



**SLD Eligibility Manual**  
Ionia County Intermediate School District

November 2009

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## BACKGROUND AND LAW

Recent changes in federal special education rules and regulations indicate that states may consider the use of a Response to Intervention (RtI) model for identifying students with specific learning disabilities as an alternative to the discrepancy model. Language from IDEA-2004, §300.307, states, in part:

- (a) A State must adopt...criteria for determining whether a child has a specific learning disability...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 a child has a specific learning disability...*
- (2) Must permit the use of a process based on the child's response to scientific, research-based intervention...*

In September, 2008, Michigan finalized rules to address the requirement that states adopt criteria for determining whether a child has a specific learning disability. Language mirrors federal language in §300.308(b)(10):

- R 340.1713 Specific learning disability defined; determination.*
- Rule 13. (1) "Specific learning disability" means a disorder in 1 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. 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.*
- (2) In determining whether a student has a learning disability, the state shall:*
- (a) Not require the use of a severe discrepancy between intellectual ability and achievement*
  - (b) Permit the use of a process based on the child's response to scientific, research-based intervention.*
  - (c) Permit the use of other alternative research-based procedures.*

R 340.1713 also adds the following language that mirrors federal language in §300.309:

- (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.*

In a letter of clarification to the field, dated January 22, 2009, Dr. Jacquelyn Thompson, Michigan Director of the Office of Special Education and Early Intervention Services, indicates three processes that may be used by the field in the evaluation of Specific Learning Disabilities. The three processes are:

- 1) **Consideration of a severe discrepancy:** *“but only as one part of a full and individual evaluation. Severe discrepancy may never be used alone to determine a student eligible as a student with a SLD.”*
- 2) **Response to scientific, research-based intervention:** *Dr. Thompson notes that, “depending on the local district’s practice, this process may have a variety of names; e.g., Instructional Consultation Team, Response to Intervention, Michigan’s Integrated Behavior and Learning Support Initiative. The Michigan Department of Education (MDE) does not mandate any specific scientific, research-based intervention process.”*
- 3) **Pattern of strengths and weaknesses:** *“The MDE does not mandate any specific process to determine a pattern of strengths and weaknesses. Any determination of SLD requires a full comprehensive evaluation according to the evaluation procedures in the federal regulations at §300.301-§300.311, including those particular to a student suspected of having a SLD in §300.307-§300.311.”*

## ICISD RECOMMENDATION

Given federal and state guidelines to the field, Michigan districts have options for establishing eligibility for students suspected of having a Specific Learning Disability. As part of a comprehensive evaluation, the evaluation team may:

- 1) Use the data from a Response to Intervention (RtI) process in its consideration of eligibility for SLD, or
- 2) Use assessment results to determine whether a child exhibits a pattern of strengths and weaknesses (PSW) in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development. The use of a severe discrepancy between achievement and intellectual ability may be used as a portion of the data to establish a pattern of strengths and weaknesses.

Districts must establish local guidelines for implementing either an RtI process or establishing a PSW. Ionia County has a well established structure for RtI, called Instructional Consultation Teams, which will be explained later in this manual. Parameters for assessment results will also be provided in this manual as a way of standardizing PSW decision making for local districts. Determining which process to use to document achievement and learning needs will depend on district policies, status of RtI implementation, staff training, specific areas of concern, length of time the child has attended district programming, and grade level interventions. The following rules are suggested in determining whether to use RtI or PSW in establishing achievement levels and documenting interventions:

Rule #1: If you have the ability to use the RtI option, this is the default approach.

Rule #2: Use PSW if RtI is not being used or is not fully implemented at the child's grade level **OR** if the parent requests a special education evaluation and will not extend timelines to accommodate recommended implementation of interventions.

Once a decision has been made by the REED (Review of Existing Evaluation Data) team as to which process to use, this choice should be the basis for making decisions about which assessments are needed.

