

Specific Learning Disabilities

Guidelines for Identification of Eligible Individuals

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INTRODUCTION

Enhancing the learning outcomes of all students is a key mission within the Menominee County Intermediate School District (MCISD). Effective instructional practices delivered by skilled teachers will maximize the learning outcomes for most students. Some students, after carefully planned and documented educational interventions, will not make expected educational progress leading to less than optimal learning outcomes and consideration as “at-risk” students. The majority of students who are identified as “at risk” will respond to general education interventions. However, there are a small minority, estimated to be approximately 5% of the student population, who will not respond adequately to increasingly intense general education interventions. Not all of these students have disabilities, but intervention teams may have data that will lead them to suspect that some of the inadequately responding students may have a disability and need to be referred for a special education evaluation.

This document is designed to provide guidance for the identification of individuals eligible for Specific Learning Disability. The document is divided into four major sections:

- I. Regulatory Background – reviews Michigan and Federal regulations related to the identification of SLD.
- II. System of Appropriate Instruction – reviews the district’s documentation of decision-making relative to providing appropriate intervention strategies for at-risk students.
- III. Review of Existing Evaluation Data (REED) and Evaluation Planning – reviews the decisions that are reached from a review of educational data with emphasis toward evaluation planning.
- IV. Eligibility Determination – reviews the specific issues IEP Teams must consider when ruling in SLD and ruling out other non-eligibility factors.

Special thanks is extended to the Michigan Association of Administrators of Special Education (MAASE), Berrien RESA, Wayne RESA, and Kalamazoo RESA for the work of their SLD workgroup who provided examples of documents that have been included in this procedural document.

REGULATORY BACKGROUND

Recent changes in federal special education rules and regulations indicate that states may consider the use of an 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 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; . . .*

Language from IDEA implementing regulation 34 CFR 300.309 *Determining the existence of a specific learning disability*, states, in part:

- (a) The group described in...300.306 may determine that a child has a specific learning disability...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...*
- (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...when using a process based on the child's response to scientific, research-based intervention; or*
- (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 determined by the group to be relevant to the identification of a specific learning disability...*

In September, 2008, Michigan finalized rules to address the requirement that states adopt criteria for determining specific learning disability. Language mirrors federal language in §300.8(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 including the following:

- 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.”*

Menominee County ISD 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 it is recommended that the evaluation team:

- Use the data from a response to intervention (RtI) process in its consideration of eligibility for SLD; or when RtI is not implemented,
- Use assessment results to determine whether a child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development. The assessment of intellectual development is used to rule out cognitive impairment

Full and Individual Evaluation

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 full and individual evaluation,” and cites §300.304(b) which requires that a special education evaluation 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

Full and individual assessment requires:

- **“a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child, including information provided by the parent,”**
§300.304(b)(1)
- **“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)

- **“assessment 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)
- **“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. Words in the federal regulations include “relevant”, “if appropriate”, indicating the need for evaluation planning to determine the scope of an evaluation which must include “ruling in”:

- Inadequate achievement and progress in age and/or grade level content
 - Adverse impact to the point that the child requires special education and/or related services.
- and “ruling out”:
- Inadequate achievement due to other disabilities/factors
 - 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 (PLAAPF)**, 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.

Initiation of Evaluations and Timelines:

(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 written 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.

Michigan rules, which specify 30 school days from consent to holding an IEP meeting, must be followed unless the parent and district mutually agree to extend the timeline. This request can be made in the event that the evaluation will address response to intervention after the request for an evaluation.

Further, the district is required to address the question of disability if a student has not made progress after an appropriate period of time with appropriate intervention. The length of time may vary, depending on the circumstances, but the district should not delay unnecessarily once a disability is suspected.

Although extended evaluation timelines may be requested in order to implement appropriate interventions and collect data on the student’s response, if a parent does not agree to extending the timeline, then the evaluation must proceed and an IEP team meeting convened within the 30 school days allowed under state rules. Whether eligibility can be determined will depend on whether the IEP team has the necessary rule-in, rule-out, and documentation data required for SLD identification.

SYSTEM OF APPROPRIATE INSTRUCTION

A key element of both NCLB and IDEA is that students receive intervention for academic and behavioral difficulties from highly qualified personnel. Student data is reviewed to determine those that are “at-risk” of not performing to academic or behavioral benchmarks thus triggering carefully planned and monitored interventions. Progress monitoring data is reviewed to inform district decision making as to student progress and the need to adjust intervention efforts.

The ongoing use of the Student Intervention and Data Review (SIDR) form for a student identified as at-risk of not performing to academic or behavioral benchmark levels assists a district in intervention planning. The identification of at-risk status may come about in a variety of ways, depending on the district’s intervention system. The SIDR was created to assist district intervention teams in developing appropriate intervention strategies for at-risk students. It documents relevant factors affecting the at-risk student’s educational performance over time. The advantages of using the SIDR are multiple:

1. A district’s intervention system is an umbrella that incorporates all of its resources for assisting students to progress in the curriculum, and includes a continuum of interventions ranging in intensity from less intensive (differentiated instruction) to more intensive (supplemental instruction) to most intensive (targeted instruction, which may include special education). The SIDR can be used across the intervention spectrum and fosters collaboration among the district’s intervention team members.
2. The SIDR assists intervention teams in the collection and review of data that can assist in the development and review of intervention plans.
3. The SIDR assists district and the intervention team in fulfilling child find responsibilities, i.e., identifying students with suspected disabilities under 504 and IDEA.
4. The SIDR minimizes the need to do/or the effort involved in doing, a retrospective record review in preparation for the review of existing evaluation data (REED) conducted prior to evaluation planning when a student is referred for a suspected disability.
5. One of the criteria for SLD is underachievement when the child has been provided with learning experiences and instruction appropriate for the child’s age or State-approved grade level standards. Under NCLB and IDEA appropriate instruction is, among other things, research-based, provided by qualified personnel, and informed by systematic progress monitoring that is analyzed and used to adjust instruction as appropriate. Thus a significant component of any consideration of SLD involves a retrospective look at prior instructional opportunities.

