

Reporting to Parents

Communicating with parents and safeguarding their rights is an integral part of § 300.309(b). It states that "data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, *which was provided to the child's parents"* (emphasis added). The school must document that parents have been provided with information on the student's progress. The student's progress monitoring performance data must be shared with parents in easily understood language. Consistent with other chapters of this OS SLD Guidance document, the report should provide age- and/or grade-level expectations in order for parents to compare their child's performance to a standard. Since frequency of reporting is a key element of this requirement, reporting to parents should occur at least four to eight times per school year, or at least as often as written progress notes are sent home from the school. Documentation sources for this requirement include written progress reports, report cards, or formal teacher conferences.

The following are two examples of how the MET can document the fact that a student has been provided with appropriate instruction that meets the IDEA 2004 requirements:

EXAMPLE 1: David

Compelling data using core instruction as evidence that the student's inadequate achievement is not due to lack of appropriate instruction.

David has been a student in the SAMPLE School District since kindergarten and has maintained a 95% or better attendance rate every year.

According to the latest MEAP results, 92% of students in the third grade met or exceeded the reading benchmarks. Furthermore, 82% of students in third grade met fall and winter benchmarks for Oral Reading Fluency using the Dynamic Indicators of Basic Literacy Skills (DIBELS). Common assessments in reading are given each card marking, and 84% of third grade students met the district-established proficiency targets on the fall and winter assessments. In mathematics, 94% of students met or exceeded the benchmark on the MEAP. Eighty-five percent of third graders met the proficiency targets on the fall and winter common mathematics assessments for the district. Student progress monitoring in mathematics and reading is reported to parents of all students weekly via the Gradequick web system, and at each card marking (four times per year) via written report cards.

According to the SAMPLE School District, David's third grade teacher meets all requirements for a Highly Qualified Teacher. She follows the SAMPLE District Curriculum guides which have been aligned with the Michigan Curriculum Framework. Reading instruction is delivered for 90 minutes per day, five days per week within multiple grouping formats (whole group, small group, partners and one-on-one instruction) to target the big ideas of reading instruction appropriate for third grade. The teacher uses a workshop model as a framework for organizing and delivering reading and writing instruction that focuses on fluency, vocabulary and comprehension. She delivers instruction focused on basic and advanced phonics content during word study activities. Materials used include the Calkins Units of Study, leveled libraries, and the Fountus and Pinnell Phonics Lessons for word study. DIBELS Oral Reading Fluency was also used to monitor progress of students in reading intervention between benchmark assessments. 80% of students who participated in interventions met the instructional goal within the intervention timeline. In mathematics, the teacher uses Everyday Math materials to deliver instruction. The MET has observed instructional delivery techniques such as active student engagement, differentiated instruction by incorporating explicit instruction, flexible groupings, modeling and scaffolding, opportunities for corrective feedback, and individual student conferencing. Given this evidence, a lack of appropriate instruction does not seem to be the primary cause of David's inadequate achievement.

EXAMPLE 2: Nolan

Compelling data using interventions as evidence that the student's inadequate achievement is not due to lack of appropriate instruction

Nolan has been a student in the SAMPLE School District since kindergarten with a 95% or better attendance rate every year.

According to the latest MEAP results, 78% of students in the fourth grade met or exceeded the reading benchmarks. Furthermore, 40% of students in fourth grade met fall and winter benchmarks for Oral Reading Fluency using the Dynamic Indicators of Basic Literacy Skills (DIBELS). In mathematics, 88% of students met or exceeded the mathematics benchmarks on the MEAP. Student progress monitoring in mathematics and reading is reported to parents of all students weekly via the Gradequick web system and at each card marking (four times per year) via written report cards.

According to the SAMPLE School District, Nolan's fourth grade teacher meets all requirements for a Highly Qualified Teacher. She follows the Michigan Grade Level Content expectations as the standards for fourth grade reading and mathematics. Reading instruction is delivered for 30-60 minutes, three to five days per week using whole group and one-on-one instruction to target the big ideas of reading instruction. The teacher uses a workshop model as a framework for organizing and delivering reading and writing instruction that focuses on fluency, vocabulary and comprehension. Materials used include the Calkins Units of Study, and anthology texts from a basal reading program to supplement a classroom-leveled library. In mathematics, the teacher uses Everyday Math materials to deliver mathematics instruction.

Through benchmark assessments, DRA results, and other diagnostic classroom assessments, students who are at-risk in reading are provided a Tier Two intervention with the reading coach to target needs identified by assessments (e.g., phonics and decoding, fluency in connected text, and comprehension skills). Nolan has participated in a standard protocol Tier Two intervention (Corrective Reading- Decoding), in addition to his core instruction, for 30 minutes, five days per week, for 30 weeks. The reading coach has been trained in this intervention and is well-versed in the instructional materials. Integrity checks during the intervention have been routinely conducted by the school principal. The MET has observed Nolan during intervention. He is actively engaged and appears motivated during the sessions. Instructional delivery techniques such as previewing and reviewing vocabulary and concepts, modeling, and frequent corrective feedback have been observed during the lesson. Analysis of group intervention data demonstrates that 80% of students in this intervention were accelerated to their goal. Given this evidence, a lack of appropriate instruction does not seem to be the primary cause of Nolan's inadequate achievement.

Eligibility Guide

Appropriate instruction is one component of a SLD eligibility determination. Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all the components of SLD eligibility determination.

INDICATORS OF APPROPRIATE INSTRUCTION			
Area	Indicators	Source for Documentation	If information not available, alternatives that may be used to meet requirement
Highly-Qualified Teacher	• Meets ESEA highly qualified IEP standards • Teacher has been trained in curriculum materials	School principal and public reporting	During the evaluation period, ensure appropriate research-based instruction using qualified personnel in the general education setting to determine how the student learns within a solid general education program. Document the nature of the instruction (i.e., attendance, group size, instructional focus, response) to inform educational needs of the student Implement progress monitoring with weekly data collection Provide documentation of student progress to parents. Progress Monitoring data is considered by the IEP Team in making the eligibility decision
Scientifically-Based Core Instruction and Effective Instructional Methods Reading and Mathematics	Curriculum: • District curriculum is aligned to State-approved grade-level standards • Contains a well-defined scope and sequence with units of study • Reading- All essential areas of instruction are targeted for beginning reading (phonemic awareness, phonics, fluency, vocabulary, comprehension) and adjusted for student need across upper grade levels • Mathematics- All essential areas of instruction are targeted (National Math Panel): Conceptual Understanding, Computational Fluency, Problem-solving	**Review**: district curriculum, curriculum review and adoption process, professional development plan to support implementation, lesson plans, documentation from grade level meetings **Interview**: teachers, curriculum specialist, principal, interventionists working with student **Observe**: the student in the instructional environment measuring active engagement and response to curriculum materials and tasks, use classroom walk-throughs or treatment integrity checklists **Test**: MEAP results or other state assessment results, district assessments, CBM benchmark and progress monitoring results, diagnostic assessments	
	Instruction: • Instructional materials are research-based • Explicit-sufficient modeling, guided practice, and independent practice is employed in a variety of grouping formats • Systematic- clearly defined, follows a scope and sequence that is logically ordered, students have prior knowledge for new concepts being taught • Provides access to curricular content • Provides frequent opportunities to respond with corrective feedback from the teacher • Differentiated to meet the needs of all learners (time, content, grouping, materials, instructional delivery, instructional match) • Sufficient time allocated to meet goals (Reading: 90 mins K-5; less for half-day K or secondary grades. Mathematics: 60-90 mins. K-5, could be distributed for early elementary grades). • Active student engagement in learning		
	Assessment (Effectiveness): • Assessments are used for a variety of purposes, including formative and summative assessments • Assessments are administered and analyzed at reasonable intervals to determine student's instructional level and document progress (at least 4x per year) • At least 80% of students are meeting state or district standards on universal screening (formative) and/or outcome (summative) assessments • Universal screening/CBM benchmark (formative) data on all students collected multiple times during the school year • Progress monitoring and diagnostic (formative) data collected for individuals or groups of students at regular intervals • Evidence of multiple levels of student support (3-tier model)		
Student Participation	• Attendance is at least 85% of days scheduled	**Review**: academic record review including school enrollment history, attendance, and grades	
Reporting to Parents	• Parents were notified of school's concern about student	**Review**: academic record review including report cards, progress notes, and parent notes	

Table 5.1. Summary of possible indicators of a student receiving appropriate instruction.

Bibliography

Heinzelman, D., LaPointe, S. L., & VanderPloeg, L. (2008, October). A template for the SLD evaluation and eligibility determination process. *A presentation at the Michigan Association of Administrators of Special Education (MAASE)*. Lansing, Michigan.

Michigan Department of Education. (2009). *Michigan administrative rules for special education supplemented with IDEA federal regulations.* Lansing, Michigan: Office of Special Education and Early Intervention Services.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a specific learning disability.* Lansing, Michigan: Office of Special Education and Early Intervening Services.

Michigan Department of Education. (2011, March). *Evaluation procedures*. Lansing, MI: Michigan Department of Education: Office of Special Education and Early Intervening Services.

National Institute of Child, Health, and Human Development. (2000). *Report of the National Reading Panel. Teaching children to read: An evidence-based assessment of the scientific research literature on reading and its implications for reading instruction* (NIH Publication No. 00-4769). Washington, DC.: U.S. Government Printing Office.

National Mathematics Advisory Panel. (2008). *Foundations for success: The final report of the National Advisory Panel.* U.S. Department of Education. Washington, D.C.

National Research Council. (2001). *Adding it up: Helping children learn mathematics.* J. Kilpatrick, J. Swafford, and B. Findell (Eds.). Mathematics Learning Study Committee. Center for Education, Division of Behavioral and Social Sciences and Education. Washington, D.C.: National Academy Press.

U.S. Department of Education. (2002). *No Child Left Behind* (NCLB) Act of 2001, Pub. L. No. 107-110, 115, Stat. 1425 (2002).

U.S. Department of Education. (2004). *Individuals with Disabilities Education Improvement Act of 2004.* Pub. L. No. 108-448 1400 et seg.

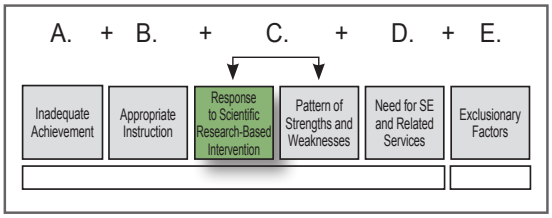
U.S. Department of Education. (2006). *Federal Register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities*; Final rule. Vol. 71, No. 156.

Chapter

6 Evaluating Response to Scientific, Research-Based Intervention

Key Questions

- *What are the big ideas of Response to Intervention?*
- *What kinds of progress monitoring tools can be used to determine insufficient response?*
- *What are the steps the Multidisciplinary Evaluation Team (MET) can take to evaluate student progress in response to scientific, research-based interventions?*



§ 300.309 Determining the existence of a specific learning disability

(a)(2)(i) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention;

Introduction

One of the most sweeping changes in the Individuals with Disabilities in Education Act (IDEA) 2004 is the fact that States may not require the use of a severe discrepancy between intellectual ability and achievement when determining whether or not a student has a specific learning disability (SLD). In response to this federal mandate, Michigan permits two options for SLD eligibility determination: 1) a student must demonstrate insufficient progress in response to scientific, research-based intervention (often referred to as the RtI option), or 2) the student must exhibit a pattern of strengths and weaknesses in performance, achievement, or both, relative to age. State-approved grade level standards, or intellectual development (often referred to as the PSW option). While the RtI option is a new component for SLD eligibility, the PSW option replaces the former requirement of "severe discrepancy between achievement and intellectual ability." This section focuses on using the response to scientific, research-based intervention as a component of the SLD process.

It is important for the MET to remember that the Response to Intervention (RtI) option is only one of five required elements in determining SLD, regardless of whether the RtI or PSW option is chosen. Before evaluating a student using the RtI option, the MET must first determine the presence of Inadequate Achievement (see *Chapter 4: Determining Inadequate Achievement*), and second, assure that the student has been exposed to Appropriate Instruction (see *Chapter 5: Appropriate Instruction*). These two elements are a required component, but are not sufficient by themselves, when determining SLD eligibility. This section of the document provides specific guidance and a process for how to operationalize the RtI option (see § 300.309 in sidebar).

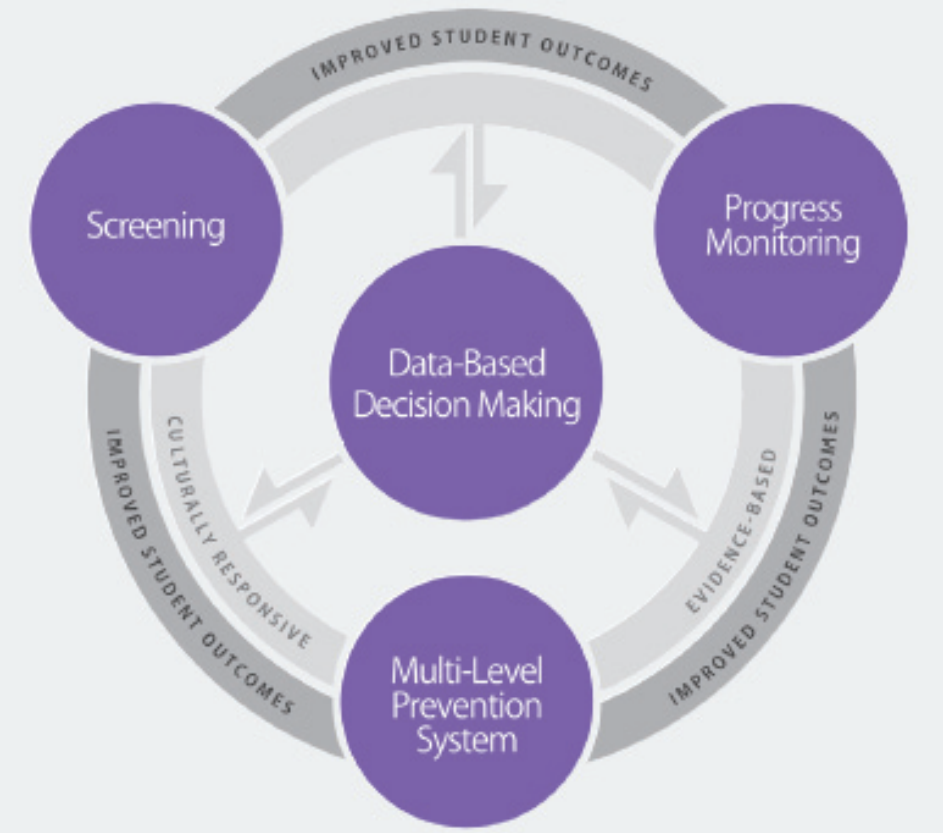


Figure 6.1. The relationship between four essential components of RtI: Screening, progress monitoring, data-based decision-making, and multi-level prevention systems from the National Center on Response to Intervention (March 2010).

The Big Ideas of Response to Intervention (RtI)

RtI is a framework for implementing systems-level change that focuses on improving instruction and results for both general education and special education programs and services.

The National Center on Response to Intervention (NCRTI) defines RtI as:

> Response to intervention integrates assessment and intervention within a multi-level prevention system to maximize student achievement and to reduce behavioral problems. With RtI, schools use data to identify students at risk for poor learning outcomes, monitor student progress, provide evidence-based interventions and adjust the intensity and nature of those interventions depending on a student's responsiveness, and identify students with learning disabilities or other disabilities (National Center on Response to Intervention, April 2010, p. 2)

The Michigan Department of Education (MDE, October 2010) defines RtI as "an integrated, multi-tiered system of instruction, assessment and intervention designed to meet the achievement and behavioral needs of all students." The MDE essential components of the Michigan RtI Framework include:

1. Implementation of effective instruction for all children.
2. Intervening early.
3. Providing a multi-tiered model of instruction and intervention.
4. Utilizing a collaborative problem-solving model.
5. Assuring a research-based core curriculum.
6. Implementing of research-based scientifically validated interventions/instruction.
7. Monitoring student progress to inform instruction.
8. Using data to make instructional decisions.
9. Using assessments for three purposes (universal screening, diagnostic, and progress monitoring).
10. Implementing with fidelity.
11. Engaging both parents and community.

The goal of RtI is to improve the learning outcomes for all students, and to reduce the risk of long-term negative

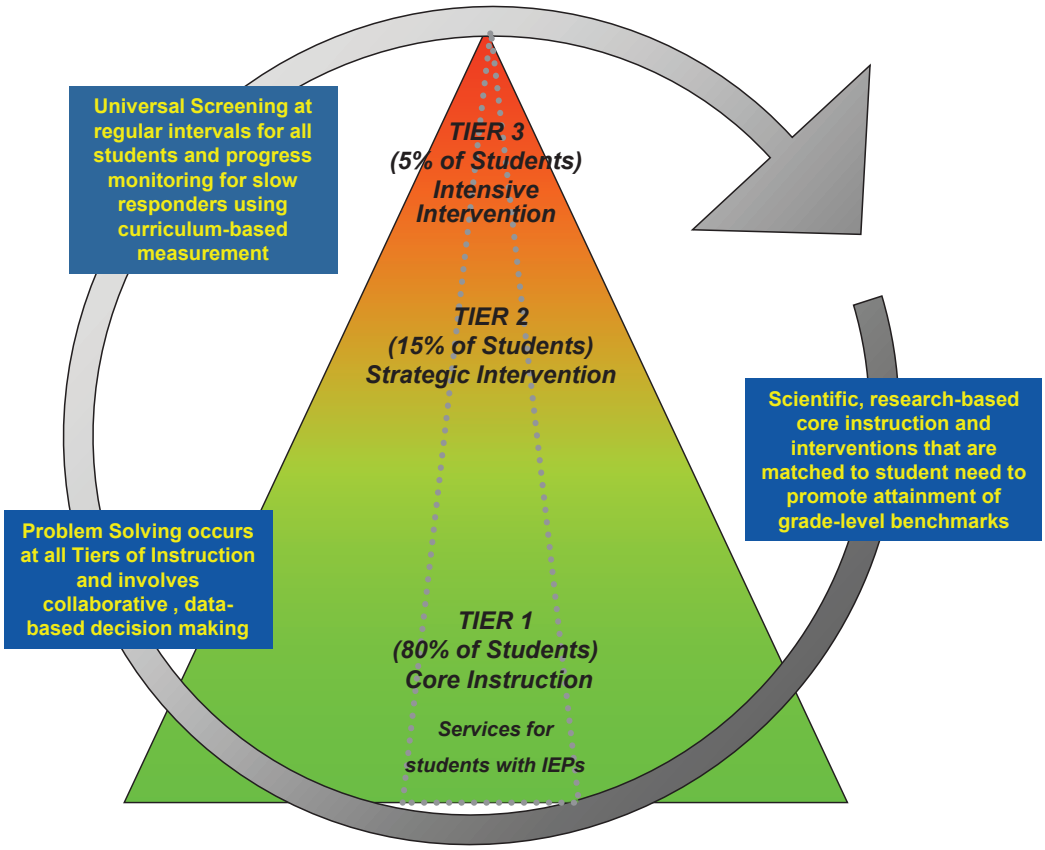


Figure 6.2. Three levels of support in a RtI Framework.

learning outcomes for those identified as at-risk by providing early and appropriate intervention services. Data-based decision making is the essence of good RtI practice. Figure 6.1 depicts the relationship between the four essential components of RtI: screening, progress monitoring, data-based decision making, and multi-level prevention systems (National Center on Response to Intervention, April 2010). Notice that data-based decision making is at the hub of this relationship.

In RtI, a school-wide, multi-level prevention system is implemented in order to meet the needs of all learners. At least three levels (often referred to as Tiers) of instructional support with increasing levels of intensity are provided. Decisions regarding student movement between levels and instructional adjustments within levels are made based on the evaluation of screening and progress monitoring data. The three levels of support may be described as follows (see Figure 6.2):

- Level (Tier) One: Primary prevention via high quality (research-based) core instruction that meets the needs of most students. Universal screening for all students.
- Level (Tier) Two: Secondary prevention via supplemental, evidence-based interventions of moderate intensity that addresses the learning challenges of most at-risk students. More frequent progress monitoring.
- Level (Tier) Three: Tertiary prevention via intensive, evidence-based interventions that are both individualized and of increased intensity for students who show minimal response to secondary prevention. Frequent progress monitoring.

Within an RtI framework, there is a conceptual shift from the idea of unexpected underachievement based on the student's ability and subsequent achievement, to an intractable and persistent inability to master an academic skill. A successful RtI system demonstrates an increase in achievement levels for all students.

Use of the RtI option for SLD eligibility determination requires a commitment to high fidelity implementation

§ 300.302 Screening for Instructional Purposes is not evaluation.

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

§ 300.311 Specific documentation for the eligibility determination

(a)(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention—

(i) The instructional strategies used and the student-centered data collected; and

(ii) The documentation that the child's parents were notified about—

(A) 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;

(B) Strategies for increasing the child's rate of learning; and

(C) The parents' right to request an evaluation.

of effective instruction at all three levels of support, and continuous data collection with high-quality assessment tools with proven reliability and validity. RtI data provides information about a student's response to curriculum, instruction, and targeted interventions over time, in contrast to a single snapshot evaluation opportunity. When considering a student's response to intervention, the MET includes response to both general education instruction (Tier One) and supplemental instruction (Tier Two and Tier Three). The collection of RtI data provides evidence that schools use to design and deliver a range of appropriately intensive, research-based interventions. The purpose of collecting frequent progress monitoring data is to conduct systematic data-based reviews, and make needed instructional adjustments embedded in a structured problem-solving model (e.g., problem identification, problem clarification, problem analysis, develop and implement a plan or intervention, and evaluate student response). These instructional adjustments ensure that the type, intensity, and nature of the intervention strategies are matched to individual student needs.

Using RtI as a method of SLD eligibility determination is a by-product of an RtI system. RtI itself does not diagnose specific learning disabilities. "The end result in RtI is not a formula for disability determination but rather evidence of a sound process achieved through a focus on improved student outcomes and technical adequacy considerations at each step" (Barnett, et al., 2006, p. 25).