# EVALUATION REQUIREMENTS

A comprehensive assessment requires:

- 1) *“A variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, [and] 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.” §300.304(b)(1) and §300.304(b)(2)*
- 2) *“Assess[ment] in all areas related to suspected disability, including, if appropriate, health, vision, hearing, social/emotional status; general intelligence; academic performance; communicative status; motor abilities.” §300.304(c)(4)*
- 3) *“Sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.” §300.304(c)(6)*
- 4) *“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.” §300.306(c)(1)*

The evaluation for SLD eligibility is completed for two purposes, to clarify eligibility and to define the starting point for further interventions. Federal regulations indicate the need for planning to determine the scope of an evaluation which must include “ruling in”:

- 1) Inadequate achievement and progress in age and/or grade level content
- 2) Adverse impact to the point that the child requires special education and/or related services

The scope of an evaluation must also include “ruling out”:

- 1) Inadequate achievement due to other disabilities/factors
- 2) Inadequate achievement due to lack of appropriate instruction

The evaluation provides the basis for further instruction by establishing the Present Level of Academic Achievement and Functional Performance (PLAAFP), which includes:

- 1) Data and other specific descriptive information on the student’s current academic performance, indicating both strengths and areas of need.
- 2) Data and other specific descriptive information on functional skills, including behavior, communication, motor, daily living or other skills related to school and age appropriate activities.
- 3) Defining specific needs that are a priority for the student’s learning or support in the general education program.

- 4) Describing the impact of the characteristics of the student's disability on his/her performance and access to the general education curriculum and setting which will lead to decisions on supports, accommodations, and modifications that are necessary for the student's participation in general education instruction and activities.

Federal regulation §300.309 provides the framework for determining SLD eligibility and defines the elements of the evaluation process. A written report will provide documentation of the evaluation components. A summary of the evaluation information will also be included on the MET cover sheet (see Appendix A).

### **I. Rule in lack of achievement relative to age or state approved grade level standards**

*§300.309 Determining the existence of a specific learning disability.*

*(a) The group described in §300.306 may determine that a child has a specific learning disability as defined in §300.8(c)(10), if -*

*(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*

Federal rule specifies that an evaluation must address the age appropriate instruction that the student has received and the achievement of the student related to grade level standards. Although age is one variable, the emphasis on state approved grade level standards reflects the priority that all instruction address grade level content standards.

### **II. Rule in insufficient progress to meet age or grade level standards**

*§300.309 Determining the existence of a specific learning disability.*

*(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; or (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*

Documentation that the student is not making adequate progress may be completed in one of two ways: (1) determine that the student has not responded, despite the provision of high quality, individualized interventions (RtI), or (2) by demonstrating a pattern of strengths and weaknesses, given appropriate instruction. A brief summary of each model follows; for guidelines for implementation please refer to the Local Guidance sections of this manual.

### Response to Intervention

According to the National Association of State Directors of Special Education (NASDSE), Response to Intervention includes:

- 1) early identification of students not achieving at benchmark
- 2) high quality instruction and interventions matched to student need
- 3) frequent monitoring of student progress to make decisions about instruction or goals
- 4) use of child response data to make educational decisions, including professional development, curriculum, and individual intervention decisions.

The Ionia County Intermediate School District has chosen to implement the Instructional Consultation Team (ICT) process which meets all of the above criteria. Currently this process exists in all local elementary schools and is being expanded to include middle schools as well. When determining SLD eligibility using an RtI model, the data collected through ICT would be a key component of the evaluation.

The ICT process is a problem-solving approach with a goal to enhance, improve, and increase student and staff performance. In this process teachers request assistance from the team as soon as an academic or behavioral concern is noticed. From there instructional assessments are completed and individual interventions and goals are developed. The use of research based interventions ensures an instructional match within the general education setting. Data is collected on a regular basis to evaluate progress toward individual student goals and grade level benchmarks. This data is used to determine the effectiveness of the interventions, guide further instructional decisions, and also may be used as one component of a comprehensive evaluation for SLD.

Federal commentary makes it clear that RtI is only one component of the evaluation. “Determining why a child has not responded to research-based interventions requires a comprehensive evaluation,” and cites §300.304 (b) which requires that assessment of SLD include a variety of assessments.