Directions for Student Intervention and Data Review Form

When a student is first identified as being at-risk, either behaviorally or academically, it is not unusual for an intervention team (e.g. Child Study Team, Student Assistance Team, Rtl Team, Instructional Consultation Team) to conduct a record review as part of its problem solving /intervention process. With increased use of response to scientifically research-based intervention models it is becoming ever more apparent that this single snapshot is an inadequate tool for ongoing planning. At-risk students may require a series of increasingly intense interventions before they are successful. Other students may respond to interventions at one point in their career but reemerge as at-risk at a subsequent time. A smaller number of students may not respond adequately to general education interventions and ultimately present with a suspected disability. In the case of a suspected disability, a district must have data, either prior to or as part of the referral/evaluation process, that any underachievement in reading or math that might be used as a basis for eligibility is not primarily the result of lack of appropriate instruction. Ongoing documentation of appropriate instruction is extremely useful in this context because it eliminates the need to reconstruct a student’s educational history.

The Student Intervention and Data Review Form is a Microsoft Office based electronic file (Word, Excel) that documents relevant factors affecting the at-risk student’s educational performance over time. Because it is an ongoing data review it eliminates episodic record reviews that soon become artifacts in the student’s CA60. The Student Intervention and Data Review Form is also a helpful tool when a student is referred for a special education evaluation because of a suspected disability and the district conducts a review of existing evaluation data (REED) as a prelude to evaluation planning for the student.

Meeting Log

The first section of the form is a log of intervention team meetings. Each meeting will occupy a row in this section. At the beginning of the meeting date, grade, school, district and participants are filled in columns one and two. The participants review student performance data that has been prepared and entered onto the form either prior to or during the meeting. At the conclusion of the meeting the participants are to identify “Next Steps”. Next Steps could include (and may be copied and pasted from below to the form as appropriate):

- *Continue with current intervention plan
- *Modify current intervention plan
- *Implement new intervention plan
- *Intervention plan no longer needed
- *More information needed
- *Disability suspected referral for Section 504 or special education evaluation

The cells in the log are expandable and new cells can be added over time.

Area(s) of Concern

Once an area of concern has been identified and dated, describe details for area of concern and describe the student’s current performance relative to grade-level peers. You may also want to include student strengths and interests for intervention planning purposes.

Example:

Writing- 4th graders are able to use the writing process to develop clear and focused narrative and informational text of ten or more sentences. Jack uses prewriting activities but when writing rarely uses grade appropriate purpose, organization, details, voice/tone, grammar, usage, or mechanics.

Attendance, Discipline by Year

Total number of...

When behavior is checked as an area of concern (e.g., “social/emotional”, “behavior/sensory”) the team will review the student’s attendance and disciplinary record year by year from entry into school through the date of the intervention team meeting in the current school year.

“**Office referral**” (OR) is anytime a student was sent to the office for behavioral concerns within a given school year. There may be more than one entry for a single behavior if the office referral is followed by an ISS or OSS.

- ISS- In School Suspension
- OSS- Out of School Suspension

Describe the behaviors-

Describe the behavior(s) leading to OR, ISS and OSS, including the type and frequency of given violations of the discipline code.

Describe instructional supports provided during period of behavioral concern-

*Positive behavior supports – attach FBA/BIP as applicable

*Instruction provided during ISS and OSS

Achievement

Examples include (and are not limited to):

Progress Monitoring (CBM) Screening –

- DIBELS
- AIMSWEB
- Yearly Progress Pro

- EdCheckup

Criterion Referenced tests

- Brigance

Norm referenced tests – such as (and not limited to):

Reading

- Gray Oral Reading Test – 4th edition
- Test of Early Reading Ability – 3rd edition
- Woodcock Johnson Reading – 3rd edition/Normative Update
- Woodcock Reading Mastery Test – Revised/Normative Update

Language

- Clinical Evaluation of Language Fundamentals – 4th edition
- Comprehensive Assessment of Spoken Language
- Oral and Written Language Scales
- Test of Written Language – 4th edition
- Test of Written Spelling – 4th edition

Math

- Key Math 3rd edition
- Test of Early Mathematics Ability – 3rd edition

Achievement

- Diagnostic Assessment Battery – 3rd edition
- Kaufman Test of Educational Achievement 2nd edition
- Peabody Individual Achievement Test – Revised/Normative Update
- Test of Learning Development – Intermediate, 4th edition
- Test of Learning Development – Primary, 4th edition
- Wechsler Individual Achievement Test – 3rd edition

Curriculum Assessments aligned with GLCEs and classroom instruction

- Classroom assessments

State/District Assessments, e.g.,

- MEAP
- MEAP-Access
- MME (ACT)- Michigan Merit Exam
- NWEA- North West Educational Assessment

Additional Data

Cognitive Assessments

- WISC-4
- WAIS-4
- KABC-2
- KAIT-2
- CTONI-2
- KBIT-2
- WASI

Adaptive/Functional Behavior Scales

- Adaptive Behavior Evaluation Scale-2
- Adaptive Behavior Inventory
- AAMR Adaptive Behavior Scale-School
- Vineland Adaptive Behavior Scales-2

Grades

- Letter grades
- Descriptive, e.g., Meets/Exceeds Expectations, Does Not Meet Expectations

Teacher Report

- Narrative based on professional judgment of the teacher comparing student to others in the classroom

Observation in area of concern-

- Documented observation of the area of concern done by someone from the team.
See, e.g., Classroom Observation Checklist

Other Factors that may Affect Performance

In this section the intervention team participants are looking at possible non-instructional barriers to performance. Here the team should check any box where they have sufficient data to rule the factor in or out as a “contributor” to the academic or behavioral area of concern. The relevant data should be entered in the text box along with the information source and the date the information was obtained.