It is beyond the scope of this OS SLD Guidance document to guide district teams on the implementation of an RtI framework (see Batsche, et al., 2005; Gersten, et al., 2008; National Center on Response to Intervention, April 2010; University of Texas Center for Reading and Language Arts, 2005; Gersten, et al., 2009). This guidance document focuses on the advanced decision-making required as part of determining a student's response within a multi-tier RtI framework (Hosp, 2011; Fuchs, 2003).

Treatment Integrity and Procedural Fidelity

In the RtI framework, procedural fidelity and treatment integrity, along with documentation of these efforts are part of a carefully planned RtI infrastructure. A plan for how a building gathers and documents both procedural fidelity and treatment integrity puts the school in a position to make defensible decisions about students and enables the MET to use this information for SLD eligibility determination.

Treatment integrity is a burgeoning field of research. Gresham (1989) defines treatment integrity as the degree to which an intervention plan is implemented as intended. Treatment integrity is multi-dimensional, involving several components including: adherence to procedures, quality of delivery, program differentiation, exposure (or dosage), and participant responsiveness. As districts move towards RtI implementation, "the matter of treatment integrity has gone from important to *urgent*" (Hardcastle & Justice, K., 2010, p. ix, emphasis added). While some RtI systems have built infrastructure to attend to treatment integrity, this is a priority especially when using a process based on the student's response to scientific,

research based intervention § 300.309(a)(2)(i) for SLD determination.

Procedural fidelity has received even less attention than treatment fidelity (Hardcastle & Justice, K., 2010). RtI frameworks not only monitor the integrity of tiered interventions, but processes within the framework (i.e., problem-solving process).

> RtI requires implementation integrity for a series of activities, not just intervention. For RtI to result in meaningful educational decision-making, children in need of intervention must be accurately identified, system level problems must be accurately defined, interventions must be appropriately selected, sequenced, and implemented and at each stage, decisions must be made that correspond to the data collected (Burns, Griffiths, Parson, Tilly, & VanDerHeyden, 2007, p. 153).

For example, the problem-solving process is a central component of an effective RtI framework, and ensuring procedural fidelity of the problem-solving process is important. A student could be provided with a scientific, research-based intervention delivered with integrity, but it could have no impact on student performance. This may be a result of misaligning the student's needs with an intervention during the problem-solving process. This would not be evidence of a student's failure to respond, but would indicate a need to return to problem identification within the problem-solving process. The goal is not only delivering intervention with integrity but also maintaining both procedural fidelity and measuring the effectiveness of the intervention for the given student.

Building the infrastructure necessary for assessing treatment integrity does require district leadership, changes in expectations for staff, and resources. Since resources are not endless, districts need to prioritize treatment integrity strategies. This OS SLD Guidance document suggests that the more intensive the instruction, the more direct and frequent the measure of treatment integrity should be. See Hardcastle & Justice, 2010 for further discussion.

Parent Notification

There is widespread agreement that parent-school partnerships are essential in improving educational outcomes. Notifying parents when there are concerns about student achievement and/or behavior early in any process is sound practice. This is especially true in RtI, when at some point, there is potential for students to be considered for special education eligibility. Although students may receive general education interventions provided in the school without parent consent, parent notification is required for RtI. Parents should receive notice about the school's RtI general education instructional program (i.e., handbook, enrollment packet). The MDE Evaluations Procedures (Michigan Department of Education, March 2011) document suggests a variety of ways to meet this requirement. These include a statement in the student handbook that goes home to all students, a "Curriculum Guide" or similar document which describes the instructional program, a statement regarding scientific, research-based interventions that could be included in a letter given to parents when a student is referred to a "student study team", or a letter sent to all parents when the district proposes to utilize an RtI process of repeated assessments (see Draft MDE Evaluation Procedures, p.13).

Many practitioners confuse efforts to notify parents of universal screening with the requirement to obtain consent for special education evaluation. The IDEA Federal Regulations have attempted to clarify this issue. Universal screening for RtI purposes and individual screening for appropriate instructional strategies are not considered an evaluation that should trigger the IDEA procedural safeguards, and subsequently necessitate the provision of informed consent (see § 300.302 in sidebar).

Through the RtI process, parents need to be informed of their right to request a special education evaluation at any point in the process (see § 300.311(a)(7) in sidebar). The MDE SLD Criteria states that a school district must not delay or deny an otherwise appropriate referral or request for an evaluation based on a district's use of a response to scientific, research-based intervention process. The parental notice described above is not only best practice from a school-parent collaboration perspective, but it will be a critical piece of information if the student is subsequently referred for evaluation of a suspected learning disability. Districts must have procedures in place to ensure proper parent notification.

Measuring and Defining Insufficient Progress

In order to use RtI in SLD evaluations, two components of the assessment process must be specified. First, a method for measuring responsiveness to instruction. Second, a criterion for defining insufficient progress or non-responsiveness.

Measurement Tools

A cornerstone of using RtI data for eligibility decisions is using Curriculum Based Measurement (CBM) progress monitoring. CBM tools have a specific set of standards. They have been research-validated as reliable predictors of general achievement in reading, written expression, and mathematics for typically achieving students and students with severe deficits. While a wide variety of tests have been used for progress monitoring, Curriculum Based Measurement progress monitoring tools have specific characteristics that are considered the gold standard for determining student response to instruction because of their unique psychometric characteristics and their ability to predict general academic outcomes (Shinn, 2002). The National Center on Progress Monitoring (NCSPM) has a Technical Review Committee that critiques and rates progress monitoring tools for educational consumers based on seven core standards (National Center of Student Progress Monitoring, 2007):

Foundational Psychometric Standards

1. Technical adequacy: Established reliability for the purposes of assessment
2. Technical adequacy: Established validity for the purposes of the assessment

Progress Monitoring Standards

3. Sufficient number of alternate forms
4. Sensitivity to learning: scores change when students are learning
5. Evidence of instructional utility: provides information to help teachers improve their instruction
6. Specification of adequate growth: Tools are able to represent student achievement growth within and across academic years
7. Description of benchmarks for an adequate end-of-year performance or goal-setting process

In addition, progress monitoring tools can be an effective part of a school-wide data system because they are efficient, economical, and feasible for teachers to use. They are “doable” in real-world educational settings, and because they are not overly burdensome to interventionists, they can be administered frequently. CBM tasks are familiar to students because they are designed to resemble everyday classroom tasks. Finally, the data from CBM tools may be visually displayed to facilitate analysis, an integral step in the process of making needed and timely instructional adjustments, which, when done systematically, have been shown to increase student achievement (Fuchs & Fuchs,1986).

One of the advantages of CBM progress monitoring is its independence from specific instructional techniques. These tools are considered external progress monitoring, or instructionally-free, so they may be used with any method of instruction or curriculum resource material. They are used independent of, and in addition to progress monitoring tools that may be specific to the instructional program or strategy being implemented, such as unit tests, placement tests, or mastery measurement assessments. Mastery measurement assessments are specific to the sequence of skills being taught in the program or intervention. The program or teacher determines a sequence of skills and uses a series of criterion-referenced tests that assess the student’s “mastery” of discrete skills or sequential elements in the instructional program (Fuchs & Oxaal, 2008).

In summary, progress monitoring with CBM general outcome measures is not tied to any instructional method or approach. It is not a lengthy, high-inference diagnostic evaluation intended to categorize a student, nor is it intended to measure every skill being taught. It is not a single probe or form to be administered repeatedly, haphazardly or randomly. Rather, CBM progress monitoring tools are brief assessment probes with established reliability and validity, available in multiple forms of equivalent difficulty, and administered under standardized conditions, all of which combine to make them useful as indicators of general progress in reading, writing and mathematics.

Many districts have adopted universal screening and progress monitoring tools such as the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) (Good & Kaminski, 2002) or AIMSweb. CBM progress monitoring tools such as DIBELS and AIMSweb require initial training in order to teach administration and scoring, systematic procedures for checking the fidelity of administration and scoring, and periodic practice and review sessions to ensure adherence to standardized procedures and the reliability of the data collected. Teams also need training on effective ways to use the data that is collected.

Defining Insufficient Progress

In this OS SLD Guidance document, rate of improvement (ROI) is used to describe a student’s response to targeted instruction in Tiers One, Two or Three. ROI can be described algebraically as the slope of a line that represents student progress over time. ROI is always reported in terms of the average gain in the unit of measurement (e.g., correct words per minute – CWPM), per week. ROI can be used to compare the target student’s progress with a standard (e.g., benchmark). For instance, when using DIBELS Second

Grade Oral Reading Fluency passages, the expected rate of improvement is a gain of 1.9 correct words per minute / per week.

There are two popular ways to calculate the rate of improvement: Linear Regression and the Tukey Method. This OS SLD Guidance document recommends use of the Linear Regression (also referred to as Ordinary Least Squares Method in the literature) as it is well researched and easier to implement (Shinn, Good, & Stein, 1989). "This method provides a statistical average of the data over time and offers a score that is more representative of the entire trend across time" (Shapiro, 2011, p. 318). If using an Excel spreadsheet, the graphing function can automatically calculate a trend line based on a Linear Regression model. For more detailed instructions, see Flinn & McCrea (2010) and Kovaleski & Flinn (2011).

Once the slope of the trend line is calculated from the progress monitoring data for the target student, it is compared to the line that represents expected progress (the standard for comparison). The MET needs to determine if the targeted student's response is positive, negative, or questionable. When visually inspecting and comparing graphed results, the MET needs to take care to assure that the units of measure and scale are equivalent from one graph to the next. The vertical axis always represents the score (in an appropriate unit of measure) for the reading, math or writing assessment. The horizontal axis always represents time, and the unit of measure should always be weeks (ROI is always expressed in terms of gain score per week). It is rare that a student has no response to targeted intervention; there may be frequent cases, however, where the student's response is questionable. The MET needs to keep in mind that reported ROI vary from one assessment tool to the next; for example, from DIBELS to AIMSweb. Finally, although RtI research continues at a vigorous pace, there is currently no research consensus on how poor the student's rate of improvement needs to be compared to expected rates (peers or standards) in order to meet criteria for insufficient progress.

At this point, the MET should consider multiple comparisons when adjusting interventions and making decisions with ROI data. The MET can calculate the trend lines and use visual displays to make comparisons and evaluate the target student's response. When comparing a target student's ROI to expected growth rates using national norms, research norms (when available), or local samples (district, grade level or intervention group), the target student's percentage of expected growth rate may be calculated using the following formula:

Percentage of Expected Growth Rate =

$$\frac{\text{Target Student's ROI}}{\text{Expected ROI}} \times 100$$

For example, if the Expected Growth Rate is 2.0 and the target student's ROI is 2.0, then the target student is progressing at 100% of the expected rate; if the target student's ROI was 1.0, then he would only be progressing at 50% of the expected rate. Research is ongoing on percentage of expected growth rate criteria for instructional decision-making, but preliminary findings suggest that students with a ROI of 80% or less are in need of supplemental intervention. Suggested growth rate criteria for determining inadequate response to Tier Three individualized, intensive interventions range from 80% or less to 50% of the expected ROI, depending on the source cited (Kovaleski and Finn, 2011).

Research consensus has emerged, however, around the concept of a dual discrepancy. "Across the five research groups, a dual discrepancy approach to identifying reading disability worked reasonably well to identify the "right" children—those truly at risk—without identifying a large number of children who later were reading normally" (National Research Center on Learning Disabilities, p. 2). In applying a dual discrepancy approach, to be considered as a student with a SLD, the target student must display both of the following:

1. Severely deficient *performance level* (inadequate achievement), and
2. An inadequate *rate of improvement (ROI)* in response to research-based interventions such that he or she is not likely to meet age or State-approved grade-level standards in a reasonable amount of time without intensive, specially designed instruction.

Visual Representations of Progress

The following graphs are intended to assist the MET in defining insufficient progress in response to scientific, research-based interventions using rate of improvement (ROI). These graphs demonstrate commonly occurring scenarios when evaluating a student's response to instruction. In reviewing the data, context is vitally important. Response to instruction always needs to be within a context, such as grade level achievement standards, and intervention group results. Each graph includes a trend line representing individual student growth (depicted in red), and a second trend line representing normal age or grade-level growth that is aligned with State-approved grade-level standards (depicted in blue). In each case, the student begins the intervention with inadequate achievement in the area being monitored. Please note that data regarding a student's response to scientific, research based interventions is only one component of a full and individual evaluation for special education.

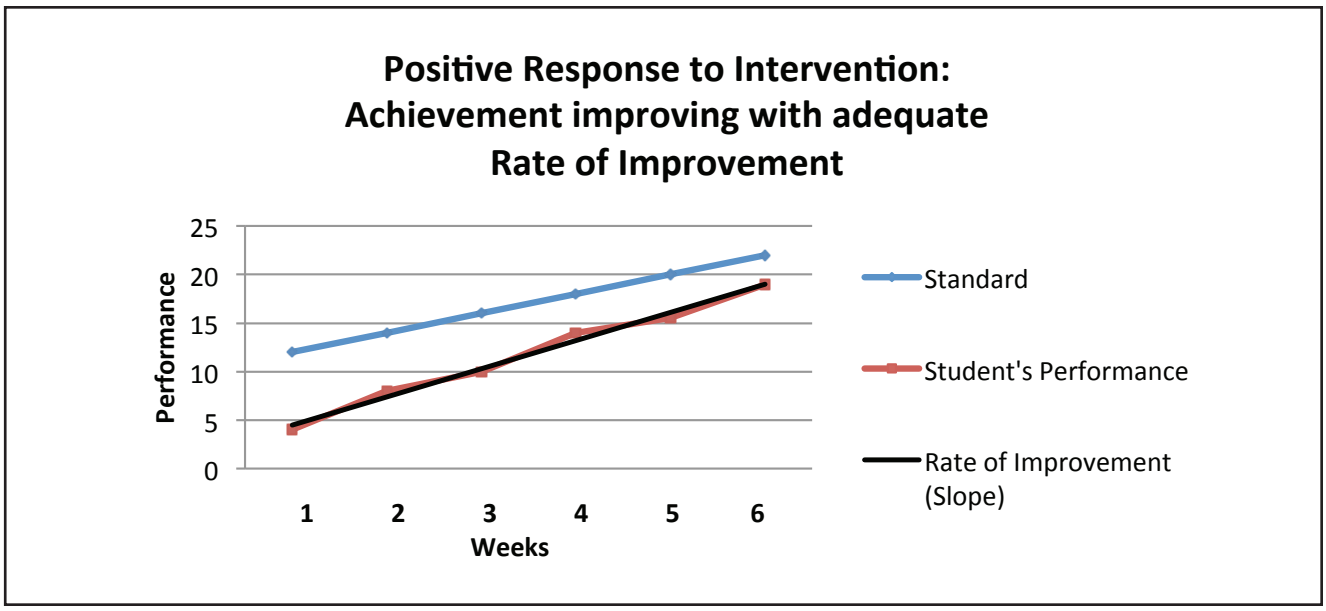


Figure 6.3. Positive response to intervention.

a) Positive Response: Achievement improving with accelerated rate of improvement (see figure 6.3)

As a result of instruction and intervention, the student has an acceptable level of achievement, evidenced by being at, near, or above age or State-approved grade level standards. The student's rate of improvement is closing the achievement gap. The rate of improvement is greater than 100% of the expected growth compared to same-aged peers, meaning that the student is closing the gap between their performance and the grade level standard. This also means that the student is demonstrating a rate of learning that is equal to or greater than grade level peers. This student is responding to the current system of supports, and would not meet the criteria necessary to be identified as a student who is showing inadequate response to scientific, research based interventions.

Decision Point: Possible Action Steps

- Continue intervention with current goal.
- Continue intervention with goal increased.
- Fade intervention to determine if student has acquired functional independence once the student is within an acceptable level of performance.

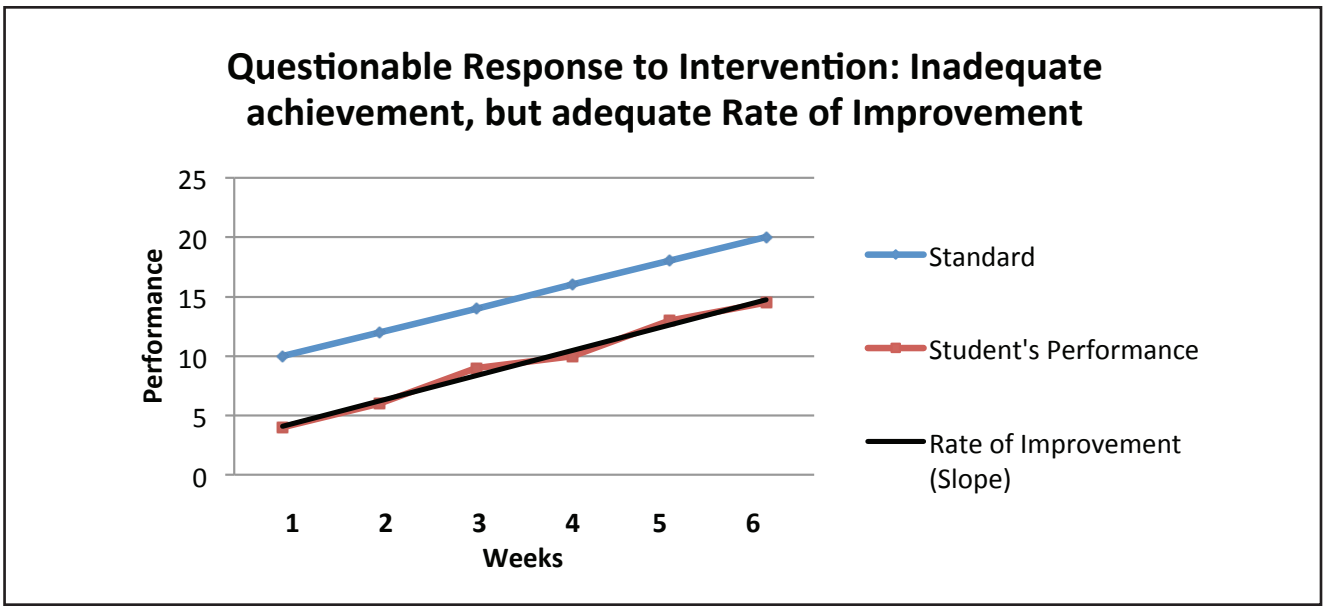


Figure 6.4. Questionable response to intervention.

b) Questionable Response: Level of achievement is low, but rate of improvement is adequate (see figure 6.4)

This student is not proficient compared to age or State-approved grade-level standards, but the student's learning rate is about equal with peers (100%). This student continues to need support to reach grade level standards and close the achievement gap. At an ROI of 100%, the student is not going to fall further behind, nor is he/she going to close the achievement gap. Continued intervention should focus on acceleration of the student's response so that the student closes the gap between actual and expected performance. In this instance, the student's level of achievement and response to instruction/intervention reflects a history of insufficient opportunities for quality instruction, and the student's academic deficits, therefore, would not be considered the result of intractable learning problems that require special education services. One might conclude that since the gap between the student's performance and the grade level standards is not increasing, it is less likely that the student is learning disabled.

Decision Point: Possible Action Steps

- Determine if the intervention has been implemented as intended.
  - o If no, employ strategies to increase implementation integrity.
  - o If yes, increase intensity of current intervention for a short period of time and assess impact. If rate improves, continue. If rate does not improve, return to problem-solving.

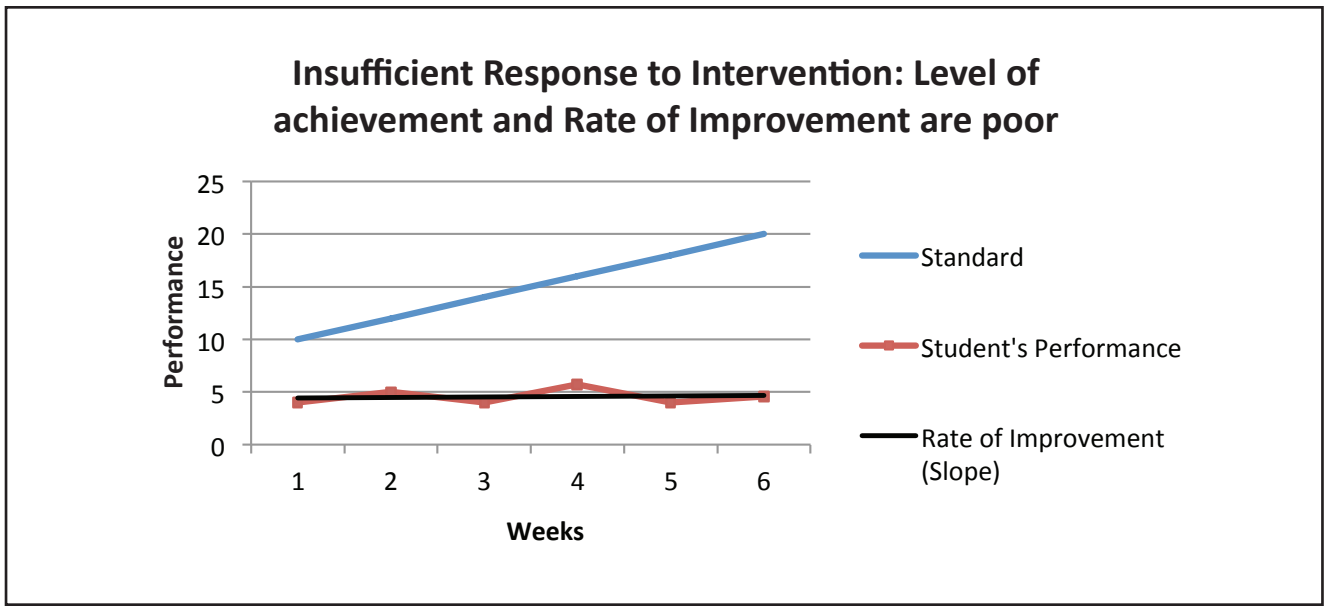


Figure 6.5. Insufficient response to intervention.

c) Insufficient Response: Both level of achievement and rate of improvement are inadequate (Figure 6.5)

The interventions resulted in slow progress that did not sufficiently close the gap between the student's performance and grade-level expectations. The gap between the student and his same-age peers continues to widen over time. The student's response is poor, despite being in a carefully conceived intervention matched to the student needs at a level of intensity, where most students demonstrated acceleration. Data from the intervention demonstrates that the intensity of intervention needed for the student to make adequate progress cannot be provided on a sustained basis through general education. The student may meet the requirement for insufficient response.