*An RtI process does not replace the need for a comprehensive evaluation. A public agency must use a variety of data gathering tools and strategies even if an RtI process is used. The results of an RtI process may be one component of the information reviewed as part of the evaluation procedures required under § 300.304 and § 300.305. As required in § 300.304(b), consistent with section 614(b)(2) of the Act, an evaluation must include a variety of assessment tools and*

*strategies and cannot rely on any single procedure as the sole criterion for determining eligibility for special education and related services.*

71 Fed Reg. 46,648

### Pattern of Strengths and Weaknesses

Determining a pattern of strengths and weaknesses is the second option described by federal regulations. This option, although not required, may be used in districts when an RtI option is not appropriate or feasible. Determination using a pattern of strengths and weaknesses is based on a review of achievement scores and performance in a variety of academic areas. Assessment findings describe the student's abilities and achievement in relation to Michigan standards and benchmarks either at the student's age level, or assigned grade level. The evaluation must include documentation of student strengths as compared to areas of significant academic weakness. As with RtI, assessment includes a review of research based intervention data and student achievement on State approved content.

### **III. Rule out inadequate achievement due to other disabilities/factors**

*§300.309 Determining the existence of a specific learning disability.*

*(3) The group determines that its findings under paragraph (a)(1) and (2) of this section are not primarily the result of –*

- (i) A visual, hearing, or motor disability;*
- (ii) Mental retardation;*
- (iii) Emotional disturbance;*
- (iv) Cultural factors;*
- (v) Environmental or economic disadvantage; or*
- (vi) Limited English proficiency*

Ruling out the areas of visual, hearing, or motor disabilities may require an evaluation by a family physician, ophthalmologist, optometrist, audiologist, otolaryngologist, or neurologist, combined with observation by teacher, occupational therapist, or other evaluation staff. To rule out mental retardation (cognitive impairment), the evaluation must involve assessment and evidence that differentiates between learning disabilities and cognitive impairments. It is also necessary to rule out emotional disturbance which would involve assessment and evidence that differentiates between a learning disability and an emotional impairment. In addition, the evaluation team must consider cultural or ethnic differences, as well as limited English proficiency, which may impact the student's learning. Any assessments that are done must be non-discriminatory with respect to the student's culture and native language. It is also required that the evaluation team rule out environmental or economic disadvantage including the following factors:

- 1) Poor school attendance
- 2) Frequent school changes causing inconsistent instruction or gaps in learning
- 3) Family stressors, including pressures from family situations or poverty

#### **IV. Rule out inadequate achievement due to lack of appropriate instruction**

*§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...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 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*

Federal guidance indicates that “children should not be identified as having a disability before concluding that their performance deficits are not the result of a lack of appropriate instruction.” In discussion accompanying the final IDEA regulations it was noted that appropriate instruction is scientifically research based, provided by qualified personnel, and has student progress data that is systematically collected and analyzed. The student may be provided with interventions either prior to the evaluation or as a part of the evaluation process. New to the SLD regulations is the requirement to provide data based documentation of repeated assessments of achievement, with the following characteristics:

- 1) Reasonable intervals
- 2) Formal assessment of student progress during instruction
- 3) Provided to parents

#### **V. Adhere to timelines**

*§300.309 Determining the existence of a specific learning disability.*

*(c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §300.301 and §300.303, unless extended by mutual agreement of the child's parents and a group of qualified professionals, as described in §300.306 (a)(1)-*

*(1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and (2) Whenever a child is referred for an evaluation*

The district is required to address the question of disability if a student has not made progress after appropriate interventions have been implemented for a reasonable period of time. The length of time may vary, depending on the circumstances, but the district should not delay unnecessarily. Once a disability is suspected the district should complete the REED.

Michigan rules specify a 30 school day timeline from consent for evaluation to the initial IEP meeting. This timeline must be followed unless the parent and district mutually agree to extend it. There are several circumstances where an extension may be appropriate. Examples include: student absences, staff absences, time needed to collaborate with outside agencies, or time required for intervention implementation and data collection. If a parent does not agree to extend the timeline, then the evaluation must proceed and be completed within the 30 school days allowed under state rules.