Examples of information to consider:

Vision- vision screening, nurse/records

Hearing- hearing screening, nurse/records

Motor Functioning- teacher, PE observation, physicals

Cognitive- child’s rate of learning in other skills, listening comprehension, adaptive skills

Social/Emotional- office referral rates, teacher/parent input whether child presents with dysfunctional behavior(s) in the educational setting with respect to being fearful, isolated, anxious, depressed, or angry

Cultural- individual performance in comparison to disaggregated performance data for the child’s cultural/ethnic group

Environmental, Economic Disadvantage- individual performance data in comparison to disaggregated performance data for students qualifying for free and reduced lunch

LEP- English language proficiency test, received ELA services, targeted interventions in addition to ELA services, ELA and other services provided for a sufficient length of time so growth can be measured.

Observation

The child is observed in the learning environment documenting the child’s academic performance and behavior in the areas of difficulty by a member of the team. Log the intervention team’s observation results in the SIDR log or use the following observation checklists:

- Pre-K / Kindergarten
- Grades 1 - 4
- Grades 5 - 8
- Grades 9 - 12

The checklists provide useful data by examining academic and behavioral areas in which a student is experiencing difficulties, including consideration of factors such as setting, accommodations (skills related to information input and output) and methodology of instruction. To obtain a more complete and accurate picture of the student’s performance, it is recommended that the student be observed more than once, and if possible in different settings and at different times of the day. Since no checklist can be all-inclusive, the forms provide a space for the observer to make notes regarding other behaviors, including strengths and weaknesses that may impact student learning and achievement.

Appropriate Instruction

In this section the intervention team will examine two key factors to the student’s progress in school- the student’s availability for instruction and the quality of instruction provided. With regard to availability for

instruction, the team will examine whether there has been excessive instructional time lost due to absenteeism, disciplinary sanctions, tardiness and/or frequent school transfers. With regard to quality of instruction there are a number of research-based factors associated with student proficiency. This section identifies these factors. Although there is no single formula for determining appropriate instruction, the intervention team is asked to document existing data supporting these factors and to make an informed, professional judgment as to whether any of the factors deserve further consideration when developing intervention plans for the student.

For the purpose of identifying supporting data, the intervention team should refer to the following definitions:

- **Explicit-** modeling, guided practice, practice to automaticity, integration
- **Systematic-** sequential, hierarchical, cumulative review. For reading, “systematic” includes daily instruction in all reading components.
- **Active-** student engagement/high levels of academic learning time.

Rate of Progress

Use the graph and the intervention text box(es) to record the following information:

- Baseline and progress data
- What differentiated, supplemental and/or targeted instruction or intervention was provided
- Interventionist(s)
- Size of the intervention group (i.e., group size or individual)
- Frequency / duration of the intervention (i.e., # of days/week, mins/day)

The issue of attendance needs to be addressed under this section of consideration. It is suggested that no later than the student’s 12th day of absence instructional intervention be provided to return the student to instructional expectations. Upon reaching 20 or more days of missed instruction it is difficult to determine if deficits are the result of a student-based disability or a lack of instruction. When numerous days of instruction are missed it is crucial to document instructional interventions to establish the provision of appropriate learning opportunities. Without documented interventions and the student’s response to those interventions this element of the exclusionary clause can not be addressed.

Menominee County Intermediate School District
STUDENT INTERVENTION AND DATA REVIEW FORM (SIDR)

Student Name:		DOB:	
Parent(s):		Telephone:	

Area of Concern: *(Enter date a concern is discussed - when there are two options in a cell, circle which applies)* [\[help\]](#)

Reading	Vision / Hearing	Adaptive Functioning
Math	Social / Emotional	Health / Medical
Writing	Behavior / Sensory	Motor Functioning
Communication/Language	Other:	Other:

Describe student interests, and concerns/strengths (relative to grade-level peers)

Date	Participants	Data Review Summary	Next Steps
Date	Participants	Data Review Summary	Next Steps
Date	Participants	Data Review Summary	Next Steps

Student Information

Attendance, Discipline by Year [help]							
School Year	Total number of:					Briefly describe or attach documentation: [help]	
	Absent	Tardy	Office Referrals	ISS	OSS	Behavior	Type of instructional support, if any

Previous and current support services (Check all that apply and include date of any available reports)	
<input type="checkbox"/> Title I _____ <input type="checkbox"/> Social Work/Counseling _____ <input type="checkbox"/> Motor (gross and fine) _____ <input type="checkbox"/> Psychological _____ <input type="checkbox"/> 504 Plan _____	<input type="checkbox"/> Speech/Language _____ <input type="checkbox"/> Teacher Consultant (e.g. behavior, ASD) _____ <input type="checkbox"/> Outside Agencies _____ <input type="checkbox"/> Other _____

Current Academic Grades	
Subject	Grade
Reading	
Math	
Spelling/Writing	
Science	
Social Studies	
Other:	

MEAP					
Indicate level in each content area (past 3 assessments) 1=Advanced 2= Proficient 3= Partially proficient 4= Not proficient					
Year	Reading	Writing	Math	Science	Social Studies

Achievement		
Criteria: Achievement relative to age/state approved grade-level standards (Must have data in at least one of these assessment types)		
Assessment Type	List Existing Data	Identify Additional Data Needs
Progress monitoring, benchmark (CBM) screening [DIBELS, AIMSweb, EdCheckup]		
Criterion-referenced assessments [Brigance]		
Norm-referenced achievement tests		
Curriculum assessments aligned with GLEC's and classroom instruction		

Rate of Progress		
Criteria: Data demonstrating student progress in response to scientific research-based intervention		
Required Documentation	List Existing Data	Identify Additional Data Needs
1. State or district policies given to parents	Date provided:	
2. Notice that parent can request evaluation	Date provided:	

3. Indicate instructional strategies used and data on results collected	Describe intervention:	
* Attach charts/graphs with progress information (see attachment A for example)		

Additional Data - on academic achievement, functional performance and intellectual development. [help]		
Assessment Type	List existing data and date	Identify additional data needs and date
Cognitive assessment		
Adaptive/functional behavior scales		
Grades		
Teacher report (recommendations and observations)		
Parent input		
Observation in area of concern, including behavior		