Decision Point: Possible Action Steps

- Determine if the intervention has been implemented as intended.
- If no, employ strategies to increase implementation integrity.
- If yes, is the intervention aligned with the verified hypothesis (Intervention Planning)? Are there other hypotheses to consider (Problem Analysis)? Was the problem identified correctly (Problem Identification)?

Special Note

The student above exhibits a dual discrepancy (Fuchs, 2003), that is, the student's academic skill level (achievement) is substantially below age or State-approved grade-level standards, and the rate of improvement in response to small group validated instruction is significantly below that expected of peers or the standard for the grade level. Insufficient progress is present when supplemental/intensive interventions fail to result in the student demonstrating improved academic performance, as measured via frequent progress monitoring, so that the resulting learning trajectory leads to the student meeting the peer and/or grade level standard.

Whenever interventions are not successful, teams are expected to use a problem-solving process to modify and/or adjust interventions until a successful intervention is found. In a fully implemented RtI Model, students would typically have received two rounds of Tier Two and one round of Tier Three intervention with adjustments prior to considering their eligibility for special education. As a result, there would also be considerable evidence from multiple rounds of intervention of the type and intensity required to facilitate learning. Such data-based evidence is essential for teams to have when conducting deliberations regarding the student's educational needs (one component of the SLD evaluation); yet determining a response to scientific, researched-based instruction is only one of the required components needed for SLD eligibility.

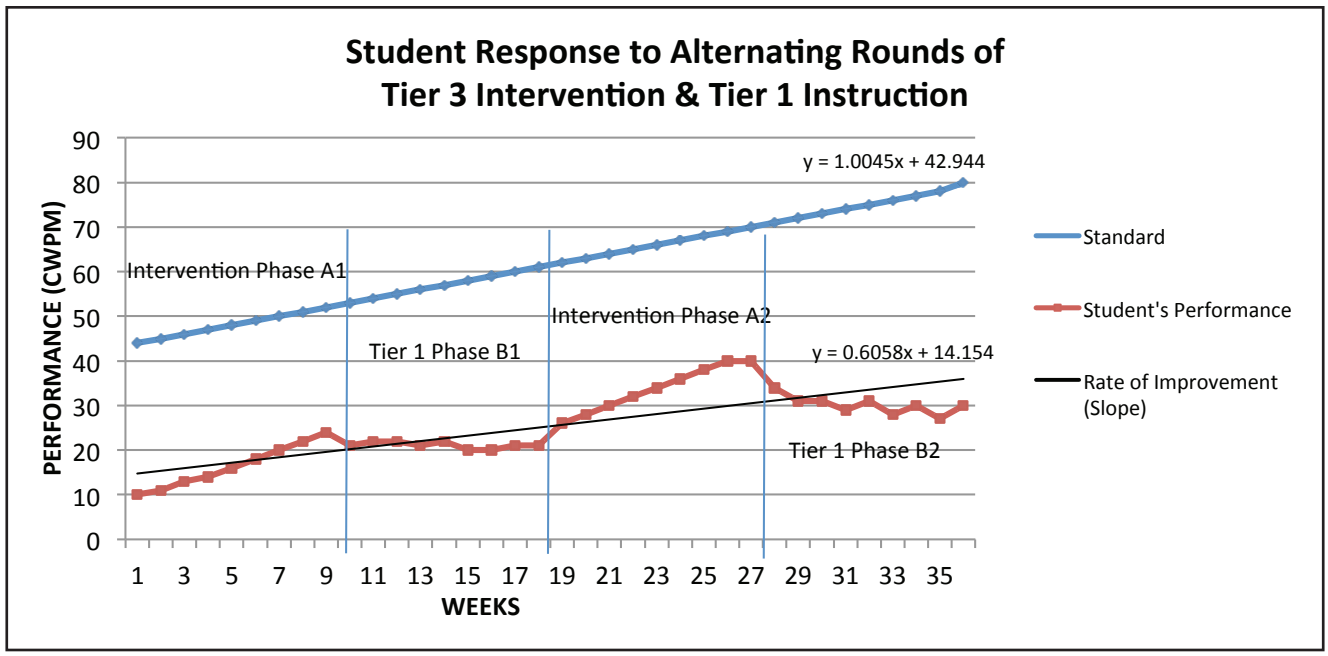


Figure 6.6. Student Response to Alternating Rounds of Tier 3 Intervention & Tier 1 Instruction.

d) Questionable Response: Level of achievement is low, and adequate response to intensive intervention (see Figure 6.6).

Despite this student's positive response to Tier Three Intensive Intervention, data show that he is unable to sustain this positive growth when returned to general education instruction without intensive support (non-intervention phases). The student's overall rate of improvement for the year is approximately 60% of the expected rate, and that by year-end, the achievement gap with general education peers has widened. This student's data provides evidence of a dual discrepancy, and documents the need for long-term intensive support if more appropriate rates of progress are to be sustained.

Decision Point: Possible Action Steps

- Determine if the student meets criteria for inadequate achievement.
- If no, employ strategies to increase supports and differentiation in Tier One.
- If yes, consider special education eligibility as SLD, and plan to align and integrate instructional strategies across both general education and special education instructional conditions.
- In either case, continue to monitor progress and make instructional adjustments to maximize the student's rate of improvement.

Special Note

In addition to the three examples of student response previously displayed, the MET may encounter another possible scenario which is not uncommon. Consider the student who shows adequate response during intervention phases (rounds) and inadequate response during non-intervention (Tier One only) phases of instruction. Under such conditions, the MET may wish to compare data from both intervention and non-intervention phases of instruction (similar to an "A-B-A-B" single-subject design) when evaluating the student's response to instruction. The A-B-A-B design represents an attempt to measure an intervention, withdrawal of intervention, and the re-introduction of intervention. If the data shows that the student is only able to sustain an adequate rate of progress when provided with a researched-based, carefully implemented intervention matched to the individual student's needs and delivered at a level of intensity unsustainable in a general education setting, and this progress is reversed (the student demonstrates inadequate response) under the conditions of general education Tier One instruction alone, then the student may be considered to have met the criteria for insufficient progress. The MET has evidence that in order to progress in the general curriculum, the student continues to need specialized instruction, curriculum, and/or environmental conditions that are significantly different from that provided to general education peers and is of a type or intensity that exceeds what the general education resources are able to provide (see Figure 6.6) (Illinois State Board of Education, 2010).

Steps in Determining Response to Scientific, Research-Based Intervention

This section outlines the steps used when the MET is reviewing all relevant assessment data (which might include previously existing data) and organizing the data into a summary for analysis. It is important for the MET to remember that these steps represent only one element of the SLD determination process. This OS SLD Guidance document provides a tool to assist the MET in completing the RtI analysis. See the worksheet, *Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD* at the end of this section.

Step 1. Parent notification

- Have the parents been informed about the rate of student learning, the right of further evaluation, and district policies regarding decision rules for special education eligibility?

Parent notification about the student's participation in the RtI process is required (see § 300.311(a)(7)). The MET must notify the parent via an individual, written communication when a student receives additional instruction beyond what a typical general education student receives. That is, when the team makes decisions for the student to receive Tier Two or Tier Three interventions in addition to core instruction (Tier One), the parents must receive written notification. The communication should specify who is providing the intervention, the schedule, all targeted skills, the goal of the intervention, and the time frame. The communication should include the amount and nature of student performance data (progress monitoring) that will be collected, and the general education services that will be provided to the student. It should also include information about the strategies used for increasing the student's rate of learning, including instructional delivery methods and materials utilized. An instructional plan with progress graphs can help the team organize the data necessary to share with parents (see *Intervention Planning Sheet* at the end of this chapter).

Step 2. Intervention characteristics

- Are the interventions scientifically-based?

In considering a student's response to interventions for eligibility determination, interventions are required to be scientifically-based. Schools and teachers are obligated to gather evidence that the materials and instructional delivery systems are effective. Scientifically-based research, according to the ESEA, is research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs (section 9101 (37) of ESEA). The following are the criteria used to evaluate instruction or an intervention from the ESEA, also known as No Child Left Behind (NCLD):

i) Employs systematic, empirical methods that draw on observation or experiment;

ii) Involves rigorous data analyses that are adequate to test the stated hypothesis and justify the general conclusions drawn;

iii) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

iv) Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments or other designs, to the extent that those designs contain within-condition or across-condition controls;

v) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

vi) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Resources for scientific, research-based interventions include What Works Clearinghouse (http://ies.ed.gov/ncee/wwc/), the Florida Center for Reading Research (www.FCRR.org), and Institute for Education Sciences Practice Guide *Assisting Students Struggling With Mathematics: Response to Intervention (RtI) for Elementary and Middle Schools* for elements relevant to math interventions (Gersten, et al., 2009).

Element	Example
A benchmark or curriculum standard for comparison	The student will be accurate and fluent in ending 4th grade level text.
A measurable criterion for the future performance of the skill	115 correct words per minute (CWPM)
A time-frame when the goal is to be met	In 18 weeks

Table 6.1. Components of a goal.

Step 3. Student has a measurable goal

- Are intervention goals measurable, explicit, and planned to accelerate student learning?

The student receiving the intervention must have a goal at a specified level of difficulty with measurable criteria, and a timeframe within which to accomplish it. The goal must be written explicitly, with the intent of accelerating progress to reduce the gap between the student's actual performance and the expected performance. This is a shift in philosophy from the student being assigned to an "off-the-shelf intervention," to the student receiving a "targeted intervention" that is designed to meet his instructional needs and accelerate progress to close the achievement gap. Goals should have a benchmark or a standard for comparison, a measurable criterion for future performance and a time frame when the goal is to be met. See Table 6.1 for an example of the components of a goal.

Goals can be set from the student's baseline performance using one of the following strategies (Hosp, Hosp, & Howell, 2007):

a) **Performance Standards:** setting goals based on the end-of-year benchmark goals or proficiency standards. Performance standards are usually ideal for students receiving Tier Two interventions. Performance standards are also ideal for evaluating a student's response compared to other students within the intervention group (for examples see: AIMSweb, 2010; DIBELS, Good and Kaminski, 2002; Hasbrouck and Tindal, 2006).

b) **Normal Growth Rates:** calculating the student's goal based on normal growth rates established through research (i.e., number of words gained per minute per week). This type of goal setting strategy may be preferable when a student is in a Tier Three intervention, when the student is being monitored with out-of-level materials, or when the student starts the intervention later in the year, as it allows for progress to be adjusted based on the number of weeks available for intervention. Growth rates vary by several factors, including types of measures, the grade level of the student, and the amount of time used in the sample (i.e., one minute, three minutes, and five minutes). Normal growth rates are being updated pending additional research. See the following sources in the bibliography for more information: Fuchs, Fuchs, Hamlett, Walz, & Germann, 1993; Malecki, 2008; National Center on Progress Monitoring, 2008.

c) **Intraindividual Framework:** using the student's current level of performance and rate of progress (baseline) to set end-of-the-year goals for performance. This method should be used with caution, as it may underestimate a student's rate of learning and not lead to acceleration. This method is useful when the student's past performance shows a rate of improvement that is significantly below average, and the use of normal growth rates and benchmarks leads to unrealistically high goals that are unachievable for the student within normal time frames. This would most often be the case for a student who is already in a special education setting.

The terms realistic and ambitious can be confusing when setting goals. Since grade level expectations and standards are based on the growth of typical students, ambitious goals are necessary for students who receive intervention services so as to accelerate the targeted student's growth. This is based on the premise that students who receive targeted, supplemental interventions progress at a faster rate than their average peers who are not receiving supplemental interventions. This is the only way to ultimately help struggling learners to "catch up" and close the gap between themselves and typically performing students and grade level benchmarks/expectations. This OS SLD Guidance document suggests that the team set "ambitious but reasonable" goals, which means that goals are set using rates of improvement that are 25-50% above the rate expected of the typical student (or benchmark rate) (Florida Department of Education).

Step 4. Valid and reliable progress monitoring tools are used

- Were progress monitoring tools administered with fidelity?
- Has progress monitoring data been collected on a regular schedule?
- Are the results of progress monitoring directly linked to the areas of deficit?

Procedures for progress monitoring must be carried out with integrity. This means that individuals who are administering, scoring and interpreting the progress monitoring data are trained, the progress monitoring tools that are selected are valid and reliable and designed for the purposes of the assessment, and the recommended frequency of progress monitoring is met. For example, for students in supplemental (Tier Two) interventions, progress monitoring occurs at least twice per month. For students who are in Tier Three interventions, weekly progress monitoring is considered a minimum. There is evidence that the progress monitoring measure aligns with the area of student deficit. Progress monitoring tools can be reviewed at the National Center on Progress Monitoring (http://www.studentprogress.org) and the National Center on Response to Intervention (http://www.rti4success.org).

Step 5. Decision rules are established by the district and published for consistency across schools

- Are there decision rules for moving through the multi-level tiered system?
- Are there decision rules established for making adjustments in instruction?

Decision rules for movement within the multi-level tiers as well as decisions about making instructional adjustments are established by the district and published for consistency across schools. School districts that adopt clear definitions of RtI terms, construct policies and procedural protocols for RtI implementation will more likely withstand court challenges (Burns and Ysseldyke, 2005).

The district must have written guidelines for flexible exit/re-entry for Tier One, Tier Two and Tier Three interventions. The length of time that is appropriate for students to receive early intervention at Tiers Two and Three before a referral for special education evaluation varies depending on the student's initial or baseline performance level, the history of effective intervention, the stability of the student in the current school, the instructional environment and the intensity of the interventions.

Decision rules are also used for making decisions about when the student's response to instruction is sufficient or insufficient, and making decisions about when an adjustment needs to be made. There are several methods for decision-making, including data point analysis or trend line analysis. A method should be established for the entire district in order to maintain consistency. Data point analysis is one method that could be utilized. After collecting an initial six to eight data points, any time four consecutive data points are below the goal line, a change in instruction needs to occur. When the student achieves four or more consecutive data points above the goal, the goal is raised (Hosp, Hosp, & Howell, 2007).

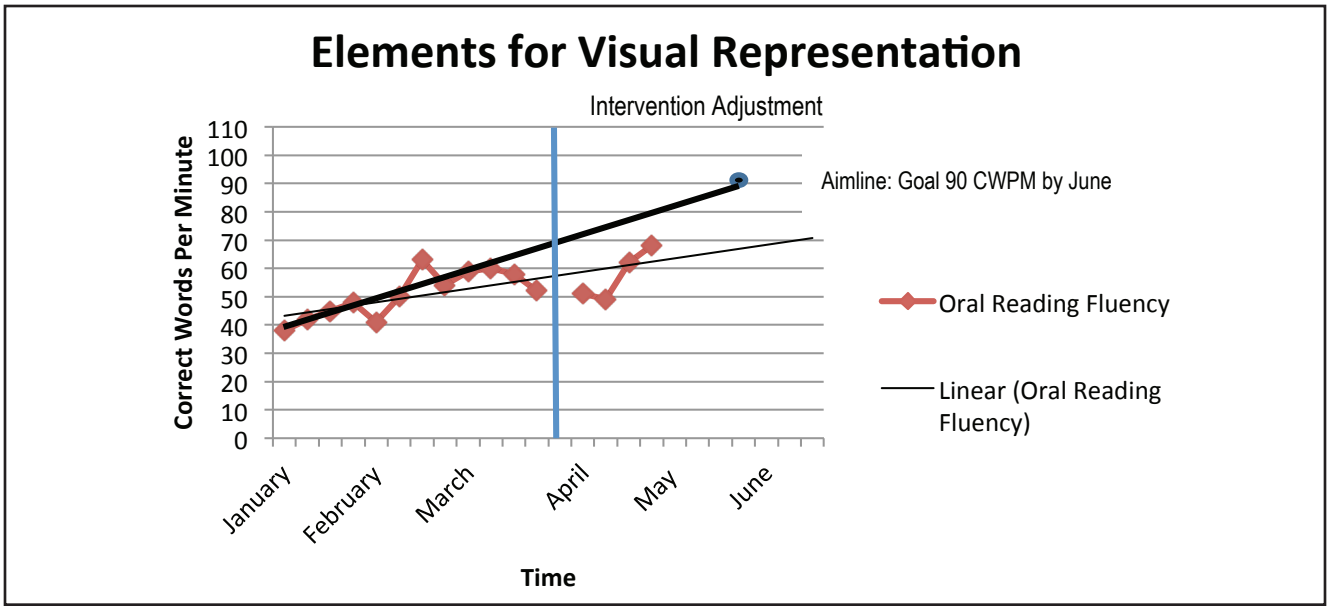


Figure 6.7. Elements for Visual Representation.

Step 6. Progress monitoring data is graphed and visually displayed

A student's progress monitoring data should be graphed and visually displayed for several reasons. Graphing data provides a method to a) review a student's progress, b) monitor the appropriateness of student goals, c) judge the adequacy of student progress, and d) compare and contrast successful and unsuccessful instructional aspects of a student's program (Fuchs, et al., 2005). Procedures for graphing are the same despite the content area that is being monitored. Many web-based management systems such as DIBELS and AIMSweb provide computerized systems for data entry, graphing and decision making for a fee. In addition, ChartDog is a free graphing service provided through Intervention Central (www.interventioncentral.org) or general spreadsheet programs like Microsoft EXCEL can be used to generate graphs.

Progress monitoring graphs should include the following features:

- The y-Axis displays the scale for the skill measure in equal increments (e.g., the unit of measure in Figure 6.7 is correct words read per minute, CWPM).
- The x-Axis displays the time (e.g., weeks). The ROI metric is always based on the change in the measured skill per week. For example, an ROI of 2.0 for Oral Reading Fluency means that the student is improving at a rate of 2 additional words per week.
- Data points show the measurement of the skill (e.g., CWPM) at a specific point in time.
- A goal that is related to the area of concern (e.g., 90 CWPM in third grade text by June) is measured.
- An aim line is drawn from the baseline data point (level of performance at initiation of the intervention) to the goal that has been set. It represents the rate of improvement that the student needs to maintain in order to reach the goal.
- Each intervention change or condition (i.e., baseline, treatment change) is marked at a specific point in time with a vertical intervention line (phase line). This allows for visual analysis of the effectiveness of the change in intervention condition on the student's rate of improvement. The data points are usually separated by a broken line or a space to denote a change.
- A trend line is a mathematical linear projection based on a series of progress monitoring data points that represents the student's average progress over time. The calculation of the slope of the trend line provides the numeric value assigned to the student's ROI during the time period being examined. For example, a trend line for a student in a reading intervention with a slope of 2.0 tells us that the student is improving at a rate of 2 additional correct words per minute / per week.

NOTE: If using multiple graphs in a report, pay special attention to the scale of each graph; be consistent in the use of scale. For example, if using an Excel spreadsheet program, the scale is automatically set depending on the range of scores. Different scale ranges directly impact the visual appearance of the graph. If standards are set in the district for frequently used measures, the scales can be predetermined and assist teams in quickly understanding the meaning of the graph.

Step 7. Multiple Intervention rounds

- Is there evidence that multiple rounds of supplemental instruction, differentiated to meet student needs, have been provided in the general education setting?

Research guidelines suggest that for reading, supplemental interventions need to occur for an additional 30 minutes/five days a week, and intensive interventions need up to 60 minutes of additional instruction daily in order to be effective. The addition of supplemental instruction means just that; it is not intended to replace or subtract from time in core instruction. It is not sufficient for a student to receive a single, generic intervention, and then to conclude that his/her poor response reflects the presence of a disability. Only when the student demonstrates a lack of response to research-based interventions that are targeted to the individual student's specific needs and are delivered with integrity for a substantial period of time (typically each intervention round is 10-15 weeks, with multiple rounds expected) is there sufficient evidence to conclude that the student is a student with a disability. However, extreme discrepancies in achievement and rate of progress may necessitate more rapid movement through the tiers and might require implementation of intensive interventions over a shorter period of time with more frequent progress monitoring and targeted diagnostic assessments. In a model that has three tiers (special education is not Tier Three), the length of time in Tiers Two or Three depends on several factors, including the student's initial (baseline) performance level, any history of exposure to effective interventions, the stability of the student in the current instructional environment, and the intensity of the intervention being delivered. Evidence to satisfy this requirement includes an intervention schedule and attendance record, progress monitoring graphs with intervention lines, and instructional planning forms with information specifying the instructional adjustments, teaching methods, and other conditions of instruction that promote learning (see worksheet *Summary of Relevant Data: Using the RtI Option Within a Full and Individual Evaluation for SLD*).

Step 8. Interventions are delivered with integrity and at a sufficient level of intensity

- Is the student receiving appropriate intervention, given the student's level and pattern of academic strengths and weaknesses?
- Are other students responding to the intervention more positively than this student?
- Was the student observed during multiple rounds of intervention to ensure student engagement and attendance either prior to or during the SLD evaluation?
- Is there evidence that the intervention has been adjusted based on student response data in an attempt to accelerate results?

There are several criteria used to determine if an intervention was implemented with integrity. When components of treatment integrity are intentionally considered, the district can feel that they are on solid footing to make meaningful and defensible decisions about students. The following components should be rigorously evaluated to ensure that the intervention was the "right kind and quality of instruction, delivered with the right level of intensity and duration, to the right children at the right time" (Torgesen, 1998).