## **VI. Conduct an observation**

### *§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.*

While completing the REED, the team must determine whether previous observation data is sufficient to meet observation requirements. If not, observation data will be collected as part of the evaluation. In either case observations must occur in the regular classroom, specific to the academic performance area of concern. Exceptions to observations occurring in the regular classroom include:

1. Students who are out of school due to disciplinary or health reasons
2. Older students who had previous eligibility but have been out of school for an extended period of time
3. Younger students who are not yet attending K-12 programming

Regulations specify that, given exceptional circumstances, the child must be observed in an age appropriate environment.

# **Local Guidance for Determining SLD Eligibility using Response to Intervention**

Ionia County has designated Instructional Consultation Teams (ICT) as the primary component of an evaluation using a Response to Intervention model. In this section it will be explained how ICT data can be used to fulfill the SLD evaluation requirements.

## **I. Rule in lack of achievement relative to age or state approved grade level standards**

The use of instructional assessments provides evidence of the student's performance in age or grade level standards. During the problem solving stage of ICT the case manager and teacher assess the student's performance using peer expected materials. This assessment provides information about what the student knows, what the student can do, and also how the student approaches unknowns. This data is valuable in creating an instructional match for the student. In the event of an SLD evaluation, this same data should be included as a way of documenting lack of achievement relative to age or state approved grade level standards. However, it is important to note that this data does not replace the need for a comprehensive evaluation. It is the responsibility of the REED team to determine whether the data collected through the ICT process is sufficient to demonstrate lack of achievement or whether additional data is needed. Additional data could include norm-referenced achievement tests, curriculum based assessments, criterion-referenced assessments, grades, teacher report, etc.

## **II. Rule in insufficient progress to meet age or grade level standards**

Following the instructional assessment, the case manager and teacher set goals and develop a specific, detailed intervention to create an instructional match for the student. Shortly after implementation of the intervention it is the responsibility of the case manager and teacher to determine the extent to which the intervention has been implemented as planned. Once it has been determined that an intervention has been implemented with fidelity it is then appropriate to use ICT data as a part of the SLD evaluation (See Appendix A-6 for Intervention Fidelity Checklist).

During the ICT process data is collected weekly and recorded on the Student Documentation Form (SDF). This data is then evaluated by the teacher and case manager to determine if the student is making progress toward the goals. If adequate progress is not being made the teacher and case manager would consider the possible need to redesign the intervention. In the event of an SLD evaluation, this data from the SDF should be included as a way of documenting the student's rate of progress. It is suggested that a rate of progress that is greater than that of peers would be considered adequate to meet age or grade level standards.

### **III. Rule out inadequate achievement due to other disabilities/factors**

The ICT process does not specifically address the presence of other disabilities or factors. However, research indicates that early intervention can reduce the effects of some of these factors, particularly environmental or economic disadvantage. To appropriately address all of these factors, the REED team needs to consider what additional information is necessary. All information relevant to other disabilities or factors must be documented in the evaluation report. A thorough parent interview is an important component of any evaluation and could provide important information on other disabilities/factors. A suggested format for parent interview is included in the appendix (See Appendix A-7 to A-10).

### **IV. Rule out inadequate achievement due to lack of appropriate instruction**

It has been suggested that appropriate instruction is scientifically research based, provided by qualified personnel, and has student progress data that is systematically collected and analyzed. Interventions implemented with fidelity through the ICT process would include all of these components. However, it is the responsibility of the evaluation team to consider the appropriateness of instruction provided outside of the ICT process. Suggested guidelines for appropriate instruction are included in the appendix (A-15).

### **V. Adhere to timelines**

It is the responsibility of the district to promptly request parental consent to evaluate when a learning disability is suspected. However, it is reasonable to allow adequate time for ICT interventions before initiating a special education evaluation. Best practices suggest the utilization of data-based decision making which would involve redesigning ineffective interventions and evaluating multiple data points (See Appendix A-5).