Other Factors That May Affect Performance: (check each area with sufficient data) [help]			
Criteria: Data on other factors that may affect performance on appropriate age/grade-level standards or activities.			
Vision	Cognitive	Environmental, Economic Disadvantage	
Hearing	Social/Emotional	Limited English Proficient	
Motor Functioning	Cultural		
List date & existing information for any checked area(s)		List date & data needed for any unchecked area(s)	

Observation for Academic and Functional Areas of Concern [help]			
Criteria: Data documenting that the student was observed in the learning environment (including general education setting) to document academic performance in the area(s) of difficulty			
Check skill area(s) of concern. Any checked skill area(s) should be observed.			
Oral Expression	Reading Fluency Skills		
Listening Comprehension	Reading Comprehension		
Written Expression	Math Calculation		
Basic Reading Skills	Math Problem Solving		
For any area(s) of concern document academic and behavioral data from any observation by using the provided Classroom Observation Checklists - OR - the Log below.			
Date	Observer (Name/title)	Academic Area	Academic/Behavioral Results

Instructional Information

	Elements to be considered in the analysis of appropriate instruction: <ul style="list-style-type: none"> • Explicit – modeling, guided practice, practice to automaticity, integration • Systematic – sequential, hierarchical cumulative review. For reading, “systematic” includes daily instruction in all reading components • Active – student engagement/high levels of academic learning time. 	List Existing Data	If evidence not available what can be done to meet requirement?
What	Essential Components Instruction		
	Evidence that district curriculum is aligned to State content expectations (GLCEs and HSCEs) and essential components of instruction in the area of student concern.		
	Evidence that curriculum materials are research-based and aligned to the content expectations.		
	Evidence that 80% of students in the classroom meeting state/district wide assessments?		
	Evidence of intervention programs used to return student to age and grade expectations?		
Who	Highly Qualified Teachers – Evidence that the student’s teachers have met HQT standards		
How	Fidelity of Instructional Implementation		
	Differentiated Instruction/Instructional changes when formative assessment suggests student at risk. (Universal design practices, research-based interventions)		
Student attendance at least 85% of instructional days (by grade-level over time) – file review, enrollment history, discipline.			

REVIEW OF EXISTING EVALUATION DATA AND EVALUATION PLAN

The majority of students who are identified as at risk will respond to general education interventions. However, there are a small minority, estimated to be approximately 5% of the student population, who do not respond adequately to increasingly intense general education interventions. Not all of these students have disabilities, but intervention teams may have data that lead them to suspect that some of the inadequately responding students may have a disability and need to be referred for a special education evaluation. This referral triggers the duty under Michigan Administrative Rules for Special Education to provide notice of the referral and to present an evaluation plan to the parents for consent within 10 calendar days of the referral. Federal special education regulations require that Individualized Education Program (IEP) Team members conduct a review of existing evaluation data and then determine what, if any, additional information is required to determine eligibility and IEP content for all reevaluations and initial evaluations. This review of existing evaluation data is known as the "REED". Districts within MCISD conduct a REED for initial evaluations as a matter of best practice.

The REED identifies the data source and details relevant information obtained from the data source. Once this is done and any additional input from the parent is considered, the IEP team is to proceed to page two, which is the Evaluation Plan. This page prompts the IEP Team to consider the evaluation review data, the needs of the child, and parent input to determine whether additional data is needed to determine student eligibility for special education, and for IEP planning and development purposes. If there is the need for additional data, the team is to record the data needed and describe how the data will be obtained.

Application to the SLD Evaluations

Step One-- The SLD REED

So how does the REED and Evaluation Plan form work when the referral is for a specific learning disability? If a district has been using the SIDR since the identification of the student as at-risk, the easy part is filling out the REED on page one of the form:

1. The intervention team updates the SIDR to the date of the REED
2. The IEP team members collectively review the SIDR in the REED process, adding parent input and information that may be provided during the REED process.
3. The IEP team members record/attach existing data on/to the REED

Step Two-- The SLD Evaluation Plan

The more difficult part of the process is page two of the form and the development of the Evaluation Plan. Figuring out whether additional data is needed to determine eligibility and, if the student is eligible, to determine IEP content is a much more complex task. IDEA 2004 has significantly expanded the documentation requirements for determining a specific learning disability beyond what districts have historically reviewed and documented in practice.

Examples of new documentation requirements include:

1. New components in SLD identification, e.g., the introduction of rate of student progress in response to scientifically research-based interventions and patterns of strengths and weaknesses in performance, achievement or both relative to age, State-approved grade level standards, or intellectual development.
2. If a child has participated in scientifically research based interventions, documentation of
 - a. instructional strategies used and student-centered data collected

- b. parent notification of State policies on the amount/nature of student performance data collected and general education services that would be provided; strategies for increasing the child's rate of learning; the right to request an evaluation at any time

Examples of expanded documentation requirements for existing criteria include:

1. There has long been a requirement in the federal regulations that IEP Teams rule out lack of appropriate instruction as the primary explanation for underachievement in reading or math when that underachievement is a factor used in determining disability status. There has been a concern on the part of the United States Department of Education (USDOE) that in the past IEP Teams have not given this requirement serious consideration, thus resulting in over-identification of students as SLD. To address this concern the federal regulations for SLD identification now require documentation of the data basis for the team's decision on the instructional rule-out:
 - a. 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.
 - b. 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.
2. Prior to IDEA 2004 there was a long standing requirement to observe the child's academic performance in the regular classroom setting. Unfortunately, these observations were often "opportunistic" observations, i.e., they were conducted when the observer had available time and were not necessarily aligned with the academic area of concern. To address this lack of alignment, IDEA 2004 now requires the district to **document the child's academic performance and behavior in the area(s) of difficulty.**

To make appropriate decisions about what if any additional information is needed to determine SLD eligibility and fulfill requirements for a comprehensive (i.e., "full and individual") evaluation, the Menominee County ISD recommends that IEP Team members match existing data with a "checklist" of SLD requirements. The use of the checklist (Page 63) will allow the IEP team to:

1. Compare existing data with required data to identify additional data needs.
2. The IEP team records additional data needs on the Evaluation Plan page, indicating the data needed and the means that will be used to obtain the data. If no additional data is needed for either SLD eligibility determination or IEP content, the team will check the box "No Additional Data Needed" and provide a written explanation of why that determination was made.