First, a well-developed, documented intervention plan is a basic requirement that assists the team in designing intervention. An intervention plan assists in improving treatment integrity and providing necessary documentation of the school's efforts as it clearly specifies the date the plan was reviewed, who is responsible for implementation, the intervention steps, where and how often will the intervention occur, who will monitor progress with what tool and how frequently, and who will be responsible for intervention integrity assurance. Often students may be receiving a targeted, effective intervention, but they do not have the prerequisite skills needed to benefit from it. Therefore, the team should ensure that the intervention is aligned with student needs based on data (see the *Intervention Planning Sheet* at the end of this chapter or Google search Intervention Planning Form for some examples).

Second, adherence to procedures and quality of delivery should be documented through direct observation and checklists (see below for some examples). Third, exposure or dosage is a critical element to be documented (the number of session, frequency, and duration). This helps capture the intensity of intervention needed to impact the problem area. The intervention should follow a regular schedule with attendance of the teacher and the student documented. For example, did student performance data not improve because the intervention was only delivered once per week? Fourth, intervention effectiveness can be demonstrated by repeatedly measuring student progress and noting that other students within the setting demonstrate adequate progress when exposed to the same or a similar intervention. Finally, participant responsiveness reflects that the instructional delivery includes sufficient motivation for the student. Student engagement is continually assessed, monitored and adjusted.

To measure treatment integrity, most methods are based upon self-report, permanent products or direct observations of instruction (see Hardcastle & Justice, 2010 and Roach & Elliot, 2008 for a discussion). Direct observation may be considered the gold standard and preferable to the extent feasible. The following are some available examples of instruction and intervention integrity tools based on direct observation and enhanced with interviews:

- *Instructional Variables Checklist:* Variables to Consider When Evaluating Response to Instruction adapted from Daly, Witt, Marsten, & Dool, 1997 (see worksheet at end of this chapter). This worksheet would be helpful during the problem-solving process to determine what instructional adjustments might need to be made when a student is demonstrating poor performance.
- *The Five-Minute Brief Observation* form is an example from the Oregon Reading First website that targets adherence, participant responsiveness, and quality of delivery (see end of this chapter for an example).
- For examples of direct observation tools that are program specific, see Heartland Area Educational Agency, Iowa http://www.aea11.k12.ia.us/idm/checkists.html

STEP 9. Evaluate the student's Rate of Improvement (ROI) or Slope

- Despite numerous adjustments to the intervention, is there evidence of little to no change in the rate of improvement over time?
- Is the student's rate of improvement likely to close the gap between the student's skills and the standard in a reasonable amount of time?
- Is there evidence of poor ROI compared to other students receiving the intervention?

To evaluate if the student is making sufficient response, the team will need to consider the student's Rate of Improvement (ROI) or slope during various tiers of instruction. In general, if the ROI is significantly less than the average growth rate (when compared to that of local grade level peers or a national standard) and the rate of acquisition of learning is not likely to increase and be sustained without special education intervention, the student may demonstrate insufficient response (see discussion on Defining Insufficient progress earlier in this chapter).

Three types of responses to intervention could be determined by a student's rate of improvement (ROI) results. The MET needs to consider if the student's (see discussion about Defining Insufficient Progress section for more details):

- **Positive response:** The gap between the expected performance and actual performance is closing in response to the intervention or instruction. It is reasonable to expect that given the same resources and intervention, the student will achieve at or near benchmark levels similar to their grade level peers. The intervention may need to be gradually faded, and transfer of skills to the general education setting may need to be evaluated to determine if the student has achieved true functional independence.
- **Questionable response:** The student is responding to the intervention and the gap between expected and actual performance is no longer widening, but progress is not at an accelerated rate sufficient to close the achievement gap. During scheduled reviews, the RtI team engages in problem-solving to determine what instructional variables need to be adjusted to increase student response.
- **Insufficient response:** The gap between expected performance and actual performance continues to widen with little change in rate of response to the intervention or instruction. During scheduled reviews, the RtI team engages in problem-solving to determine what instructional variables need to be adjusted to increase student response. Adjustments to the intervention are made and documented, the goal is reviewed, and more intensive interventions are considered and implemented if needed.

Eligibility Guide

RtI is one component of a SLD eligibility determination. Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all the components of SLD eligibility determination.

Documenting Response to Scientific, Research-Based Intervention

Case Example: Kyle

See the *Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD* worksheets on the following pages for a case example of one approach to documenting insufficient progress in a RtI process. The *Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD* worksheet has multiple parts. *Part I: Inadequate Achievement* is used to document the evidence considered to determine if the student meets criteria for inadequate achievement. *Part II: Intervention Summary* describes a student's history of participation in tiered intervention including the duration, frequency, ROI, evidence of treatment integrity, status of the intervention, and a rating of the student's response. *Part III: Evaluating Response to Scientific-Based Intervention* is a detailed summary of the current intervention at the time of the evaluation that includes a progress monitoring graph and a rating of the student's response using ROI data (positive, questionable, insufficient).

Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD

Part I: Inadequate Achievement. Using the steps outlined and the table for Guidelines for Determining Inadequate Achievement, the MET should characterize each collected data source as meeting the criteria for one of the following: Expected Performance, At-Risk, or Academic Deficit. (See instructions in Chapter 6: Determining Inadequate Achievement to complete this chart).

Does the Student Display Inadequate Achievement?

	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement
		Measure	Target		
Reading Basic Skills	*NR* *NR* *NR* *CBM* *CR*	*WIAT-III word reading* *WIAT-III Pseudoword Decoding* *GORT accuracy* *NWF (out of level testing*)* *PAT*	*SS 96 (40th Percentile)* *SS 96 (40th Percentile)* *40th Percentile* *50 sounds (40th Percentile)* *3rd grade skills*	*72 (3rd percentile)* *72 (3rd percentile)* *5th percentile* *35** *Ending first, beginning 2nd grade phonics*	*Deficit* *Deficit* *Deficit* *Deficit*
Reading Comp	*CR* *CR* *NR*	*DRA* *MEAP Reading* *WIAT-III Reading Comprehension*	*Level 38* *1 or 2 (Meets Proficiency)* *SS 96 (40th percentile)*	*18 (independent)* *3 (does not meet)* *65 (1st percentile)*	*Deficit* *Deficit* *Deficit*
Reading Fluency	*NR* *CBM*	*GORT Rate* *Oral Reading Fluency*	*SS 96 (40th Percentile)* *110 CWPM Spring*	*2nd percentile* *42 (5/66 Class Rk)*	*Deficit* *Deficit*
Written Expression	*CR*	*Spelling*		*77 (6th percentile)*	*Deficit*
Math Cal.	*NR*	*Numerical Operations*		*95 (37th percentile*	*Expected*
Math Prob-Solving	*NR*	*Math Problem Solving*		*87 (19th percentile*	*At-risk*
Listening Comp.	*NR*	*Listening Comprehension*		*98 (45th percentile)*	*Expected*
Oral Exp					

Integrity Checklist for Inadequate Achievement

☒ Yes ☐ No When identifying inadequate achievement, at least one measure must be a standardized academic achievement test (broad band or narrow band) with established reliability and validity.

☒ Yes ☐ No There is convergence of evidence (multiple data points) indicating that the academic skill area is an area of deficit.

Summary

Basic reading, reading comprehension and reading fluency are all areas that meet the criteria for inadequate achievement. Reading comprehension difficulties appear to be a combination of poor decoding, poor attention to the text, and poor engagement. Phonological skills are developed (rhyming, blending), but the student has difficulty with more advanced PA skills (segmentation at the phoneme level). Kyle continues to demonstrate difficulties with short and long vowels, blends, consonant digraphs, vowel digraphs, diphthongs, and r-controlled vowels. He has poor attention to print, poor strategies for decoding unknown words, and reads slowly. Reading comprehension suffers due to his difficulty with decoding and vocabulary knowledge. Kyle demonstrates better skills in non-reading areas like math and listening comprehension.

Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD

Part II. Intervention Summary. Describe the student's history of participation in literacy or math interventions. List interventions in chronological order from the oldest to most recent. The example below illustrates what information would be required in each area. (Please note that Tier One instruction could be documented here or elsewhere in the report).

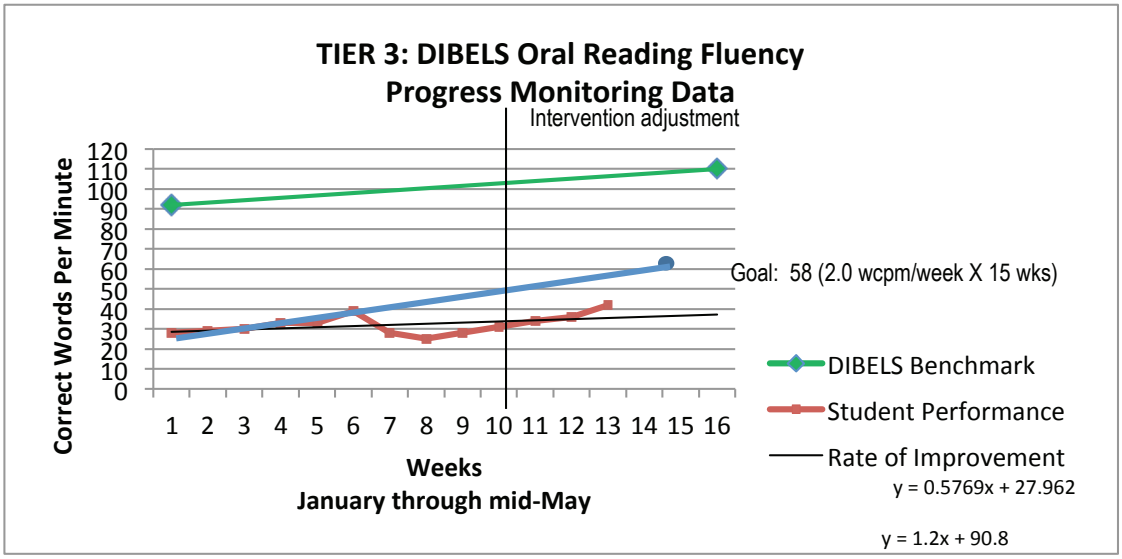
Instruction/Intervention including duration and frequency	Summary of Progress Monitoring Data ROI/expected ROI	Evidence of Treatment Integrity	Status of Intervention	RtI Response		
				Positive	Questionable	Insufficient
Tier 2. Second semester, First Grade. *Reading Recovery, 20 weeks of instruction, 5 times per week for 30 minutes, one-to-one teacher/student ratio.*	*LID-30/exit 49* *Word test =0, exit 3* *CAP 12; exit 18* *HRS 4; exit 25* *Writing Voc 4; exit 20* *Text Level A; exit 8* *EOY ORF 13 wpm*	*Peer coaching through demonstration lesson. Multiple reflections and observations through teacher leader* *Observe 1:1 lessons* *Final assessment by RR colleagues. Trained RR teacher for 5 years.*	*Did not make accelerated progress despite instructional adjustments- non-discontinued.*	☐	☐	☒
Tier 2. Read Naturally, Second Grade, 30 weeks of instruction, 3 days per week for 30 minutes, one-to-six teacher/student ratio. Sessions supplemented with Word Warm-ups, audio-supported phonics exercises.	*ORF (second grade text).* *Expectation Performance* *ORF* *BOY 44wcpm 10wcpm* *MOY 68wcpm 21 wcpm* *EOY 90wcpm 32 wcpm* *ROI= 0.61 wcpm/wk* *Expected ROI = 1.28 wcpm/wk.* *ROI 48% of expected growth.* *DRA text level 14*	*Student participated in 85 of 90 scheduled sessions. Periodic integrity checklists observing intervention by supervising teacher*	*Student made slow progress despite instructional adjustments. Despite the fluency intervention, he continued to have difficulty with word reading accuracy. The Word Warm-up activities were not intense enough to develop phonics instruction.*	☐	☐	☒
Tier 3: Corrective Reading. Third Grade, 13 weeks (at time of review), 4 days per week, 40 minutes each. Student assigned to CR in January.	*ORF (Third Grade text)* *Expectation Performance* *ORF* *BOY 77wcpm 22wcpm* *MOY 92wcpm 28 wcpm* *EOY 10wcpm 42 wcpm* *ROI 48% of expected growth* *DRA level =18* *See attached for details of current data results.*	*Participated in 96% of sessions. Teacher colleague completed treatment integrity checklists.* *See attached for details of current data results.*	*Making progress, but slow. Needs to move to Decoding B1 next. Does not achieve at a level to benefit from a less intensive intervention.* *See attached for details of current data results.*	☐	☐	☒

Integrity Checklist for Response to Scientific, Researched-Based Instruction	
1. Have the parents been informed about the rate of student learning, the right of further evaluation, and district policies regarding decision rules for special education eligibility?	☒ Yes ☐ No
2. Are the interventions provided scientifically-based?	☒ Yes ☐ No
3. Are intervention goals measurable, explicit, and planned to accelerate student learning?	☒ Yes ☐ No
4. Has progress monitoring data been collected on a regular schedule using valid and reliable tools?	☒ Yes ☐ No
5. Has the district established decision rules for making adjustments in instruction / intervention?	☒ Yes ☐ No
6. Has progress monitoring data been graphed and visually displayed for ease of analysis?	☒ Yes ☐ No
7. Is there evidence that multiple rounds of supplemental instruction have been provided?	☒ Yes ☐ No
8. Is there evidence that interventions have been differentiated and adjusted to meet student needs; including providing more intensive intervention if and when the data indicated it was needed?	☒ Yes ☐ No
9. Has the student's ROI (Rate of Improvement) been calculated and compared to expected rates of progress?	☒ Yes ☐ No

Summary of Relevant Data: Using the RtI Option within a Full and Individual Evaluation for SLD

Part III: Evaluating Response to Scientific-Based Intervention. Use this worksheet to document the data-based evidence used to determine the student's current response to intervention.

Instruction Goal:	*Kyle will participate in systematic phonics instruction in order to become accurate and fluent in reading 58 cwpm in 15 weeks in third grade level text.*
List the intervention/strategy/materials:	*Corrective Reading, Level A*
Frequency:	*Additional 40 minutes, 4 days per week since January*
Size of the intervention group:	*4:1 student/teacher ratio*
Progress Monitoring Tools:	*ORF administered weekly, Mastery Tests*



Rate of Improvement:	☐ **Positive response** ☐ **Questionable** ☒ **Insufficient response**
• Is the student's rate of improvement likely to close the gap between the student's skills and the standard in a reasonable amount of time?	☐ Yes ☒ No
• Is there evidence of poor ROI compared to other students receiving the intervention?	☒ Yes ☐ No
• Is the student in the right intervention, given the student's pattern of skill deficits?	☒ Yes ☐ No

SUMMARY OF CURRENT PROGRESS IN SUPPLEMENTAL INTERVENTION

Kyle is a third grade student who has participated in multiple rounds of intervention at SAMPLE elementary school. Kyle was assigned to a Tier Three supplemental intervention using Corrective Reading Decoding Level A in January. CR is a highly structured direct instruction approach to teaching basic and advanced decoding. From the CR placement test, Kyle was assigned Level A. He has participated in 13 weeks of instruction, with weekly progress monitoring using ORF and Mastery tests. He has missed two sessions due to illness. Kyle is engaged and motivated during the intervention group. He actively participates and feels successful. Kyle started on lesson 1 and is now on lesson 52. The current focus is on increasing fluency while maintaining accuracy. This enables Kyle to meet criteria for moving on to Corrective Reading Decoding B1. The interventionist participates in regular integrity reviews via direct observations with her assigned mentor, ongoing implementation booster sessions, and regular progress monitoring reviews to make instructional adjustments and to communicate instructional strategies to the classroom teacher.

The above chart depicts Kyle's progress monitoring data from January through May. ORF data indicates that Kyle is making about 48% of expected growth (using DIBELS grade 3 benchmarks for comparison) given a highly tailored instructional program. He has an adjusted goal (realistic, but ambitious of 58 CWPM). While he is responding to the intervention, his response is not at a rate sufficient for acceleration. As a result, Kyle is falling further behind grade level peers (the achievement gap is widening). In contrast to Kyle's performance, other students within this intervention are accelerating at much higher rates (exceeding 150-200% of expected growth).

Additional Resources

Instructional Variables Checklist

The following worksheet is helpful for evaluating the instructional variables that might be facilitating or inhibiting student progress. The variables included are considered alterable (instructional variables that are under the control of the school). Using student observation, interview techniques and, reviewing performance data, this guide assists in problem-solving instructional variables that might be interfering with progress. Part I outlines the variables that should be explored through multiple strategies, and Part II has interventions aligned with these instructional areas for consideration in instructional adjustments. This is considered a problem-solving tool.

PART I

	Instructional Variables Checklist (Adapted from Daly, Witt, Marsten, & Dool, 1997)	Yes	No	Not Sure
Instructional Focus & Goal	**Is the instructional focus clear?** • Does the intervention have a clear goal and purpose? • Does the intervention align with and support progress in the general curriculum?			
	How will I know if the intervention is making a difference? • Is the present level of performance referenced to a standard or benchmark? • Does the goal close the gap between the present and expected levels of performance? • Does the goal set an appropriate level of difficulty, measurable criterion for performance, and a timeframe to achieve it? • Has a progress monitoring schedule been set?			
Instructional Match	**Does the intervention match the student's instructional need and level?** • Do the instructional focus, strategies and materials match the student's need and level? • Does the intervention have a purposeful scope and sequence? • Is the intervention being implemented with integrity? • Are the students grouped homogenously based on matched instructional needs?			
Time & Intensity	**Are adequate time, intensity and duration allocated to achieve the desired results?** • Do the group size and intensity of the instruction match the student's need for direct modeling, guidance, and feedback? • Is the instructional time allocated sufficient to accelerate learning? • Is the instructional time delivered equal to the instruction time that is allocated? • Is student's attendance sufficient to meet goals?			
Teacher - Student – Task Interactions	**Is the student motivated to respond to the instructional intervention?** • Is the student actively engaged in and motivated by instructional tasks and materials? • Does the student require tangible/external reinforcement to actively engage in planned learning activities? If so, is this reinforcement effective and consistently delivered?			
	Has the student had enough help (explicit, direct instruction) to perform the task? • Are expectations explicit and direct enough for the student to understand? • Are modeling, prompting and feedback sufficient to elicit active / accurate responding? • Are sufficient opportunities for student responding provided? • Does the student display good accuracy in the target skills? • Do the materials provided actually help the student practice the skill correctly? • Are students responding correctly, but for the wrong reason (worksheet design)? • Does the student have ample time for guided and independent practice of new skills? • Does the student display good fluency in the target skills?			
	Does the student generalize the use of the skill to other settings / contexts? • Are expectations clear as to when, where and how the skill will be used in new settings? • Is there a coordinated strategy to prompt / cue the student to transfer the skill? • Do the tasks and materials used promote transfer of the skill to new settings? • Have sufficient examples and non-examples of skill application been provided?			
	Is the level of challenge correctly matched to student skills? Is it too hard? Is it too easy? • Are materials matched to the student's instructional level? • Are tasks matched to the student's instructional level? • Is the instruction at the right pace for the student to master skills before moving on?			

Instructional Variables Checklist

PART II

Instructional Variables	Strategies to Improve Student Response to Instruction
Is the instructional focus clear? **Is the goal measurable?** **Is monitoring sensitive to growth?**	• Specify, prioritize needs, and collaborate with classroom teachers. • Set a measurable goal and an appropriate progress monitoring plan. • Graph progress and review with students. • Schedule periodic reviews.
Does the intervention match the student's instructional need?	• Analyze the intervention to be clear on the instructional targets. • Use flexible groups-reformulate group membership with like instructional needs • Review data collection strategies to assure sensitivity to student needs and progress.
Are adequate time, intensity and duration allocated to achieve the desired results?	• Reduce group size • Increase instructional time spent on task • Observe intervention and provide feedback to instructor • Track time spent in the intervention and track student attendance • Provide supplemental time to either pre-teach or re-teach objectives • Increase frequency of sessions per week or length of session • Use similar language to the core instruction
Is the student actively engaged and responsive during the instructional intervention?	• Set clear purpose and expectations for intervention. Review connections to core curriculum. • Increase opportunities to respond; Increase guided practice • Provide feedback on accuracy of responses "That was right, you really get this!" • Provide reinforcement plans (i.e., stickers, charts, graphs). • Provide some choice of activities or choice of order of activities. • Student's motivation is influenced by your personal enthusiasm- positive comments and body language (nods, smiles) as well as communicating that the small group "activities will help them become stronger in _____ " (Link to classroom) • Use partner responding, whisper to partner to control impulsive responding… • Use time (how fast can you, rapid fire by pointing to students in random order) • Use group responding (Everybody say it together, (give gesture and count)…. • Error correction strategies, everyone repeat the correct answer (increases correct practice). • Teach with a "perky pace". • Increase appeal of materials and link to student interest to make more relevant.
Has the student had enough help (explicit, direct instruction) to perform the task both accurately and fluently?	• Set clear and explicit expectations. • Activate prior knowledge and link new information to known information. • Provide good ratio of known/unknown items (more known, less unknown or new) • Increase demonstration and modeling of skills. • Increase cueing and prompting • Provide more feedback, guided practice and independent practice.
Is the student having difficulty transferring the skill to new settings?	• Analyze the task, specify the objective and identify activities that promote use of the skill in the context that it is generally used. • Coordinate with other teachers in target settings where the skill will be applied.
Is the level of difficulty of tasks and materials the right fit for the student? Too hard? Too easy?	• Use better matched instructional materials • Complete further assessment to identify appropriate instructional level and use materials that promote a high rate of accurate responding. Review materials; be sure that there is a ratio of more known to unknown items.

Intervention Planning Sheet

Student Under Review:	Age:	Grade:	Date:	Plan Review Date:
Team Leader:	Team Members:			

Problem Definition

Problem:	Goal (Standard, criterion, time frame)

Intervention Plan

Focus of intervention:	Duration:	Frequency:

When:	Where:	Who
M:		
T:		
W:		
R:		
F:		

List Details of Plan

Materials for Intervention:	Training Plan Needed? Please describe:

Intervention Consistency: *How we will track consistency of delivery?*

Decision Rule: *How will we know the plan worked?*

Progress Monitoring (attach graphs)

Measure(s):	Frequency:	Baseline:	Target:

Who is responsible?	Days and Time of data collection:
Intervention Number:	

Parent Notes:

How will parents be notified of progress?