### **VI. Conduct an observation**

Throughout the ICT process some relevant information may be gathered regarding a student's academic performance and behavior. It is important to note that the federal regulations require that the observation take place during routine classroom instruction. It is the responsibility of the REED team to determine whether observations conducted as a part of ICT will be sufficient to meet this requirement. If not, another observation should be conducted to meet this requirement. A suggested format for documenting observations is included in the appendix (A-11 to A-14).

# **Local Guidance for Determining SLD Eligibility using a Pattern of Strengths and Weaknesses**

Ionia County has designated Instructional Consultation Teams (ICT) as the primary component of an evaluation using a Response to Intervention (RtI) model. However there are circumstances in which an RtI model can not be used. Examples would include buildings in which ICT is not implemented, parent request for special education evaluation where timelines are not extended to allow for RtI, or a student moving into the district with a signed special education referral. This section describes how Specific Learning Disabilities will be identified using a pattern of strengths and weaknesses (PSW).

## **I. Rule in lack of achievement relative to age or state approved grade level standards**

In a PSW model, the use of a variety of assessment tools provides the evidence of the student's performance in age or grade level standards. The following are examples of data that could be included: norm-referenced achievement tests, curriculum based assessments, criterion-referenced assessments, grades, teacher report, etc. The Worksheet for Charting Patterns of Strengths and Weaknesses (A-2) should be used to document a lack of achievement.

In order to be eligible under the SLD rule, the student must demonstrate at least one area of weakness and at least one area of strength. In each area the student's performance on a variety of assessments is evaluated. When using this worksheet, an area of weakness is defined as having at least 4 W's circled (one of which must be from an individually administered academic achievement assessment). An area of strength is defined as having at least 3 S's circled **or** an S circled in the intellectual/functional box. The suggested guidelines for what constitutes a strength or weakness for each type of assessment are also provided on the worksheet.

## **II. Rule in insufficient progress to meet age or grade level standards**

In cases where the ICT process has not been used, districts are still required to document a student's progress. The Ionia County ISD has provided a General Education Intervention Summary Form for this purpose (A-3 & A-4). In the event of an SLD evaluation, the data from this form should be included as a way of documenting the student's rate of progress. It is suggested that a rate of progress that is greater than that of peers would be considered adequate to meet age or grade level standards. In addition, the Worksheet for Charting Patterns of Strengths and Weaknesses may also be used to document insufficient progress.

### **III. Rule out inadequate achievement due to other disabilities/factors**

The process of identification using a pattern of strengths and weaknesses does not specifically address the presence of other disabilities or factors. To appropriately address all of these factors, the REED team needs to consider what additional information is necessary. All information relevant to other disabilities or factors must be documented in the evaluation report. A thorough parent interview is an important component of any evaluation and could provide important information on other disabilities/factors. A suggested format for parent interview is included in the appendix (A-7 to A-10).

### **IV. Rule out inadequate achievement due to lack of appropriate instruction**

It has been suggested that appropriate instruction is scientifically research based, provided by qualified personnel, and has student progress data that is systematically collected and analyzed. It is the responsibility of the evaluation team to consider the appropriateness of the instruction that has been provided. Suggested guidelines for appropriate instruction are included in the appendix (A-15).

### **V. Adhere to timelines**

It is the responsibility of the district to promptly request parental consent to evaluate when a learning disability is suspected. However, the REED team may determine that it is reasonable to allow adequate time for additional interventions before initiating a special education evaluation. Best practices suggest the utilization of data-based decision making which would involve redesigning ineffective interventions and evaluating multiple data points (A-5).

### **VI. Conduct an observation**

Prior to referral some relevant information may be gathered regarding a student's academic performance and behavior. It is important to note that the federal regulations require that the observation take place during routine classroom instruction. It is the responsibility of the REED team to determine whether observations conducted prior to referral will be sufficient to meet this requirement. If not, another observation should be conducted to meet this requirement. A suggested format for documenting observations is included in the appendix (A-11 to A-14).

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