ELIGIBILITY DETERMINATION

IDEA 2004 Regulation, §300.309- Determining Specific Learning Disability

§300.309 serves as the key regulation in the framework of determining SLD eligibility and defines elements of the evaluation process. The evaluation team must address and “rule in” or establish a lack of achievement and insufficient progress to meet age or grade level standards.

I. Establish lack of achievement relative to age or state approved grade level standards, when provided with appropriate learning experiences and instruction.

Evaluation of current data and further evaluation must establish and document:

- Inadequate achievement relative either to age level or grade level standards.
- Appropriate instruction

Federal rule specifies that eligibility 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 for students address grade level content 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.*

Reading fluency has been added to the list of potential LD concerns, further defining areas in the reading process. USDOE discussion accompanying issuance of the IDEA 2004 implementing regulations notes that fluency assessments are “very brief and highly relevant to instruction”. However, USDOE discussion also supports the relevance of standardized testing, stating that, “nothing in the Act or these regulations would preclude the eligibility group from considering results from standardized tests when making eligibility determinations.”

Although the federal regulations do not define standards for “appropriate instruction”, the USDOE does note that such instruction has the following characteristics:

- Scientifically research based
- Provided by qualified personnel
- Student progress data is systematically collected and analyzed

II. Demonstrate insufficient progress to meet age or grade level standards.

Documentation that the student is not making adequate progress, subsections 2(i) and (ii) may be completed in one of two ways: (1) determine that the student has not responded, despite the provision of high quality, individualized general education instructional interventions, or (2) by demonstrating a pattern of strengths and weaknesses, given appropriate instruction.

*(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;*

Response to scientific, research-based intervention (Rtl):

The federal regulations do not specify what research based interventions must be used, and leave the State with flexibility to determine criteria to best meet local needs. Resources such as the Florida Center for Reading Research, at: www.fcrr.org, provide a listing of current research based interventions. Guidance on research based practices may also be found in Response to Intervention: Enhancing the Learning of All Children, published by the Michigan Assoc. of Administrators of Special Education.

Michigan's Integrated Behavior and Learning Support Initiative (MiBLSi) is an initiative through the Michigan Department of Education's Office of Special Education and Early Intervention Services and helps schools create a "culture" where staff teaches academic success and behavior success. Menominee County schools and districts may be implementing Rtl, with many districts utilizing MiBLSi training, with the goal of increasing student reading performance and behavior performance. Staff is trained to:

1. Monitor student reading and behavior performance
 - Access dynamic data collection systems that provide staff with performance indicators in reading and behavior that are accurate and timely – for example, the School Wide Information System (SWIS™) and the Dynamic Indicators of Basic Early Literacy Skills (DIBELS™).
2. Make decisions based on data
 - Develop and implement reading and behavior intervention systems
 - Evaluate intervention effectiveness through ongoing data collection and progress monitoring

At this time no district within MCISD has made an official declaration as to the systemic utilization of response to scientific, research-based intervention for the purposes of SLD determinations.

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 Rtl option is not appropriate or feasible. Rtl often requires that the district systematically implement the methodology over a period of time, establish district norms and determine procedures for providing Tier 2 and 3 interventions. At this time, Rtl is not possible for all areas included in the SLD definition. Also, there may be students arriving in the district in need of evaluation who have not had the opportunity to be evaluated with reference to a systematic intervention process.

The pattern of strengths and weaknesses alternative is based on an assessment and review of achievement scores and performance in a variety of academic areas, documenting patterns of strength as compared to other areas where the student demonstrates a pattern of significant academic concerns, relative to the child's

expected abilities. Assessment documents the student's performance and achievement related to Michigan standards and benchmarks either at the student's age level, or assigned grade level. As with RtI, assessment includes review of research based interventions and student achievement on State approved content.

Districts must establish local standards for implementing either an RtI process or establishing a pattern of strengths and weaknesses (PSW). Parameters for assessment results are provided as a way of standardizing PSW decision making within and among school districts. Local guidelines for PSW are included in the following documents:

1. Local Guidance for Determining SLD Eligibility: Using 'patterns of strengths and weaknesses'
2. Charting Patterns of Strengths and Weaknesses

This guidance is based on the following assumptions:

- All children must be offered age appropriate instruction that is directly related to grade level content expectations.
- Even though the school may not have the capacity to fully implement RtI processes, interventions are most appropriately offered with a three-tier instructional delivery model.
- Establishing a pattern of strengths and weaknesses involves classroom performance documentation along with curriculum-based, criterion-referenced and/or norm referenced academic/intellectual assessment.

Selecting Response to Intervention (RtI) or Patterns of Strengths and Weaknesses (PSW)

Each school district must determine which process, or combination of processes, it will use to determine SLD eligibility and ensure that the education community and parents are informed of the district's processes.

In making the decision regarding the process to be used for determining the existence of a SLD, each school district must consider the extent to which it has implemented a process based on a student's response to scientific, research-based interventions.

- If a school district does not have a process based on a student's response to scientific, research-based intervention established in any of its schools, then the school district **must** utilize the pattern of strengths and weaknesses in determining the existence of a SLD.
- If a school in a district has fully implemented a response to scientific, research-based intervention process in select grades, the school **must** use data from its response to scientific, research-based intervention process to document interventions and student progress for the purpose of determining the existence of a SLD. The other grades in that school, and the other schools in the district, who have not fully implemented a response to scientific, research-based intervention process **must** use a pattern of strengths and weaknesses process until each grade is phased into full implementation.
- If a school district is implementing a response to scientific, research-based intervention process on a school by school basis, the district **must** use data from its response to scientific, research-based intervention process to document interventions and student progress for the purpose of determining the existence of a SLD in the schools where the process is fully implemented. In schools that have not fully implemented a response to scientific, research-based intervention process, a pattern of strengths and weaknesses process **must** be used.