Parent Contacted? ☐ Yes ☐ No

Relevant Data Summary

Universal Screening/Benchmarks

	Student			Standard		
	F	W	S	F	W	S
Rdg: ORF						
Rdg: MAZE						
Rdg: NWF						
Rdg: PSF						
Rdg: LSF						
Wtg: TWW						
Wtg: CWS or CMIWS						
Math Fact Fluency						
Math Comp: Corrt. Digits						

Other Data

Domain	Measure	Score	Standard

Relevant RIOT/ICEL Notes:

Level of Intervention

Tier 1	Tier 2	Tier 3

Adapted from LeAnne Robinson (2009), Western Washington University, leanne.robinson@wwu.edu Permission from author to print in OS Guidelines (personal communication 11/19/10).

Five-Minute Observation Form

Developed by Oregon Reading First

School: _____
Date: _____
Time: _____
Program and Level: _____
Grouping Format: _____
Number in Group: _____
Group Performance Level: _____

Instructor: _____

In the box next to each General Feature indicate +, -, or NA. Check the circle next to each observed area.

☐ **Instructor models instructional tasks when appropriate.**
- ○ Demonstrates the task (e.g., uses think alouds)
- ○ Proceeds in step-by-step fashion
- ○ Limits language to demonstration of skill
- ○ Makes eye contact with students, speaks clearly while modeling skill

☐ **Instructor provides explicit instruction.**
- ○ Sets the purpose for the instruction
- ○ Identifies the important details of the concept being taught
- ○ Provides instructions that have only one interpretation
- ○ Makes connection to previously-learned material

☐ **Instructor engages students in meaningful interactions with language during lesson.**
- ○ Provides and elicits background information
- ○ Emphasizes distinctive features of new concepts
- ○ Uses visuals and manipulatives to teach content as necessary
- ○ Makes relationships among concepts overt
- ○ Engages students in discourse around new concepts
- ○ Elaborates on student responses

☐ **Instructor provides multiple opportunities for students to practice instructional tasks.**
- ○ Provides more than one opportunity to practice each new skill
- ○ Provides opportunities for practice after each step in instruction
- ○ Elicits group responses when feasible
- ○ Provides extra practice based on accuracy of student responses

☐ **Instructor provides corrective feedback after initial student responses.**
- ○ Provides affirmations for correct responses
- ○ Promptly corrects errors with provision of correct model
- ○ Limits corrective feedback language to the task at hand
- ○ Ensures mastery of all students before moving on

☐ **Instructor encourages student effort**.
- ○ Provides feedback during and after task completion
- ○ Provides specific feedback about student's accuracy and/or effort
- ○ Majority of feedback is positive
- ○ Celebrates or displays examples of student success in reading

☐ **Students are engaged in the lesson during teacher-led instruction.**
- ○ Gains student attention before initiating instruction
- ○ Paces lesson to maintain attention
- ○ Maintains close proximity to students
- ○ Transitions quickly between tasks
- ○ Intervenes with off-task students to maintain their focus

☐ **Students are engaged in the lesson during independent work.**
- ○ Independent work routines and procedures previously taught
- ○ Models task before allowing students to work independently
- ○ Checks for student understanding of the task(s)
- ○ Students use previously-learned strategies or routines when they come to a task they don't understand
- ○ Independent work is completed with high level of accuracy

☐ **Students are successful completing activities at a high criterion level of performance.**
- ○ Elicits a high percentage of accurate responses from group
- ○ Elicits a high percentage of accurate responses from individuals
- ○ Holds same standard of accuracy for high performers and low performers

Focus:	Phonemic Awareness ☐	Phonics ☐	Fluency ☐	Vocabulary ☐	Comprehension ☐

Comments:

Bibliography

AIMSweb. (2010). *Oral reading fluency aggregate data file.* Retrieved from AIMSweb: http://www.aimsweb.com/

Barnett, D., Elliott, N., Graden, J., Ihlo, T., Macmann, G., Nantais, M., et al. (2006). Technical adequacy for response to intervention practices. *Assessment for Effective Intervention*, 20-31.

Batsche, G., Elliott, J., Graden, J., Grimes, J., Kovaleski, J., Prasse, D., et al. (2005). *Response to intervention: Policy considerations and implementation.* Alexandria, VA: National Association of State Directors of Special Education, Inc.

Burns, M., & Ysseldyke, J. (2005). Comparison of existing response-to-intervention models to identify and answer implementation questions. *The California School Psychologist,* 9-20.

Burns, M., Griffiths, A., Parson, L., Tilly, W., & VanDerHeyden, A. (2007). *Response to intervention: Research for practice.* Alexandria, VA: National Association of State Directors of Special Education, Inc.

Daly, E. J., Witt, J. C., Marsten, B. K., & Dool, E. J. (1997). A model for conducting a functional analysis of academic performance problems. *School Psychology Review,* 26(4), 554-574.

Flinn, C., & McCrea, A. (2010). *Graphing, calculating, and interpreting rate of improvement.* Retrieved from http://www.rateofimprovement.com

Florida Department of Education. (n.d.). *Problem solving & response to intervention: Elementary year 1 day 4 assessing response to intervention*. Retrieved from http://www.floridarti.usf.edu

Fuchs, L. (2003). Assessing intervention responsiveness: Conceptual and technical issues. *Learning Disabilities Research & Practice, 18*(3), 172-186.

Fuchs, L., & Fuchs, D. (1986). Effects of systematic formative evaluation: A meta-analysis. *Exceptional Children,* 53, 199-208.

Fuchs, L., & Oxaal, I. (2008). *www.studentprogress.org/weblibrary.asp#tools*. Retrieved December 1, 2010, from National Center on Student Progress Monitoring.

Fuchs, L., Fuchs, D., Hall, T., Hintze, J., Hosp, M., Lembke, L., et al. (2005). *Student progress monitoring in math*. Presented at the National Center on Student Progress Monitoring Summer Institute. http://www.studentprogress.org/library/training.asp.

Gersten, R., Beckmann, S., Clarke, B., Foegen, A., Marsh, L., Star, J. R., et al. (2009). *Assisting students struggling with mathematics: Response to Intervention (RtI) for elementary and middle schools (NCEE 2009-4060).* Washington D.C.: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

Gersten, R., Compton, D., Connor, C., Dimino, J., Santoro, L., Linan-Thompson, S., et al. (2008). *Assisting students struggling with reading: Response to intervention and multi-tier intervention for reading in the primary grades: A practice guide.* Washington, D.C.: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

Good, R. H., & Kaminski, R. A. (2002). *Dynamic indicators of basic early literacy skills* (6th ed.). Eugene, OR: Institute for the Development of Educational Achievement. (Available at http://dibels.uoregon.edu).

Gresham, F. (1989). Assessment of treatment integrity in school consultation and prereferral intervention. *School Psychology Review,* 37-50.

Hardcastle, B., & Justice, K. (2010). *Fidelity and RTI: Strategies to ensure intervention integrity in your schools.* Horsham, Pennsylvania: LRP Publications.

Hasbrouck, J., & Tindal, G. (2006). Oral reading fluency norms: A valuable assessment tool for reading teachers. *The Reading Teacher,* 636-644.

Hosp, J. (2011). *Advanced-decision making in RTI.* Presentation at the Michigan Association of School Psychologists Critical Issues Conference. Lansing, Michigan.

Hosp, M., Hosp, J., & Howell, K. (2007). *The ABCs of CBM: A practical guide to curriculum-based measurement.* New York, NY: The Guilford Press.

Illinois State Board of Education. (2010, January). *Illinois special education eligibility and entitlement procedures and criteria within a response to intervention (RtI) framework: A guidance document.* Author.

Kovaleski, J., & Flinn, C. (2011). *Determining eligibility for Special Education in an RTI system.* Presented at the 2011 National Association of School Psychologists (NASP) convention. San Francisco, CA.

Malecki, C. (2008). Best practices in written language assessment and intervention. In A. Thomas, & J. Grimes, *Best Practices in School Psychology V* (pp. 477-488). Bethesda, MD: National Association of School Psychologists.

Michigan Department of Education. (2010, October). *Response to Intervention (RtI) Essential Components-Draft.* Lansing, MI: Michigan Department of Education.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a specific learning disability.* Lansing, Michigan: Office of Special Education and Early Intervening Services.

Michigan Department of Education. (2011, March). *Evaluation procedures.* Lansing, MI: Michigan Department of Education: Office of Special Education and Early Intervening Services.

National Center on Student Progress Monitoring. (2007). *What the National Center on Student Progress Monitoring can do for you.* Retrieved July 26, 2011, from National Center on Student Progress Monitoring: http://www.studentprogress.org/library/Webinars/NCSPMWebinar8-30-07.pdf

National Center on Progress Monitoring. (2008). *Student progress monitoring and data-based instruction in special education: Using curriculum based measurement to determine response to intervention.* Retrieved July 14, 2011, from http://www.studentprogress.org/.

National Center on Response to Intervention. (2010, April). *Essential components of RTI-A closer look at response to intervention.* Washington, D.C.: U.S. Department of Education, Office of Special Education Programs, National Center on Response to Intervention.

National Research Center on Learning Disabilities. (2005). *Executive summary of the NRCLD topical forum applying responsiveness to intervention to specific learning disability determination decisions.* [Brochure]. Lawrence, KS: author.

Roach, A., & Elliott, S. (2008). Facilitating and Evaluating Intervention Integrity. In A. Thomas, & U. Grimes, *Best Practices in School Psychology V* (pp. 195-208). Bethesda, MD.: National Association of School Psychologists.

Shapiro, E. (2011). *Academic skills problems: Direct assessment and intervention* (4th ed.). New York, New York: Guildford Press.

Shinn, M., Good, R., & Stein, S. (1989). Summarizing trend in student achievement: A comparison of methods. *School Psychology Review, 18*(3), 356-370.

Shinn, M. (2002). *AIMSWeb training workbook: Progress monitoring.* Eden Prairie, MN: Edformation.

Torgesen, J. (1998). Catch them before they fall: Identification and assessment to prevent reading failure in young children. *American Educator/American Federal of Teachers* (Spring/Summer), 1-8.

University of Texas Center for Reading and Language Arts. (2005). *Introduction to the three-tier reading model: Reducing reading difficulties for kindergarten through third-grade students.* Austin, Texas: Author.

U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

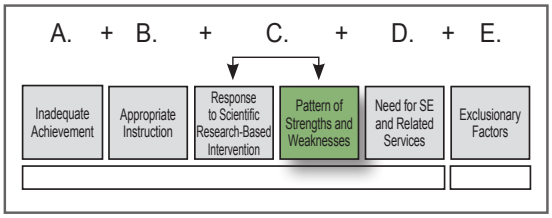
U.S. Department of Education. (2002). *No Child Left Behind (NCLB) Act of 2001, Pub. L. No. 107-110, 115, Stat. 1425 (2002).*

Chapter

7 Pattern of Strengths and Weaknesses

Key Questions

- *How is a pattern of strengths and weaknesses (PSW) defined?*
- *How is the evidence weighed when considering if an academic skill area represents a pattern of strengths or a pattern of weaknesses?*
- *What are the known patterns of strengths and weaknesses for students who exhibit a specific learning disability (SLD)?*
- *What steps should the Multidisciplinary Evaluation Team (MET) consider when using the PSW option?*



§ 300.309 Determining the existence of a specific learning disability

(a)(2)(ii) 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, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 300.304 and 300.305;

Introduction

One of the most sweeping changes in the Individuals with Disabilities Education Act (IDEA) 2004 (U.S. Department of Education, 2004) reauthorization is that States may no longer require the use of a severe discrepancy between intellectual ability and achievement as the sole determinant when identifying a student as having a specific learning disability (SLD). In response to this federal mandate, the Michigan Department of Education (2010) permits two options for SLD eligibility determination: 1) a student must demonstrate insufficient progress in response to scientific, research-based interventions (often referred to as the RtI option), or 2) the student must exhibit a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development (often referred to as the PSW option). The RtI option, if chosen as the SLD indicator, provides a new process for determining SLD eligibility. Under the PSW option, the comparison of academic achievement to intellectual development is still permitted, but not required. If used, the achievement / intellectual development analysis becomes one of several necessary comparisons, involving multiple sources and types of data, which are then examined in relation to the student's achievement. This option should not be mistaken for the previous ability-achievement discrepancy model, which utilized a singular comparison of global IQ and achievement.

It is important for the MET to remember that the PSW indicator is only one of the five required elements in determining the

presence of a SLD. In a PSW-based SLD identification process, before evaluating a student for a PSW, the MET must ensure that two requirements have been fulfilled. The MET must first determine the presence of inadequate achievement, and second, the MET must assure that the student has been exposed to appropriate instruction. These two elements are required, but are not sufficient in and of themselves, to determine SLD eligibility. Next, the MET must evaluate whether the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, grade-level standards, or intellectual development. This chapter of the document provides a specific process aimed at guiding the MET in operationalizing the PSW option (see § 300.309(a)(2)(ii) in sidebar).

Pattern of Strengths and Weaknesses Possible Comparisons Determined to Be Relevant by the MET					
Domains	**Relative to These Standards**				
Achievement (Academic skills)	Age	*OR*	State-Approved Grade-Level Expectations	*OR*	Intellectual Development
and/or					
Performance (Classroom)	Age	*OR*	State-Approved Grade-Level Expectations	*OR*	Intellectual Development

Table 7.1. Possible comparisons that could be deemed relevant by the MET.

Definitions

The PSW option includes several components (see Table 7.1). First, there are three domains for consideration when determining a pattern of student strengths and weaknesses: achievement (academic skills), performance (classroom performance), or both. The OS SLD Guidance document has adopted the following definitions to clarify these terms from the IDEA Federal Regulations:

Achievement refers to test results from valid and reliable academic skill measures. Examples might include:

- Norm-Referenced achievement test (e.g., WJ III, WIAT) (Broad-Band)
- Curriculum-Based Measurement (e.g., DIBELS, AIMSweb) (Narrow-Band)
- Criterion-Referenced Assessment (e.g., Qualitative Reading Inventory-QRI)

Performance refers to student achievement in the classroom as documented by:

- Tests, quizzes, classroom assignments, or academic work products
- Grades (formal grading procedures reflected on a report card)
- Teacher reports of the student's skills as compared to grade-level expectations
- Observations of the student performing under curriculum demands (engaging in academic tasks and working in grade-level materials), which can then be used to analyze the difference between the student's performance and the minimum acceptable level of performance of peers that also meets the grade-level standard.

Given the language in the IDEA Federal Regulations, which states, *"The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both,"* some practitioners have concerns that a student could be found eligible for a SLD based on a pattern of strengths and weaknesses determined solely in the performance domain. It is important for the MET to remember that a pattern of strengths and weaknesses alone, without evidence of inadequate achievement, is insufficient evidence for determining whether a student exhibits a SLD. That is why the MDE guidance document on SLD criteria defines both the RtI and the PSW options as consisting of two components. The first component is identical for both processes; "the student does not achieve adequately for the student's age or to meet state-approved grade-level standards in one or more of the areas identified at § 300.309(a)(1)(i) when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards." Regardless of the process the MET chooses, IDEA Federal Regulations require that SLD determinations, from a practical standpoint, always have at least one academic achievement measure (based on the inadequate achievement requirement) and at least one performance measure (based on the observation requirement). In this vein, the OS SLD Guidance document recommends when using the PSW option, the MET consider performance indicators (curriculum assessments, grades, teacher reports of student standing) as data regarding the functional impact that the academic skill deficits have on classroom performance. Although the evaluation of performance indicators may vary subjectively among teachers, developing an understanding of the student's academic skill deficits in the context of classroom performance is an essential part of a SLD evaluation and must be carefully considered.

Second, there are multiple comparisons that can be made using achievement and/or performance data, including:

- Achievement and/or performance relative to State-approved grade-level standards
- Achievement and/or performance relative to age
- Achievement and/or performance relative to intellectual development

The MET must decide which of these three methods of comparison is most relevant for the target student's SLD eligibility determination.

The first comparison, State-approved grade-level standards, is included as a point of comparison. The USDOE Commentary on the Final Regulations for the IDEA 2004 included the following remarks:

> The first element in identifying a child with SLD should be a child's mastery of grade-level content appropriate for the child's age or in relation to State-approved grade-level standards, not abilities. This emphasis is consistent with the focus in the ESEA on the attainment of State-approved grade-level standards for all children. State-approved standards are not expressed as 'norms' but represent benchmarks for all children at each grade level (71 Fed. Reg. at 46652).

For the purposes of this guidance document, the term State-approved grade-level standards refers to the MEAP, District Benchmark Assessments, Criterion Referenced tests, and Curriculum-Based Measurement (CBM) used as a Benchmark Assessment. This represents a significant shift in the types of data that are considered for SLD eligibility purposes. (NOTE: State-approved grade-level standards does not refer to using grade-based normative data).

The second comparison is the student's achievement and/or performance relative to an age standard. The federal discussion accompanying issuance of the 2006 IDEA regulations does not provide specific examples regarding the reference to age. The comparison between achievement and age is most similar to the evaluations that schools have traditionally completed. In this guidance document, age refers to age-based, norm-referenced achievement tests (e.g., the Wechsler Individual Achievement Test-WIAT).

Finally, intellectual development is the last area of comparison. According to the The USDOE Commentary on the Final Regulations for the IDEA 2004:

> Intellectual development is included in § 300.309(a)(2)(ii) as one of three standards of comparison, along with age and State-approved grade-level standards. The reference to 'intellectual development' in this provision means that the child exhibits a pattern of strengths and weaknesses in performance, relative to a standard of intellectual development, such as commonly measured by IQ tests. Use of the term is consistent with the discretion provided in the Act in allowing the continued use of discrepancy models (71 Fed. Reg. at 46651).

For the purposes of this guidance document, intellectual development refers to the assessment of cognitive, social, language, and adaptive development via norm-referenced cognitive and language assessment tools, developmental history, observations and interviews, and functional rating scales.

Applying the Pattern of Strengths and Weaknesses Option

The language in § 300.309(a)(2)(ii) allows the MET to make several comparisons about the student's academic skills and/or classroom performance in relation to the student's age, grade-level standards, or intellectual development. When applying the pattern of strengths and weaknesses option, there are two parts.

Strengths and Weaknesses Within Academic Area

First, the student must meet the criteria in § 300.309(a)(1)(i), which indicates that the student demonstrates inadequate achievement. The MET looks for the convergence of multiple data sources to identify inadequate achievement in the area of a suspected SLD. (see MDE SLD Criteria, p. 6). The MET must use multiple sources of data to determine if there is inadequate achievement, which may constitute an academic weakness, e.g., a weakness in Reading Comprehension based on district decision rules (see Guidelines for Determining a Strength or a Weakness in a PSW Model). Examples of data sources for determining inadequate achievement include:

- Norm-Referenced test scores below the 9th percentile
- CBM scores in the deficit range
- Criterion-Referenced measures well below grade level
- MEAP Reading score of a 3 or 4

Strengths and Weaknesses Across the Academic Areas

Next, the student must meet the criteria in § 300.309(a)(1)(ii), which states that the student "exhibits a pattern of strengths and weaknesses in performance, achievement or both." To meet this criteria, the MET looks across the eight SLD academic areas for patterns of strengths and weaknesses that are linked to what is known about the SLD. (Please note that the MET is required to review existing data and evaluate in only suspected areas of concern. This may mean that new assessment data might not be needed in all eight SLD areas). For example:

- weaknesses in basic reading and in reading comprehension (due to poor word reading) with a corresponding relative strength in math;
- weaknesses in all academic areas and strengths in the normal developmental range in social, intellectual, and adaptive domains.

Common SLD Patterns

The eight areas of academic performance that are identified in the IDEA 2004 refer to the manifestations of, rather than the underlying nature of SLD. The manifestations of SLD in academic performance are the central focus of the MET evaluation. Fletcher, Lyon, Fuchs, and Barnes (2007) have identified the patterns of academic performance which have been established through research and which represent the manifestations of SLD. These researchers state that "grouping students according to achievement strengths and weaknesses (e.g., reading versus math disabilities) does lead to subgroups that can be reliably and validly differentiated" (Fletcher et al., 2007).

Therefore, the MET should consider a student's inadequate achievement in the context of the intra-academic achievement patterns identified in the research on students with SLD. Furthermore, identifying and describing these academic patterns assists the team in aligning interventions with student needs. For instance, students with reading comprehension deficits and intact word reading skills will require explicit instruction in comprehension strategies, but will not likely benefit from an instructional plan with heavy emphasis on decoding skills. Academic performance patterns may be aligned with specific kinds of academic interventions that can positively influence student outcomes. See Table 7.2 *Relevant SLD Patterns and Associated Characteristics* for more information about each pattern and its associated characteristics.

Possible cognitive correlates that may be associated with specific academic skill deficits are also listed. It is important to note that in the PSW model, the identification of cognitive processing deficits associated with specific academic skill deficits is not required for SLD determination. Instead, cognitive processing assessment data may be viewed as an additional data source to be considered in fulfilling the "convergence of multiple data sources" guidance (MDE SLD Criteria, 2010, p. 7) for identifying academic deficits or weaknesses. For example, for a student manifesting a weakness in Basic Reading Skills, cognitive assessment data showing a deficit in phonological processing may be considered as evidence to further support the identification of a pattern of weakness in this specific academic skill area.

Relevant SLD Patterns and Associated Characteristics	
Patterns of Academic Achievement	Common Characteristics that are Consistent with Epidemiological Studies of Specific Learning Disabilities
Word recognition and spelling difficulties with better mathematic skills. Reading comprehension may be impacted	These students have single word decoding difficulties and better arithmetic ability. They seem to have difficulty with the phonemic awareness skills that are necessary for decoding at the single word level. They may have difficulty with identifying sounds, blending sounds into words, and reading regular and irregular words. These students may demonstrate associated difficulties with encoding (spelling). They may also exhibit good listening comprehension and poor reading comprehension (secondary to word reading problems). Oral language skills are usually strong. Possible cognitive correlates with this pattern may include significant and relatively restricted phonological processing skills.
Slow reading fluency with relatively accurate word recognition skills	These students tend to have difficulty with automaticity at the letter, word, sentence, and/or passage level. Their slow and labored reading may interfere with reading comprehension. These students may also be slow, but relatively accurate readers. Possible cognitive correlates with this pattern may include difficulties with rapid automatic naming and/or retrieval tasks, and processing speed.
Poor reading comprehension but better word reading skills	These students demonstrate difficulty understanding text, despite being able to decode the words. They exhibit difficulty comprehending sentences/stories and may have difficulty with retelling stories. They may have poor vocabulary and general knowledge is often weak or lacking. They may also demonstrate difficulty with word usage and syntax and exhibit limited knowledge and use of comprehension strategies. Possible cognitive correlates with this pattern may include more generalized difficulties with vocabulary, receptive language tasks, working memory, and attention.
Problems with mathematics calculation	These students may use immature, inefficient counting strategies, or make procedural errors. They are unable to master and automatically retrieve basic addition and subtraction number combinations and fail to make the transformation to solving problems mentally, without the use of their fingers or other concrete or pictorial aids. Possible cognitive correlates with this pattern may include difficulty with attention and processing speed.
Problems with mathematics problem-solving	These students demonstrate difficulty acquiring and applying number sense to solve problems. Possible cognitive correlates with this pattern may include problems associated with executive functioning, working memory, motor and spatial skills (Gersten, Jordan, and Flojo, 2005).
Problems with word recognition, reading fluency, reading comprehension, spelling and mathematics	These students exhibit academic deficits in all areas. This pattern may be more common than others. Possible cognitive correlates with this pattern may include pervasive language and working memory deficits. Their deficits are more severe than in students with poor decoding and better developed mathematics skills.
Difficulty with written expression and spelling	Students who have difficulty with reading also tend to have difficulty with written language. These students demonstrate problems in handwriting and spelling and exhibit constrained written expression (Berninger, 2004). They have difficulty with planning in advance, generating content, persistence, revising, self-efficacy, and transcription (Graham and Harris, 2005). Spelling problems may indicate possible motor deficits in young children, or in older students and adults, the residual effects of phonological deficits which have been partially remediated. This pattern is common in students and adults with a history of word reading difficulties.

Table 7.2. Adapted from Fletcher, Lyon, Fuchs, & Barnes, 2007.

Steps in Implementing the PSW Option

This section outlines the steps and recommended tools to be used when a MET is reviewing all relevant assessment data (which might include previously existing data) and organizing the data into a summary for analysis. It is important for the MET to remember that these steps represent only one element of the SLD determination process. Oakland Schools provides two tools to assist the MET in completing the PSW analysis:

1. *Guidelines for Determining a Strength or a Weakness in a PSW Model* (Table 7.3)
2. *Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD* (Figure 7.4)

Step 1: Use decision rules to characterize assessment results

Using the *Guidelines for Determining Strength or Weakness in a PSW Model,* the MET should characterize the score from each collected data source as falling into either the Expected Performance, At-risk, or Academic Deficit range (An excerpt of Table 7.3 Guidelines for Determining a Strength or Weakness in a PSW Model is below. The complete table can be found at the end of the chapter).

On the GORT, a norm-referenced achievement test, Henry earned an age-based Accuracy score at the 2nd percentile. This meets criteria as a deficit (below the 9th percentile).

Guidelines for Determining a Strength or a Weakness in a PSW Model

Academic Skills Assessments	Strength based on Expected Performance	Criteria for Determining a Weakness (severe academic deficit)
Norm-Referenced achievement tests (Broad-Band achievement tests considered diagnostic) Examples include WJIII, WIAT-4, KTEA, Key Math, etc.	40th percentile	Weakness is percentile rank at or below the 9th percentile. Scores between the 10th -25th percentile may indicate at-risk status and a need for intervention
Curriculum-Based Measurement (CBM) Benchmark assessments	40th percentile or Meets Benchmark	Weakness is overall performance in the “Deficit” range and at or below the 9th percentile on

Step 2: Transfer the results to the Summary Worksheet

The next step is to transfer the MET's characterization of each data source to the corresponding column and row on the worksheet *Summary of Relevant Data: Using the PSW Option as One Part of the Full and Individual Evaluation for SLD Identification*. It is important to include: the type of assessment (CBM, Norm-referenced, Criterion referenced), name of the test (GORT Accuracy), Criteria for Expected performance (SS=96 or 40th percentile), the student's actual score, and the score's descriptive category (Expected, At-risk, Deficit). See Figure 7.1 for example. The first line of the Worksheet has been completed with this data in the area of Basic Reading Skills.

Transfer the data from each source according to the eight areas of academic performance. There are times when one measure may yield data covering two or more areas of academic performance. For instance, the global score on the Developmental Reading Assessment (DRA) provides data in basic reading skills accuracy, fluency (rate), and comprehension. The MET should place the evidence from each specific measure in the academic skill area where it makes the best logical sense.

Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD							
	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement	Evidence from Classroom Performance Work samples, tests/quizzes, grades, Teacher Reports, classroom intervention, formal observations or rating scales, etc.	Pattern of S & W within / across Academic Skill Areas
		Measure	Target				
Reading Basic Skills	*Norm Ref*	*GORT Accuracy*	*40th %tile*	*2nd %tile*	*Deficit*		

Figure 7.1. Example A - Henry (second grade student)

Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD							
	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement	Evidence from Classroom Performance Work samples, tests/quizzes, grades, Teacher Reports, classroom intervention, formal observations or rating scales, etc.	Pattern of S & W within / across Academic Skill Areas
		Measure	Target				
Reading Basic Skills	*CBM* *CBM* *Norm Ref* *Norm Ref* *Norm Ref* *CR*	*Nonsense Word fluency (Out of level)* *Phoneme Seg.Fluency (Out of level)* *WJ-III Reading* *GORT Accuracy* *PAT* *Quick Phonics Screening*	*50 sounds (40th%tile)* *35 (end 1st grd.)* *SS 96 (40th %tile)* *40th %tile* *SS 96 (40th %tile)* *2nd grade*	*26* *42* *96 (40th %tile)* *2nd %tile* *85 (16th %tile)* *End 1st grd.*	*Deficit* *Expected* *Expected* *Deficit* *At-risk* *At-risk*	*Ranks in bottom 10% of students in classroom* *Poor progress on reading DRA levels* *Poor generalization from each lesson to learn new skill* *Poor performance in intensive strategy instruction over sustained period*	
Reading Comp							

Figure 7.2. Example A - Henry (second grade student)

Step 3: Consider the Evidence from Classroom Performance

This section of the worksheet provides a quick summary of the most relevant performance data in each skill area addressed in the evaluation plan as a suspected area of weakness or as a suspected area of strength. Data sources should be collected from actual work products, tests or quizzes, teacher reports, overall grades, observation of the match between the student's skills, expectations and performance of peers, and student response to strategy groups or interventions. The MET determines if there is evidence from the classroom that validates or contributes to the PSW analysis. While this information is summarized in reports to the MET, key information should also be included here for team consideration. Specific reports can be referenced for more detailed information. See Figure 7.2 for a summary of Henry's data.

For Henry, classroom teacher assessments (CBM, DRA, and Quick Phonics Screener) and reports (Teacher states that "Henry's reading skills are in the bottom 10% of the classroom. He is struggling to reach higher levels on the DRA, secondary to decoding difficulties, and has poor generalization from mini-lessons or strategy groups to reading in connected text") converge with and validate the results of academic achievement testing.

Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD							
	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement	Evidence from Classroom Performance Work samples, tests/quizzes, grades, Teacher Reports, classroom intervention, formal observations or rating scales, etc.	Pattern of S & W within / across Academic Skill Areas
		Measure	Target				
Reading Basic Skills	CBM CBM Norm Ref Norm Ref Norm Ref CR	Nonsense Word fluency (Out of level) Phoneme Seg.Fluency (Out of level) WJ-III Reading GORT Accuracy PAT Quick Phonics Screening	50 sounds (40th%tile) 35 (end 1st grd.) SS 96 (40th %tile) 40th %tile SS 96 (40th %tile) 2nd grade	26 42 96 (40th %tile) 2nd %tile 85 (16th %tile) End 1st grd.	Deficit Expected Expected Deficit At-risk At-risk	Ranks in bottom 10% of students in classroom Poor progress on reading DRA levels Poor generalization from each lesson to learn new skill Poor performance in intensive strategy instruction over sustained period	Weakness
Reading Comp							

Figure 7.3. Example A - Henry (second grade student)

Step 4: Examine the student's actual achievement and evidence from classroom performance within each academic area

In this step, the MET examines each of the suspected SLD academic skill areas (basic reading, reading fluency, etc.) to determine if there is convergence of data within the academic area (e.g., basic reading) that would indicate the presence of a strength or a weakness. The MET must consider the relative importance (weight) of each piece of data in relation to their knowledge of how skills develop in reading, writing and math. See Figure 7.3 for a summary of Henry's data. The following guidelines assist the MET in thinking about and analyzing the data:

a) When identifying a SLD academic performance area as a weakness (e.g. Basic Reading), at least one measure must be a standardized measure of academic achievement with established reliability and validity (broad band like the WJ III or narrow band CBM like DIBELS or AIMSweb).

b) When examining the data, the reliability and validity of each data source must be considered, as not all data sources should be assigned equal weight in the decision-making process. For example, grades are not as strong a source of evidence (i.e., poor reliability) as a Curriculum-Based Measurement (tools with established reliability and validity).

c) In determining an area of weakness, the MET must consider multiple data sources; these sources must converge, indicating a true area of weakness. For example, if a norm-referenced test, CBM, MEAP, and teacher report data (multiple sources of data including measures with established reliability and validity) are all reported as deficits, then this convergence of data would provide strong evidence that the academic area represents an area of weakness or deficit for the student. If a SLD area meets the deficit criteria for inadequate achievement, that same area would likely be considered a weakness in PSW. If there are mixed results, the team needs to make a judgment if the area is a strength, a weakness or neither.

d) In determining areas of strength, multiple data sources are also required. However, the criteria may be considered less rigorous and may include a wider range of evidence which is not restricted to traditional assessment data. For example, MEAP results and curriculum assessments (tests, projects, teacher reports, and grades) that meet acceptable standards may be considered as providing adequate evidence in identifying areas of strength. Normal development in social, cognitive, language, and adaptive behavior, as well as academic areas not assessed (since no concerns in these areas were expressed), may also be considered as areas of strength. Nonetheless, identification of areas of strength should be defensible with evidence. For instance, evidence of artistic skills are not as defensible as normally developing social skills and adaptive behavior.

From left to right, scores from the GORT-Accuracy, CBM-Nonsense Word Fluency, PAT, QPS and DRA all provide compelling evidence of Henry's difficulty at the basic skills word decoding level, despite the "Expected" performance on PSF, and WJIII Reading. The PSF data suggests that Henry has mastered segmentation skills, but this skill should have been achieved in the beginning of first grade. He has met the benchmark one year behind schedule, and he continues to demonstrate phonological awareness difficulties (segmentation) on the PAT. This information appears to indicate that there have been early signs of difficulty with the phonological component of reading. Given the assessment data, combined with the evidence of impact in the classroom, the MET determines that there is compelling data that the area of basic reading skills is an area of weakness for Henry.

Step 5: Interpret data across eligibility areas

The final step in the PSW process is for the team to interpret the data across eligibility areas and determine if there is a Pattern of Strengths and Weaknesses. These are the key questions that the MET should ask:

- Does the pattern of strengths and weaknesses represent a known pattern for students who demonstrate a SLD? (See Relevant SLD Patterns and Associate Characteristics.)
- Are weaknesses evident in all academic areas, suggesting the presence of an underlying language-based learning disability?
- Are deficits evident in all domains (academic, social, adaptive, intellectual), suggesting the possible presence of cognitive impairment?

Figure 7.4 provides an example of a completed worksheet on Henry and the corresponding narrative explanation.

Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD

	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement	Evidence from Classroom Performance Work samples, tests/quizzes, grades, Teacher Reports, classroom intervention, formal observations or rating scales, etc.	Pattern of S & W within / across Academic Skill Areas
		Measure	Target				
Reading Basic Skills	CBM CBM Norm Ref Norm Ref Norm Ref CR	Nonsense Word fluency (Out of level) Phoneme Seg.Fluency (Out of level) WJ-III Reading GORT Accuracy PAT Quick Phonics Screening	50 sounds (40th %tile) 35 (end 1st grd.) SS 96 (40th %tile) 40th %tile SS 96 (40th %tile) 2nd grade	26 42 96 (40th %tile) 2nd %tile 85 (16th %tile) End 1st grd.	Deficit Expected Expected Deficit At-risk At-risk	Ranks in bottom 10% of students in classroom Poor progress on reading DRA levels Poor generalization from each lesson to learn new skill Poor performance in intensive strategy instruction over sustained period	Weakness
Reading Comp	Norm Ref Norm Ref CR	WJ-III Reading Comp GORT Comp DRA	SS 96 (40th %tile) 40th %tile 20 (independent)	88 (21st %tile) 37th %tile 6 (independ.)	At-risk Expected At-risk	Comprehension of grade level materials delayed (DRA)	Neither
Reading Fluency	Norm Ref CBM	GORT Rate ORF (Fall 2nd grade)	SS 96 (40th %tile) 44 CWPM	70 (2nd %tile) 16 CWPM	Deficit Deficit	Slow completing reading assignments Poor reading progress despite specific strategy instruction	Weakness
Written Expression	Norm Ref	WJ-III Writing	SS 96 (40th %tile)	108 (70th %tile)	Expected	Meeting acceptable standards	Strength
Math Calculation	Norm Ref	WJ-III Cal	SS 96 (40th %tile)	111 (77th %tile)	Expected	Meeting acceptable standards.	Strength
Math Prob-Solving					Not Assessed	No parent or teacher concerns	Strength
Listening Comprehension					Not Assessed	No parent or teacher concerns	Strength
Oral Expression					Not Assessed	No parent or teacher concerns	Strength
Student Name: Henry Cabrera Grade: Second Date: 11/11/10		Date of Birth:	☒ Yes ☐ No Evidence of normal development in Social, Language, Intellectual Development, and Adaptive domains				Strength
			Optional I☒ Yes ☐ No ☐ Not Assessed Specify evidence of cognitive processing difficulties and the hypothesized link to related academic skills. WJ STM 12th %tile - may impact the acquisition of basic reading skills and reading comprehension.				Weakness

Integrity Checklist for Establishing a Pattern of Strengths and Weaknesses

☒ Yes ☐ No When identifying weaknesses, at least one measure must be a standardized academic achievement test (broad band or narrow band) with established reliability and validity.
☒ Yes ☐ No There is convergence of evidence (multiple data points) indicating that the academic skill area is an area of weakness.
☒ Yes ☐ No The PSW generally aligns with a SLD pattern identified by research (see Relevant SLD Patterns and Associated Characteristics chart).
☐ Yes ☒ No Is there a pattern of Performance Deficits, but related academic skill strengths? If yes, student does not meet criteria for SLD. Consider other possible eligibility areas.

Figure 7.4. Example A - Henry (second grade student)

Example A: Henry, Second Grade - Strong Level of Evidence

Data reflects multiple valid and reliable standardized measures with convergence of additional data sources, and supported by strong performance evidence including teacher reports and student work samples.

Henry, a 2nd grade student, demonstrates deficits in decoding novel words. His basic reading skills difficulty is demonstrated when asked to read texts with a high degree of accuracy. Henry sacrifices reading rate when he attempts to read words accurately. He demonstrates specific deficits in oral reading of connected text on both the GORT and the DIBELS ORF. While Henry's comprehension does not appear to be impacted on standardized tests, his independent DRA hovers at a level 6. On some standardized measures, Henry is able to make connections in text, despite having significant difficulty in decoding, especially if the comprehension questions are read aloud to him and are in a multiple-choice format (GORT vs. DRA). As the text becomes more syntactically complex, it is likely that he will exhibit more difficulty with reading comprehension. The Phonological Awareness Test (PAT) was used as a Criterion Referenced assessment to validate concerns and to assist in instructional planning. On the PAT, Henry demonstrated poor advanced phonics skills and weak phonemic awareness skills, comparable to a mid- first grade student. This was consistent with the Quick Phonics Screener results. Henry demonstrates overall cognitive skills within the normal range. Therefore, he is considered to have strengths in normal cognitive development. Additional cognitive assessment demonstrates mild cognitive processing difficulties in short-term memory. This data provides further support for the identification of Basic Reading Skills and Reading Fluency as areas of weakness for Henry. Henry achieves at or near grade-level expectations in the areas of math and writing. There are no concerns related to Henry's oral expression or listening comprehension skills, which are considered strengths. Henry's pattern of strengths and weaknesses represents a known SLD pattern (difficulties at the word level with strengths in other academic areas and no overall language deficits).

NOTE: This information provides an example of the evidence required to satisfy the components of inadequate achievement and a pattern of strengths and weaknesses (PSW), however, it is not sufficient to satisfy all the elements of the SLD eligibility determination.

Summary of Relevant Data: Using the PSW Option within a Full and Individual Evaluation for SLD							
	Type of Tool	Expected Achievement Skills		Actual Achievement	Meets Deficit Criteria for Inadequate Achievement	Evidence from Classroom Performance Work samples, tests/quizzes, grades, Teacher Reports, classroom intervention, formal observations or rating scales, etc.	Pattern of S & W within / across Academic Skill Areas
		Measure	Target				
Reading Basic Skills	*CR*	*Quick Phonics Screening*	*3rd grade*	*2nd grade*	*At-risk*	*Teacher reports difficulty with advanced decoding*	*Weakness*
Reading Comp	*CR* *CR*	*DRA* *MEAP Reading*	*34-38* *1 or 2*	*28 (independ.)* *2*	*At-risk* *Expected*	*Teacher indicates student is placed in lowest reading group.* *Poor grades ("D") in Eng. Lang. Arts* *Struggles with Homework*	*Neither*
Reading Fluency	*CBM*	*ORF third grade*	*110 CWPM*	*90 CWPM*	*At-Risk*	*Engaged and attentive*	*Neither*
Written Expression					*Not Assessed*	*Meeting acceptable standards*	*Strength*
Math Calculation					*Not Assessed*	*Meeting acceptable standards.*	*Strength*
Math Prob-Solving					*Not Assessed*	*No parent or teacher concerns*	*Strength*
Listening Comprehension					*Not Assessed*	*No parent or teacher concerns*	*Strength*
Oral Expression					*Not Assessed*	*No parent or teacher concerns*	*Strength*
Student Name: *Joshua Garon* Date of Birth: Grade: *Third* Date: *5/10/10*			☒ Yes ☐ No Evidence of normal development in Social, Language, Intellectual Development, and Adaptive domains				*Strength*
			Optional ☒ Yes ☐ No ☐ Not Assessed Specify evidence of cognitive processing difficulties and the hypothesized link to related academic skills. *WISC-IV scores all in average range.*				*Strengths*

Integrity Checklist for Establishing a Pattern of Strengths and Weaknesses
☐ Yes ☒ No When identifying weaknesses, at least one measure must be a standardized academic achievement test (broad band or narrow band) with established reliability and validity.
☒ Yes ☐ No There is convergence of evidence (multiple data points) indicating that the academic skill area is an area of weakness.
☒ Yes ☐ No The PSW generally aligns with a SLD pattern identified by research (see Relevant SLD Patterns and Associated Characteristics chart).
☐ Yes ☒ No Is there a pattern of Performance Deficits, but related academic skills are strengths? If yes, student does not meet criteria for SLD. Consider other possible eligibility areas.

Figure 7.5. Example B - Joshua (third grade student)

Example B: Joshua, Third grade - Less Compelling Evidence

Joshua, a 3rd grade student, achieved a DIBELS ORF score of 90 wcpm (at the 25th percentile) on a benchmark assessment, which falls in the strategic range (end of year benchmark of 110 wcpm). The Quick Phonics Screener indicates difficulty with some vowel digraphs and diphthongs. Based on an interview with the classroom teacher, Joshua has difficulty with advanced decoding and passing DRA levels expected for his grade (independent at 28) and is in the lowest reading group. During instruction, he has been observed to be attentive and engaged, but his grades are in the "D" range. Joshua passed the MEAP Reading with a 2. Joshua's parents report that he struggles with homework at home. Both his teacher and his parents report no concerns in the areas of writing and math. Overall WISC-IV scores are in the average range.

NOTE: This information is not enough to satisfy all the elements of the SLD eligibility criteria, but represents an example of a student struggling in reading who may not have a SLD. There is a pattern of relatively weak performance in reading and strengths in writing, math and general intellectual development, but academic achievement data is of insufficient severity to meet the criteria for inadequate achievement. Consequently, the student may not be found eligible with a SLD.

Eligibility Guide

PSW is one component of a SLD eligibility determination. Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all the components of SLD eligibility determination.