Local Guidance for Determining SLD Eligibility: Using ‘patterns of strengths and weaknesses’

1. The new regulations (300.309(a)(2)(ii) state: “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.” (300.304 describes assessment requirements and 300.305 describes the evaluation planning process.)
2. Definitions:
 - a. Performance – actual performance in the classroom, as assessed by student in-class assessment results, grades, teacher anecdotes and observations.
 - b. Achievement – results on curriculum-based measurement (e.g., DIBELS), criterion-referenced assessment (e.g., Brigance), norm-referenced (e.g., Woodcock-Johnson Achievement Tests), and state (MEAP) assessments.
 - c. Intellectual Development – the student’s cognitive and functional skills, as assessed by IQ tests, functional skill surveys, interviews and observations.
3. When to use ‘patterns of strengths and weaknesses’ to determine eligibility:
 - a. When a school does not have the capacity to implement RtI interventions.
 - b. In learning disability areas in which the school does not have a RtI intervention process. For example, a school may use the three-tier intervention process for reading and math, but not for writing, oral expression or listening comprehension.
 - c. In grades in which the school does not use a RtI intervention process. For example, a school may use a RtI process in grades K – 6, but not in grades 7 – 12.
4. Suggested requirements for using ‘patterns of strengths and weaknesses’ to determine SLD eligibility:
 - a. The school uses a scientifically, research-based core programs that was implemented with fidelity with the referred student.
 - b. The school tried differentiated instruction techniques with fidelity with the referred student for a period of 8 to 12 weeks.
 - c. The school tried a scientifically, research-based Tier 2 intervention that was implemented with fidelity with the referred student for at least 12 weeks.
 - d. During the Tier 2 intervention, the school used weekly progress monitoring to evaluate the effectiveness of the intervention and attempted to modify the intervention after each 3-4 weeks of poor progress.
 - e. When using the ‘Charting the Patterns of Strengths and Weaknesses’ page, a student shall have a least 4 weak boxes checked and at least one other academic area considered a strength (with at least 3 boxes checked as being a strength) and/or the intellectual/functional box checked as a strength to be considered eligible for special education services. The IEP team shall determine if the student’s weakness warrant special education services.
5. Other notes:
 - a. When determining age-based achievement and performance, the evaluator should consider whether or not the student has received appropriate instruction for those age-based skills. For example, can a student retained in second grade be compared with third grade students if that student never received third grade instruction?
 - b. If the student’s weak areas are primarily in performance rather than in achievement (i.e., the student has the academic skill but does not do the work in the classroom), then the school should consider different types of interventions other than academic (e.g., motivation).
 - c. Probably the best way to actually ‘catch up’ the student’s academic skills with his peers is using a Tier 3 intervention (whether delivered in general education or special education) along with continued Tier 1 instruction.
 - d. If a student is placed into special education and the intent of the school is to catch the student up academically, the student’s instructional time for that area should not be reduced from what it was when the student was only receiving general education services.

When utilizing the pattern of strengths and weaknesses to assist in the determination of a SLD, it is noted that this is only one factor in the determination process. This factor alone carries no more weight than other factors in the determination process.

For the charting of a pattern of strengths and weaknesses the Menominee County ISD has adopted an Academic Achievement model. Intellectual assessment is permissible on a case-by-case basis but is utilized for the gaining of information to assist in potential program development rather than a key component of eligibility determination. The federal regulation has opined:

“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. In many cases, though, assessments of cognitive processes simply add to the testing burden and do not contribute to interventions.”

Therefore, if performance patterns in one or more academic areas are within age or grade expectations the assumption of performance within the normal range of cognitive abilities is met. Equally depressed performance in all areas of academic achievement would trigger a suspicion of cognitive impairment and the need to screen for potential cognitive limitations so as to be able to rule out cognitive impairment as a cause for the difficulties as opposed to SLD.

A brief cognitive assessment to check for a suspicion of cognitive impairment can be given using the following subtests of the WISC-IV:

Vocabulary, Arithmetic, Matrix Reasoning

Add the scaled scores and multiple by 10 divided by 3, to determine a scaled score total. This methodology assumes no more than a 6 point spread between the three subtests. If more than a 6 point spread is evident the entire battery of subtests should be administered. If the projected cognitive score is less than 80 the entire test should be given under normal administration rules.

Charting Patterns of Strengths and Weaknesses:

1. Check the appropriate box relative to the basis for analysis of information that will be charted. (The default analysis is based upon grade-level expectations.) When cognitive scores have been obtained due to the suspicion of cognitive impairment or limited ability this analysis should be utilized.
2. A strength is determined by three separate boxes and a weaknesses is determined by four separate boxes in any given row or designated area of academic concern.
3. In determining a weakness one of the data points to determine the weakness must come from an individually administered norm-referenced test of academic achievement.

In addition to the ruling in of a SLD the evaluation team must address and rule out other factors as the primary cause of the child's learning difficulties, including:

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

Presence of other disabilities/factors

(3) The group determines that its findings under paragraphs (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.*

The eligibility team is required to take into consideration the effects of what are commonly referred to as “exclusionary” factors. However, it must be clear that a student, for whom one of these factors applies, could also be appropriately identified as having a Specific Learning Disability. The issue is one of “primary cause” for the learning difficulties. With the changes to SLD Criteria, serious consideration of these factors has become even more important than in the past.

Federal Regulations, require that the multidisciplinary team determine that its findings (that address the criteria for SLD) are not PRIMARILY the result of – “visual, hearing, or motor disabilities; cognitive impairment (CI); emotional impairment (EI); cultural factors; environmental or economic disadvantage; or limited English proficiency.”

The effects on the determination of SLD cannot be considered in the same manner for all the exclusionary factors. Vision, hearing, and motor disabilities, as well as CI and EI, are all special education disability categories. The team must determine whether the primary reason for learning difficulties is the presence of one of these other disabilities or SLD. It is possible for a team to conclude that SLD is the primary disability, even if the child, for example, also has a visual impairment. Some LEAs exercise the option of determining a secondary disability. It is not necessary to do so; however, all educational needs that significantly impact the child's progress in the general education curriculum must be addressed. For example, a student with a motor impairment may also have a reading deficit that requires specialized instruction in basic reading skills.