Guidelines for Determining a Strength or a Weakness in a PSW Model		
Academic Skills Assessments	**Strength based on Expected Performance**	**Criteria for Determining a Weakness (severe academic deficit)**
Norm-Referenced achievement tests (Broad-Band achievement tests considered diagnostic) Examples include WJIII, WIAT-4, KTEA, Key Math, etc.	40th percentile	Weakness is percentile rank at or below the 9th percentile. Scores between the 10th-25th percentile may indicate at-risk status and a need for intervention
Curriculum-Based Measurement (CBM) Benchmark assessments (Narrow-Band achievement tests used for grade-level screening) Examples include DIBELS, AIMSWeb)	40th percentile or Meets Benchmark Standard	Weakness is overall performance in the "Deficit" range and at or below the 9th percentile on grade-level assessments and materials. Scores falling in the at-risk range or between the 10th-25th percentile indicate a need for intervention
Curriculum-Based Measurement (CBM) - Progress Monitoring (Narrow-Band achievement tests used for progress monitoring) Examples include DIBELS, AIMSWeb)	Performance at or above the Aimline when working toward a current grade-level benchmark goal	A minimum of 6 data points are required for a baseline to establish a data trend Weakness is performance at or below the 9th percentile on grade-level materials (local or national norms)
Criterion Referenced Measurement (CRM)-(considered diagnostic) There are at least three types of CRMs to consider, each within their own predetermined grade-level criteria: • CRM's constructed by teachers • Published CRM's (i.e., QRI) with grade-level standards • District or State Assessments (i.e., MEAP)	Meets current grade level expectation MEAP Level 1 or 2	Weakness is performance at least 1.5-2.0 grade levels below grade placement or meeting less than 50% of grade level criteria MEAP Level 3 or 4
Additional Evidence from Classroom Performance		
Curriculum assessments, work samples, tests/quizzes, etc.	Meets current grade-level expectation (70-100%)	Less than 50% completion of grade-level criteria
Grades	A/B range	D/E range; "does not meet expectations" for primary grades
Teacher Report	Meets current grade-level expectation	Professional judgment of the teacher comparing the student to classroom performance. Class rank at or below the 9th percentile
Observations Examples include BOSS, Instructional Variables Worksheets	Meets current grade-level expectation	Professional judgment comparing the student to peer classroom performance. Poor academic performance in comparison to classroom peers (at or below the 9th percentile)
Developmental interviews, rating scales Examples include Vineland Adaptive Behavior Scales, Adaptive Behavior Evaluation Scale-2	Meets current age-level or grade-level expectation	Poor academic performance in comparison to classroom peers (at or below the 9th percentile)
Cognitive Processing Assessments & Language Assessments		
Norm-Referenced standardized cognitive processing assessments (not full scale IQ) Norm-Referenced language processing assessments	At or above 25th percentile	Statistically significant and normative significance (standard scores at or below 85) Relationship between cognitive processing and academic skill areas are identified
NOTE: For norm-referenced assessments, be sure to consider the standard error of measurement when determining an academic deficit. Neither achievement data nor cognitive processing results should be applied with rigid rules to determine eligibility.		

Table 7.3. Guidelines for Determining a Strength or a Weakness in a PSW Model.

Bibliography

Berninger, V. (2004). Understanding the "graphia" in developmental dysgraphia: A developmental neuropsychological perspective for disorders in producing written language. In D. Dewey, & Tupper, D., *Developmental motor disorders: A Neuropsychological perspective* (pp. 328-350). New York: Guilford Press.

Fletcher, J. M., Lyon, G. R., Fuchs, L. S., & Barnes, M. A. (2007). *Learning disabilities: From identification to practice.* New York: Guilford Press.

Gersten, R., Jordan, N., & Flojo, J. (2005). Early identification and intervention for students with mathematical difficulties. *Journal of Learning Disabilities, 38,* 293-304.

Graham, S., & Harris, K. (2005). *Writing better: Effective strategies for teaching students with learning difficulties.* Baltimore, MD: Brookline Books.

Michigan Department of Education. (2010). *Michigan criteria for determining the existence of a specific learning disability.* Lansing, Michigan: Office of Special Education and Early Intervening Services.

Michigan Department of Education. (2009). *Michigan administrative rules for Special Education supplemented with IDEA federal regulations.* Lansing, Michigan: Office of Special Education and Early Intervention Services.

U.S. Department of Education. (2004). *Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446 § 1400 et seq.*

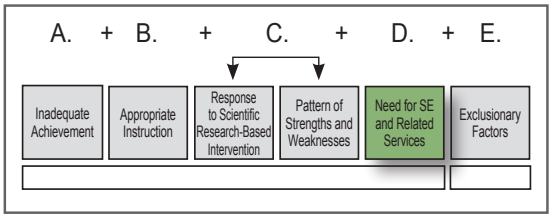
U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

Chapter

8 Need for Special Education and Related Services

Key Question

- *How does the MET determine that a student's educational need rises to the level of a need for special education?*



Introduction

Throughout the course of the evaluation process, data concerning the instructional needs of the student are identified and analyzed. If the Multidisciplinary Evaluation Team (MET) determines the student meets all eligibility requirements for SLD, the next step is to determine whether the child needs special education and related services (see § 300.8 in sidebar). This is referred to as the two-pronged approach (i.e., meets eligibility requirements + need = special education).

The MET must determine if the student's needs extend beyond the resources and supports provided in the general education setting. The MET must demonstrate that the student's instructional needs (delivery and methods, materials or content) are significantly different than general education peers, and that the student requires instruction of an intensity or type that cannot reasonably be provided or sustained in general education.

Students who have a disability and require special education services need specially designed instruction that assures access to and progress in the general education curriculum. Specially designed instruction means adapting, as appropriate, the content, methodology, or delivery of instruction (see § 300.39 (b)(3) in sidebar).

§ 300.8 Child with a disability.

(a) General. (1) Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

...continued on next page

§ 300.8 Child with a disability (continued)

(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in § 300.111(b), include a child—

(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(2) Who, by reason thereof, needs special education and related services.

§ 300.39 Special Education

(b)(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

Dimensions Considered by the MET

During the evaluation process, the MET outlines and describes the educational needs of the student. Two specific dimensions that should be investigated during the evaluation include the severity of the problem and the instructional needs.

1. Severity of the learning problem

- Does the learning problem impact performance in the general education classroom and curriculum?
- Is the learning problem of sufficient severity to warrant special education services?

The MET needs to consider two factors when determining whether a student should be eligible to receive special education services: a) the severity of the learning problem as measured by the gap between the expected standard and the actual student performance and b) how rare or uncommon the academic deficit is. For example, if 30% of the students in the grade level have the same learning problems, the student may have a shared academic deficit resulting from lack of appropriate instruction rather than a disability.

2. Instructional Needs

- Can the instruction required for the student to progress in the general curriculum be sustained within general education or are the student's instructional needs significantly different from general education peers?

The MET also needs to consider the type of instruction the student requires to access general education and close the gap between expected and actual student performance. Dimensions of student instructional needs include:

a. Intensity of instruction
b. Size of group (individualized or small group)
c. Amount of time needed weekly for intervention
d. Student need for individual feedback, modeling, and scaffolded instruction during practice

Eligibility Guide

The need for special education and related services is one component of a SLD eligibility determination. Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all the components of SLD eligibility determination.

Bibliography

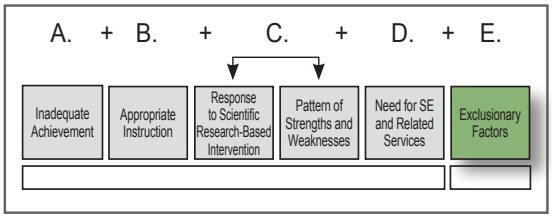
U.S. Department of Education. (2006). Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.

Chapter

9 Exclusionary Factors

Key Questions

- *What are the exclusionary factors the Multidisciplinary Evaluation Team (MET) must consider in determining the primary cause of the student's inadequate achievement?*
- *What are the special considerations for students with limited English proficiency?*



R. 340.1713 (1) Rule 13.

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of cognitive impairment, of emotional impairment, of autism spectrum disorder, or of environmental, cultural or economic disadvantage.

Introduction

It is a primary job of the Multidisciplinary Evaluation Team (MET) to rule out all factors other than the presence of a specific learning disability (SLD) as the primary cause of the student's inadequate achievement (see R.340.1713 in sidebar). Exclusionary causes are important to consider as they are known causes of inadequate achievement in students. For SLD identification, this has been a cornerstone of the evaluation process since its inception. The MET must not only determine which factors are contributing to inadequate student achievement, but also determine which factor is most limiting access to and progress in the general education curriculum. The issue is one of determining the "primary cause" for the inadequate achievement. If any of the exclusionary factors are determined to be the primary cause of the student's difficulty, then SLD is not an appropriate eligibility determination. The MET must also realize that a student to whom one of these exclusionary factors applies might still be appropriately determined to be eligible as a student with a SLD, if the exclusionary factor in question is not the primary cause of the student's inadequate achievement. The MET must never arrive at an eligibility decision for SLD without considering the contribution of each of the exclusionary factors relevant to the target student.

In order to address if the factor considered is the primary causal factor, the MET should consider the following guiding questions (*Wayne County Committee for Specific Learning Disabilities, 2009*):

- When considering the impact of another handicapping condition; if the challenges presented by the other handicapping conditions are addressed, would the student's academic skills improve?
- When considering the impact of culture, are the presenting concerns regarding student performance attributable to differences in heritage, values, or behaviors, or are they indicators of a persistent learning deficit?

- When considering the influence of environmental or economic disadvantages; what does the school do to create access to learning opportunities for students from poverty? Is this a learning concern that may be addressed through general education at-risk programming or exposure, or is this an educationally-handicapping condition that requires special education?
- When considering language differences; are the student's learning problems explained by language acquisition factors rather than a true disability present from early on and in the primary language?

Steps that Can Assist Teams in Considering the Influence of Exclusionary Factors

The following section reviews each factor that must be ruled out as a primary cause of the student's inadequate achievement or learning problems.

Visual, Hearing, or Motor Disability

The evaluation report must include data that rules out these factors as the primary cause of the inadequate achievement. This may include district screening results, teacher and parent input, and/or evaluation by a family physician, ophthalmologist, optometrist, audiologist, otolaryngologist, neurologist, occupational therapist, physical therapist or other evaluation staff. Visual, hearing, or motor disabilities may co-exist with SLD and must be addressed in the instructional plan, if they are present.

Mental Retardation (Cognitive Impairment)

The evaluation report must include data that allows the IEP Team to determine whether a cognitive impairment is the primary cause of the inadequate achievement. This can be accomplished in two ways: gathering information contraindicative of a cognitive impairment, or administering a formal assessment. In the course of a SLD evaluation, the MET would review any previous data, including previous records, rate of learning in general education, teacher/parent input, and interviews about social and adaptive behavior, in order to provide evidence of the student's overall cognitive development. If data are unclear or a cognitive impairment is suspected, the MET should conduct formal cognitive and adaptive behavior assessments along with academic skills assessments to complete an evaluation for a cognitive impairment. Results of these assessments allow the MET to determine whether cognitive impairment is the primary cause of the student's inadequate achievement.

Emotional Disturbance

The evaluation report must include data that would allow the IEP Team to determine whether an emotional impairment is the primary cause of the student's inadequate achievement. This can be accomplished by reviewing previous records, teacher/parent interviews, and other data that would contraindicate an emotional impairment. If an emotional impairment is suspected, the MET should complete an evaluation for an emotional impairment in order to determine whether an emotional impairment is the primary cause of the student's inadequate achievement.

Autism Spectrum Disorder

The evaluation report must include data that would allow the MET to determine whether an Autism Spectrum Disorder (ASD) is the primary cause of the inadequate achievement. This could be accomplished by reviewing previous records, social and communication development, teacher/parent input, and other data to rule out ASD, or by completing an evaluation for an ASD to determine whether an ASD is the primary cause of the student's inadequate achievement.

Cultural, Environmental or Economic Disadvantage

The evaluation report must rule out certain other factors as being the primary determinants of the inadequate achievement in question, such as:

- Poor school attendance or frequent school changes causing lack of appropriate instruction due to inconsistent instruction or gaps in learning
- Family stressors, including pressures from family situations or poverty, which may interfere with learning
- Factors related to different cultural or ethnic backgrounds, which may interfere with learning.

If any of the factors above are determined to be the primary cause of the student's inadequate achievement, then a SLD certification is inappropriate. This determination should be based on parent input along with student interviews and observations. Review of the curriculum and instructional delivery are needed to assess whether instruction is "culturally responsive", an important element of appropriate instruction. A review of Adequate Yearly Progress (AYP) data for individual schools and districts may also be beneficial when addressing the potential effects of cultural factors. For example, the disaggregated data might indicate that most students of a particular cultural or ethnic group are achieving at acceptable levels in response to the

Exclusionary Factors		
Domain	**Screening**	**In Depth**
Vision or Hearing	School or heath screening	Physician's evaluation
Motor Difficulty	Teacher /Physical education Observations	Medical evaluation
Cognitive Impairment	Rate of learning in language, social, adaptive, etc.	Intellectual development assessment, adaptive behavior assessment
Emotional Disturbance	Teacher observations, ratings, parental input, presence of maladaptive behavior	Psychologist and School Social Worker observations, interviews with parents, teachers, etc.
Autism Spectrum Disorder	Teacher observations, ratings, parental input	Multidisciplinary ASD evaluation
Cultural Factors	Individual performance relative to disaggregated performance data for the child's cultural group	Parent interviews, family history
Environmental or Economic Disadvantage	Individual performance relative to disaggregated performance data for the child's sub-group	Parent interviews, family history
Limited English Proficiency	English Language Proficiency Assessment (ELPA) results, Oral language samples, Written language samples, State assessment results, Local district-wide assessment results, Progress monitoring data for response to English language instruction and classroom academic instruction (i.e.: CBM or CBA)	Home Language Survey, Formal Schooling Inventory, parent interview, teacher interview, classroom observations, bilingual language assessment (speaking, listening, reading, writing), specific indicators documented in district Title III Program Evaluation Report or Title III Handbook, single case design study of response to instruction

Table 9.1. Summary of strategies to use when considering exclusionary factors.

instruction they are receiving. If a particular student is receiving the same instruction in a similar learning environment and not achieving, a determination that the inadequate achievement is not due to cultural factors might be made.

Limited English Proficiency (LEP)

The evaluation report must include data that would allow the MET to determine whether limited English proficiency is the primary cause of the inadequate achievement. If LEP is determined to be the primary cause of the English language learner's (ELL) learning difficulties, special education certification is inappropriate. If LEP is determined not to be the primary cause of the ELL's learning difficulties, a designation of disability may be appropriate if all of the inclusionary criteria for a SLD are met (see the Special Considerations for Students with Limited English Proficiency section that follows for further information).

Testing is not the only or primary strategy used to rule out the required exclusionary factors. In fact, interviews, record reviews and observations are used quite effectively to address a variety of exclusionary factors. The MET is advised to consider both screening and in-depth strategies (see Table 9.1 for further examples).

Special Considerations for Students with Limited English Proficiency

In addition to ruling out limited English proficiency as a primary cause of the student's inadequate achievement when making a determination of a SLD (R.340.1713), the MET also must ensure that limited English proficiency is not a determinant factor for any special education eligibility decision (see § 300.306 in sidebar).

Definition

According to the ESEA, "Limited English Proficient" describes students who are in the process of acquiring the English language. In Michigan, LEP students are referred to as English language learners (ELLs). An ELL is a student age 3-21, who is enrolled (or about to enroll) in a U.S. elementary or secondary school and meets both of the following criteria:

1. Belongs to one of the following categories:
   - Was not born in the United States, or whose native language is a language other than English and who comes from an environment where a language other than English is dominant;
   - Is a Native American, Alaska Native, or native resident of outlying areas and comes from an environment where a language other than English has had a significant impact in the individual's level of English language proficiency; or
   - Is migratory, speaks a native language other than English, and comes from an environment where a language other than English is dominant.

2. May be unable (because of difficulties in speaking, reading, writing, or understanding the English language) to:
   - Score at the proficient level on state assessments of academic achievement; and/or
   - Learn successfully in classrooms that have language of instruction in English; and/or
   - Participate fully in society.

In Michigan, the listening, speaking, reading, and writing skills of students who meet ELL criteria and are eligible for Title III/ESL services are described according to five levels of English language proficiency. These descriptions are found in the document Michigan English Language Proficiency Standards for K-12 Schools: MI-ELPS 4/04 (see Table 9.3). Proficiency levels are assigned based on an ELL's performance on the English Language Proficiency Assessment (ELPA) Initial Screener or English Language Proficiency Assessment (ELPA), and performance on multiple indicators designated by a local school district and documented in the district's Title III Program Evaluation Report or Title III Handbook.

For ELLs attending English-speaking schools, second language acquisition is a lengthy, developmental process, whereby students acquire English listening, speaking, reading, and writing skills at the same time they are learning classroom academic content. Appropriate instruction should focus on both teaching the English language and providing access to and participation in all content area instruction at the ELL's grade level (Office of Civil Rights, Title VI: Lau v. Nichols). The English Language Proficiency Standards provide a guide for classroom teachers to understand the language level and skills of ELLs in their class and help teachers adjust the content area language to accommodate the ELL's instructional level(s). General guidelines for instruction in English Language Arts are:

- For ELLs at Proficiency levels 1 and 2, the English Language Proficiency Standards generally serve as the content expectations for English language instruction. Michigan English Language Arts Grade-Level Content Expectations (or Common Core Standards) are incorporated whenever possible.
- For ELLs at Proficiency levels 3 and 4, both the English Language Proficiency Standards and the Michigan English Language Arts Grade-Level Content Expectations (or Common Core Standards) serve as the content expectations for English Language instruction.
- For ELLs at Proficiency level 5, the Michigan English Language Arts Grade-Level Content Expectations (or Common Core Standards) serve as the content expectations for English Language Arts instruction.

Limited English Proficiency Key Decision Points

ELLs learn language differently than their English-speaking peers who have been learning only English throughout their entire lives. This difference does not constitute a disability. However, just as educationally-handicapping disabilities occur in students with English as their primary language, an ELL may also have a disability that causes delays in addition to learning English as a second language.

During any assessment of an ELL, the MET must consider the child's cultural and language differences. Assessment tools must be non-discriminatory with respect to race and culture (see § 300.304 in sidebar). If the MET is attempting to determine the ELL's proficiency in the primary language, assessments must be administered in the ELL's primary language, or in a form that best estimates the child's abilities (see *Second Language Acquisition Characteristics and Implications for SLD Evaluation* at the end of this chapter for a description of methodological considerations for ELLs).

If LEP is determined to be the primary cause of the ELL's learning difficulties (i.e., LEP "ruled in"), disability designation is inappropriate. If LEP is determined not to be the primary cause of the ELL's learning difficulties (i.e., LEP "ruled out"), disability designation may be appropriate if all of the inclusionary criteria for SLD are met. In order to determine whether limited English proficiency is the primary cause of an ELL's inadequate achievement or whether a true disability is the primary cause, the MET should consider the following questions (see Table 9.2):

Eligibility Guide

The exclusionary factors are one component of a SLD eligibility determination. Please see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making* in *Chapter 10: Determining Eligibility* for a guide to be used by the MET when considering all the components of SLD eligibility determination.

§ 300.306 Determination of eligibility

(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—

(1) If the determinant factor for that determination is—

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency;

§ 300.304 Evaluation procedures

(c) Other evaluation procedures. Each public agency must ensure that—

(1) Assessments and other evaluation materials used to assess a child under this part—

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

Question	Tool or Data Source	Evidence of Inadequate Achievement Supporting SLD Eligibility *(LEP Ruled Out- difficulty accessing or learning English is not the primary cause of Inadequate Achievement)*	Evidence of Inadequate Achievement Not Supporting SLD *(LEP Ruled In- difficulty accessing or learning English is the primary cause of Inadequate Achievement)*
What is the ELL's primary language? What language is spoken at home? By whom and to whom?	MDE Home Language Survey* Parent Interview Form*	The student's primary language is English. Student has a history of difficulty learning the primary language (speaking, listening, reading, or writing) compared to siblings or peers, even before English was introduced.	Student has no history of difficulty learning his primary language (compared to siblings or peers).
What is the ELL's proficiency in the primary language (consider speaking, listening, reading and writing)? Have cognitive academic language proficienty (CALP) in the primary language been established?	Parent Interview Form* Oral Language Samples Written Language Samples Bilingual language assessment (speaking, listening, reading, writing)	Student participated in schooling in primary language and struggled, even before English was introduced. CALP in the primary language has not been established as a result of difficulties with schooling in the primary language.	Student participated in schooling in primary language and did not struggle. CALP is established in the primary language. CALP in the primary language has not been established because the student did not participate in schooling in the primary language.
What is the ELL's schooling history? Has any education taken place in the primary language? How formal and consistent has this schooling been?	Parent Interview Form* Formal Schooling Inventory*	Student participated in schooling in primary language, and struggled even before English was introduced. Although schooling was consistent in the primary language, CALP in the primary language has not been established as a result of learning difficulties in the primary language.	Student participated in schooling in primary language and did not struggle. CALP is established in the primary language. CALP in the primary language has not been established because the student did not participate in schooling in the primary language, or because schooling was inconsistent.
What is the ELL's level of English proficiency (consider speaking, listening, reading and writing)?	ELPA Results Oral Language Samples Written Language Samples Classroom Observations Bilingual language assessment (speaking, listening, reading, writing)	Student's English proficiency is judged to be Proficient (level 5). Student's English proficiency falls in levels 1-4, however English proficiency is not the primary cause of inadequate achievement. Student is showing negative growth or plateauing of proficiency levels over time on the ELPA.	Student's English proficiency falls in levels 1-4, and appears to the primary cause of inadequate achievement. Student is showing positive growth in proficiency levels over time on the ELPA.
What has been the extent of primary language "language loss" experienced while learning English as a second language?	Parent Interview Form*	"Language loss" is occurring at an unexpected rate.	"Language loss" is occurring at an expected rate (i.e., as English learning increases and exposure to primary language remains constant or decreases, the student's proficiency with the primary language may decrease temporarily).
Has the ELL been provided with instruction to foster English language learning?	Teacher Interview Classroom Observations	Student has not been provided with instruction to foster English language learning; however student has a history of difficulty learning his primary language (speaking, listening, reading, writing) compared to siblings or peers, even before English was introduced. Student has been provided with instruction to foster English language learning; however the student has a history of difficulty learning his primary language (speaking, listening, reading, writing) compared to siblings or peers, even before English was introduced.	Student has not been provided with instruction to foster English language learning, however there is no history of difficulty learning the primary language. Student has been provided with instruction to foster English language learning, and appears to be learning well.

Table 9.2. Limited English Proficiency Key Decision Points.

Question *(continued)*	Tool or Data Source	Evidence of Inadequate Achievement Supporting SLD Eligibility *(LEP Ruled Out- difficulty accessing or learning English is not the primary cause of Inadequate Achievement)*	Evidence of Inadequate Achievement Not Supporting SLD *(LEP Ruled In- difficulty accessing or learning English is the primary cause of Inadequate Achievement)*
Has the ELL been provided with instruction to foster access to and progress in the classroom academic content?	Teacher Interview Classroom Observations	Student has not been provided with instruction to foster progress in classroom academic content; however student has a history of difficulty learning his primary language (speaking, listening, reading, or writing) compared to siblings or peers even before English was introduced. Student has been provided with instruction to foster progress in classroom academic content; however, the student has a history of difficulty learning his primary language (speaking, listening, reading, or writing) compared to siblings or peers, even before English was introduced.	Student has not been provided with instruction to foster progress in classroom academic content; however there is no history of difficulty learning the primary language. Student has been provided with instruction to foster progress in classroom academic content, and appears to be learning well.
What has the ELL's response been to both English language instruction and classroom academic instruction?	Oral Language Samples Written Language Samples Classroom Observations State Assessment Results and ELPA Results District-wide Assessment Results Progress Monitoring Data Specific Indicators from Title III Program Evaluation Report or Title III Handbook Single Case Design Study	Student has been provided with instruction to foster English language learning and progress in classroom academic content, and his rate of response is below what is expected for students with similar language-learning and schooling backgrounds. For reading, student is making less than 6 months of growth in decoding per grade-level with no acceleration of skills occurring as the student gains English proficiency. Student is not meeting criteria specified in the district's Title III Program Evaluation Report or Title III Handbook.	Student has been provided with instruction to foster English language learning and progress in classroom academic content, and his rate of response is expected for students with similar language-learning and schooling backgrounds. For reading, student is making gains of at least 6 -18 months growth in decoding per grade-level, with acceleration of skills occurring as the student gains English proficiency. Student is meeting criteria specified in the district's Title III Program Evaluation Report or Title III Handbook.
How does the ELL respond when provided with effective instruction, implemented with treatment integrity, for a sufficient length of time?	ELPA Results Classroom Observations Specific Indicators from Title III Program Evaluation Report or Title III Handbook	Student is demonstrating negative growth or plateauing with English Language Proficiency Standards.	Student is demonstrating positive growth with English Language Proficiency Standards.
Is the ELL's response to English instruction and classroom academic instruction similar to or different from the response of the majority of the ELLs with similar language-learning and schooling backgrounds?	Oral Language Samples Written Language Samples Classroom Observations State Assessment Results ELPA Results District-wide Assessment Results Progress Monitoring Data Specific Indicators from Title III Program Evaluation Report or Title III Handbook	Student's response to adequate instruction is very different from the response of other ELLs with similar language-learning and schooling backgrounds. Inadequate achievement is not a result of difficulty accessing or learning the English language.	Student's response to adequate instruction is very similar to the response of other ELLs with similar language-learning and schooling backgrounds. The primary reason for academic delays is related to acquiring English.
*Note: See *Michigan Department of Education Home Language Survey*, *Oakland Schools Formal Schooling Inventory* and *Oakland Schools Parent Interview Form* at www.oakland.k12.mi.us/SLD.			

Table 9.2. Limited English Proficiency Key Decision Points (continued).

Michigan English Language Proficiency Standards for K-12 Schools

Federal NCLB Categories of English Proficiency	Michigan English Proficiency Levels	Description of ELL Students
Basic	1A	**Students with limited formal schooling.** Level 1A includes students whose schooling has been interrupted for a variety of reasons, including war, poverty, or patterns of migration, as well as students coming from remote rural settings with little prior opportunity for sequential schooling. These students may exhibit some of the following characteristics: pre- or semi-literacy in their native language; minimal understanding of the function of literacy; performance significantly below grade level; lack of awareness of the organization and culture of school (TESOL, 1997, p.21). Because these students may need more time to acquire academic background knowledge as they adjust to the school and cultural environment, English language development may also take longer than ELL beginning students at Level 1B. Level 1A students lack sufficient English literacy for meaningful participation in testing, even at the most minimal level. **Recently arrived students (less than 30 days).** These students have not been assessed with the Michigan English Language Proficiency Assessment or other tests used for placement.
Basic	1B	**Beginning (Pre-production and early production).** Students initially have limited or no understanding of English. They rarely use English for communication. They respond non-verbally to simple commands, statements and questions. As their oral comprehension increases, they begin to imitate the verbalization of others by using single words or simple phrases, and begin to use English spontaneously. At this earliest stage, these students start to construct meaning from text with non-print features (e.g., illustrations, graphs, maps, tables). They gradually construct more meaning from the words themselves, but the construction is often incomplete. They are able to generate simple written texts that reflect their knowledge level of syntax. These texts may include a significant amount of non-conventional features, invented spelling, some grammatical inaccuracies, pictorial representations, surface features, and rhetorical features of the native language (i.e., ways of structuring text from native language and culture) (TESOL, 1999, p.20).
Intermediate	2	**Early intermediate (Speech emergent).** Students can comprehend short conversations on simple topics. They rely on familiar structures and utterances. They use repetition, gestures, and other non-verbal cues to sustain conversation. When reading, students at this level can understand basic narrative text and authentic materials. They can use contextual and visual cues to derive meaning from texts that contain unfamiliar words, expressions and structures. They can comprehend passages written in basic sentence patterns, but frequently have to guess at the meaning of more complex materials. They begin to make informed guesses about meaning from context. They can begin to identify the main idea and supporting details of passages. Students can write simple notes, make brief journal entries, and write short reports using basic vocabulary, and common language structures. Frequent errors are characteristic at this level, especially when students try to express thoughts that require more complex language structures (State of Virginia, pp. 4-9).

Table 9.3. An excerpt from the Michigan English Language Proficiency Standards for K-12 Schools (pp. 8-10).

Federal NCLB Categories of English Proficiency	Michigan English Proficiency Levels	Description of ELL Students
Intermediate	3	**Intermediate.** At this level students can understand standard speech delivered in most settings with some repetition and rewording. They can understand the main ideas and relevant details of extended discussions or presentations. They draw on a wide range of language forms, vocabulary, idioms, and structures. They can comprehend many subtle nuances with repetition and/or rephrasing. Students at this level are beginning to detect affective undertones and they understand inferences in spoken language. They can communicate orally in most settings. Students can comprehend the content of many texts independently. They still require support in understanding texts in the academic content areas. They have a high degree of success with factual information in non-technical prose. They can read many literature selections for pleasure. They can separate main ideas from supporting ones. They can use the context of a passage and prior knowledge to increase their comprehension. They can detect the overall tone and intent of the text. Students can write multi-paragraph compositions, journal entries, personal and business letters, and creative passages. They can present their thoughts in an organized manner that is easily understood by the reader. They show good control of English word structure and of the most frequently used grammar structures, but errors are still present. They can express complex ideas and use a wide range of vocabulary, idioms, and structures, including a wide range of verb tenses (Virginia, pp. 11-14).
Intermediate	4	**Transitional Intermediate.** At this level students' language skills are adequate for most day-to-day communication needs. Occasional structural and lexical errors occur. Students may have difficulty using and understanding idioms, figures of speech and words with multiple meanings. They communicate in English in new or unfamiliar settings, but have occasional difficulty with complex structures and abstract academic concepts. Students at this level may read a wide range of texts with considerable fluency and are able to locate and identify the specific facts within the texts. However, they may not understand texts in which the concepts are presented in a de-contextualized manner, the sentence structure is complex, or the vocabulary is abstract. They can read independently, but may have occasional comprehension problems. They produce written text independently for personal and academic purposes. Structures, vocabulary and overall organization approximate the writing of native speakers of English. However, errors may persist in one or more of these domains (listening, speaking, reading, and writing) (TESOL, 1999, p. 21).
Proficient	5	**Monitored (Advanced Proficiency).** Students at this advanced level have demonstrated English proficiency as determined by state assessment instruments (English Language Proficiency Assessment). They are expected to be able to participate fully with their peers in grade-level content area classes. The academic performance of these students is monitored for two years, as required by federal law.

Table 9.3. An excerpt from the Michigan English Language Proficiency Standards for K-12 Schools (pp. 8-10) (continued).

Second Language Acquisition Characteristics and Implications for SLD Evaluation

As students acquire English as a second language, they develop both Basic Interpersonal Communication Skills (BICS) and Cognitive Academic Language Proficiency (CALP) (Cummins, 1984). BICS represents the day-today vocabulary, grammar, and conversational skills that students use to engage in social interactions and meet their basic wants and needs. It is the type of language proficiency typically utilized in social and informal settings to carry on a conversation with another person. BICS is usually attained within the first two to three years of exposure to a second language. CALP represents more advanced, higher-level knowledge of the academic vocabulary, sentence structure, and classroom discourse that enables students to comprehend and express classroom academic knowledge. It is the type of language proficiency required to complete schoolwork and progress in academic situations. CALP develops over a longer period of time and may take from five to seven years or longer for ELL students to master. According to Cummins, in order for ELL students to be successful in U.S. schools, their attainment of CALP in English is paramount.

Educators cannot assume that ELL students who demonstrate mastery of BICS have also mastered CALP. CALP is a complex process that is impacted by previous schooling, age, cultural values, and background experiences. Students who have two to three years of schooling in their primary language may require five to seven years to master CALP in English, while students who have never received schooling in their primary language may take seven to ten years to become proficient. In general, ELL students who have acquired solid literacy skills in their primary language (i.e. primary language CALP) are more likely to master English CALP within the five to seven year mark. Conversely, younger ELL students who have not had an opportunity to fully develop CALP in their primary language generally take longer to develop CALP in English.

Another characteristic of second language acquisition that often occurs for ELL students is a regression of some of the primary language skills. This “language loss” results from either a lack of continued exposure to more complex concepts in the primary language, the introduction of a second language before the primary language is fully developed, or both. When language loss occurs, there may appear to be a lack of proficiency not only in English, but also in the primary language for a period of time. It is important to remember that this language loss is typical during second language acquisition. As ELL students continue to be exposed to their primary language at home, and English at school, they typically overcome this temporary loss and gain proficiency in both languages.

Figure 9.1. Second Language Acquisition Characteristics and Implications for SLD Evaluation.

Bibliography

Common Core Standards. (n.d.). *The standards.* Retrieved from http://corestandards.org/the-standards

Cummins, J. (1984). *Bilingualism and special education: Issues in assessment and pedagogy.* Clevedon, England: Multilingual Matters.

Lau v. Nichols, 414 U.S. 563 (1974).

Michigan Department of Education. (2003, December). *State manual to assist school districts in their work with English Language Learners (Limited English proficient students).* Retrieved from http://www.michigan.gov/documents/Revised_State_Manual_2003_64173_7.pdf

Michigan Department of Education. (2004, April). *Michigan English Language Proficiency Standards for K-12 Schools.* Retrieved from http://www.michigan.gov/documents/English_Lang_153694_7._Proficiency_Standards.pdf

Michigan Department of Education. (2005, December). *Michigan English language arts grade level content expectations.* Retrieved from http://www.michigan.gov/documents/ELAGLCE_140483_7.pdf

Michigan Department of Education. (2005, December). *Michigan mathematics grade level content expectations*. Retrieved from http://www.michigan.gov/documents/MathGLCE_140486_7.pdf

Michigan Department of Education. (2009, November). *English language proficiency assessment.* Retrieved from http://www.michigan.gov/mde/0,1607,7-140-22709_40192---,00.html

Michigan Department of Education. (2009, November). *Michigan Title III program evaluation.* Retrieved from http://www.michigan.gov/mde/0,1607,7-140-6530_30334_40078---,00.html

Michigan Department of Education. (n.d.). *Home language survey.* Retrieved July, 21, 2011, from http://www.michigan.gov/mde/0,1607,7-140-22709_40192---,00.html.

Oakland Schools (2010) *Formal schooling inventory*. Retrieved July 26, 2011, from www.oakland.k12.mi.us/SLD.

Oakland Schools (2010) *Parent interview forms*. Retrieved July 26, 2011, from www.oakland.k12.mi.us/SLD.

U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

Wayne County Committee for Specific Learning Disabilities. (2009). *Guidance for the determination of specific learning disabilities.* Wayne RESA.

Chapter

10 Determining Eligibility

Key Questions

- *What should the Multidisciplinary Evaluation Team (MET) consider when interpreting evaluation data for the purpose of determining if a student is eligible as SLD?*

Introduction

The Specific Learning Disability (SLD) eligibility decision is complex and cannot be reduced to a simple formula. When determining eligibility, the MET relies upon a Full and Individual Evaluation that gathers and integrates multiple sources of data from the curriculum, instruction, environment, and learner domains. The MET should use multiple strategies to gather relevant data (record reviews, interviews, observations, and testing results) and integrate that data without assigning undue weight or emphasis to any single data source (see *Table 10.1 Eligibility Guide: Key Questions in SLD Decision-Making*). At each point in the decision-making process, guidance questions are posed to assist teams in integrating data about the suspected disability.

Documentation for Specific Learning Disability Determination

Prior to the IDEA 2004, there were many assurance statements the MET needed to consider when making a decision about SLD eligibility. These were represented by different checkboxes on a MET form. For instance, there was a checkbox on the MET which stated: "The student has been provided by general education with learning experiences appropriate for his/her age and ability levels." The MET was obligated to discuss each assurance statement at the IEP; however, no further explicit documentation was required. In contrast, the IDEA 2004 requires a statement of the basis or rationale used regarding each of the assurance statements.

§ 300.306 Determination of eligibility.

(a) General. Upon completion of the administration of assessments and other evaluation measures–

(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and

(2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part–

(1) If the determinant factor for that determination is–

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under § 300.8(a).

(c) Procedures for determining eligibility and educational need.

(1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under § 300.8, and the educational needs of the child, each public agency must–

...continued on next page

§ 300.306 Determination of eligibility. (continued)

(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

(ii) Ensure that information obtained from all of these sources is documented and carefully considered.

(2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324.

§ 300.311 Specific documentation for the eligibility determination

(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in § 300.306(a)(2), must contain a statement of—

(1) Whether the child has a specific learning disability;

(2) The basis for making the determination, including an assurance that the determination has been made in accordance with § 300.306(c)(1);

(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

(4) The educationally relevant medical findings, if any;

...continued on next page

Included in the copy of the evaluation report and the documentation of the determination of eligibility that the parent receives at no cost, are:

- Whether the student has a specific learning disability,
- The basis for making that determination (including assurance that the determination draws on a variety of sources of information and that these sources are documented and carefully considered),
- The relevant data from the observation and relationship to academic functioning,
- The relevant medical findings,
- Whether the student demonstrates inadequate achievement,
- Whether the student demonstrates insufficient progress or a pattern of strengths and weaknesses (RtI or PSW options), and
- Whether the inadequate achievement is primarily the result of exclusionary factors.

If the student participates in RtI, there are additional requirements including:

- Documentation of the strategies used and the data collected
- Documentation that the parents were notified about 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, the strategies for increasing the rate of learning, and the parents' right to request an evaluation.

For additional information regarding the documentation requirements for the RtI option, see *Chapter 6: Evaluating Response to Scientific, Research-Based Intervention*.

The Oakland Schools SLD MET form contains a checklist of elements that must be documented, with guidance as to how to represent and reference the elements in the team's written report (see Oakland Schools MET Forms for current documents at http://www.oakland.k12.mi.us/tabid/1116/Default.aspx).

Bibliography

U.S. Department of Education. (2006). *Federal register: 34 CFR parts 300 and 301, Assistance to states for the education of children with disabilities and preschool grants for children with disabilities; Final rule. Vol. 71, No. 156.*

§ 300.311 Specific documentation for the eligibility determination (continued)

(5) Whether—

(i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with § 300.309(a)(1); and

(ii)(A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with § 300.309(a)(2)(i); or

(B) 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 consistent with §300.309(a)(2)(ii);

(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention—

(i) The instructional strategies used and the student-centered data collected; and

(ii) The documentation that the child's parents were notified about—

(A) 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;

(B) Strategies for increasing the child's rate of learning; and

(C) The parents' right to request an evaluation.

(b) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

Eligibility Guide: Key Questions in SLD Decision-Making

The SLD eligibility decision is complex and cannot be reduced to a formula. When determining eligibility, a full and individual evaluation must gather and integrate multiple sources of data from curriculum, instruction, environment and the learner domains in order to begin to understand the complex interaction of variables influencing learning outcomes. The MET should use multiple strategies to gather relevant data (interviews, record reviews, observations and testing results) and integrate that data without assigning undue weight or emphasis to any single data source. For each decision-point, guiding questions are posed to assist the MET in integrating data about the suspected disability.

Progress in General Education		SLD Criterion		Need for Special Education	Exclusionary Factors
Determine Inadequate Achievement The student exhibits inadequate achievement in one or more areas of eligibility § 300.309(a)(1): Oral expression, listening comprehension, written expression, basic reading skills, reading fluency, reading comprehension, mathematics calculation problem solving, mathematics. • Is the student meeting grade level expectations? If not, how large is the educational discrepancy between expected and actual performance? • Per § 300.304(b), are there multiple indicators from a variety of assessment methods (including functional assessments) of inadequate achievement? • Is there convergence of evidence, that is, multiple sources of data pointing to the same area as a weakness? There is evidence that parents were provided with an opportunity for meaningful input into the evaluation process through family history, medical reports, educational history (previous test results, general education testing results, etc.). • Does the evaluation address the concerns and describe the student's performance in general education? • Is there a history of learning or medical problems that present risk factors for a SLD versus other explanations for the inadequate achievement? • What types of learning strategies were implemented and what were the results? • Are there associated disorders that present as risk factors for SLD versus other disability-based explanations for the inadequate achievement? • Are there teacher interviews and input that describes the student's skills and performance under multiple conditions, as well as the type of instruction the student needs for more accelerated progress? • Were the student's performance and behavior observed to determine the conditions that facilitate or inhibit learning?	**Appropriate Instruction** Student has received appropriate instruction. Data documenting instruction and student progress has been reported to the parents at regular intervals § 300.309 (b)(i)(ii) Teacher Qualifications • Are the teachers highly qualified, meeting ESEA standards? Curriculum, Instruction, Assessments The district curriculum is aligned to State standards, with defined scope and sequence • Do curriculum resource materials show adequate coverage of the essential areas of reading and mathematics instruction? • Does the teacher demonstrate explicit and systematic instruction meeting ESEA standards? • Does instructional delivery meet the needs of diverse learners (time, grouping, content, materials, and delivery)? • Is assessment used for multiple purposes? Effectiveness • Are at least 80% of students meeting state or district standards based on state, district, or universal screening assessments? Student Participation • Has the student attended 85% of the school days scheduled? • Is there a pervasive history of attendance difficulties, frequent school changes, or interruptions in school attendance?	**RtI Option*** Inadequate response to scientific, research-based intervention as evidence of unexpected underachievement. • Have the parents been informed about the rate of student learning, the right of further evaluation, and district policies regarding decision rules for special education eligibility? • Are the interventions provided scientifically based? • Are intervention goals measurable, explicit, and planned to accelerate student learning? • Has progress monitoring data been collected on a regular schedule using valid and reliable tools? • Has the district established decision rules for making adjustments to instruction / intervention? • Has progress monitoring data been graphed and visually displayed for ease of analysis? • Is there evidence that multiple rounds of supplemental and differentiated instruction have been provided? • Is there evidence that interventions have been differentiated and adjusted to meet student needs, including providing more intensive intervention if and when the data indicated it was needed? • Has the student's ROI (Rate of Improvement) been calculated and compared to expected rates of progress?	**Pattern of Strengths and Weaknesses Option*** Is there a pattern of strengths and weaknesses that makes sense given the common manifestations of SLD? § 300.309 (a)(2) • Is there evidence of strength (normal development) in the social, language, cognitive or adaptive domains? • Are academic weaknesses validated by multiple measures and data points? • Does the student have specific academic skill deficits that are logically connected? • Are all skills (academic, behavioral, developmental) equally low suggesting more generalized learning problems and not a SLD? • Are there significant deficits in all academic areas, suggesting the presence of a pervasive language-based learning disability consistent with the most common subtype of SLD?	**Need for Special Education and Related Services** The suspected disability interferes with access to and progress in general education to the degree that the student requires special education programs/services. • Can the interventions required for the student to progress in the general curriculum be sustained without special education supports and services? • Is the weakness of sufficient severity to warrant special education services? • Does the student need specialized instruction in order to progress? • Does the student need only academic accommodations? (If yes, and suspect a disability as that term is defined under Section 504, convene a 504 team meeting to address potential 504 eligibility) • Do the skill deficits impact performance in the general education classroom and curriculum? • Do the skill deficits necessitate modifications of general curriculum standards to enable participation in one or more general education curricular areas?	**Exclusionary Factors** Per R340.1713 are there other conditions or factors that are the primary causes of the student's inadequate achievement? • Factors such as cultural, environmental, economic disadvantage or Limited English Proficiency that are the primary reason for the low achievement? • Visual, hearing, motor disabilities, cognitive impairment (including assessment of adaptive skills), emotional impairment, or ASD that are the primary cause of the low achievement?
☐ Supports eligibility	☐ Supports eligibility	☐ Supports eligibility	☐ Supports eligibility	☐ Supports eligibility	☐ Supports eligibility
☐ Does not support eligibility	☐ Does not support eligibility	☐ Does not support eligibility	☐ Does not support eligibility	☐ Does not support eligibility	☐ Does not support eligibility

*Preferred, but not required, if choosing a PSW as your SLD indicator. Many schools and districts are in the process of implementing RtI practices and multi-tiered interventions are at various levels of implementation and fidelity, especially in the area of reading. Whether RtI is your SLD indicator or not, a student's history of and response to a supplemental instruction is a critically important variable to consider. As schools move toward full RtI implementation, analysis of data of student response to supplemental interventions will become a more prominent part of your decision-making process.

Table 10.1. Eligibility Guide: Key Questions in SLD Decision-Making

For information on Specific Learning Disabilities (SLD), visit:
www.oakland.k12.mi.us/sld

To request a printed copy, email Oakland Schools Production Printing & Graphics for pricing information:
printing@oakland.k12.mi.us

OaklandSchools

Learning today. Transforming tomorrow.

Special Education
2111 Pontiac Lake Road
Waterford, MI 48328-2736
248.209.2314
www.oakland.k12.mi.us