Cultural, economic and environmental factors are more complex and, thus, more difficult to address in examining the primary cause of poor achievement. Basically, these conditions do potentially influence the development of cognitive and linguistic skills that are necessary for academic learning and can co-exist with specific learning disabilities. (Fletcher et al., 2007)

It is critical to keep in mind that special education eligibility under any disability category entitles the child's special education needs to be addressed through the IEP, whether or not those needs are typically associated with the identified disability.

Vision, Hearing and Motor (Physical) Disabilities

As with some of the other “exclusionary factors,” these disabilities may co-exist with specific learning disabilities and must be addressed in instructional/intervention planning if they are present. It is the decision of the eligibility team to determine if the underachievement is due primarily to one of these disabilities or a Specific Learning Disability. The mere presence of one of these disabilities should not preclude a determination of SLD as the primary disability.

A student with a primary educational disability in the area of vision, hearing and/or physical disabilities may be considered as also having a learning disability if the identified learning deficits are significantly greater than

what can be reasonably expected as a result of the primary disability (e.g., hearing loss) alone. Again, all the identified needs of the child must be addressed, whether or not typically linked to the child's primary disability.

Cognitive Impairment (CI)

This is probably the one "exclusionary factor" that would not typically be thought to co-exist with SLD. Rather, all academic learning difficulties would be attributed to the condition of limited intellectual capacity. Criteria for this disability category are very clear and should be considered if limited intellectual capacity is suspected.

A team suspecting CI might first start with a measure of adaptive behavior, one of the essential criteria for a CI determination. Adaptive behavior within normal limits (not "significantly below the culturally imposed expectation of personal and social responsibilities") would rule out a determination of CI. In addition, a deficiency in academic achievement or performance below the 6th percentile in measures of language, reading and math is required for the determination of CI. In other words, an individually administered IQ test may not be necessary to rule out CI as the primary cause of learning difficulties if these other measures are within normal limits.

Emotional Impairment (EI)

Specific learning disabilities often co-occur with emotional, behavioral, and attention disorders (Fletcher et al., 2007). Determining which condition is primary is often a difficult task. In some cases, social or emotional difficulties may be secondary to the lack of school success. In others, the academic underachievement may be a result of mental illness or ADHD. Specifically, math and written expression disorders are especially common in children with ADHD, presumably because of the predominant role of executive functioning skills such as strategy use and procedural learning (Barkley, 1997; Fletcher et al., 2002). Research is beginning to clarify the importance of improving academic achievement in combination with positive behavior supports in reducing behavioral difficulties. If social, emotional, and/or behavioral factors are assessed to be impacting achievement, it is important that they are considered in educational planning, even if it is determined that SLD is the primary disability.

Cultural Factors

Partnering with parents is crucial in assessing this variable, along with student interviewing and observation. Sensitivity and instruction/curriculum review are needed to assess if instruction is "culturally responsive," an important element of appropriate instruction. A review of AYP (Adequate Yearly Progress) data for individual schools and districts may also be beneficial in addressing the effects of cultural factors. The disaggregated data might indicate that most students of a particular cultural or ethnic group are achieving at acceptable levels in response to the instruction they are receiving. If a particular student is receiving the same instruction in a similar learning environment, but not achieving, a determination that the learning difficulties are not due to cultural factors might be made.

Environmental or Economic Disadvantage

Again, partnering with parents is crucial when assessing these factors as is student interviewing and observation. Assessing, and especially meeting, student needs through the provision of community, medical, and social support is important. Addressing these needs as appropriate may result in improved focus and response to effective academic instruction. As with cultural factors, a review of AYP data for individual schools and districts may also be beneficial in considering the effects of these two factors. The team would be reviewing results that have been disaggregated based on Socio-Economic Status (SES) as indicated by qualification for free/reduced lunch.

Limited English Proficiency

In order to rule out limited English proficiency as the primary cause of learning difficulties, there are several questions that must be answered affirmatively:

1. Has this student been given an English language proficiency test?
2. Is this student receiving or has this student received English Language Acquisition (ELA) services in accordance with the district's developed program?

3. Have targeted interventions been implemented in addition to English language acquisition services? English language acquisition services, although important, should not be considered to be “interventions.”
4. Has progress been monitored and compared with the progress of a comparable group of English language learners? It is important to compare students to similar peers (students should be from the same culture, language, age and immigrant groups)
5. Has progress been markedly lower than that of English language learner peers? English language learners demonstrate similar acquisition patterns. It must be shown that a student demonstrates atypical growth for his/her peer group in all areas of language (speaking, listening, reading and writing) in order for language acquisition to be ruled out as the cause of the difficulties.
6. Have ELA and other services been provided for a sufficient length of time so that growth can be measured? Students who are newly arriving immigrants will move through a stage of culture shock and adjustment to the U.S. school system. They may appear to have signs and symptoms of a disability, when in reality they have not yet adjusted to the school system. Although there is not a specific time frame for students to adequately adjust to schooling in the U.S., teams should carefully consider whether the time has been adequate enough to learn basic vocabulary, hear and discriminate the English sounds and symbols, follow basic directions and practice learned skills.

Lack of Appropriate Instruction:

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.” Although the child is not required to have any *specific* research based instruction prior to identification, the evaluation team must be able to conclude that lack of appropriate instruction is not the determinant factor in the child’s underachievement. The student may be provided with interventions either prior to the evaluation or as a part of the evaluation process.

(b) To ensure that under achievement 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.

SLD eligibility requirements specify the need for documentation of appropriate instruction in the regular education setting by qualified personnel. The regulation notes that data may describe instruction prior to, or as part of the referral process.

Examples of appropriate instruction documents:

- Chronology of student’s educational history-
 - Teacher anecdotal records
 - Grade retentions
 - Attendance
 - Grades
- General Education Curriculum
 - 5 essential components of reading- phonemic awareness, phonics knowledge, fluency, vocabulary and comprehension
 - Math- conceptual understanding, computational and procedural fluency, fact fluency and problem solving skills. The five math strands of the GLCE’s list number operations, measurement, geometry, data & probability, and algebra.
 - District’s curriculum is aligned with state standards
- Fidelity of instruction

- 80% of students within the classroom are meeting state/district standards
- Differentiated instruction, universal design principles
- Multi-tiered intervention practices
- Individual instructional practices
- Staff training in effective instructional programs / strategies.
- Observation of classroom instruction or the use of checklists by teachers, peers or content specialists

Intervention prior to or as part of the evaluation demonstrates:

- Research-based intervention- nature, frequency and duration
- Highly qualified teachers
- Results of interventions

New to the SLD regulations is the requirement to provide *data based documentation of repeated assessments of achievement*, with the following characteristics:

- *Reasonable intervals*
- *Formal assessment of student progress during instruction*
- *Provided to parents*

Language regarding reasonable intervals implies that yearly MEAP assessment would not meet this criterion. Rather, the district will want to demonstrate practices that might include universal screening, curriculum based measurement, and progress monitoring, the results of which are shared periodically with the parent.

It should also be noted that, although §300.309(b) refers specifically to reading and math, the regulations also require that the student be provided with *learning experiences and instruction appropriate for the child's age or State-approved grade level standards* in all areas being considered for SLD eligibility. Best practice would indicate that the documentation required in §300.309(b) would also apply to instruction in the other areas of eligibility.

IDEA 2004 Regulation, §300.310, Observation

When considering the presence of a Specific Learning Disability, the district must ensure that observations document the student's academic performance and behavior in the area(s) of difficulty.

§ 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.

During the evaluation planning process, the evaluation team and the parent must determine whether the documentation of observations will include information gained prior to the initiation of the formal evaluation or if observations will be conducted as part of the evaluation plan. Observations must occur in the regular

classroom, specific to the academic performance area of concern. Exceptions to observations occurring in the regular classroom include:

- Students who are out of school due to disciplinary or health reasons
- Older students who had previous eligibility but have been out of school for an extended period of time.
- 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.

Another required measure from IDEA 2004 § 300.310 that must be addressed when considering eligibility of a Specific Learning Disability, is an observation of the student's academic performance of the suspected area in the child's learning environment, which must include the regular education classroom. Documentation must include the relationship of the behavior to the child's academic functioning (i.e. avoidance to work, time attending to the task, requests for help).

During the process of reviewing existing evaluation data, the team must determine if the observation of routine instruction and monitoring of the child's performance has been completed prior to the student being referred for an evaluation or if the observation needs to be conducted as part of the assessment.

For children of less than school age or out of school due to exceptional circumstances (i.e. health issues, disciplinary reasons) the observation must be conducted in an appropriate environment.

Another measure of student performance can be accomplished through use of the *Classroom/Academic Observation Checklist* form pages 37- 48. This tool is designed for use as a guide during student observation. You may not see all domains addressed, however the student should be observed during times when you will be able to monitor behaviors related to the area of concern. A documented observation is required as part of a comprehensive assessment for student eligibility for Specific Learning Disability. The Observation Checklist could also be used for gathering and documenting important relevant academic and behavioral information for students who do not have a referral as part of an intervention process, in which case parental consent would not be required. The *Checklist* provides useful data by examining academic and behavioral areas a student is experiencing difficulties in, including consideration of factors such as setting, accommodations (skills related to information input and output), and methodology of instruction . To obtain a full and accurate picture of the student's performance, it is recommended that the student is observed more than once to reflect different settings and different times of the day. If the form is used for a child 3-5 years old that is not yet in a public school program, observations should be conducted in the child's natural environment or early intervention program.

When using the *Rule In/Rule Out Checklist* page 64 for an SLD evaluation the areas of concern would first be identified and checked. Specific notes would then be documented in the three boxes regarding the instructional domain in which the student is observed. Focusing on the identified area, the observer would then place a check mark next to the behaviors that are listed within each domain that correlates with the noted area(s) of concern. These checklists are not all inclusive so the observer can make notes regarding other additional behaviors that are observed, including strengths and weaknesses that may impact student learning and achievement. In the final section of the *Checklist*, information should be summarized regarding the student's academic and behavioral performance **in the area of difficulty**.

§ 300.311 Documentation for Specific Learning Disability Determination

§ 300.311 provides a checklist for required elements of a written report documenting the evaluation team's decision regarding eligibility of SLD.

§ 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;

(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.

Documentation must include:

1. Statement of eligibility, or lack of eligibility, for specific learning disability
 2. Basis for the determination of eligibility
 3. Assurance that during the determination process the district:
 - a. Collected information from a variety of sources, including aptitude and achievement tests, parent input and teacher recommendations, information about the child's physical condition, social or cultural background and adaptive behavior.
 - b. Documented and carefully considered information obtained from a variety of sources.
 4. Relevant behavior noted in observations, and the relationship of the behavior to the child's academic functioning.
 5. Relevant medical findings.
 6. Achievement measured to age expectations or state-approved grade level standards.
 7. Progress monitoring related to age or grade level standards in a response to scientific research-based interventions.
- or**
8. Determination of a pattern of strengths and weaknesses in performance, achievement or both, relative to age, State-approved grade level standards or intellectual development.

9. Determination of exclusionary factors
10. If the child participated in a process that assesses the child's response to scientific, research-based (or, if necessary, best practice) interventions, documentation of:
 - a. Instructional strategies utilized
 - b. Student-centered data collected
 - c. Parent notification about:
 - i. State policies regarding Rtl criteria- data and services requirements (Note: the SLD rule, R 340.1713, is Michigan's policy.)
 - ii. Strategies used for increasing the student's rate of learning
 - iii. Parent right to request an evaluation.
11. Evaluation team members and parent must certify whether the report reflects the member's conclusion.
 - a. Members in disagreement must submit a separate statement presenting dissenting conclusions.